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FORUM

Police Pursuits

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Editorial

Qing Chang, a 25-year-old Chicago resident, began the new year of 2003 with brilliance and promise. She held a bachelor's degree in computer science from Peking University in China, a master's degree in chemistry from the University of Chicago and a second master's degree in computer science from the University of Illinois. She maintained a perfect grade point average throughout her academic career. Qing had just accepted a work assignment with Thoughtworks as a Computer Programmer and was planning to relocate with her husband to London. Qing Chang was pregnant with her first child.

On January 2, 2003, at 6:05 PM, Chang was standing on a street corner in downtown Chicago and was struck and killed by a get away car whose occupants were being pursued by police for stealing a wallet. Her small lifeless body was thrown 40 feet.

As tragic, unfortunate, and remarkable as this true-life scenario seems, it could be recounted hundreds of times over with equally tragic results surrounding police pursuits and the loss of innocent life.

Despite considerable work to develop policy and guidelines to restrict police pursuits, tragic events such as the one cited above continue to occur. We must ask, "Why?" For example, since 1993, the State of Illinois has issued statewide *Model Policy and Guidelines on Police Pursuits* and has reviewed and updated them annually, and, nevertheless, innocent people continue to die.

The collection of articles contained in this issue of the *Forum* represent current research and thought from practitioners and scholars addressing the troublesome public policy issue of police pursuit.

While police administrators throughout the nation take steps to implement policy and operational procedures to restrict police chases, state legislatures throughout the country must concurrently enact laws to increase the penalties and consequences for citizens who would attempt to flee the police, to include such penalties as vehicle forfeiture.

The loss of Qing Chang, her child, and the potential of their lives cannot be underestimated and/or justified. While the police should not be held accountable for initiating the event that led to the death of Qing Chang and her child, the police must nevertheless account for their actions in making the decision to pursue.

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The Decision to Chase: Revisiting Police Pursuits and the Appropriateness of Action

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Introduction

No one disputes the dangers of police work, nor does conventional wisdom challenge the simple fact that there are dangerous, irresponsible, and mentally unstable persons operating motor vehicles. As the varied duties of police officers in the 21st century are considered, it is prudent to try to identify general rules that might apply to each of the many dangerous duties of police officers. Many national standards as well as statutes have attempted to do just that, but much is left up to the discretion of each officer in each circumstance. While discretion is important in police work, poor decisions can and are often made by otherwise honest, well-meaning police officers.

The traditional dilemma associated with high-speed police pursuit of fleeing suspects, the subject matter of this article, is deciding whether the benefits of potential apprehension outweigh the risks of endangering police officers, the public, and suspects in the chase. On the one hand, too many restrictions placed on police use of pursuit could place the public at risk from dangerous individuals escaping apprehension. On the other hand, insufficient controls on police pursuit could result in needless accidents and injuries to innocent citizens.

Defining Police Pursuit

For over two decades, police pursuits in motor vehicles have been the target of numerous research studies. It is not uncommon these days to hear or read of a critical injury or even untimely death of an innocent bystander as a result of a police pursuit. Such pursuits have even been showcased in television shows depicting "real-life" police work and have received considerable popularity with the viewing public.

The actual definition of a police pursuit varies from one source to the next. Nugent and his colleagues (1990) have defined a police pursuit as ". . . an active attempt by a law-enforcement officer on duty in a patrol car to apprehend one or more occupants of a moving vehicle, providing the driver of such a vehicle is aware of the attempt and is resisting apprehension by maintaining or increasing his speed or ignoring the law enforcement officers attempt to stop him."

Police pursuits have proven to be serious threats to many citizens, and as such, officers must use good judgment in their decision to pursue. This is because in the past, innocent victims have been struck by a fleeing suspect as well as the police cars pursuing them, but it is the police department that eventually comes under fire for permitting the pursuit to continue. In an effort to limit needless deaths, injuries,

and property damage, police organizations must set strict uniform standards for the initiation, continuance, and termination of a police pursuit.

To Pursue or Not

The question seems straightforward: does a police officer pursue an offender and run the risk of jeopardizing public safety or simply choose not to pursue, and risk not apprehending the violator and possibly face criticism from both within and outside his or her department? The answer is unclear, but statistically, research suggests that all police pursuits are dangerous to some extent. For example, Jeff Noble reported in 1999, that 40% of all police pursuits result in collisions and that in 1996, 377 deaths nationwide resulted from police pursuits. Additionally, the decision to pursue or not presents police with conflicting duties: First, the police have a duty to keep the peace, to protect and serve the public, and to apprehend people who are committing crimes. Second, the police have a duty to conduct pursuits in a reasonable and prudent manner (Noble, 1999). Research suggests that there are other variables that should be considered.

For example, there are those who claim that if law enforcement would elect not to pursue violators or otherwise quickly terminate pursuits, the tragedies would either cease or be dramatically reduced. On the other hand, one of the common beliefs ostensibly generated by the news media and plaintiffs' attorneys is that many fleeing suspects will slow down and resume safe driving behavior within a short period of time after the pursuing units terminate their chase.

Pursuit Profiles

As we examine the problem of police pursuits, two profiles can be identified that apply to those who pursue the police. Profile number one is that driving behavior was extremely dangerous before the police were present or otherwise involved. In such a case, it is not logical to assume that the police applied "psychological pressure" on the suspect to cause him or her to flee.

Profile number two is when a suspect actually begins to drive dangerously when an officer first signals him or her to pull over. Many feel that this initial attempt at stopping the violator may be enough to stimulate that driver to continuously drive without regard for anyone's safety, even without being pursued. Either behavior profile, however, poses a tremendous risk to the public.

Thomas Adams (2001) goes on to suggest that, "if it appears that the pursuit is not possible, it is better to use your time and efforts to alert another unit as to the description, direction of travel, and any other pertinent information that will enable the other unit to locate and apprehend the violators" (p. 201).

Research on Police Pursuits

Because of the belief that fleeing suspects will begin driving safely when pursuing police units terminate pursuits, plaintiffs and certain interest groups hold law enforcement officers responsible for the resulting tragedies. While statistics suggest that there is a decrease in the number of civil actions brought against law enforcement

agencies for pursuit-related injuries and deaths, many plaintiffs' attorneys continue to aggressively pursue civil litigation in this area.

In addition to injuries, death, and property damage, police pursuits often result in considerable legal liability for the police departments involved. In one study, conducted by Homat & Kennedy (1994), participants were studied in 47 state police departments and 24 of the largest 25 police departments in the nation. They concluded that 94% of these departments have, as part of their written policies, directives that the officers are responsible for terminating pursuit if it becomes too dangerous to proceed.

The NIJ Survey

Geoffrey Alpert (1997) explains that until now research on police pursuits has focused on in depth studies of single agencies or studies based on limited data from multiple agencies. One of the most revealing studies to date was published by the National Institute of Justice, which indicates that law enforcement personnel and members of the public focused on the severity of the offense committed by the suspect when supporting a pursuit (Alpert, Kenney, Dunham, Smith, & Cosgrove, 1997). The second most important factor was the risk to the public (as defined by traffic, road conditions, and the weather). Let's now consider the findings of the NIJ survey.

National Survey Results

The NIJ study surveyed a sample of 800 municipal and county police agencies consisting of 40% large agencies and 60% smaller jurisdictions (i.e., populations fewer than 100,000). Of the 737 agencies contacted, 436 provided usable data; 284 reported that they could not provide the necessary information because it had not been collected; and 17 declined to participate. Findings addressed topics, which included critical areas such as policies, data collection, and training.

Policies

The data revealed that 91% of the 436 responding agencies had written policies governing pursuits, but many of them were outdated, as they were implemented as far back as the 1970s. Almost half of the agencies (48%) reported having modified their pursuit policy between 1995 and 1997, and a majority of those (87%) noted that the modification they made to their pursuit policy was more restrictive than it was previously. This suggests a concern on the part of police administrators for the liability potential of police pursuits.

Data Collection

Municipal and larger agencies were more likely than county or smaller agencies to collect pursuit information routinely. The majority of the 135 agencies that collected pursuit data routinely did so voluntarily (fewer than 5% of the states represented by the survey respondents reported that their data collection programs were state mandated). Although this means that only 31% of the respondents had data collection programs, 308 agencies (71%) were able to provide the number of pursuits their officers had engaged in during 1993.

The data varied considerably, reporting the number of pursuits ranging from none to 870 during the one-year period, with large agencies reporting higher numbers of incidents than small ones. One-fourth of the responding agencies indicated that officers used force to apprehend a suspect after a pursuit during 1993.

Training

Many departments acknowledged taking only limited steps to train their officers on skills and procedures regarding pursuits. For example, although 60% of the agencies reported providing entry-level driving training at their academies, the average time devoted to these skills was estimated at less than 14 hours. Once in service, the amount of additional training offered averaged only slightly more than three hours per year and focused on the mechanics of defensive and/or pursuit driving rather than on issues that should be considered when deciding to continue or terminate pursuits. Respondent agencies may have spent at least some time teaching officers how to pursue, but training devoted to when or why to pursue appears to have been minimal or nonexistent.

Other Pursuit Research – When Will a Suspect Slow Down?

Martin (2001) examined the question of whether or not a pursuit suspect slows down during or after the pursuit. His findings are instructive. According to Martin's research, on average, suspects continue to drive dangerously for 90 seconds before slowing down and after a pursuit is terminated.

This finding appears consistent with prior findings that suspects did so after they "felt safe. " In his study, suspects who were apprehended after fleeing the police were interviewed. The response, "when it felt safe," was interpreted to mean "2.2 blocks in the city, 2.2 miles on the freeway, and 2.3 miles on the highway. " The wide range of responses as to how often suspects continue to drive dangerously after the termination of pursuits by ground units (from 5% to 100%) indicates other factors need to be investigated as well.

These factors include knowledge or belief by the suspects that they are under air surveillance; regional or cultural factors; the initial offense for which they are pursued; intoxication; and practices by air support units that might alert suspects to the presence of the aircraft.

Other Pursuit Research

In addition to the possibility of injury or loss of life, property damage is another concern in some of the available research. In a 1995 study of police pursuits in Minnesota, Robert E. Crew and his associates reported that of the 4,349 police pursuits studied, there was nearly a 44% chance of some sort of property damage occurring as a result of the pursuit.

Accordingly, research involving Metro-Dade Police Department pursuits found that of the 398 pursuits studied in one year, 132 of those pursuits ended in collisions, which is 33% of the total pursuits. Within those 132 collisions, 67 were pursuits that were initiated for nothing more than a traffic violation (Alpert, 1987).

This study analyzed the data from those accidents and who was involved. The results were as follows: ". . . 41 pursuits ended with injuries to the defendant or his passenger, seven pursuits injured police officers, and four pursuits' ended with injuries to bystanders only. Six pursuits ended with injuries to an officer and a defendant, and the impact of one pursuit injured an officer and a bystander."

With an average of 50% of suspects continuing to drive dangerously after ground units terminate their pursuits, some have argued that just because the ground unit pursuit is terminated, or with or without the presence of police aircraft, it cannot be guaranteed that a suspect will resume safe driving behavior. This is especially true if the dangerous driving behavior existed prior to police vehicles becoming involved, as previously mentioned.

Prior research has found that 62% of apprehended pursuit suspects interviewed indicated they were concerned for the safety of others, which leaves a significant percentage who were not (38%). Generally, suspects may drive dangerously independent of the presence or absence of police units or decisions made to continue or discontinue pursuits.

In a 2003 study conducted by Arthur Sharp, 30 law enforcement agencies' perceptions of the police pursuit were examined. His data revealed that 83% of departments studied said that they restrict the circumstances under which officers are allowed to engage in police pursuits and that 93% of the departments studied limit the number of police vehicles that can be involved in a pursuit.

The Issue of Training

While minimal training standards exist with regard to firearms, similar standards are rare for training in pursuit and emergency driving. When law enforcement officers shoot someone, investigators will scrutinize his or her firearms training records and the department's policy. Accordingly, when a pursuit ends badly, investigators review all available videotapes of the chase and often ask for proof that the officer was sufficiently trained to engage in the pursuit.

Lesh (2003) recommends that officers must receive some type of pursuit-related instruction every year. This can be accomplished through something as simple as a single five- to ten-minute training session during roll call that reviews the agency's pursuit policy, focusing on the factors that officers should consider when deciding to initiate, continue, and break off pursuits. Minimal annual training such as this offers law enforcement officers a number of benefits. First, since officers receive a yearly review of their agency's pursuit policy, they are less likely to unintentionally violate department guidelines during a pursuit. Also, when lawsuits result, officers can honestly testify that they received pursuit-related training on an annual basis. In addition, a short pursuit training session of this type takes little officer time and costs agencies virtually nothing to provide. Finally, with this instruction, officers receive annual reminders that pursuits are inherently dangerous activity and that no matter how careful they are, pursuits can end with a loss of innocent life (see also Daniels & Spratley, 2003a).

Of course, practical vehicle operation training is valuable as well. Given the time and cost involved with this instruction, however, it may not be practical for most

agencies to provide on an annual basis. Still, the agency should provide vehicle training when practical because of the obvious benefits to officers.

The best defense against high-speed accidents, injuries, deaths, and lawsuits is proper training of officers, yet research shows that most officers receive inadequate training in pursuit driving (Daniels, 2002). Research further suggests that the more formal an officer's training is, the better he can handle a pursuit or an emergency response.

Daniels and Spratley (2003a) suggest that advanced driving skills are retained through repeated training and practice. Once the pursuit driving skills are imbedded in long-term memory, they will automatically be loaded into officers' short-term memory in emergency. The difficulty is, transferring information to long-term memory takes hundreds of repetitions, and few officers practice pursuit driving that many times. As a result, the average officer's tendency to give chase is reactive, as there is no information or training available in his or her short-term memory to do otherwise.

Furthermore, the older the officer, the slower his or her reflexes; however, the younger the officer, the less experience he or she has to draw upon when attempting high-performance for high-speed driving. This makes initial and refresher training, combined with regular testing even more important, ensuring that officers continue to meet minimum standards.

Police pursuit driving classes should have two distinct parts: (1) a classroom session and (2) a hands-on driving component on a course designed by the instructor. While each department's needs vary, Daniels (2002) recommends five hours of intensive classroom work, which he says is sufficient. Depending on the complexity of the department's policy, class times may need to be adjusted accordingly.

Vehicle Dynamics

Vehicle dynamics are also an important element in police pursuits. Officers must be informed as to how a particular patrol car will likely handle in a pursuit. In an emergency situation, vehicles undergo different types of strain than they do under normal driving conditions. Vehicles behave differently at high-speed through each type of curve. In addition, there are important aspects of acceleration and braking in each type of curve, and there can be serious consequences if one makes a mistake. For example, what happens if an officer brakes too late or accelerates too early? At high speeds on a curve, a mistake is usually unrecoverable. Entering a curve too hot and trying to break will cause the vehicle to lock up and lose control.

The Role of Departmental Policy

In the past, most of the discussion regarding pursuit-related collisions has centered on department policies. Experience and research have both demonstrated that "by having clear-cut police pursuit policies in place, departments can help limit liability" (Dahlinger, 2000). Many academics, as well as public policy planners, have urged law enforcement to ban vehicle chases completely. Others would allow some pursuits but only once highly restrictive chase policies were in place. Still, others would give

law enforcement wide discretion when deciding whether to initiate the pursuit of a fleeing driver.

While the restrictiveness of law enforcement chase policies are a matter of considerable debate, one thing is clear: every law enforcement agency should have a written pursuit policy in place. Although almost all organizations have one, there are still a number of smaller departments that have no written procedures in place. Unfortunately, failing to have a written policy leaves these agencies vulnerable to public criticism and possible litigation.

In the case of litigation, failing to have a written pursuit policy inevitably leads to criticism by plaintiffs' counsel and expert witnesses. The primary argument is that the department has failed to give its officers the written guidance on what factors to consider when making the critical decisions of whether to begin, continue, and terminate a vehicle pursuit. Judges have also come to expect that law enforcement agencies will have written policies in certain key areas, including pursuits; therefore, the departments that lack written pursuit policies can expect a more difficult time before both juries and the court.

As part of any written policy, departments also need to address the issue of interagency pursuits. All too often, pursuits begin in one jurisdiction and pass into (and through) other jurisdictions before coming to a conclusion. Since inner agency pursuits are inevitable, departments need a written plan in place to provide guidance to their officers. Preplanning for these events can greatly improve communication between agencies and help to prevent the finger-pointing that often occurs when the chase, traveling through several jurisdictions, ends tragically.

Of course, once the policy is adopted, it must be kept up-to-date. All too often, departments put a considerable amount of time, thought, and effort into crafting a policy only to have it "collect dust" once it is adopted. A pursuit policy, like any other procedure, must adapt with changes in the law, changes in technology, and changes in law enforcement practices. Every department should have a plan to periodically review of its pursuit policy to ensure that it remains accurate and up-to-date. Supervisors should also encourage officers to bring errors or other problems with agency policies to the attention of decisionmakers. Under no circumstances does the department want errors in its policy to be first discovered by opposing counsel during litigation.

According to Alpert (1997), what he terms *Aleatory Elements* are significant to the issue of police pursuits. Alpert identifies three policies that have significant impact on the police department's ability to conduct police pursuits:

1. **Judgmental**: This is a policy by which the pursuing officer makes all the decisions relating to the pursuit, including whether or not to terminate the pursuit. Alpert says this type of policy is vague and provides considerable discretion on the part of the officer thus opening up the police department to potential civil liability in the event of a collision.

2. **Restrictive**: Restrictive policy places certain restrictions on the officers and dictates whether they may or may not engage in the pursuit of a suspect. The restrictive policy may specify for example, that officers may not pursue a juvenile or a

suspect fleeing for traffic offenses. The individual officer is afforded only limited discretion as to whether or not to continue the pursuit or terminate it.

3. **Discouragement**: This policy severely cautions or even discourages officers from engaging in a police pursuit except in the most extreme, emergency circumstances. The discouragement policy gives virtually no discretion to the individual officer. Rather, it only allows an officer to pursue a suspect if that suspect is known to be a violent offender. Due to the specificity of this policy, police officers have very little, if any, choice in deciding to pursue a suspect.

Some experts have endorsed the discouragement policy as one that police departments around the country should consider and adopt as a regular part of their standard operating procedure. Proponents claim that this policy will assist in protecting police departments and individual officers from civil liability due to traffic accidents caused by pursuits that never should have continued. Accountability is the key component in maintaining this policy; and administrators must clearly outline that compliance to this policy will be adhered to by all officers, and discipline will be administered to those who violate it.

When police departments have well-defined policies in place, that are adhered to and grounded in national standards of care, liability can be reduced. One such standard was published in October 1996 by the International Association of Chief's of Police (IACP) and cautions police administrators in their authorization of police pursuits. The IACP model policy states . . .

> Vehicular pursuit of fleeing subjects can present a danger to the lives of the public, officers, and suspects involved in the pursuit. . . . The decision to initiate a pursuit must be based on the pursuing officer's conclusion that the immediate danger to the officer and the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large. (IACP, 1996)

Careful documentation is also a crucial variable in the process of developing a pursuit policy. Included must be specifics, such as operational guidelines for pursuit, supervisory responsibilities, and tactics to facilitate the pursuit. Standardized training and clearly written policies must be enforced correctly and uniformly. Such guidelines will help ensure safer streets for citizens and potentially lessen liability for police departments.

Litigation Issues

The way in which a department responds when the fleeing vehicle collides with a pedestrian or other motorists during a pursuit can be of critical importance in a civil suit alleging law enforcement negligence. Aside from the obvious concern for the victim and his or her family, officers properly treat these collisions as serious criminal investigations. Few organizations, however, appear to immediately consider agency civil liability when these incidents occur. That's unfortunate because by taking a few additional on-scene steps, a department will be in a much stronger position to assess the agency's civil liability and to defend itself in a lawsuit down the road.

Law enforcement administrators are obligated to ask the tough questions while investigating a vehicle collision resulting from a police pursuit. For example, pursuing officers should estimate how far from the fleeing vehicle the closest police car was throughout the chase and when the collision occurred. Officers should also interview independent witnesses about their estimates of the distances. These estimates can be important to counteract later suggestions by plaintiffs' counsel or experts that officers "pushed" the fleeing driver into continuing the pursuit by following at too close a distance.

Other issues can be addressed as well. For example, did officers know the identity of the fleeing driver (or passengers) before the pursuit ended? How many police vehicles were involved in the chase? Does agency policy limit this number? If agency policy was exceeded, why? Were other provisions of the agency's pursuit policy violated? If so, were there justifiable reasons why?

Perhaps one of the most important questions that can be asked is whether or not a supervisor was monitoring the pursuit. Lesh (2003) offers several important questions from a liability standpoint. For example, was a supervisor notified of the pursuit? If not, why not? The officers take steps to prevent a chase? If not, why not? Did officers take steps to block traffic and warn drivers ahead? If not, why not? What were the speeds of the patrol cars involved? How were the conditions throughout the entire pursuit? Did officers evaluate these conditions when deciding to begin the pursuit? Did officers continue to drive with these conditions throughout the chase? How well did the lead officer know the streets? Did any officer consider terminating the pursuit? If so, why? If not, of why not?

Many of these questions would have little, if any, bearing on the prosecution of the fleeing suspect; however, any of these issues might have a significant impact on the civil case alleging negligence during the chase. As a result, it is important for the department to determine answers to these questions when the information is fresh in the minds of the officers and other witnesses.

Controversy will continue to surround the issue of law enforcement vehicle pursuits, but there is agreement on the need to reduce the number of pursuit-related collisions and pursuit-related liabilities. By following the steps outlined in this article, departments can began achieving these important goals.

Alternatives to Pursuit

Hill (2002) tells us that that the most effective way to reduce risk is to terminate a pursuit. Clearly, too many pursuits continued that officers obviously should have terminated. Research on pursuit data and statistics show that termination dramatically reduces traffic and accidents, fatalities, and injuries. Due to these variables, police must reevaluate their thinking and mission as agencies rarely can justify endangering the public to pursue a violator.

As of the writing of this article, a number of electronic devices are being evaluated for effectiveness as alternatives to pursuit. For example, officers can carry spiked road strips in their trunks and deploy them in the path of a fleeing suspect. The strips create controlled loss of air (opposed to a complete blowout) from the suspect's tires. Once the violator crosses the strips, a deploying officer quickly pulls them from

roadway to allow pursuing police vehicles to pass by. A number of agencies have begun to use the strips with increasing effectiveness. For example, in Cincinnati, Ohio, policed successfully used them after they sought risk reduction techniques following a string of pursuit tragedies (Bricking, 1997b; Prendergast, 1997). Similarly, the Ohio State Highway Patrol, the Utah Highway Patrol, and the Pennsylvania State Police also report recent successful use of the spiked strips.

Another device is being developed by an electronics company that is testing a radar warning system that police can activate; it sends a signal to any motorist with a radar detector of an approaching police pursuit. Motorist can then pull over to the side of the road or otherwise get out of the way to ensure the safety of both the officer and the suspect being pursued.

Other technological advances include an ultrasonic device that shoots a burst of microwave energy at a fleeing suspect. This causes the suspect's vehicle's electronic system to fail, thus immediately disabling the violator (Hill, 1999). Experts are studying a similar technology in which a robot-like car ejects from the front of the primary police pursuit vehicle. The car then attempts to overtake the fleeing vehicle and electronically "zaps" the engine of service. Researchers are also testing radio-technological devices (similar to stolen car tracking systems) that electronically would disable the fleeing vehicle (Hill, 1999).

One common alternative to pursuits has been the use of helicopters. In parts of California and in cities such as Baltimore, Miami, and Philadelphia, this policy has been successful. The versatility, range, and vantage point of the helicopter allows ground officers to decrease their use of high-speed pursuits and increase apprehension rates (Alpert, 1998). With a helicopter observer, ground units can slow down and retreat to reduce accident risks. Most agencies cannot afford their own helicopter; they can develop regional interagency cooperation plans.

Conclusion

Police pursuits of criminal suspects are dangerous and continue to pose numerous problems for police agencies. These include threats to the safety and well-being of innocent civilians, damage to property, and personal risks to themselves. It is difficult if not impossible to predict when a police chase can be justified, but such decisions must be tempered with the officer's awareness of department policy, national standards of care, and the specific conditions with which he or she is confronted.

In addition to the discretionary options of the officer, police administrators must assume responsibility for development and enforcement of departmental policy relating to pursuits. In turn, policy must be incorporated with departmental training standards. As such, police administrators must ensure that their officers are adequately trained from both a classroom and practical standpoint behind the wheel. Departmental policy must be current and structured in keeping with nationally accepted standards of care.

Bibliography

Adams, T. (2001). *Police field operations*. Upper Saddle River, NJ: Prentice Hall.

Alpert, G. P. (1987). Questioning police pursuits in urban areas. *Journal of Police Science and Administration, 12*(87), 302.

Alpert, G. P. (1997, May). *Police pursuit: Policies and training. Research in brief*. Washington, DC: Office of Justice Programs, National Institute of Justice, U.S. Department of Justice.

Alpert, G. P. (1998, August). *Helicopters in pursuit operations*. Washington, DC: U.S. Department of Justice, National Institute of Justice.

Alpert, G., Kenney, D., Dunham, R., Smith, W., & Cosgrove, M. (1997). *Police pursuit and the use of force. A final report to the National Institute of Justice.* National Criminal Justice Reference Service (NCJRS), NCJ 161836.

Bricking, T. (1997a, June 21). Group advocates safer pursuits. *The Cincinnati Enquirer,* p. 5B.

Bricking, T. (1997b, June 2). Flattened tires end chase. *The Cincinnati Enquirer*.

Crew Jr., R. E., Fridell, L. A., & Pursell, K. (1995). Probabilities and odds in hot pursuit: A benefit-cost analysis. *Journal of Criminal Justice*, *23*(5), 417-424.

Dahlinger, C. W. (2000, February). Reducing police pursuit liabilities. *Police*, *24*(2), 48.

Daniels, W. (2002, November). Training for pursuit driving. *Law & Order, 50*(11), 80.

Daniels, W., & Spratley, L. (2003a, November). Lawsuit defense. *Law & Order, 51*(6), 54.

Daniels, W., & Spratley, L. (2003b, July). Brainpower not horsepower. *Law & Order, 51*(7), 85.

Eisenberg, C. (1996, August). An alternative to police pursuits. *FBI Law Enforcement Bulletin, 65*(8), 16-19.

Hill, J. (1999, March). *Police pursuits and the risks to bystanders*. Doctoral dissertation presented to Nova Southeastern University, Fort Lauderdale, Florida.

Hill, J. (2002, July). High-speed police pursuits: Dangers, dynamics and risk reduction. *FBI Law Enforcement Bulletin*, *71*(7), 17.

Homat, R., & Kennedy, D. (1994). The effect of high-speed pursuit policies on officers' tendencies to pursue. *American Journal of Police, 13* (1), 91-111.

International Association of Chief's of Police. (1996, October). *Vehicular pursuit model policy*. Alexandria, VA: IACP National Law Enforcement Policy Center.

Lesh, D. (2003, March/April). Reducing civil liability to high-speed pursuits. *Sheriff*, *55*(2), 29-31.

Martin, J. (2001, July). Pursuit termination: A lifesaver? *Law & Order, 49*(7), 30.

Noble, J. (1999). Police pursuits: Law enforcement or public safety. *Journal of California Law Enforcement*, *33*(1), 4.

Nugent, H., Connors, III, E. F., McEwen, T. J., & Mayo, L. (1990). *Restrictive policies for high-speed police pursuits*. Washington, DC: Department of Justice, National Institute of Justice.

Prendergast, J. (1997, June 17). Cops pursuit rules vary. *The Cincinnati Enquirer,* p. 3-B.

Sharp, A. (2003, July). The dynamic of vehicle chases in real life. *Law & Order, 51*(7), 68.

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Police Pursuit: From Policy to the Courtroom

George L. Ruotolo, Private Consultant, Expert Witness

William Shakespeare's Hamlet was confronted with a dilemma. He spoke those famous words, *"To be, or not to be, that is the question."* Recently, law enforcement executives, commanders, and managers have been evaluating police pursuit issues and pondering whether *"to pursue, or not to pursue."* This has become a hot issue. There are a variety of approaches to it. Some agencies are *permissive,* allowing pursuits as deemed necessary by the patrol staff. Other agencies allow pursuits with conditions attached, rendering them *restrictive* pursuit policies. Most policies in place today have some form of restriction, although not to the extent recommended by recent studies. Lastly, there are still other agencies with a *no pursuit policy*. Whatever official (or unofficial) policy is chosen by any department, the patrol staff of the department must know what that policy is. The process of informing the staff of the beliefs and thinking of the chief of police/sheriff is embodied in what is called *policy formation*. It may be given to the staff either orally or in writing.

This article assumes that readers generally understand the concept of pursuit, and it will therefore not be defined. For the purposes of this article, pursuit could be either high-speed or low-speed. It should be recognized, however, that most dangers occur as higher speeds are attained. Also, there is no need here to rehash the current statistics. Pursuit statistics are everywhere. As part of an overall public safety plan, virtually every large municipality and state tracks pursuits and their outcome. They can be easily located with a little online research.

This article will not deal specifically with any one policy or approach. Rather, it will address the thought process and beliefs of a hypothetical chief of police (or sheriff) and the command staff as they decide among alternative policy models. It will explore the logical (potential) outcomes to each action or decision. The process will be framed around the three main approaches to pursuit: (1) permissive, (2) restrictive, and (3) nonpursuit.

Approach One

Permissive Pursuit Policy – Little Guidance to Patrol

This approach is in place more often than we would care to believe. It occurs most often in small departments where formal policy is often not written or, more likely, not rewritten (thus out-of-date). In this environment, the chief simply *communicates* his or her preferences to the staff at times when they meet or interact. These departments function with little formal guidance. The belief is that officers know their jobs and can decide for themselves whether the situation demands a pursuit. While this approach may seem plausible for the laissez-faire style chief or sheriff, it is a dangerous posture both for the department personnel and for the jurisdiction they serve.

In this fully permissive environment for pursuit, the officer decides when to pursue and for what cause. Pursuits can occur for even minor traffic infractions. Generally, there is little investigation and evaluation (after the fact) of individual pursuits. These departments rarely track and document their pursuit history. This policy (or lack of policy) may suffice when nothing substantial occurs and/or the pursuit ends without incident, but when this policy leads to a pursuit that ends in tragedy, the legal consequences can be catastrophic. A claim may be brought against an individual officer for his or her actions connected with the pursuit decision, against the supervisor for not acting to terminate the pursuit, and against administrators for not enacting and keeping current viable pursuit policies. The liability may even extend to the municipality. Depending on the actual circumstances of the pursuit that ends in tragedy, it may be difficult to defend the department and its members in litigation. The lack of pursuit policy, training with respect to the pursuit, and documentation of pursuit history can be construed as negligent direction, negligent training, and negligent supervision.

Approach Two

Restrictive Pursuit Policy

Since the early 1990s, research and publications on this issue most often recommend a restrictive pursuit policy, with specific, step-by-step procedures for pursuit. This policy requires a superior to continually evaluate every pursuit as it is taking place to determine whether it should be continued or terminated. Under this model, which can impose some or many restrictions on pursuit, the option of pursuit is available to the patrol staff when circumstances warrant. There is often no pursuit for minor traffic offenses. Myriad judgments and decision points occur along the pursuit timeline from initiation of pursuit until either termination by a superior, termination due to changing factors, or termination due to the pursuit ending (successfully or unsuccessfully). When properly designed and enacted, this policy offers the patrol staff the ability to pursue when appropriate for the safety of the general public, and it restricts pursuit when the public will be unduly endangered. Essentially the model can be stated in familiar language, such as *"Officers may pursue when the need to apprehend the subject outweighs the danger created by the pursuit."*

Consider this simple example of the need to apprehend outweighing the danger created by the pursuit. We can all recall about a year ago when the sniper incidents were occurring with regularity in the Virginia and Washington, DC area. Abject fear gripped the region. If the police had been fortunate enough to be able to locate a suspect in a vehicle and had attempted to stop that suspect, no one would have balked at a pursuit, given the proclivity for random violence. As dangerous as it would have been to pursue the suspect's vehicle in the busy DC area, the need to apprehend would have justified taking the risk.

As we step down in priority from cases as serious as the sniper case to less serious offenses, officers and commanders must evaluate the facts and circumstances and determine whether a pursuit is necessary—at this time, at this location, under this set of circumstances. This is where a well-written restrictive policy can aid in the decision-making process. Well-defined parameters will help make (and justify) the decision by the patrol staff and/or command.

Restrictive policies have many parameters listed within the policy or, more correctly, set forth as *procedures*. When considered and followed, these procedures will ensure that the staff evaluate the pursuit conditions (e.g., weather, roadway, visibility, traffic, etc.) as well as the basis for the pursuit (infraction) to determine whether the pursuit should continue. If, after consideration of these factors, the determination is made that the need to apprehend outweighs the dangers, the pursuit may continue. If the pursuit then has a tragic outcome, at least the defense position can be that the process was well thought out and the conditions carefully considered. Given that process, the determination to pursue will be justifiable even though the outcome was not as desired.

If, however, a department has in place a restrictive policy (and procedures) and the pursuit is allowed to continue when, based on the restrictive conditions, it should have been terminated, then a defense is far more difficult. The department ties itself to the pursuit policy and procedures and must abide by the factors it sets out as the basis for determining that a pursuit is necessary or not.

As an example of this situation, consider the following real-life case. The jurisdiction will remain unnamed. The facts are outlined from the plaintiff's viewpoint. Defense contentions will be presented as well.

> At a little before noon on a weekday in the outskirts of a large city, a domestic dispute occurred. The couple had a minor squabble inside a vehicle at the apartment complex where they resided. The woman left the vehicle suddenly, and in doing so sprained her ankle as she exited the car. She asked a neighbor for help as the husband left in the car. Since she was injured in the course of the dispute, the police and a rescue vehicle responded.
>
> As the police were investigating the incident, the husband (seeing the police and rescue vehicles) returned to the area. Bystanders pointed his vehicle out to the police, who attempted to stop the subject. He fled past the police in his car. It was just a short distance (100 – 200 yards) to a major expressway, and he headed toward it. The police followed. The pursuit was underway. The police had a lead pursuit vehicle and a second vehicle to *call the chase*. The speeds reached 90+ MPH by all admissions.
>
> As the pursuit closed in on an area of slower traffic and more congestion, it entered smaller streets. At one point on the audiotape, the second police car can be heard telling the lead car to *break off*—indicating that it was too dangerous. The officer in the lead car (with siren still audible in the background) stated to dispatch that he was ending the pursuit. Seconds later, a major crash occurred near a curve in the roadway ahead, some .30 (three-tenths) miles from where the officer claimed to have stopped the pursuit. The police advised dispatch of the crash and were on the scene virtually as it occurred.
>
> Based on the timing of the voice transmissions, it was determined that even though the police *called off the pursuit,* they never actually ended chasing the suspect. This was a major premise of the plaintiff's case and one that the defense disputed. The crash occurred as the suspect should have entered a curve to his right. He went straight, crossing into the oncoming lane. This suggested that he (the suspect) was looking at the police out of his rearview mirror, and it had

the potential to sway the jury into believing that the chase was still ongoing at the time of the crash. The suspect struck a 60-year-old woman's car head-on and caused her significant life-altering permanent injury.

At the trial, the jury was told of the basis for the pursuit—the domestic squabble. The agency policy was examined carefully. It seemed that the relatively well-written policy, if followed, should have prevented the pursuit from ever beginning. The police knew the name of the husband, knew his address, and even knew his work location. There was simply no need to apprehend him at that moment simply because he did not stop when ordered to by the police on foot at the scene. The plaintiff's position was that the pursuit, which never should have begun, never actually ended. The tape was played for the jury, and timelines were calculated showing the length of time from when the officer claimed to have ended the pursuit until the crash and his arrival at the scene. The jury believed that the police either pursued when they should not have, or that the pursuit never actually ended. The award was for the plaintiff and the sum was substantial—in the seven-figure range.

Approach Three

No Pursuit Policy – Highly Restrictive Policy

In this approach, the restriction is so tight that virtually all pursuit is forbidden. Pursuit can occur in only the most serious of cases and then only with the tightest of controls. While this type of policy may seem to minimize the risks to the motoring public associated with pursuit, it may in fact raise the level of risk to society from other types of crimes. This occurs when criminals realize that the police will essentially not pursue them unless they commit the vilest of acts. A no-pursuit philosophy may increase the overall risk of crime by preventing the police from offering the level of protection expected by the public. Apprehension of offenders may be made all but impossible.

When the management, the supervision, and the municipality tighten controls on the patrol staff, they are seeking to limit exposure to potential liability. This can be a double-edged sword. If an agency puts tight controls and conditions in place, it should ensure that the staff is trained regarding those parameters and ensure that the policy and procedures are followed in practice. A potential danger is created by having a highly restrictive policy in place. It stems from the possibility that the police may act outside the scope and parameters set forth in the policy. When that occurs, the officers, supervisors, and command may find themselves victims of their own design. What was drafted as a policy to prevent liability (through preventing pursuit) can actually create liability if officers can be shown to have violated the official policy and procedures of the department.

Policy Design and Training

We can see the need for properly designed, worded, and implemented pursuit policies. Policies should not be drafted off-the-cuff by the department's driving instructor, or even by the chief of patrol. Rather, a variety of policies from well-run, perhaps even accredited, agencies should be examined. Departments that have legal staff to assist in the design, wording, and development of the procedures can

also be a valuable resource. On the other hand, one should not assume that one jurisdiction's policy can be adopted verbatim by another agency. The process should involve an evaluation of the current writings on police policy and procedures from other agencies that have demographics, geography, and statistics similar to those of the agency looking to establish a policy. In this manner, the agency will get a sense of what others are doing with respect to police pursuit. It is imperative that any policies reviewed are timely and not dated.

Once the evaluation has been completed, the administrator, in concert with command staff and legal counsel, should decide what philosophy and practice should be adopted by the agency and ultimately by the municipality. Specific language can then be chosen, modeled after that of other well-designed policies. Once in place, the policy should stand a legal review.

The next, equally important part of an overall successful policy is to ensure that the patrol (and all who drive a department vehicle) know and understand the policy parameters. Staff training in implementing the policy is paramount in a successful legal defense. Merely having a well-worded policy in place will not suffice. In fact, it can make the potential liability even greater if an agency writes a policy and never bothers to train the staff regarding the particulars of that policy. How can the agency's staff be held accountable for a policy of which they are unaware or do not understand?

Additionally, even if the best of all pursuit policies has been put into place today, one should plan to examine and update that policy (and its procedures) regularly. The policy should be a fluid document that changes as court decisions evolve and needs dictate. Regular training on any modifications to the policy, ensuring that the staff are kept current, can be instrumental in lessening potential liability.

The last element of training for pursuit actually has more to do with *skill* than *knowledge*. It is the agency's responsibility to ensure that all members who drive agency vehicles are technically able to handle the rigors of pursuit driving. Not all drivers are of equal caliber. Some have a more natural feel for how to handle a vehicle than do others. The agency should design, develop, or adopt a program modeled after other successful driver training programs. Training members in driving skills, including those required to drive during the stresses of an emergency or a pursuit is essential to an overall viable pursuit policy and pursuit program. Although writing and adopting a pursuit policy is necessary, it is incomplete unless the agency trains and tests the proficiency and skills of its drivers. When this element is added to the agency's pursuit policy, the likelihood of a successful outcome of a pursuit increases as does the potential for a successful legal defense.

Conclusion

Pursuit driving and the decisions surrounding whether to pursue or not to pursue will always carry controversy. Part of the reason for this controversy is that innocent third parties are often injured in the course of the pursuit, either by the suspect or the police. In either case, the ultimate evaluation is whether the injury to the third party was justified given the circumstances of the pursuit. In our litigious society, that judgment is all too often made by a jury.

We can never eliminate all risk from pursuit. There will always be risks to the public, risks to our officers, and indeed, even risks to the suspects we pursue. We can, however, through the implementation of good and viable policies and procedures, lessen the likelihood of a catastrophic event that may end in litigation. If, despite all best efforts, litigation arises from a pursuit incident, at least the agency will find itself in a position to defend the staff, the agency, the municipality, and the individual officer.

As technology enhances our ability to identify, track, and ultimately apprehend violators, the need for immediate, high-speed pursuit may slightly diminish. As long as lawbreakers seek to evade detection and apprehension, however, the issue will always be at the forefront in law enforcement. To not pursue under any circumstances gives license to lawbreakers and traffic violators to flee and evade the law and precludes the police from effectively protecting society when the need to apprehend arises. The same argument applies to traffic violators, who if they could not be reigned in, would pose an increasingly grave threat to traffic safety. Although the dilemma will continue as long as good guys and bad guys drive cars and interact on the highway, a pursuit policy designed to provide a sensible and workable compromise between no policy at all on the one hand and an excessively restrictive policy on the other may offer the best hope of achieving reasonable protection for the public by enabling the police to apprehend criminals and nab scofflaw drivers.

Mr. George L. Ruotolo is a consultant and expert witness in litigation and is not an attorney. This article and the concepts expressed do not constitute legal advice on the issue of police policy and/or police pursuit.

George L. Ruotolo retired in 1993 from New York State law enforcement and police training after completing 21 years of service. During those years, he trained thousands of police officers in traffic accident investigation and reconstruction. His later responsibilities included the certification of police instructors for the state of New York. For the last eight years of his New York employment, he trained senior law enforcement officials in police agency administration, including policy formation.

Now a private consultant to law enforcement agencies, the legal profession, and insurance companies, Mr. Ruotolo has worked with scores of clients in more than 15 states on cases pertaining not only to traffic accident reconstruction, but also to police policy and procedure, police pursuit matters, and use-of-force issues, all areas with potential focus on high liability and negligence. Having experience in testifying as an expert witness since 1981, he has served both the plaintiff and defense in civil court and has consulted with both prosecutors and defense counsel on criminal matters. To date, he has testified in more than 50 trials in 30+ state and federal courts.

Pursuit Management: The Critical Link

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Managing a pursuit is a situation most front-line law enforcement supervisors will face at some point in their careers. The decision-making, technical job knowledge, and potential liability involved in pursuits result in one of the most stressful experiences faced by law enforcement professionals.

Rarely does a day go by when the media is not reporting on police pursuits and their outcomes (with seemingly more dedicated coverage when we don't get it right!); however, the additional attention of the news media and legal system has certainly been warranted in some of the recent higher profile cases. We've all observed audio/video playback of certain pursuits and asked the same question, "What in the heck were they doing?" One member of the "they" group is the supervisor.

Supervisors play a critical role in pursuit management. The remainder of this article presents recommendations, guidelines, and policy criteria for consideration by law enforcement supervisors and the agencies for which they work.

Policy and Training

Does your agency have a pursuit policy? If the answer is "no," the remainder of this article will be useless to you! A sound pursuit policy is the foundation from which decisionmaking and training are built. Without it, you are, for lack of a better term, "flying by the seat of your pants." A legally validated pursuit policy is an essential guide for the law enforcement professional likely to become involved in pursuit situations. As many of you know, several attempts by various political leaders have been made to institute a uniform pursuit policy on the local, state, and federal levels. This is in response to agencies that operate without a policy, yet choose to allow their officers to continue to engage in pursuits.

Has your agency's commissioned personnel been trained in a validated Emergency Vehicle Operator (EVO) course? A basic academy and regularly scheduled post-academy EVO training program are essential for developing and maintaining the motor skills necessary for law enforcement code run/pursuit driving and integrating pursuit scenario decisionmaking and policy training. Without the aforementioned policy and training, it is unreasonable to conclude a successful outcome for you and your agency should you or your officers make the decision to pursue.

These policies and training are particularly critical for supervisors. Although most pursuit policies nationwide place a majority of the onus for making pursuit decisions on the officer(s) involved, the ultimate responsibility lies with the supervisor. When a supervisor becomes aware of a pursuit, he or she should assume the role of objective third party to offset the emotion and adrenaline of the officers involved. The supervisor should monitor the pursuit; evaluate the information received from those involved; request additional information when applicable; and make quick, sound decisions based on the information. This decision-making process *cannot*

take place without an effective pursuit policy and integrated training program. In many instances, the decision-making process is eliminated by the implementation a no-pursuit policy.

In addition to the training received by all commissioned personnel, supervisors should receive additional training to assist them in identifying the critical elements of their decision-making process. Many supervisors are required to manage pursuits based on personal experience, not training. A suggested means for accomplishing this is the incorporation of a pursuit management course into career-level supervisor training programs. These training objectives can be met through the use of table top exercises, classroom critiques of audio/video from live-action pursuits, pursuit scenarios during EVO training, and any other means applicable.

Pursuit Management – What Does It Mean?

Pursuit management means knowing your agency's pursuit policy (and the policies of those agencies with which you work), knowing the personnel you supervise, knowing your beat and the area beyond, and possessing the decision-making skills described earlier. Many of the issues that arise from the management of pursuits can be directly related to the supervisor's knowledge and ability. In many cases, supervisors manage a pursuit based on experience they may have gained while working as patrol officers. These experiences could be good or bad based on the supervisors' backgrounds and previous supervisors for whom they have worked. The old adage of "My sergeant did it this way" should not be the training ground for the supervisor in the management of pursuits. Many issues influence the way a pursuit should be handled, beginning with your agency's pursuit policy.

Clearly written pursuit policies that are void of ambiguity make pursuit management easier—if a pursuit violates a tenant of the policy, you terminate! No matter how well-written the policy, however, there will always remain room for interpretation. For example, most pursuit policies require pursuing officers to identify the traffic conditions at the time of the pursuit. So supervisor, when are traffic conditions too hazardous to continue the pursuit? These are the types of judgments that must be made by you, the pursuit manager. You may choose to be more restrictive in the pursuit of a traffic misdemeanant as compared to an armed homicide suspect. In either circumstance, however, a bright line policy violation means termination of the pursuit. Remember, the policy defines the requirements and limits of you and your officers' actions.

A significant portion of pursuit management deals with people and their decisions. Your subordinates, the "bad guy," and the public at large all impact how you manage your pursuit. But let's focus on those who work for you.

Given the pursuit scenario for both, would you manage a 20-year veteran with a clean driving record differently than a probationary officer who has two patrol car incidents on his or her record? We would hope so! The point here is . . . know your people. Take the time to educate yourself on your personnel's maturity, decisionmaking, driving history, and overall performance. You should be particularly cognizant of situations in which you are managing personnel who do not routinely work under your direct supervision. As we all know, there are officers who should have limited involvement in pursuits—manage them!

Another significant aspect of managing personnel during pursuits involves the intangibles. Do the officers seem too excited to think clearly (e.g., tunnel vision, auditory occlusion, etc.)? Are they in an unfamiliar area? Are they failing to provide dispatch (you) the required data necessary? Have they been preoccupied with personal issues? The list goes on and on, but all of these items must be part of your decision-making process regarding pursuits.

An effective (some would suggest required) solution to personnel issues regarding pursuits is communication. Sit down with your troops individually and as a group, and outline your expectations regarding pursuits. This is a step beyond EVO and pursuit policy training; however, it benefits you and your employees by defining the parameters under which you operate.

The last two items—knowing your beat and making quick, informed decisions—go without saying. When a pursuit happens, you must be able to visualize where it is occurring (if not actively involved). You cannot comfortably manage the pursuit when you don't know the beat.

Decision-making abilities are unique to each individual. The list of what affects our ability to effectively make decisions is endless, but there is one important element to keep in mind. Pursuits, for those of you collision investigators out there, are a time and distance problem. In most instances, a lot of distance is getting covered in a short period of time! You must have the ability to make these stressful decisions. If this is not your forte, you have but one option as the pursuit manager . . . terminate!

Managing the Stop

One of the hot topics on everyone's mind in the law enforcement community and among the pundits in the media is post pursuit rage. A great amount of media coverage and related lawsuits have been dedicated to the treatment and handling of individuals once the pursuit comes to an end. The psychological and physiological aspects of this phenomenon are outside the scope of this article, but there are aspects we should discuss further.

First of all, talk about it! Make sure you and your officers are aware of the phenomenon and how it impacts the arrest tactics in which you are trained. Make the felony stop part of your pursuit scenario training.

Secondly, discuss the stop during the pursuit. We know there are myriad things happening during pursuits, but make a point of communicating reminders to your officers during the breaks in radio traffic.

Finally, if you are involved in the pursuit with your officers, manage the stop! Many officers become emotionally involved in the pursuit. In some instances, this emotional involvement turns to anger or disgust for the suspect. Help your officers keep their emotions in check. Give strong verbal commands, and immediately stop inappropriate behavior/actions.

Managing Interagency Pursuits

Inevitably, an outside agency will join your pursuit (whether or not you request it), or your officers will join another agency's pursuit (whether or not they were requested). When it comes to interagency pursuits, you, as the supervisor, must be aware of what the policy limitations are in these situations. Two critical factors to consider are communication and control. Is there a common frequency? Whose pursuit is it (primary agency); thus, who is managing it? Difficult decisions arise when two agencies with vastly different policies join the same pursuit.

A remedy to interagency compatibility is pre-planning. Meet with those agencies with which you have a close working relationship. Trade policies with them; and discuss pursuit scenarios and protocol; and always—we repeat—always debrief after an interagency pursuit. Discuss the good; discuss the bad; and make it a learning experience. You certainly don't want to attempt to figure out each agencies' role while the pursuit is happening!

We applaud those agencies throughout the nation who rely on one another for assistance and back-up (sometimes out of necessity but more often than not out of willingness); however, difficult circumstances and decisions can arise when two or more agencies join the same pursuit. It is imperative that each officer and supervisor involved understands and complies with their agency's pursuit policy when multiple agencies are involved. If a pursuit has a less than desirable outcome (as they sometimes do), the last thing you want is three agencies pointing the finger at each other over liability. Preplanning is an avenue to avoid this. For supervisors, it is critical.

Managing Pursuit Intervention

There are multiple means used by law enforcement agencies nationwide to stop pursuits. Spike strips, the Pursuit Immobilization Technique (PIT), Tactical Vehicle Intervention (TVI), road blocks, and boxing all come to mind. Pursuit managers must know their agencies' policies on the use of these tactics, as well as those used by adjoining agencies, inside and out. Once again, communication and training are the critical elements. Discuss your expectations with your work group and the agencies with which you work. If your agency allows for methods of intervention that are not authorized by other agencies in your area, provide them with information regarding the technique. The information could be the difference between a positive or negative outcome at the terminus of the pursuit.

As the pursuit supervisor, you will also likely be tasked with investigating the use of these tactics and whether or not they were appropriately/correctly executed. Remember that no one benefits if you determine something was done correctly when, in fact, it was not. Many of the tools used to stop pursuits are being restricted because of the failure to hold certain individuals accountable for acting outside training and policy (e.g., ramming a suspect vehicle and calling it a PIT—there is a difference!). We are not talking about a majority of the interventions occurring throughout the nation, only those warranting an impartial investigation. The police supervisor's responsibility is to call it as he or she sees it and to assist in validating these techniques. When done correctly, these are fantastic resources for bringing pursuits to terminus.

Document the Pursuit

The last issue to address is documentation of the pursuit. Proper collection of information that occurred during the pursuit is critical in determining how the pursuit was handled and how the supervisor can better manage these situations in the future. This can be completed on a simple form that details vital information, such as the number of units involved, speed of the pursuit, location, traffic and weather conditions, and methods utilized to terminate the pursuit. This is an excellent tool for the agency and the supervisor in tracking pursuits. It will allow the supervisor to readily identify and address strengths and weaknesses in training, policy, and decisionmaking.

Final Thoughts

For most agencies, pursuits fall into the low-frequency/high-intensity category. The same can be said for law enforcement supervisors who manage them. For most of us, our personnel infrequently become involved in pursuits. Although this article is certainly not an all-inclusive look at pursuits in general, our hope is that police supervisors might use this as a tool for improved risk, liability, and personnel management.

Barring a no-pursuit policy, no amount of supervisory oversight will assist the officer on the road in making the initial decision to pursue. Proper planning and preparation, however, may greatly assist them, and you, from that decision forward.

Pursuits will continue to happen with our primary objective usually met—catching the bad guy. But remember this about pursuits: The best decision one can make is to not pursue at all! No supervisor or officer should ever face repercussions for using their good judgment to terminate a pursuit.

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Prior to his assignment to the WSP Academy four years ago, Trooper Conley served as a line trooper in Seattle and Kennewick.

Police Pursuits

John L. Bellah, Corporal, California State University, Long Beach Police Department

Police pursuits are a hot topic not only locally, but all over the United States, as well as Canada, England, Australia, New Zealand and probably the rest of the free world.

Vehicular pursuits are potentially dangerous, and when someone becomes injured or killed as a result of a police pursuit gone awry, it becomes newsworthy. Letters are written to the media, which in turn fire up the politicians who get on the bandwagon to try to limit or eliminate pursuits.

Some of the "solutions" are, well, laughable:

- "Just get the license number and later the police can go to the person's home and arrest them."
- Put the police in a slow car so that the officer is unable to pursue.
- "Just shoot the tires out."

Pursuit Motivators

Often spurred by the media, the public tends to blame the police every time a pursuit ends unsuccessfully. In very few cases, there may be carelessness and negligence on the part of the officer and/or the department involved; however, the fact is that a motorist has the legal obligation to yield and stop when lawfully signaled by a police officer. The driver that fails to stop and elects to flee is the one responsible for placing his or her life in danger, placing the officer(s) in danger, as well as being a menace to surrounding property and the civilian population.

Unfortunately, in recent times, the media has glamorized fast driving and police pursuits. Television programs as well as movies, such as *2 Fast 2 Furious, Cannonball Run, the French Connection, Vanishing Point, Bullitt,* and of course both versions of *Gone in 60 Seconds*, reinforce to the public how "cool" pursuits are. Unfortunately, the public doesn't realize that what they are really watching is a culmination of carefully orchestrated stunts, trick photography, and special effects. Reality television shows such as *Cops, Real Stories of the Highway Patrol*, and others have also made pursuits attractive, and of course, the current trend of the electronic broadcast media is to pre-empt regular television programming whenever an exciting pursuit occurs with live coverage. An example of this occurred with O. J. Simpson's famous "low-speed pursuit." For the individual that is "hooked" on pursuits, there is a subscription service through which the subscriber can be immediately notified by telephone or pager when the next live pursuit is broadcast on TV.

The increased media attention has not done much to curtail pursuits. Perhaps in some ways, the sick individual finds his or her "fifteen minutes of fame" by trying to outrun the police. This is evidenced by the person(s) contemptuously flaunting the law by brandishing weapons, drinking alcohol, smoking marijuana, flashing gang symbols—as well as other hand gestures—accompanied with hand-waving and smirking at TV cameras.

Many that run from the police feel that they have nothing to lose. They may have a suspended license or no driver's license—and probably no insurance. With few assets, this type of individual can cause hundreds of thousands of dollars in property damage, as well as injury or death. Many jurisdictions now consider it a felony to attempt to evade the police; however, a long jail or prison term will not replace damaged property, repair a shattered family, or replace the loss of human life.

Wanted persons and criminals that face long prison terms often feel that there is little to lose by running. Several states have enacted three-strike-type laws that "reward" repeat offenders with long prison terms when caught. This is another incentive to flee.

Drug and alcohol abuse is certainly a factor in police pursuits. Anyone who has spent any appreciable amount of time in the law enforcement community knows how alcohol and drugs affect judgment and motor skills. Unfortunately, many pursuits involve impaired drivers. Statistics also reflect that almost half of the fatal traffic collisions involve alcohol and/or drug use. Those that advocate the legalization of illicit drugs should take into consideration that *if* drugs were legalized, we would be seeing more impaired drivers on our highways.

The juvenile offender can also become a source of serious problems, partially due to the juvenile mindset of immortality, leniency in juvenile punishments, and, if under the influence of alcohol and/or drugs, impaired judgment. We saw this in the early 1970s when the voting age was reduced from 21 to 18 years of age. Many states also lowered the drinking age. When the alcohol-related traffic statistics rose alarmingly with this age group, the federal government stepped in and forced individual states to raise the drinking age back to 21—or face loss of federal highway funding.

Are Pursuits Necessary?

Unfortunately, with the current trends in law enforcement, we are going to have people who run or attempt to run from the police. To arbitrarily ban all vehicle pursuits will quickly send a message that it is acceptable to run.

The suggestion of the officer to just obtain a license number and arrest the driver later may be a viable solution *if* the identity and residence of the driver is known. In many cases, however, the vehicle may be stolen or borrowed; the license plates may be switched or removed completely, or the identity of the vehicle may otherwise be concealed.

The suggestion of placing the officer in a low-powered vehicle is equally ludicrous. During the 1950s, the Los Angeles Police Department made an exhaustive study of vehicle pursuits. At that time, the basic patrol car was powered by a six-cylinder engine, similar to other major large cities—New York and Chicago.[1]

LAPD quickly learned that an officer driving an underpowered police car more often than not, got into trouble by out-driving the vehicle's capabilities. Surprisingly, when a more powerful police car was utilized, the success rate in ending the pursuits without injuries and property damage was considerably higher.[2] By the mid-1960s, the LAPD selected the mid-size Plymouth powered by 383-cubic-inch V-8, with a four-barrel carburetor, considering that type of vehicle to be the "ideal" patrol

vehicle of that era.[3] As one LAPD officer of the era was quoted, *"The best pursuit is no pursuit. The next best pursuit is a short pursuit."*[4]

The California Highway Patrol (CHP) became concerned with the deteriorating performance of the available police sedans due to mandated environmental concerns in the late 1970s. The CHP launched an extensive research project[5] on alternative police vehicles and as a result of their findings, purchased a quantity of 400 Special-Service Ford Mustangs as pursuit vehicles in 1982. The Mustang was a success, and the CHP continued with "pony-cars" until the performance of police sedans improved to the point that specialized pursuit vehicles were unnecessary.

On the northern end of the continent, the Royal Canadian Mounted Police (RCMP) also went to Mustangs, and later Camaros, for pursuit functions. RCMP brass predicted that the high-performance "pony-cars" would increase pursuits as the violators would actively attempt to outrun the police.

The Mounties quickly learned a lesson that the LAPD learned a dozen years previously—that people were less inclined to try to outrun the combination of a formidable vehicle designed for pursuit driven by an officer that has been extensively trained in the art of pursuit driving.[6]

To Pursue or Not?

The decision to pursue depends upon many variables. The pursuit must fall under the agency pursuit policy and guidelines. *Does the need to pursue outweigh the risks involved?* Weather and traffic conditions, police vehicle capabilities, officer skills, and communications should all be taken into consideration.

In the old days, officers would pursue a suspect vehicle until the driver elected to stop, ran out of fuel, or crashed. Today, police administrators are taking a different view of vehicle pursuits given the dangers that police pursuits pose and the increasing traffic congestion problem. "Spike-Strips" ramming and other methods of legal intervention are becoming increasingly popular.

Training Issues

Most officers receive some training in emergency vehicle operations during their basic training at the academy. In many jurisdictions, this training is mandated by department policy and/or state law; however, like firearms proficiency, arrest and control techniques, and baton training, emergency vehicle operations are considered *perishable* skills, and periodic refresher training is necessary to maintain proficiency.

Police Vehicle Issues

While the police vehicle often undergoes harsh treatment, and in some cases, abuse, it is a vitally important tool during a pursuit. Keeping the police vehicle well-maintained and in good mechanical condition should be of paramount importance both for the safety of the officer(s) and to the general public. Tires, brakes, and suspension components should all be intended for police service and in proper working order. Substandard brake pads and shock absorbers do not belong on

a police vehicle. The same is true for tires. Many managers have been tempted to replace the original equipment (OE) tires with less expensive tires, under the rationale of a "no pursuit policy" or that the patrol cars only operate at low speeds within the city. This practice is false economy and can be dangerous as nonpolice-intended replacement tires will alter the handling characteristics of the vehicle and may not hold up to the speed demands of which the vehicle is capable. Both the Ford Crown Victoria and Chevrolet Impala are capable of top speeds in excess of 120 MPH. The Dodge Intrepid tops out in excess of 135 MPH. These cars require tires that are "speed-rated" for the top speeds of which these cars are capable.

Many agencies specify that only OE replacement parts be fitted to their police vehicles. This is for good reason as aftermarket components may negate certain aspects of the police vehicle, affecting performance, handling, stopping, and reliability. There are also warranty and liability concerns.

Some departments have disconnected the passenger side airbag on vehicles that are not carrying a passenger in the right front seat. In many ways, this makes sense as the cost of an airbag currently runs about $1,500. The other consideration is that the law enforcement equipment, if not properly mounted and secured, can be catapulted about the vehicle and inflict painful injuries to the occupant(s) if the airbags were to deploy.[7]

Not all police vehicles are certified as "pursuit" vehicles by the manufacturer. *Pursuit-certified* vehicles are designed to function under the heavy demands of overall police service. There are also *special service package* vehicles that are designed for police service; however, the manufacturers have not certified them as pursuit vehicles. With the quest for more interior room in police vehicles, many agencies are looking toward the sport utility vehicle (SUV); however, with the exception of certain, older vintage Jeeps and Chevrolet Tahoes, the only currently manufactured SUV that is pursuit-certified is the Hummer—with a top speed of 85 MPH. That picture is due to change in the near future, as Chevrolet intends to introduce a pursuit-certified Tahoe for 2005.

Daily inspection of the patrol vehicle before going on duty is a task that should not be ignored. Do the emergency lights and siren work properly? Safety equipment in order? Seat-belts/shoulder harnesses in good operating condition? Brakes, tires, and shock absorbers in good working order? Are the tires properly inflated? Is there an adequate amount of engine oil in the crankcase, as well as brake, power steering, and automatic transmission fluid? Is the fuel tank full?

Officer Concerns

There are many factors that can affect performance under stressful conditions. Proper selection and training of personnel is important. Other factors, such as shift work, overtime hours, court appearances, and the long hours that police officers are required to work will affect judgment—often adversely.

The lack of sleep and medications—both prescription and "over-the-counter" can affect motor skills and judgment. Warning labels that suggest caution when operating machinery and/or driving should not be taken while on-duty.

"Tunnel vision," occurs when the officer focuses on the target (the suspect vehicle), and his or her visual acuity eliminates everything else. Tunnel vision is prevalent in many stressful police functions—and especially in pursuit situations. Officers have to discipline themselves not to let tunnel vision get control of them.

Emotions have a tendency to boil over, especially during long pursuits. Currently—post Rodney King—officers must keep in mind that video cameras can be anywhere and to conduct themselves accordingly.

The Chase Is on . . .

The violator has failed to yield to the officer's signal to stop, and the officer is now in pursuit, assuming that the needs of the pursuit outweigh the risks involved, the pursuit is approved by the supervisor, and that it is within agency policy.

A secondary unit should be assigned, along with a supervisor. Once in position, the secondary unit should broadcast the pursuit, thus freeing the primary officer to concentrate on driving. Department policy should be flexible so that enough secondary units can be assigned, in case of multiple suspects. A supervisor should be directly involved in the pursuit.

Utilization of Available Resources

If available, air support (i.e., plane or helicopter) should be utilized. Personnel in the air can also broadcast the pursuit, locate suspects that flee on foot, and vector officers on the ground to strategic areas. The airship is a valuable tool, especially if the pursuit is in an urban area where cross-traffic can be a threat. The airship can vector other units to close strategic intersections to reduce the threat of a collision.

A K-9 unit may also be useful at the end of a pursuit in clearing the suspect vehicle after the vehicle is stopped.

If the pursuit leaves the agency's jurisdiction, the surrounding jurisdiction(s) should be notified. Agency policies vary, and those agencies may or may not be of assistance. It would be helpful to know the policies of nearby agencies.

Communications

Adequate communications during a pursuit is vitally important. Supervisors should ensure that radio discipline is adhered to and that frequencies are not cluttered by extraneous chatter during such operations. Some agencies will switch to different frequencies during a pursuit, a move to keep civilians with scanners from interfering. A pursuit should be terminated upon loss of communications.

Agencies should be prepared for the contingency of the pursuit running out of radio range. Many agencies equip their vehicles to transmit on county or state mutual-aid frequencies. A cellular telephone can often be a handy item out on patrol.

Many agencies equip their vehicles with GPS, which can be useful if radio communications are interrupted. Additionally, the GPS can be used to locate

exactly where the police vehicle is situated and if in another jurisdiction, to vector assistance.

Legal Intervention

"Legal intervention" techniques, such as ramming, spike strips, or firearms usage, can fall into the category of *deadly force.* These techniques should only be utilized if approved by the agency and if the situation warrants the utilization of such tactics.

Several agencies, such as the CHP, authorize a ramming technique, under certain circumstances, to attempt to spin the suspect vehicle off of the roadway. Tucson, Arizona, and Albuquerque, New Mexico, teach their officers a technique that will spin the suspect vehicle around and secondary units will box the suspect vehicle in, immobilizing it.

In theory, spike strips will flatten a suspect's tire(s), thus making the suspect immovable. There have been several documented incidents in which the suspect has continued on—flat tires and all and at times running on wheel rims that are emitting a shower of sparks. A recent southern California pursuit ended up with fatalities when the driver elected to continue to flee on the wheel rims and lost control of the vehicle at high speed.[8]

Debriefing

All pursuits should be thoroughly documented and debriefed to ensure a successful prosecution and to determine whether there are any training, procedural, and equipment issues. Documentation is also important if any type of litigation evolves from the pursuit. In some areas, it is mandatory to report all pursuits to the appropriate state agency.

If the pursuit ends up in a collision, it may be appropriate to have the collision investigated by an outside agency that is not involved in the pursuit. This is intended to show that the investigating agency conducted an unbiased investigation.

A vehicle involved in a pursuit should be taken out of service at the earliest convenience and thoroughly inspected, as drive train, as well as brake and front-end components take terrific punishment during long pursuits. To ensure fleet longevity, the brakes should be inspected, wheel alignment checked, and both the engine and transmission oil and filters be changed.

A technology that is somewhat new to law enforcement is dynamic brake testing. One axle of the vehicle is placed on a dynamometer while the operator applies the brakes; then the other axle is tested. This process tests the efficiency of the brakes, whether the ABS is operating correctly, and whether there are any differences in braking performance between wheels. This information is downloaded into a database with the vehicle maintenance files. If necessary, a hard copy can be printed up. This technology can confirm or deny claims of "brake failure" and can be positive evidence if brakes or maintenance are questioned in any litigation. The City of Long Beach (California) currently uses this technology with excellent success.[9]

Pursuit Driver Training

Many agencies offer excellent training in emergency vehicle operations in both the public and private sectors. One of the pioneers in emergency vehicle operations is the CHP, starting in the 1950s. Currently, their EVOC facility is located at the CHP Academy in West Sacramento. A portion of their EVOC course replicated a stretch of four-lane freeway so that officers can practice freeway stop techniques.

The San Bernardino County Sheriff's Department in southern California offers an excellent EVOC training program that is offered to outside agencies.

Surprisingly, Los Angeles, at one time known as "The hot-rod capital of the world," did not offer any sort of EVOC training as part of their basic academy curriculum until the early 1970s. Prodded by the skyrocketing rate of officer-involved preventable traffic collisions, then-Sergeant Jerry Trent, a former freeway interceptor driver, toured several pursuit driving facilities and even consulted with Bob Bondurant to develop LAPD's EVOC course. From its humble facilities at Reeves Field, near Terminal Island, LAPD's EVOC course has occupied several locations until finally moving to their modern new facility in the San Fernando Valley a few years back.[10]

The Michigan State Police Precision Driving Unit (PDU) offers not only pursuit driver training for their troopers, but also an instructor's course for outside agencies.

In the private sector, The Bob Bondurant School of High Performance Driving offers courses in pursuit driving to law enforcement. Bondurant, a former racing driver has been involved in pursuit driver training since the early 1970s. Bondurant's school is located in Phoenix, Arizona. See <www.bondurant.com> for further details.

As incredible as it may seem to our way of thinking, British police actually conduct some of their pursuit driver training by playing "cat & mouse" on *public roads* among commuter traffic. A few years back, a police driving instructor, portraying a thief and trying to outrun his students in a mock pursuit, slammed into the rear of a stationary automobile occupied by a 27-year-old student nurse. The nurse died as a result of the collision, and the instructor was prosecuted. He was found guilty and fined for "careless driving."[11]

Police Tires

Tires are an important aspect of the police package vehicle. Replacement of OE tires on a police vehicle with tires that vary from OE specifications is not recommended. These replacement tires can adversely affect braking, handling, and overall performance. With SUVs gaining popularity in law enforcement, tires will be even more critical. Both Chevrolet and General Tire have conducted a considerable amount of research and development to find the ideal tire for their upcoming pursuit-certified Tahoe. The General Ameritrak is a police-specific tire unique to the Tahoe and is the only tire endorsed by Chevrolet for pursuit purposes as of this writing.[12]

Even for agencies that forbid pursuits, or whose jurisdictions involve low-speed roadways, fitting tires other than OE specifications is not a good idea. If an officer is conducting speed enforcement on a 40 MPH road and the violator is doing 60 MPH, the officer must do 80 MPH or more just to catch up.

Today's tires are "speed rated" and that speed rating will be marked on the sidewall. The current speed ratings are as follows:

Q: 99 MPH
S: 112 MPH
T: 118 MPH
U: 124 MPH
H: 130 MPH
V: 149 MPH
Z: 149 MPH and over
W: 168 MPH
Y: 186 MPH

Other tire issues would concern performance on both wet and dry pavement. An agency that experiences a lot of rainfall should be concerned with wet-weather performance, while southwestern agencies would place more emphasis on dry-weather performance.

The National Law Enforcement and Corrections Technology Center (NLECTC) periodically conducts tests of police tires. For a copy of the test results, contact . . .

NLETC
P.O. Box #1160
Rockville, Maryland 20849-1160
(800) 248-2742.

Endnotes

[1] Gourley, G. D. (1974). *Patrol admistration*. Los Angeles: Charles C. Thomas Publishing.

[2] Gourley, G. D. (1974).

[3] Wynne, G. R. (1965). *Police transportation management*. Los Angeles: Coda Publications.

[4] Officer Gordon Browning, LAPD

[5] CHP Special Vehicle Study (1979).

[6] Personal interview with RCMP Constable Zanussi (2001, September).

[7] Tucker, D. (2003, Fall). AOI airbag shut-off. *Police Fleet Manager Magazine*, *2*(3), 65-67.

[8] Silver, B. (2003, January 11). Border patrol launches probe of fatal crash. *Los Angeles Times*, p. 2.

[9] Author's research. (2003). Dynamic brake testing. Long Beach, CA, Fleet Services.

[10] Matthews, J. (1970, June). LAPD driver training. *Road Test Magazine*, 30-33.

[11] Rayner, G. (1999, March 19). Police pursuits questioned. *Daily Mail Newspaper (UK)*, p. 1.

[12] Bellah, J. L. (2003, Fall). Chevrolet's 2005 police service Tahoe. *Police Fleet Manager Magazine*, *2*(3), 50-58.

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Police Pursuits: Weighing the Risks

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Vehicular pursuits—are they just a routine part of the job, or are they really deadly force decisions? Most police officers and public safety managers know all too well what can happen during a high-speed police pursuit. The risks of injury or death to both officers and citizens are high. The risk of property damage is also high. At a time in our society when lawyers greatly outnumber police officers, the legal risks are even higher. This article will explore the area of police pursuits from several different perspectives: the *legal* risk to individual officers and their agencies, the *departmental* or *administrative* risk to police officers who choose to engage in high-speed pursuits, and the risks to the *community*, in general.

The reader should keep in mind that the obvious target audience of this article is the line officer; however, first-line supervisors, public safety managers, and police trainers can also benefit from the material contained herein. Several solutions and ideas will be presented. What won't be discussed are the techniques of high-speed driving, such as braking distances, cornering, point impact techniques, or any of the other important, but all-too-often discussed topics normally related to vehicular police pursuits.

Legal Risks

The U.S. Supreme Court in deciding the case of *County of Sacramento (CA) v. Lewis* (1998) ruled that injuries or deaths that result from police pursuits do not become constitutional violations unless the officers involved engage in a course of conduct that "shocks the conscience" of the court. Most legal experts agree that this does not occur unless an officer "purposely" acts to cause harm to a suspect in a way that is unrelated to a lawful attempt to arrest or apprehend. In evaluating a vehicular police pursuit, one federal court in Florida took a very careful and critical review of the circumstances of one such case (*Adams v. St. Lucie County Sheriff's Office*, 1992). The incident in question involved "ramming." The court decided that "ramming" a fleeing suspect constituted a seizure under the Fourth Amendment and that considerations of *Tennessee v. Garner* (1985) applied in that incident. In other words, what was the suspect's level of "immediate dangerousness"? When considering whether to pursue or not, from a liability standpoint, the same analytical decision-making process that an officer goes through before using his or her firearm must be completed.

Courts have ruled that police officers have a duty of care to innocent civilians when deciding to pursue (*City of Pinellas Park v. Brown*, 1992). That includes innocent passengers in the vehicle being pursued as well as other motorists and pedestrians. Notwithstanding the *Lewis* decision, which some legal experts herald as a victory for law enforcement because the decision makes it more difficult to prove a federal civil rights claim pursuant to Title 42, Section 1983 or 1985, most courts take a rather dim view on agencies that take a lackadaisical attitude toward police pursuits. For example, a California Appeals Court decision back in 1992 held that departments are not only mandated to have specific guidelines in place for when officers are permitted to initiate or continue a pursuit, but also to articulate when their officers

must *terminate* or *discontinue* one (*Colvin v. City of Gardena*, 1992). Along the same lines, pursuit driving training is also a factor that agencies can no longer ignore. It seems ironic that the specific functions that police officers engage in with the most frequency are the ones that receive the least amount of training. For example, if you ask 100 officers when was the last time they received a refresher course in handcuffing, they'll probably tell you it was back in recruit school. In contrast, most agencies go to great pains to retrain or "qualify" their officers on the firing range at least two or three times a year—a skill that is no doubt important but one that may only be needed once or twice in an officer's career.

Pursuit driving, like handcuffing, is something that police officers may be required to do with much more frequency than firing their service weapons, but like handcuffing, it is a skill for which most agencies just don't bother to retrain their officers after graduation from the basic academy. This is also an area in which litigation can arise. In a case out of Indiana (*Frye v. Town of Akron*, 1991), a federal court ruled that an agency's failure to provide specialized instruction in police pursuit driving constituted "inadequate training."

Lastly, keep in mind that the often-quoted *Lewis* decision by the U.S. Supreme Court has no impact whatsoever on state court claims arising out of injuries sustained during a police pursuit for either negligence or willful or wanton misconduct.

Departmental Risks

Most agencies across the United States have recodified their vehicular pursuit policies to require officers to weigh the risks of initiating or continuing a high-speed pursuit from the same mindset that they evaluate deadly force situations. In law enforcement, there are precedents for allowing suspects to escape. Deadly force or firearms policies prohibit officers from using their service pistols or other lethal force tools to stop fleeing suspects unless, among other things, the suspect poses an immediate threat. Also, the force application must be accomplished safely. There is no immunity for reckless conduct even if your intentions are good. The same thought process must be factored into initiating or continuing a high-speed vehicular pursuit. "Does this suspect pose an immediate threat? Can the apprehension be accomplished safely?" Reckless vehicle operation by an officer, even though his or her intentions are honorable, is simply unacceptable; that behavior must be dealt with administratively when brought to the department's attention. Conversely, there are some situations in which leaving a dangerous, violent felon on the street poses a greater risk than pursuing his vehicle. Proper pursuit policy recognizes this threat. Today's contemporary pursuit policy generally permits police vehicular pursuits in those situations only in which a forcible felony has been committed and in which the danger to the public from the at-large suspect is greater than the risks of a vehicular pursuit. Some agencies have even gone so far as delineating the specific felonies for which officers are allowed to initiate a pursuit. Most articulate *violent* felony crimes, like armed robbery or serious (firearms-related) assaults. Others have gone to the "double the speed limit" restrictions, and still others require a supervisor's permission before initiating or continuing a pursuit. Most departments recognize that the pursuit itself (failure to yield) is not grounds for continuing the chase.

Proper policy also dictates a constant evaluation process on the part of the officer. In addition to the known offense, officers must consider several other issues. Who

is the suspect? Who am I? What are the road and traffic conditions? Are there any passengers in the vehicle being pursued? What are the capabilities of my vehicle? What are the capabilities of the suspect's vehicle? Topography? Geography? Backup? Communications? Are other alternatives available, such as air support?

In recent years, there have been significant improvements in both technology and pursuit training. Indeed, the use of reusable or disposable spike strips (tire deflating devices) to slow down fleeing offenders all but eliminates the need to match a suspect's exact speed and/or path of flight. The Point Immobilization Technique (PIT), once a tool for only the most elite state highway patrol agencies, has also been introduced into the repertoire of county and municipal agencies. Used properly, in conjunction with competent training, both of these tools can greatly reduce the risk posed by high-speed pursuit.

Community Risks

After careful deliberation, if the officer determines that that the dangers posed by the escape of a suspect are greater than the risks posed by high-speed vehicular pursuit, the mechanism is now in place for a chase. What are the dangers posed to the community-at-large by this pursuit? Certainly, the time of day must be one consideration. Some pursuits initiated at 4:00 AM are safe for certain areas of the community but might not be so safe at 4:00 PM. Some pursuits along rural roads may be safe at most times of the day. Likewise, the geography of the area is just as important. A location that is heavily industrial with shifts running 24 hours a day could be dangerous even late at night or during the early morning hours. Residential streets could pose a significant threat at varying times of the day. Certainly school zones pose a threat during most daylight hours, but after-school activities (e.g., dances, sporting events, PTA meetings) make these areas hazardous anytime.

Communities can play a big part in understanding police pursuits. Community service officers, neighborhood policing officers, or other outreach-type policing concepts allow for a lot of direct face-to-face contact between law enforcement officers and the public. Many precinct commanders make it a point to hold neighborhood or community police meetings once or twice a month or several times a year. In addition to home security workshops and neighborhood watch programs, some departments bring in police pursuit specialists from the academy to discuss the topic of police pursuits before they become an issue. In this forum, citizens can ask questions about the agency's vehicular pursuit policy or training and get answers to some specific questions. When are officers allowed to pursue? How fast are they allowed to go? Under what circumstances are they required to terminate or discontinue a pursuit? What specialized pursuit training do officers get? Are they retrained periodically?

Not only are citizens likely to be more supportive of their officers should a pursuit take place in their community, but when armed with a better understanding of the facts surrounding police pursuits, they'll be able to accept that sometimes pursuits are a necessary part of the job.

Summary

There is no doubt that sometimes police vehicular pursuits, even relentless ones, are necessary; however, before you as a line officer, decide to initiate or continue a pursuit, ask yourself this question: Are the results worth the risks? Perhaps just as important are questions for first-line supervisors or agency managers to ask themselves: Is our department *policy* on high-speed pursuits compatible with the *immediate dangerousness* criterion? Does our pursuit *training* factor in that issue? Could our agency withstand a *court challenge* on negligent training in the area of police pursuits? Do our officers have all the *tools* and *equipment* they need to pursue dangerous suspects safely? If you can honestly answer *yes* to each of these questions, the odds are you'll never be on the losing end of a lawsuit stemming from a police pursuit. Chances are also pretty good that you won't have any duty-related injuries or deaths that often result from high-speed pursuits. If the answers to these questions are *no* or *I'm not sure*, it might be a good idea to implement a very thorough pursuit policy audit or needs assessment, maybe by an outside objective pursuit expert or someone who is knowledgeable in the area of police pursuits before the next one occurs.

References

Adams v. St. Lucie County (FL) Sheriff's Office, 962 F.2d 1563 (1992).

City of Pinellas Park (FL) v. Brown, 604 So. 2d 1222 (1992).

Colvin v. City of Gardena (CA), Cal. App. 4th 1270 (1992).

County of Sacramento (CA) v. Lewis, 118 S. Ct. 1708 (1998).

Frye v. Town of Akron (IN), 759 F. Supp. 1320 (1991).

Tennessee v. Garner, 105 S. Ct. 1694 (1985).

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Control of Police Vehicular Pursuit

D. P. Van Blaricom, Police Practices Expert, MPA, FBI-NA, Chief of Police (Ret.)

Law enforcement professionals unanimously agree that police vehicular pursuits are dangerous and that they must be controlled (Alpert, Kenney, Dunham, & Smith, 2000), but questions remain as to how dangerous they are and how they should be controlled. That debate has been ongoing for a long time and continues unabated today.

Statement of the Problem

The first real comprehensive study of the consequences of police vehicular pursuit was undertaken by the California Highway Patrol (CHP) and published in 1983 (Department of the CHP Operational Planning Section Staff, 1983). That study concluded that 29% of vehicular pursuits end in an accident; 1% are fatal; and 28% of those fatalities are innocent third parties who just happened to encounter the pursuit as unfortunate bystanders. Although California was the first locale to be methodically studied, subsequent studies have been conducted in other venues to replicate approximately the same statistical ratio of accidents, fatalities, and innocent third party victims. The CHP, however, interpreted the results of their study to make the questionable policy judgment that, *"Undoubtedly, innocent people may be injured or killed because an officer chooses to pursue a suspect, but* ***this risk is necessary to avoid the even greater loss that would occur*** (emphasis supplied) *if law enforcement agencies were not allowed to aggressively pursue violators."* That philosophical statement best represents the demarcation in thinking that still exists within the law enforcement community 20 years later.

This article takes the position that the risk is not always necessary, and there is no reason to believe that a greater loss would occur from taking less risk. There are essentially two prevailing myths of the prochase faction: (1) if a driver runs from the police, he or she must have committed a more serious crime that will be discovered after apprehension and (2) if we adopt a policy of not chasing everyone who runs, everyone will run. As with many honestly held beliefs, there are simply no facts to support those strongly held assumptions. To the contrary, it has been demonstrated that there is neither an increase in criminality nor an increase in vehicular flight from the police that can be attributed to the adoption of a more restrictive vehicular pursuit policy (Alpert et al., 2000). As most experienced officers know and studies have confirmed, the person most likely to flee from the police, at a rate of 32% or nearly one-third of the total, is someone driving a stolen car (Alpert et al., 2000). The question then becomes not one of whether an auto thief will flee from a random attempt to stop, which of course he or she will and likely at all costs, but one of whether or not a pursuit will be initiated and continued into a likely accident that may seriously injure or kill an innocent third party (Alpert, 1996). That is a policy decision that needs to be made, and the prevailing standard, adopted by the International Association of Chiefs of Police (IACP) in 1996, is *"The immediate danger to the officer and the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large"* (IACP, 1996, p. 2). Does recovering a stolen car justify putting anyone's life at risk, especially the lives of innocent third parties who just happen to be in the way of some kid who is running from the police in flat-out panic with his eyes glued to the rearview mirror? In other words, **is the pursuit worth the risk**? This issue needs to be contemplated and decided in advance by experienced law enforcement administrators, not left to the chance discretion of an officer on the street, who is suddenly faced with someone who will not stop. Just how, after all things

considered, is the pursuing officer actually going to make an unresponsive driver stop in the real world, and if the chase continues, how is it likely to end? The most common terminating event in an urban pursuit is an accident (Beckman, 1985), and that accident will most often occur at an intersection. Controlled intersections may be likened to the chambers in a revolver being used to play Russian roulette—sooner or later you are going to hit a loaded one (Van Blaricom, 1998).

Policy, Training, Supervision, and Accountability

The reader may agree that a police vehicular pursuit policy is necessary, and in fact, every law enforcement agency seems to have one. There are, however, three types of such policies: (1) discretionary, (2) restrictive, or (3) discouraging. A discretionary policy is really no policy at all and leaves decisionmaking to the ad hoc judgment of whoever happens to be engaged in the pursuit. The restrictive model incorporates the principle of balancing need against risk, as described by the IACP sample vehicular pursuit policy previously cited herein. Finally, the discouraging policy essentially prohibits all pursuits and, although in limited use, is not generally favored, as there will always be some circumstances wherein a calculated risk must be taken to pursue for the greater necessity of apprehending an extremely dangerous criminal. Policy, however, is only the first component of controlling police vehicular pursuits and will not be solely effective. By example, all law enforcement agencies have deadly force policies, but they are critically reinforced by the other three essential components of training, supervision, and accountability. Without training in what the policy means and how it is to be fulfilled in actual practice, there will be no compliance. It will simply be a well-meaning document that is neatly catalogued in the General Orders Manual, where it will otherwise only serve to establish civil liability in the aftermath of an uncontrolled pursuit accident.

Training is more than just teaching officers how to drive an emergency vehicle in pursuit and, as with teaching officers how to shoot, pursuit training must encompass equal or greater emphasis on when not to do so as well. Supervision becomes an active responsibility as soon as a pursuit begins and must be exercised quickly because 50% of all pursuit accidents will occur within the first two minutes (United States Department of Justice Office, 1998), but 70% of pursued drivers can be expected to slow their evasive driving within two blocks on urban streets, if the pursuit is terminated (Alpert, 1996). Supervision is especially important to provide an objective balance of need versus risk from the perspective of a senior officer not directly involved in the pursuit itself. The adrenalin dump associated with high-risk exposure is well known to cause tunnel vision, and the pursuing officer can become so focused on *"catching the suspect"* as to exclude adequate consideration of the inherent dangers to oneself or others (Alpert, 1996). Perhaps the most important and most frequently missing component of the four criteria for control of police vehicular pursuits is the accountability factor, and this is difficult to understand. The absence of accountability in any process for controlling human behavior is a systemic deficiency that clearly demonstrates to all concerned that policy, training, and supervision are really meaningless when there are no consequences for ignoring them. If, for instance, shooters were not held accountable for compliance with deadly force policies, does anyone doubt that we would have many more bad shootings? The fact is that police vehicular pursuits seriously injure and kill far more innocent third parties than are ever going to be placed at the risk of a police shooting. Why is that permitted? Officers are strictly prohibited from firing into a crowd, but they are routinely given the latitude to pursue a stolen car through urban streets against traffic control devices until a collision terminates the chase. This

has happened over and over again throughout the United States and will continue to occur until chief policymakers assert effective administrative control over when and how police vehicular pursuits are to be conducted. Can there be any question that this is a critical public safety issue demanding attention?

Examples

Although several specific studies have analyzed the issue of risk in police vehicular pursuits, the following anecdotal examples may further serve to lend emphasis to the human dimension of real incidents:

- A rural deputy sheriff pursued a stolen car driven by two youths at high speed into curves that he knew could not be negotiated until the car left the roadway and went through a home killing the elderly woman inside and the two teenagers in the car.
- A highway patrol officer pursued a stolen car through a school zone at high speed until it struck another car broadside and killed the honor student, who was driving to school.
- An urban police officer refused to terminate a pursuit, after being ordered to do so, and the pursued driver hit a young woman's car head on, causing her to be a quadriplegic in a vegetative state with no hope of recovery.
- A city officer terminated pursuit of a suspected stolen car that was later observed by a rural deputy sheriff, who initiated and continued pursuit until a head-on crash occurred that seriously injured an off-duty city officer driving home.
- A highway patrol officer pursued a motorcyclist for speeding until the officer himself struck an oncoming vehicle head-on and was killed at the age of twenty-three.
- A small town police officer saw kids drinking in a public park and pursued their pickup into an accident, where the unsecured passenger was ejected from the open truck bed and killed.
- A mid-size city police officer pursued a stolen car through red traffic signals at over 100 MPH until it hit a young woman head-on and placed her in a vegetative state for life.
- A city officer pursued a shoplifter through a crosswalk, where a seven-year-old boy on his way to school was killed.
- A highway patrol officer, in pursuit of motorcyclists, ran a stop sign at high-speed and hit another vehicle killing a woman and her child—the damage was so extensive that the investigating city officer had been on the scene for 15 minutes before he realized that the deceased were his wife and daughter.

These are just a few of the actual cases of what continues to occur nationwide. The United States Supreme Court has warned, *"The police officer deciding whether to give chase must balance on the one hand the need to stop a suspect and, on the other, the high-speed threat to everyone, be they suspects, their passengers, other drivers, or bystanders"* (*Lewis v. Sacramento County*, 1998). Surely, law enforcement administrators and chief policymakers can expect no less from their officers, 10.5 of whom are killed in vehicular pursuits on average every year, or for the public at large, who are those innocent third parties.

Summary

Many needless injuries and deaths from police vehicular pursuits can be prevented by adopting a restrictive policy that balances a need for immediate apprehension of a suspect against the risks of a pursuit, training of officers in when and when not to engage in a pursuit, supervision of officers actually engaged in a pursuit, and holding officers accountable for failing to comply with the policy, training, and supervision that has been provided to them. We cannot continue to accept the loss of innocent life as being an acceptable casualty rate or a cost of doing business. "Protect and serve" implies much more than a fatalistic acceptance of what can and should be reasonably prevented by responsible police administrators, who are invested with the policy and oversight authority to control police vehicular pursuits.

References

Alpert, G. P., Kenney, D. J., Dunham, R. G., & Smith, W. C. (2000). *Police pursuits: What we know.* Washington, DC: Police Executive Research Forum.

Alpert, G. P. (1996). *Pursuit driving: Planning policies and action from agency, officer and public information*. Columbia, SC: University of South Carolina College of Criminal Justice.

Beckman, E. (1985). *A report to law enforcement on factors in police pursuits.* Lansing, MI: Michigan State University School of Criminal Justice.

Department of the California Highway Patrol Operational Planning Section Staff. (1983). *California Highway Patrol pursuit study.* Sacramento, CA: State of California.

International Association of Chiefs of Police National Law Enforcement Policy Center Staff. (1996). *Sample vehicular pursuit policy.* Alexandria, VA: International Association of Chiefs of Police.

Lewis v. Sacramento County, 115 S. Ct. 2406 (1998).

United States Department of Justice, Office of Justice Programs, National Institute of Justice Staff. (1998). *Pursuit management task force research brief*. Washington, DC: National Institute of Justice.

Van Blaricom, D. P. (1998). He flees. *Police, 22*(11), 48.

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Importance of Core Stablity in Police Pursuits, Daily Routine, and Sports Activities

Terry Roach, MEd, Registered Kinesiotherapist; President, Body Stabilization Training, Inc.

Have you ever thought about where your power from within your body originates? Whether you are chasing down a suspect, unloading heavy objects out of the trunk of the car, lifting weights, crawling under a small space, or swinging a golf club, proper body mechanics and core stability play an important part in maximum power and injury prevention. You can improve your performance and prevent injuries if you use your abdominals, quadriceps, glutei, and mid-back stabilizers to apply force.

Muscles work three directions: (1) to lift, (2) to lower, and (3) to hold in one spot. For every power application up, out, or down, there must be force applied in an opposite direction.

Your muscle structure needs to be balanced so that there is equal pull surrounding every joint. Train your body for any demands that might be put upon it in any given situation. If you train all ranges and all planes in which the body is supposed to move, you are less likely to cause an injury, and your performance improves!

1. **Setting your core**, or **contracting** the abdominals and **exhaling** as you apply force, takes the pressure off the back as the primary mover.

2. **Pulling your lats** (big muscles of the back) and lower traps (opposite of upper traps) down, in addition to squeezing your arms into your sides, as you use your upper body to secure a load or push or pull an object, takes the pressure off of your chest and shoulder muscles.

3. **Bending from the hips** with your back straight, as if you have a rod in your torso, allows you to use your quadriceps and glutei to power you rather than your hip flexors (groin muscles) and back extensors. If you arch or round your back as you apply force, your back is the primary mover (especially on quads to unload your back by powering with your pelvis).

4. **When standing, contract your glutes** to use your pelvic stability for power application. Lean into objects whenever possible (e.g., car, countertop, wall) as you apply force to distribute the stress over several muscle areas.

5. **Keep head directly over your torso**; look where chest is facing; and **move as a unit** with feet, hips, shoulders, and head as you apply force.

Abdominals

We can breathe from our lungs and stomach. In order to apply the most efficient power within your body, breathe from your stomach contracting the abdominal muscles and exhaling as you apply force. I refer to this concept as "setting your core." Pretend that you are being punched in the stomach. You probably would bear down on your pelvis by contracting your abdominals isometrically. Create

this contraction any time you apply force exhaling longer with a quick inhalation, as this allows the abdominals to work both directions of the motion.

1. As you perform sit-ups or strength work on any bench, always maintain that isometric contraction throughout the up-and-down motion, never allowing the muscle to relax throughout the exercise. Start your action with a quick inhalation so that you are able to exhale throughout the action.

2. Lift and lower your body from the rib cage and diaphragm area rather than leading with head or pulling with the arms. Relax your "dead head" in your hands; pull elbows in by your head; and pull your shoulder blades (lats) down. Pull down with your abdominal muscles to lift your body up whether it is straight up or from side to side to work the obliques (trunk rotator muscles).

Quadriceps/Glutes

Stand with your feet hip width apart, with the weight on your heels through the balls of your feet, toes forward. Maintain a slight bend in the knees to contract quads and glutes isometrically, as locking the joints makes the joint do the work.

Stagger your feet with your front foot flat, and lift up your back heel as that allows your quads to power you rather than the hamstring and calf; bend from the hip joint sitting your rear end back to bend and move. The motion is the same for picking up something off the ground, teeing up a golf ball, pushing a table, and getting out of your patrol car. Initiate your action from the pelvis rather than your lower leg.

Mid-Back Stabilizers

Latissimus Dorsi (Lats)/Lower Traps

These two muscles are probably the most underused, as strong pectorals and upper traps do the work of the mid-back stabilizers. Whether you are steering your patrol car, shaking hands with someone, or performing a lat pull down, pull your lats/lower traps down before you initiate any action with the arm. Try to get your power from your lats/lower traps, deltoids, and upper arms rather than your forearms.

As you walk and move, move with shorter strides with faster turnover to keep your weight over your front foot, rather than your back foot. Load your front leg like you would load a crutch and pick your back foot up immediately. Lead with your pelvis rather than your head.

Injury prevention and improved performance occurs when you move as one piece, getting power from your abdominals, quadriceps, glutei, and mid-back stabilizers.

Controlling your body and attempting to make no noise as you move leads to improved balance and stability, helping you in all aspects of your life. Good luck on your journey to achieve total body control by taking responsibility for your own wellness!

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Rethinking Police Pursuits, Practices, and Civil Liabilities

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Introduction

Recently, various societies—in both developed and developing nations—have identified "police pursuits" as one of the pressing issues in policing that, invariably, requires major reforms (Palmer, 2002). This is particularly so as one is confronted with teeming protests against the practice. Communities have continuously and assiduously been organizing against incidents of police pursuits in hopes that their respective police departments would make necessary changes regarding policies and practices of police chases, which have been considered to be more deadly than a speeding bullet (Alpert & Fridell, 1992; Avery, 1997; Nugent, Connors, McEwen, & Mayo, 1990; Palmer, 2002).

Police collisions have drawn public attention to the fatalities involved, thus resulting in large segments of the citizenry questioning the necessity of such fatalistic police pursuits. Indeed, high-risk operational policing, in itself, is a pressing issue worldwide because the practice of pursuit involves danger not only to the police officers engaged, but also innocent motorists, pedestrians, and the culprits being pursued. There have been numerous unfortunate instances in which innocent bystanders going about their normal routines have been killed or injured. In this regard, some experts on pursuits have noted that the police car, used in such high-speed pursuits, can represent the most perilous weaponry in the police armory (Avery, 1997; Palmer, 2002).

About 40% of all motor vehicle police pursuits end in collisions, which have caused nearly 300 fatalities of police officers, suspected offenders, innocent motorists, and bystanders (Dunham, Alpert, & Cromwell, 1998; Pipes & Pape, 2001). According to a study of the U.S. Department of Transportation, over 50,000 high-speed police chases occur every year in the United States (Hannigan, 1992). Often, police officers and their agencies have become subjects of tort action because some pursuits have resulted in accidents, injuries, and even fatalities. This article examines some of the important civil liability cases that have reached the upper levels of the federal judiciary and the unpleasant decisions that have been reached by the different levels of the federal courts. For example, the United States Supreme Court has recently been compelled by circumstances beyond its control to issue some rulings, which have changed the threshold of negligence before an agency or a police officer can be held culpable in police chase practices (*Brower v. County of Inyo*, 1989; *County of Sacramento v. Lewis*, 1998).

The involvement of courts in police pursuit cases demonstrates the urgency and importance of this issue, especially since police all over the country are known to engage in hundreds of automobile chases each day. As a result of the critical

nature of such high-speed automobile chases, various societies have called on police administrators to establish appropriate policies governing the behavior and actions of their employees during such incidents. At a time when the community-policing style has been adopted by many jurisdictions, public concerns about new restrictions and regulations of police pursuit strategies must not be ignored. Instead, it is hoped that police administrators will respect and consider the rules and regulations set forth by their local ordinances, state and federal statutes, and judicial precedents applicable in their jurisdictions.

While it is true that all high-speed pursuits are potentially dangerous and can lead to the injury or death of an innocent citizen, the suspected offender, and/or the officer, it has been shown that not all pursuits necessarily end in tragedy (Hannigan, 1992). Another school of thought holds that due to the nature of police work, certain pursuits are sometimes necessary for the quick and efficient apprehension of law violators. In some jurisdictions today, pursuits can be executed without much damage, especially if properly supervised and guided by enhanced officer training based on a departmentally established culture. In short, each police culture (departmental rules and regulations) must balance the need to capture offenders in the interest of fairness with the need to protect citizens from the risk associated with high-speed chases (Nugent et al., 1990; Pipes & Pape, 2001). A sound departmental policy will go a long way in protecting the city or county from the cost of unfavorable civil law suits for torts resulting from such actions. This is why, in varied ways, a good CEO must make sure that his or her personnel understand the meaning of police pursuits and, most certainly, what they entail.

Literature Review

Since the 1950s, pursuit studies have endeavored to examine the nature and impact of hot pursuits by focusing on an array of elements associated with high-speed chases (Alpert, 1993; Charles & Auten, 1994; Nugent et al., 1990; Pipes & Pape, 2001). One of the early studies, which was initiated by the Michigan State Police, was conducted in 1958 and 1959, and it examined pursuit-related factors of the department (Frazier, 1961). That study specifically documented such factors as the probability of a hot pursuit occurring on a particular day of the week; the time frame or periods such pursuits are most likely to take place; environmental conditions; kinds of violations that led to the pursuits; and the possibility of arrests, injuries, and fatalities resulting from the pursuits.

In 1969 and 1970, for example, the Center for the Environment and Man was contracted by the U.S. Department of Transportation (DOT) to study the hot pursuit issue, and the extensive field study (see Fennessy, Hamilton, Joscelyn, & Merritt, 1970, p. 5; Nugent et al., 1990, p. 6) set the standard for research on police pursuits, with the following findings:

- The majority of pursuit-related fatalities are incurred by the fleeing driver, passengers, or uninvolved bystanders.

- The event that triggers pursuits is a traffic violation in more than 90% of the cases.

- Young (under 24) male drivers with poor driving records are most likely to attempt to flee from a police officer.

- Alcohol plays a role in more than half of the cases in which a driver attempts to evade apprehension.

- A significant number of known offenders (roughly 15%) were driving without valid licenses at the time they attempted to evade apprehension.

- Approximately half of the offenders had at least one prior license suspension on their records.

- Only a relatively small number (3-8%) of pursuits involve stolen vehicles.

- The majority of pursuits occur at night or on weekends.

The Physicians for Automotive Safety (see Fennessy et al., 1970; Fennessy & Joscelyn, 1972) conducted their own study, which was similar to the DOT-commissioned study. The new study looked at police pursuit practices nationwide, and they discovered that one in five pursuits end in death; five in ten pursuits result in serious injury; one out of 25 engaged in pursuits is killed; seven in ten pursuits end in accidents; and one in 500 citizens die each year due to hot pursuits.

Additionally, in 1982, the California Highway Patrol gathered data on its own incidents of pursuits and also on ten other California law enforcement agencies (CHP, 1983). Contrary to earlier conclusions, the 1983 CHP study showed that less than three in ten (29%) police pursuits involved collisions. Furthermore, the CHP study determined that there was a 1% fatality rate associated with hot pursuits, indeed contrary to prior findings that up to 20% of pursuits cause death; that 11% of pursuits resulted in injury; that most pursuits are ten miles or less and last ten minutes or less; and that there was an apprehension rate of 77%. Furthermore, CHP concluded that police pursuits are a risky police strategy that, sadly, should still be continued. Nugent and his associates (1990) have pointed out that a limitation of the CHP study is that it focused only on highway patrol, and most highway pursuits take place under conditions different from urban police pursuits.

In 1984, the Solicitor General for Ontario, Canada, conducted another study on police pursuits; specifically, the factors examined included policy, law, statistics, training, and radio communications. The committee concluded that automobile pursuits are too dangerous to embark on as regularly as the procedure allowed at that time (Ontario Police Commission, 1985). Also, it has been shown conclusively that statistics did not support the frequent use of police pursuits because of death, injury, and damage to property associated with the various drivers, who try to elude the police for simple traffic infringements. Furthermore, a felon is seldom captured either deliberately or accidentally due to police pursuit policies. The commission, therefore, recommended a restrictive pursuit policy, enactment of legislation allowing the courts to seize a vehicle that has been utilized by motorists to willfully elude apprehension, establishment of a camera system that can photograph drivers' license plate(s) as well as record a vehicle's speed, and the adoption of a helicopter police patrol.

In 1985, Professor Erik Beckman (see also Beckman, 1983, 1987) of Michigan State University studied 40 city police and 34 sheriffs' pursuits in 1984 over a period of six months and published *A Report to Law Enforcement on Factors in Police Pursuits.* His study was designed to build upon the aforementioned 1983 CHP study. Among Beckman's findings were that no pursuit speed, distance, or duration is safe; a fleeing driver is not always a hazardous felon; pursuits generally result with the capture of the suspect, either willingly or after an accident; and roadblocks and ramming by police add to the apprehension rate while decreasing the overall injury rate. Similar to the CHP findings, Beckman found that an automobile code violation was the most common cause of a pursuit. Beckman's data showed property damage in about one out of five pursuits and one death per 35.33 pursuits. There was injury in one out of seven pursuits reported by the 34 departments he studied. Similar to the Canadian study reviewed above, Beckman recommended the establishment of a written pursuit policy that would be reinforced through training and supervision. He also recommended the use of ramming and roadblocks in pursuit incidents.

Geoffrey Alpert of the University of South Carolina, Columbia, is noted as the leading authority in police pursuit studies. In an article, titled "The Most Deadly Force: Police Pursuits," Alpert and Anderson (1986) acknowledged that hot pursuit constituted the most deadly weapon in the law enforcement arsenal. They stated that research efforts should be directed towards the study of hot pursuits rather than firearms exclusively because pursuits also result in a high number of casualties. Also, the co-authors recommended the development of concise pursuit policies, and they further emphasized the need for training of officers and proper supervision.

In a series of articles (Alpert, 1987, 1988, 1993; Alpert & Dunham, 1988, 1989, 1990; Alpert & Fridell, 1992), one of which examined pursuit data from Dade County in Florida, two developments were examined. First, Alpert investigated the trend that while most pursuits were started because of traffic breaches, many of the captured suspects were charged with grave offenses unconnected to the traffic violations, meaning that some offenders were escaping for something other than traffic infringements. The second tendency focused on accidents. While accidents resulted in more than half of the pursuits, they were minor with no serious injuries. In providing a solution to these trends, Alpert recommended training, but also, he pointed out that the broad policy guidelines of the department allowed officers to engage in more discretionary pursuits. In another article, Alpert and Dunham (1988) used the Metro Dade Police County Department as their study unit and embarked on a research project that took over three years. Of the 952 pursuits they examined, 642 (68%) offenders were arrested; 1% of the pursuits ended in fatalities; and 298 (31%) avoided capture. They also discovered that about 310 (33%) of the pursuits resulted in accidents; 17% ended in injury; and 54% of the pursuits began as a result of traffic violations.

In another study, Alpert and Dunham (1989) combined prior data from Dade County and reviewed about 323 pursuits in 1987. In the end, they concluded that policy on hot pursuits should be based on research and that data does not confirm the notion that police pursuits are dangerous. Instead, they contended that a majority of hot pursuits do not end in accidents, last very long, or reach high speeds, but they often lead to arrests. Their study still found that accidents are likely to occur 65 times more in hot pursuits than in ordinary police driving. Nugent et al. (1990) have commented that the Alpert-Dunham study failed to estimate the severity of injuries

and the resultant costs associated with pursuits; it did not discriminate between types of felony arrests or educate us about the characteristics of the suspects who died and why they were in hot pursuits. In order for police hot pursuit studies to be comprehensive, they must observe the Garner standards in cost-benefit studies of high-speed chases.

In their own 1990 study, commissioned by the National Institute of Justice, a principal research arm of the U.S. Department of Justice (Nugent et al., 1990) published *Restrictive Policies for High-Speed Police Pursuits,* which provided a framework for understanding and assessing policies of police pursuits. Their study examined prevailing restrictive policies of fresh pursuits in four law enforcement agencies: (1) Nassau County, New York; (2) St. Petersburg, Florida; (3) Mesa, Arizona; and (4) Phoenix, Arizona. Their study suggested major concerns that law enforcement agencies should focus on in the development of hot pursuit policies. The four departments they studied had established policies that enumerated the conditions and procedures governing the implementation or initiation of police pursuit. Only Nassau County created a lengthy rationale for its pursuit policy, while the other three departments provided brief summaries of their policies.

In addition, they concluded that each jurisdiction should have a written rule on the tactics (e.g., boxing-in, ramming, roadblocks) for stopping pursued vehicles. As they showed, each department was urged to place emphasis on the protection of human life, and Nassau County totally prohibited the use of firearms in pursuits. The other three departments did not have written policies on the use of firearms during hot pursuits. Indeed, this study builds upon the many prior studies previously discussed because it practically examined all the issues that prevail in high-speed pursuits, such as aircraft rules, radio communications, termination of pursuits, alternatives to pursuits, inter-jurisdictional rules, supervisory role, review procedures, and police pursuit rationale.

Yet, Alpert (1997) saw different perspectives on public policy in a more recent study, which was also funded by the National Institute of Justice; he concluded that police pursuit driving remains a controversial and dangerous activity in police work. The study overwhelmingly indicated the importance of the perceived severity of the offense committed by a fleeing felon as the cardinal factor that police officers consider before engaging in a pursuit. His study also showed that even though police departments are making efforts to train their officers in hot pursuits, there is still a lack of initial and continuing training on the critical issues involved.

While our review of the literature has focused primarily on actually convened studies, more articles have been written on the issue of hot pursuits (e.g., Brune & Nelson, 1991; Charles, Falcone, & Wells, 1992; Grimmond, 1993; Homant & Kennedy, 1994; Macdonald & Alpert, 1998; Moore, 1990; Pipes & Pape, 2001; Whetsel, 1992). A crucial study, worthy of mention, is by Auten (1991), who studied 86 police and sheriffs' departments throughout Illinois and provided analytical data on police pursuits that closely resembled the findings of earlier studies.

Also important is the study conducted by Homant and Kennedy (1994), in which measures of risk taking and sensation seeking were administered to 69 patrol officers of a suburban police department to determine the correlation of these traits to officers' tendencies to engage in automobile chases. Pursuit tendencies

were measured by official departmental records, self-reports of previous pursuits, and responses to hypothetical scenarios. Specifically, the 1994 study tested the hypothesis that risk taking and sensation seeking are positively correlated with the pursuit decisions of patrol officers. After combining the three measures of pursuit tendencies to form a single scale, they found them to correlate significantly with risk taking and sensation seeking.

Together, all of the reviewed articles called for training and restrictive policies while identifying the importance of law enforcement to accomplish its tasks. Communities are enraged by the pursuits, mainly due to deaths and damages that result, which has led law enforcement administrators to change policies and introduce changes in their pursuit policies. In short, the current trend is that the courts will no longer tolerate unacceptable casualties that come from hot pursuits. Today, law enforcement agencies are held accountable for lack of training of their officers. This has certainly led to a change of attitude in cost/benefit analysis of police pursuits. The voluminous literature on hot pursuits points to the same issues: providing a balance between law enforcement and public safety. It is also evident in the studies reviewed that police work constitutes a risky business (Kraus, 1987). It is important that administrators provide a clear definition of the hot pursuit to their personnel.

Definition of Pursuit

In *A Study of the Problem of Hot Pursuit by the Police*, Fennessy and his associates (1970) provided the following definition:

> Pursuit may be defined as an active attempt by a law enforcement officer on duty in a patrol car to apprehend one or more occupants of a moving motor vehicle, providing the driver of such vehicle is aware of the attempt and is resisting apprehension by maintaining or increasing his speed or by ignoring the law enforcement officer's attempt to stop him. (p. 5)

The study by Nugent and other scholars (1990), which was commissioned by the U.S. Department of Justice, gives a definition similar to Fennessy's:

> A pursuit is defined as an active effort by a sworn officer operating a marked police unit utilizing emergency equipment (Code 3, lights and siren) to apprehend the occupants of a fleeing vehicle that is resisting apprehension by maintaining or increasing . . . speed, disobeying traffic laws, or a deliberate refusal to yield to the officer's emergency vehicle . . . (Appendix A, p. 25)

Additionally, the Chicago Police Department provided its own definition as follows:

> A motor vehicle pursuit is an active attempt by an officer operating a department vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual or audible signal by the officer directing such driver or operator to bring his vehicle to a stop, willfully fails to obey such direction, increases his speed, extinguishes his lights, or otherwise flees or attempts to elude the officer. (Patinkin & Bingham, 1986, p. 61)

Most certainly, all the definitions identify some cardinal principles in a pursuit; they also include the fact that the law enforcement officer is often in a patrol car and should, therefore, be recognized by that show of authority and that the pursuit must be conducted by an officer or a sworn officer in a clearly marked police automobile. It is also implied by these definitions that the driver, who is fleeing from the officer, may have violated certain rules, including traffic rules, risky speeding itself, a misdemeanor, or a felony violation. It is recognized that the pursued driver, in a moving automobile, knows that he or she is being chased by an officer. By providing signals to the fleeing suspect, common sense often determines that the fleeing driver (or operator) of a motor vehicle should stop. Finally, all the definitions imply that the pursuer's speed may be dangerous and can, as a result, cause considerable havoc and damage to innocent people and property.

From the definitions discussed, it is obvious that a pursuit constitutes an event in which the suspect or a known felon is attempting to escape capture. As Alpert (1993) indicates, the goal of a fleeing suspect, in a chase situation, is to remain free and avert arrest by the pursuing officer. The offender is, therefore, fleeing to be safe and will continue to run until it is clear that there is every chance of escaping from the grasp of the officer or when the suspect, again, believes that safety is in his or her favor. At this point, the offender may finally surrender, return to a safe speed, or continue on to cause an accident. Usually, it is the police officer and the supervisor, who must make the decision to continue the chase or terminate it. It is also the responsibility of the suspect to terminate the chase by simply pulling over and obeying police commands. The suspect directs the pursuit by being reckless and driving fast, which cannot be ignored by the police. Although the goal of the officer is to apprehend the suspect and, subsequently, effect arrest, the officer must consider environmental conditions as well as personal capabilities to accomplish his or her mission successfully. Training and departmental policies must emphasize such consideration of public safety and indicate whether or not a pursuit should be continued when it goes into areas of congested traffic or busy streets.

Despite the potential danger of pursuits, the overriding philosophy in most police departments—especially agencies that are highly bureaucratic—is to stop law violators and, indeed, apprehend them. In order to protect officers, suspects, and innocent citizens from the danger associated with such apprehension, a concrete pursuit policy needs to be implemented in all departments.

Policy Issues

In a study, which was conducted for the National Institute of Justice titled *Police Pursuit Policies and Training*, Alpert (1997) obtained data through a national survey of police agencies; case studies of three police departments; and surveys as well as interviews with police officers, supervisors, recruits before and after training, members of the public, and jailed suspects, who had attempted to elude police. Alpert discovered that many police agencies had written policies governing pursuits that were implemented in the 1970s. He asserts that most of the departments that have amended their policies have also made them to be more restrictive to control risk. Among the findings is that more law enforcement officers are willing to risk the dangers of pursuits in order to apprehend fleeing felons.

Additionally, Alpert's study shows that when police agencies increased the number of vehicles involved in hot pursuits, they had better opportunities in apprehending more offenders, but he also found that such an increase led to more accidents, injuries, and property damage. Moreover, he claims that there is a lack of initial and continuing training of police officers regarding pursuit driving.

In an earlier study that was commissioned by the National Institute of Justice, Nugent and his colleagues (1990) maintained that an unambiguously articulated police pursuit policy would provide officers a clear understanding of when and how to accomplish a chase, help decrease injury and death, preserve the fundamental police role of enforcing the law and protection of life and property, and lessen civil liability. A pursuit policy also minimizes officers' need to use personal judgment. In addition, it is shown that devising a policy requires that police administrators and municipalities balance conflicting interests: apprehension of offenders and public safety, including the safety of the police officers, fleeing drivers, passengers, and innocent bystanders and motorists (Alpert, 1993; Nugent et al., 1990).

Therefore, according to Nugent et al. (1990), . . .

> High-speed pursuits expose any police department to high risk of loss of life, serious personal injury, and serious property damage. If the injured or killed are police officers, the police department suffers direct loss. If the injured or killed are private citizens, the department or the government it serves may be liable for damages, including property damage, in civil actions. When the injured parties are innocent bystanders, liability is particularly difficult to elude. (p. 2)

If a law enforcement department fails to engage in police chases, however, its credibility may be questioned or diminished in the eyes of law-abiding citizens. This is equally true with the law violators and, therefore, the police would not allow their credibility to suffer in that manner. A policy devoid of pursuits may encourage offenders to flout the rules by fleeing and escaping apprehension (Alpert, 1993; Nugent et al., 1990).

In their study, "Police Motor Vehicle Pursuits: The Chicago Experience," Patinkin and Bingham (1986) noted that the combined efforts of the Traffic Division and the Research and Development Division of the Chicago Police Department produced a clearly-defined police pursuit policy by setting guidelines and restrictions, which delineate officers' and supervisors' responsibilities. It also started a procedural system that documents the pursuit activities of the department. While providing a clear definition of police pursuits, the Chicago policy made the following clear:

> Routine traffic stops or other instances in which officers activate their emergency lights and/or sirens and the citizen/vehicle operator complies by coming to a stop in a reasonably short distance will not be considered a motor vehicle pursuit. (Patinkin & Bingham, 1986, p. 61)

In the ample literature on motor vehicle pursuits, most law enforcement agencies generally adopt discretionary policy models that permit officers engaged in pursuit activity to make decisions regarding initiation, tactics, and termination. Restrictive models place certain restrictions on officers' personal judgment and decisions. The

departments, which emphasize discouraging models, reject careless use of pursuits except if it is absolutely necessary (Alpert, 1993, 1997; Avery, 1997; Charles & Auten, 1994; Hannigan, 1992; Homant & Kennedy, 1994; Moore, 1990; Nugent et al., 1990; Patinkin & Bingham, 1986; Pipes & Pape, 2001; Savas, 1998; Whetsel, 1992).

The Chicago Police Department, for example, restricts its officers from using squadrons and other truck chassis vehicles in pursuit incidents, and the officers are not allowed to engage in pursuits while there is a citizen occupant in the police car, including nonsworn officers of the department. Police officers operating unmarked automobiles may engage in pursuits only in the event of extreme emergency, such as when the fleeing suspect constitutes a substantial danger to life and property. The policy also prohibits officers from deliberately striking a pursued vehicle or the use of barricade unless the offender is wanted for a forcible felony. In addition, a radio dispatcher is required to establish a contact with a supervisor as soon as a pursuit is undertaken. The officer involved in a pursuit is required by the existing rules to file a report to the immediate supervisor (Patinkin & Bingham, 1986).

Today, most police departments no longer subscribe to a pursue-at-all-cost mentality and have, as a result, been establishing policies of restricted pursuits as demonstrated in the literature. Many departments (e.g., Chicago, Miami, and Los Angeles) have made their pursuit policies and procedures more restrictive while recognizing the reality that pursuits are mostly initiated by individuals of the public, who are eager to avoid apprehension. One advantage of establishing a clear policy is to protect financial interests of the tax payers, invariably based upon successful litigations against police departments and their municipalities.

Civil Liability

High-speed police chases in the United States today result in an assortment of consequences, ranging from minor property damage to loss of human life; therefore, police officers and other law enforcement agencies around the country are increasingly absorbed in civil liability suits that frequently investigate and evaluate their behavior and policies in imitating and maintaining automobile pursuit practices (Alpert, 1993; *County of Sacramento v. Lewis*, 1998; Moore, 1990; Savas, 1998). The National Highway Safety Traffic Administration reports that about 5,306 deaths occurred over three decades due to high-speed police chases (*City of Sacramento v. Lewis*, 1998). The study of the AAA Foundation for Traffic Safety in Illinois also reports that nearly 44% of police pursuits generally caused accidents, and as many as 24% led to injury, while 1-3% resulted in fatalities (*City of Sacramento v. Lewis*, 1998). Researchers believe that as many as 70% of these pursuits were part of traffic violations (Avery, 1997).

Individuals, who are injured as a result of high-speed automobile chases by officers, generally seek redress in the courts by arguing that police have violated their fundamental rights as protected by the U.S. Constitution. Specifically, they allege that their rights, privileges, and immunities, protected under the substantive due process of the 14th Amendment, have been abridged by the municipalities and the police officers involved. Victims of crashes or their families bring suits under the congressional civil rights Act, 42 U.S.C., section 1983, to seek remedy for citizens whose rights have been violated (Savas, 1998). Most cases come to the Court under the Fourth Amendment's reasonableness standards.

The U.S. Supreme Court has historically taken an interest in constitutional questions relating to police conduct, including incidents related to police pursuits—beginning with the case, *Tennessee v. Garner*, an example of the police use of deadly force. In it, the Court held that deadly force constitutes a Fourth Amendment seizure, whereby, in the 1985 case, the Supreme Court dealt specifically with the issue of deadly force and, eventually, concluded that deadly force could only be used in the case of life-threatening felony. The Court declared the fleeing felon doctrines of the southern states unconstitutional; prior to the *Garner* ruling, the lower courts allowed officers to use all the necessary means to effect an arrest if a felonious suspect fled or resisted police orders. Also, in the state of Georgia, a law enforcement officer has the backing of the law to utilize deadly force if it is reasonably believed that such force is necessary to prevent death or injury to the officer or third parties. Under both the *Garner* case and the Georgia laws, it is apparent that where deadly use of force is implemented by an officer and it is deemed to be unreasonable, the officer and the department may be liable.

The Court has, in several cases, focused directly on police pursuits. Savas (1998) reports that the important question in litigations that scrutinize the constitutionality of police automobile pursuits is how to provide an adequate balance between the right of a person to be free from capricious governmental instruction against the interest of the state to maintain and secure the welfare of its citizens. This standard was applied by the 6th circuit in *Galas v. Mckee* (1986) to arrive at its decision. Below is a description of cases, including the famous *Galas* case and brief summaries of cases that have directly examined the conduct of the police in hot pursuit incidents:

Brower v. County of Inyo (489 U.S. 593, 1989)

In this case, the court decided that creating a roadblock in the path of a fleeing driver and pursuing him into it constitutes a "seizure" within the meaning of the Fourth Amendment to the United States Constitution. Because of this ruling, many police departments have created restrictions against the use of roadblocks to stop fleeing automobiles. As in *Miranda v. Arizona*, the Court told law enforcement officers what to do and how to go about doing their job. The Court made it clear to law enforcement agencies that intentional seizure of a person (by setting up a roadblock) is illegal and a violation of the Fourth Amendment rights.

City of Canton v. Harris (489 U.S. 378, 1989)

This is the well-known "failure to train" case, which directed law enforcement agencies to provide adequate training to their officers or face paying financial awards to litigants when they bring successful cases against them. Indeed, the Court clearly stated that failure to train officers in a particular duty, when the need for training is apparent, is likely to result in violation of constitutional rights and can make a jurisdiction liable. This case directly affects law enforcement agencies and the duty to train employees (Pipes & Pape, 2001). The Court explicitly stated that "the inadequacy of police training may serve as the basis for 1983 liability only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact."

Galas v. Mckee (801 F.2d 200, 6th Cir. 1986)

In *Galas*, the court considered whether or not a police pursuit of a 13-year-old driver—who was driving at a speed in excess of 100 miles per hour and which resulted in injury of the driver when he lost control of the vehicle and crashed—violated the 13-year-old's Fourth Amendment right to be free from unreasonable seizure. Can police agencies use police pursuits to capture law violators? This was the issue that was before the U.S. Court of Appeals for the 6th Circuit. Before deciding the case, the court had to "balance the nature and quality of the intrusion . . . against the importance of the governmental interests alleged to justify the intrusion." According to the court's opinion,

> . . . the minimal intrusion on a traffic offender's Fourth Amendment right occasioned by the officer's participation in a high-speed pursuit does not outweigh a longstanding police practice, which we consider essential to a coherent scheme of police powers . . . the use of high-speed pursuits to apprehend traffic violators is not unreasonable and, thus, [does] not violate of the Fourth Amendment.

This 1986 case clearly confirmed the use of police pursuits in law enforcement work and provided a needed authority for the police to engage in fresh pursuit practice.

County of Sacramento v. Lewis (S. Ct. No. 96-1337, 1998)

This case clarified the substantive due process standard of liability of a law enforcement agency or police officers involved in hot pursuits. It further establishes a federal standard to be met by plaintiffs who allege police pursuit misconduct. The constitutional question addressed by the Court was "whether a police officer violates the 14th Amendment's guarantee of substantive due process by causing death through deliberate or reckless indifference to life in a high-speed automobile chase aimed at apprehending a suspected offender." The Court maintained that "in such circumstances only a purpose to cause harm unrelated to the legitimate object of arrest will satisfy the element of arbitrary conduct shocking to the conscience, necessary for a due process violation." The Court rejected the plaintiff's "deliberate indifference standard" scheme and concluded that such a standard may be used when it can be determined that "actual deliberation is practical." Police officers, who are involved in pursuits, make split-second decisions without the benefit of a second chance. Given that officers are under pressure and make hasty decisions, the Court affirmed that high-speed pursuits designed not to harm suspects physically do not violate the 14th Amendment. Although the Court confirmed that officers and their agencies cannot be culpable or liable as authorized in *Lewis*, the case made it clear that police administrators should train their officers properly so that they know when to or not to implement pursuits. Many cases have already been decided that have investigated or questioned police pursuit policies (*Cannon v. Taylor*, 1986; *Checki v. Webb*, 1985; *Fagan v. City of Vineyard*, 1994; *Jones v. Sherill*, 1987; *Medina v. City and County of Denver*, 1992; *Temkin v. Frederick County Comm'rs*, 1991); however, the *Lewis* standard is observed whether the petitioner is a fleeing suspect or an innocent bystander.

Additional Developments to Consider

Police pursuits are currently undergoing scrutiny by the courts and the members of different communities in our society and beyond. Most of the studies we have

reviewed have striking similarities, which have mainly looked at the behavior of the pursuers without placing equal emphasis on the flagrant disregard of the law by the pursued. It must be noted that police officers are not superheroes who enjoy endangering their lives. While the courts are willing to entertain liability cases against municipalities and their officers, liability actions also ought to be brought against drivers who initiate pursuit incidents. Combining civil suits and criminal sanctions against eluding suspects may produce the deterrence effect needed to curtail high-speed chases. Indeed, civil actions have worked well in slowing down the "hate movement" activities of some right-wing cells in the United States. Applying such aggressive prosecutorial tactics against law breakers can help with other innovative ideas in the literature that will make pursuit operations less hazardous.

One such strategy to reduce the danger in such pursuits is the introduction of high-tech innovations that will make pursuits more professional and a lot less precarious in the future. The electronic disabler (Grimond, 1993; Moore, 1990), which already exists today, could be utilized successfully to disable fleeing vehicles thereby reducing the cost of engaging in high-speed pursuits. Law enforcement can work simultaneously with the aircraft and automobile industries, as well as the military industrial complex to produce efficient technologies that will electronically prevent the extension of high-speed pursuits in the future. It will help law enforcement to have in its arsenal high-tech means of identifying fleeing offenders without high-speed pursuits. Although already implemented in some jurisdictions, there ought to be funding across the board for police departments to have access that will incapacitate moving vehicles. The 1994 crime act proposed by President Bill Clinton's administration was basically an anti-crime initiative that provided for additional 100,000 police officers to law enforcement agencies in the United States. Such bold omnibus crime law helped to prevent and control crime in the 1990s. Proposals similar to the 1994 crime law, emphasizing law enforcement technology would benefit rural and urban police departments by providing them with the necessary funds to adequately equip their vehicles with "built-in governors that can be triggered by remote radio signals" in dangerous pursuit situations (Nugent et al., 1990, p. 20). Computer-monitoring cameras or photo-radar systems, which can take pictures during the course of a traffic violation or during rule breaking, may be a satisfactory option to hot pursuits. Departments that can afford helicopter capabilities should establish policies that will delay land pursuits by allocating pursuit responsibilities to their aircrafts, and ground officers will still maintain radio contact with the pilots. This will save lives if it is well-coordinated.

Above all, law enforcement officers should also be aware that pursuits are more risky in congested metropolitan areas than those conducted in the countryside and on freeways. Research has demonstrated that pursuits are more often commenced by individuals willing to forestall the police for reasons as varied as driving a stolen car, driving with a suspended or invalid driver's license, driving while intoxicated, or running to elude capture for involvement in any sort of crime (Alpert, 1993; Grimmond, 1993; Moore, 1990; Nugent et al., 1990). After all, the reasons to run from law are limitless; however, some of the reasons may not, necessarily, adequately justify the consequences that result from police engagement. As Alpert (1993) correctly opined, "when the dangers or risks of a pursuit, or the foreseability or likelihood of a collision outweigh the need to immediately apprehend the suspect, the lead officer or the supervisor must terminate it" (p. 521). An officer should also terminate a chase when a fleeing offender is known to the officer and, indeed, the

offense is a minor traffic infraction, misdemeanor, or nonviolent felony. In addition, pursuits should be halted when there is danger to the life of the officer, offender, or bystanders. Furthermore, consideration should also be given to the loss of visual contact with the suspect, road conditions, the hazard of excessive speed, and the distance between the suspect and the police officer (Alpert, 1993; Nugent et al., 1990) and other risk factors as determined by operating departmental policy.

Conclusion

Whether society likes it or not, law enforcement officers will continue to engage in high-speed police pursuits, especially since it is essential in achieving the law enforcement mission of apprehension of offenders and protection of life and property. The courts, of course, recognize this reality, but at the same time, they have been moving in the direction of encouraging tort action against policy lapses and lack of adequate training in pursuit issues; therefore, it is time for police administrators and their municipalities to either rethink their pursuit policies or face untold financial burdens in punitive legal damages. To improve the situation, new policies must emphasize not only the law enforcement mission, but also train officers adequately in policy and tactics of pursuit driving in order to discourage as well as minimize the loss of human lives and serious damage to property.

References

Alpert, G., & Anderson, P. (1986). The most deadly force: Police pursuits. *Justice Quarterly*, *3*, 1-14.

Alpert, G. P. (1987). Questioning police pursuit in Urban areas. *Journal of Police Science and Administration*, *15*, 298-306.

Alpert, G. P. (1988). Police pursuit: Linking data to decisions. *Criminal Law Bulletin*, *24*, 453-642.

Alpert, G. P. (1993). The management of police pursuit driving: Assessing the risks. In R. G. Dunham & G. P. Alpert (Eds.), *Critical Issues in Policing: Contemporary Readings* (pp. 508-525). Prospect Heights, IL: Waveland.

Alpert, G. P. (1997). *Police pursuit, policies and training: A research in brief report to the National Institute of Justice*. Washington, DC: U.S. Department of Justice.

Alpert, G. P. (1998). *Helicopters in pursuit operations: A research in action report to the National Institute of Justice*. Washington, DC: U.S. Department of Justice.

Alpert, G. P., & Dunham, R. (1988). Research on police pursuits: Applications for law enforcement. *American Journal of Police, 7*(2), 123-131.

Alpert, G. P., & Dunham, R. (1989). Police hot pursuits: The discovery of aleatory elements. *The Journal of Criminal Law and Criminology, 80*(2), 521-539.

Alpert, G. P., & Dunham, R. (1990). *Police pursuit driving*. New York: Greenwood Press.

Alpert, G. P., & Fridell, L. A. (1992). *Police vehicles and firearms: Instruments of deadly force*. Prospect Heights, IL: Waveland Press.

Auten, J. H. (1990). An analysis of police pursuit policy. *Law and Order*, *38(11)*, 53-54.

Auten, J. H. (1991). *Police pursuit driving operations in Illinois: 1990.* Champaign, Illinois: University of Illinois Board of Trustees.

Avery, M. (1997, December). Police chases: More deadly than a speeding bullet? *Trial, 3*(12), 52-54.

Brune, T., & Nelson, D. (1991, July 2). Suburb chase peril greater than in city. *Chicago Sun Times*, pp. 1, 16, 56.

Beckman, E. (1983, January). High speed chases: In pursuit of a balanced policy. *The Police Chief*, *50*, 34-37.

Beckman, E. (1985). *A report to law enforcement on factors in police pursuits*. Washington, DC: National Institute of Justice.

Beckman, E. (1987, July). Identifying issues in police pursuits: The first research findings. *The Police Chief*, *54*(7), 57-63.

Bohrer, S., Davis, E. F., & Garrity, T. J. (2000). Establishing a foot pursuit policy. *FBI Law Enforcement Bulletin, 69*(5), 10-16.

California Highway Patrol. (1983). *California Highway Patrol pursuit study.* Sacramento, CA: Department of the California Highway Patrol.

Charles, M., Falcone, D., & Wells, E. (1992). *Police pursuit in pursuit of policy: The pursuit issue, legal and literature review, and an empirical study*. Washington, DC: AAA Foundation for Traffic Safety.

Charles, M. T., & Auten, J. H. (1994). The development of pursuit guidelines for the state of Illinois: A case study. *Police Studies, 17*(3), 43-67.

Dunham, R. G., Alpert, G. P., & Cromwell, P. (1998, March). High-speed pursuit: The offenders' perspective. *Criminal Justice and Behavior*, 30-45.

Fennessy, E. F., Hamilton, T., Joscelyn, K. B., & Merritt, J. S. (1970). *A study of the problem of hot pursuit by the police* (Contract No. FH-11-7220). Hartford, CT: The Center for the Environment of Man, Inc.

Fennessy, Jr., E. F., & Joscelyn, K. B. (1972). A national study of hot pursuit. *Denver Law Review, 48*(3), 389-403.

Frazier, D. (1961, May). High speed pursuit. *The Police Chief*, *21*(5), 38-40.

Gillespie, M. C. (1993). High-speed pursuits and ramming techniques—recent use of force considerations. *The Police Chief, 60*(10), 12-15.

Grimmond, T. (1993, July). Police pursuits: Traveling a collision course. *The Police Chief, 60*(7), 43-47.

Hannigan, M. J. (1992, February). The viability of police pursuits: Liability issues and the police executive. *The Police Chief, 59*(2), 46-49.

Homant, R. J., & Kennedy, D. B. (1994). Risk taking and police pursuit. *Journal of Social Psychology, 134*(2), 213-222.

Kraus, J. F. (1987). Homicide while at work: Persons, industries, and occupations at high risk. *American Journal of Public Health, 77*, 1285-1289.

MacDonald, J. M., & Alpert, G. P. (1998). Police attitudes towards police pursuit driving. *Journal of Criminal Justice, 26*, 185-194.

Meyer, M. W. (1980). Police shootings at minorities: The case of Los Angeles. *Annals of the American Academy of Political and Social Science, 452*(11), 98-110.

Moore, R. E. III. (1990, July-August). Police pursuits: High-tech ways to reduce it. *The Futurist, 24*(7/8), 26-28.

Morris, E. R. III. (1993). Police pursuits: Putting the blame where it really belongs. *The Police Chief, 60*(7), 51-52.

Nugent, H., Connors, E. F., McEwen, J. T., & Mayo, L. (1990). *Restrictive policies for high-speed police pursuits: Issues and practices report to the National Institute of Justice*. Washington, DC: U.S. Department of Justice.

Palmer, D. (2002). *A rethink, please, on police pursuits*. Darren Palmer Lectures in Police Studies at Deakin University. The Age Company Ltd. Retrieved December 13, 2003, from www.theage.com.au

Patinkin, H. P., & Bingham, H. (1986, July). Police motor vehicle pursuits: The Chicago experience. *The Police Chief*, *53*(7), 61-62.

Pearson, T. L. (1992). Focus on police pursuits: The precision immobilization technique. *FBI Law Enforcement Bulletin, 61*(9), 8-9.

Pipes, C., & Pape, D. (2001). Police pursuits and civil liability. *FBI Law Enforcement Bulletin, 70*(7), 16-22.

Ontario Police Commission. (1985, December). Solicitor General's Special Committee on Police Pursuits Report. Executive Summary, 1-25.

Savas, E. (1998, Fall). Hot pursuit: When police pursuits run over constitutional lines. *Detroit College of Law at Michigan State University Law Review*, *1998*(3), 1-34.

Whetsel, J. (1992, February). Pursuits: A deadly force issue: Liability issues and the police executive. *The Police Chief, 59*(2), 30-31.

Wilson, J. F. (1993). Police pursuits: Establishing defensible policies. *The Police Chief, 60*(7), 48-50.

Cases

Brower v. County of Inyo, 489 U.S. 593 (1989).

Cannon v. Taylor, 782 F.2d 947 (11th Cir. 1986).

Checki v. Webb, 785 F.2d 534 (5th Cir. 1985).

City of Canton v. Harris, 489 U.S. 378 (1989).

County of Sacramento v. Lewis, S. Ct. No. 96-1337 (1998).

Fagan v. City of Vineyard, 22 F.3d at 1306 (1994).

Galas v. Mckee, 801 F.2d 200, 6th Cir. (1986).

Jones v. Sherill, 827 F.2d at 1106 (1987).

Medina v. City and County of Denver, 960 F.2d at 1496 (10th Cir. 1992).

Temkin v. Frederick County Comm'rs, 945 F.2d at 721 (4th Cir. 1986).

Tennessee v. Garner, 471 U.S. at 3 (1985).

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The Last Option

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Protective driving focuses on a number of aspects that relate to the protective agent's job. These aspects include threat detection, safe vehicle operations, and removal of the vehicle from the kill zone during a crisis. What these aspects equate to is the fact that the protective agent's mission is to avoid a violent confrontation instead of wandering into it. On a similar note, law enforcement officer driving training courses or Emergency Vehicle Operations Courses (EVOCs) focus on the safe operation of a vehicle at high speeds, how to properly conduct a high-speed chase, and avoiding potential hazards. Although this training focuses on ensuring the safety of the officer and citizens that might be in the vicinity of the pursuit, it also helps to develop the driver's muscle memory and reaction time.

Imagine your protection detail traveling en route when around that blind turn, the one that you advanced so well but could not avoid, several cars suddenly pull out and block your path of travel. Or perhaps, you are called to a suspicious alarm going off in a shady part of town. As you cautiously approach, four guys dressed in black carrying shotguns come out from behind the dark van that was pulled up to the loading dock. Backup is miles away; you are severely outgunned and need to react quickly. In either of these deadly situations, you would only have seconds to make a life-or-death decision. Seconds count when in the kill zone; your first decision better work because it could be your last.

History shows us that the majority of attacks are conducted in and around vehicles. The reason for this in security transportation is simply the fact that the principle or (target) is much more vulnerable in the car and the car is a much easier target to penetrate. In law enforcement, vulnerability comes down to the large amount of hours spent in the vehicle. Even with top-notch threat detection and preplanning, there will be some degree of vulnerability in your daily travels. The attackers will be looking for your weak points. For a variety of reasons, even the best protection agents cannot avoid these areas. Terrorists will have superior knowledge of this terrain and never play by the rules; therefore, they possess the capability to attack at will.

A well-trained security driver will get the vehicle moving and keep it going as long as possible. Your vehicle is the best weapon until you cannot use it anymore. In law enforcement, the prevailing tactical approach to critical incidents has not included such vehicle techniques as high-speed backing and ramming to escape a situation that an individual officer cannot handle alone. Just because you are blocked in or outgunned does not necessarily mean you cannot use your car to escape. This article will concentrate on two last resort options for situations in which your vehicle is blocked in with no way out. One option would be to use your vehicle as a weapon and ram your way through a barricade. If this tactic is performed correctly, it can be very successful. Ramming a vehicle out of your path of travel should never be your primary means of escape. This technique should only be used if all else fails or you are left with no other escape route—a life or death option. The second option, going for your firearm, is quite dangerous if you are outgunned and should be used only when your vehicle is out of commission.

Option 1 - Ramming Out of the Kill Zone

Ramming your way out of the kill zone could cause damage to your car and generally takes longer than backing up or driving around the barricade; therefore, keep in mind that ramming through a barricade should be used as a last resort when all escape routes are blocked. If proper technique is used, you will be surprised that it can be quite successful and cause minimal damage to your vehicle. The first step is to stop your vehicle approximately 10 to 15 feet in front of the barricade, very briefly letting your attacker think you are going the other way or giving up. This will cause the attacker to put his or her guard down a little bit since he or she starts to think the attack will be easy. As soon as you stop, shift your car to the lowest gear and hold the gearshift lever firmly in place; since it is under pressure, it could pop out of gear. Put your foot on the pedal, and do not let up. Your vehicle will make contact and then push the barricade out of the path of travel.

Vehicle placement is critical. You will need to place the frame of your car, the most solid part, directly into the axle of the barricade vehicle. You will begin to move the barricade since your car is able to build enough force to push the barricade cars out of the way. What is actually happening is that the amount of force that your car has generated is being applied to the only part of the barricade vehicle that is connected to the ground (tires). After you initially hit the vehicle and break the barricade vehicle's traction, you are on your way; leave your foot on the gas pedal, and do not let up. It will be quite surprising the first time you actually try this technique. If done properly, it is a very effective and a relatively easy technique to learn; however many things could happen that would alter your success.

In the real world, bullets are flying; adrenaline is pumping; and the potential for mistake is greater. The only real cure for adrenaline is practice. When your driver is confident in performing these techniques, the escape will be a simple muscle memory response rather than a full panic-and-pray situation. Trained drivers would hopefully not experience problems caused by driver error such as . . .

- Slowing down after your initial hit. We find that this is a popular first reaction after the initial hit. This will cause the your car to lose its pushing power/momentum and make it tough to finish the job. You would not want to get stuck or wedged between these two cars. If you did get wedged in, you begin shaking the steering wheel; this would hopefully cause your car to break loose.

- If the driver inputs too much speed, it will cause the cars to collide at a higher speed, obviously causing more risk of injury and damage to you and your vehicle. The object in any attack is to escape quickly and get your principal to a designated safe haven. Colliding at high rates of speed could damage your car to the point of mechanical failure, which would defeat the purpose of trying to escape in the first place.

Unfortunately, even well-trained drivers may run into more technical problems that need to be addressed. Using the ramming technique with a newer model vehicle has become a feared maneuver due to the possibility that the airbag could deploy. Keep in mind that this technique is a last resort tactic. After we establish this mindset, there are two more issues to address. The airbag deploying at this stage of the attack is the least of your worries. Yes, it is a violent explosion, and injuries can occur; however,

it beats getting shot. The real problem is that after the airbag deploys, most vehicles will become disabled. If this happens, all of your efforts will be wasted because the vehicle computer will need to be reset. The technique for resetting the computer differs between vehicle models, so before we worry about the computer, let's step back and begin to analyze this problem. It may not be as bad as one would expect.

First of all, the airbag is a supplementary device used to distribute the occupants' force more evenly and help the seat belt stop the occupants more gradually in a frontal crash. Although this force varies, most vehicle manufacturing companies say that a vehicle has to have an impact that generates at least seven Gs before the airbag will be released. An example of seven Gs would be similar to driving into a brick building at nine to 15 miles an hour. Remember, the building has no give; therefore, the airbag will deploy. If the obstruction gives way, which would mean that energy is being dissipated between your vehicle and the other object, there would be a chance that the force generated would not be great enough to actually activate the air bag. In simple terms, the airbag is designed to deploy when the occupants are in danger of hitting their heads or bodies against the dashboard or steering wheel. Chances are, the airbag may not deploy if the forces generated are not great enough. The reason for this is simply that the airbag will inflate only if your vehicle's rate of deceleration is above the system's designed "threshold level."

Inflation is determined by several factors, such as the angle of the impact as well as how quickly the vehicle is decelerating during impact. It would be really nice to know how sensitive your vehicle's airbag sensor's threshold level is. Theoretically, if you could ram at a lower force than your car sensors could detect, then ramming would be an easy maneuver to perform. Unfortunately, the realistic answer is that the threshold level varies between vehicle model and air bag sensor control systems; not to mention the fact that every year a more sophisticated system is introduced to the market. Currently, there are several sensor systems being used on the market today. The most popular systems are the "electromechanical gas dampened ball and tube design," a "spring and mass design," and the "Rolamite." In addition, some models, such as some Toyota models and Jaguars, use what is called a "mechanical system." Each one of these designs senses rate of deceleration and activates the bag in a slightly different way. To make things more complicated, some of the newer vehicles are being developed with very advanced technology, such as a "safety or severity sensor." This is basically a sensor that double-checks the main sensors in front of the car. The front of the car may be decelerating more quickly than the passenger compartment; therefore, the severity sensor will determine the deceleration rate in the passenger compartment and decide whether it is severe enough to deploy the airbag. So technically, you could figure out how much force it would take to move two cars out of your path of travel. You could even figure out the maximum speed you could travel without deploying your airbags. The difficulty comes into play because of the varying factors. Things like the weight of the barricade cars or the amount of force it will take to move a van vs. a Mustang will vary. On what surface will the attack happen? Dirt will give you a much better chance than concrete for the simple reason that it will take less force to break the traction of the barricade vehicle's tires (not to mention all the airbag sensor variables already discussed).

Can the ramming technique be accomplished with an airbag-equipped car? The answer is maybe. If the driver could approach the barricade with enough force to move the cars but without exceeding the vehicle's air bag sensor's threshold

level, then in theory, "yes," the technique would still work. Remember even if all variables are perfect, the airbag is a mechanical device, and there will never be a 100% guarantee that it will not deploy. The more stationary the barrier is, the less chance you have of getting through; therefore, it is a benefit to encounter the use of vehicle barricades since they are not permanent fixtures. It does not take much force to push a vehicle sideways once in motion. Also, remember if you are put in this situation that taking an educated guess/chance may be better than the alternative.

Option 2 – Shooting from Inside the Vehicle

Although the mission of the protection professional and the law enforcement officer are quite different, both professions need to learn how to effectively deploy a weapon from a motor vehicle to a threat outside. For the protection professional, this may be that last resort to protect his or her client and safely remove both of them from the kill zone. Police officers may need to engage a target during the conclusion of a pursuit or immediately engage a target during any number of tactical situations that occur without time to prepare.

While training on deploying a weapon from a motor vehicle should not be the crux of training, it may become a tactical necessity to deploy a weapon from the interior of a motor vehicle to a target outside the vehicle. With this in mind, protection professionals and police officers should have a clear understanding of how to effectively deploy a weapon and be exposed to this specific scenario. Before students are exposed to and trained on deploying a weapon inside a motor vehicle, there needs to be an examination of the way a bullet fired from a vehicle performs when traveling through laminated windshield glass.

The majority of ballistic test information that is available focuses on a shot being fired from the exterior of the vehicle to the interior of the vehicle at various ranges. Most ammunition manufacturers that cater to law enforcement perform this test. This is due to the fact that law enforcement officers need to be sure that the ammunition will function if the need arises to stop an immediate threat that is inside a motor vehicle. The ballistic tests are useful because they show that the bullet mass will be reduced by up to one-third as it passes through the window and that there is little reduction in the velocity of the round as it finishes passing through the window. A major factor is the trajectory of the round that is fired. The first round that is fired through the windshield will have a highly unpredictable trajectory. This boils down to a round that will impact the target area as a whole even though the point of aim was center mass.

Once these main factors are understood, a training program can be created to bypass the limitations of shooting through glass.

Tactical Considerations

1. The first issue that needs to be addressed is the location of the agent/officer's weapon and additional ammunition. Weapons and spare ammunition need to be immediately accessible to the agent or officer. This should be with both the seatbelt on and off and in different seating locations inside the vehicle. Agents and officers should also practice drawing their weapons while seated in every seat inside the vehicle.

2. The second consideration is the presentation of the weapon. Once the weapon has cleared the holster and is being employed, the agent/officer may find that the cramped conditions of a vehicle with others inside can be challenging. Unlike the range, there are numerous obstacles inside a vehicle on which the weapon can become caught and make presentation difficult. With this in mind, the agent/officer should practice the draw and presentation with dummy weapons with others in the vehicle.

3. Once the weapon has been presented, it is now ready to be deployed. If the agent or officer is in the front seat, the best shooting platform to offer better stability is the steering wheel itself. The steering wheel offers an excellent platform due to its stability and its natural height. Agents and officers that are in the passenger seat can develop a good shooting platform provided that they have enough room to execute their preferred hand and arm position. If agents or officers will be seated in the passenger's seat, they should ensure that their seating position allows for the deployment of their weapon inside the vehicle. The weapon should also be kept from contacting the windshield. In fact, a buffer of a couple of inches will ensure that the automatic handguns will not be placed out of battery due to contact with the windshield.

4. For targets to the side, the agent or officer will be shooting through the side windows. One suggested shooting platform is to actually drape your body over the center column, and bring your lower body up. This will ensure that the weapon is still inside the vehicle and will also provide enough distance from the window.

5. Police officers know that there are two major blind spots. These two spots are at the seven and four o'clock positions if the front of the vehicle is at twelve o'clock. Police officers use these blind spots to safely approach a vehicle during a motor vehicle stop. Executive protection agents can use this knowledge due to the fact that potential threats know these blind spots. To engage these targets, it is possible to shoot over the shoulder while twisting the upper body.

6. Agents and officers need to be aware that the first round through the front window will lose roughly 30% of its mass, and the trajectory is highly erratic. For this reason, agents and officers should be trained to fire twice at the target through the same location in the windshield. This will ensure that the target will be engaged with at least one good round if the first round's trajectory takes it off the center mass of the target.

7. A number of things happen inside the vehicle when the round is fired. Due to the physiological effects of survival stress, the agent or the officer may not hear the shots being fired due to auditory exclusion. What the agent or officer will feel is the concussion from the round being fired in an in-closed space. Although this sound might cause concern, there is little to no injury caused by this. What trainers need to do is to inoculate their students to this effect by having them fire inside a vehicle. If training costs need to be kept low, agents or officers may fire through an open portion of a window to recreate the effects of the pressure.

There are several manufactures that currently manufacture holsters that are vehicle mountable. These mounts can be positioned throughout the vehicle. These devices

are best suited to protective agents who do not need to worry about subjects gaining control of a weapon inside the vehicle.

Training is the central issue when it comes to deploying weapons inside a vehicle. Agents and officers should train the whole spectrum of deployment from the draw to when the target is no longer a threat. Training can be conducted in a number of phases. At a crawl phase, agents and officers should be trained with unloaded weapons utilizing safety devices such as Ammo-Safe (see www.ammo-safe.com) or dummy weapons. The training focus will be on proper position, draw, and shooting platform. Start slow, and work in smoothness. The old adage applies: smooth is fast; fast is sloppy. The second phase can be done with real weapons and dummy ammunition. Agents and officers can draw, present, and pull the trigger inside an actual vehicle without real rounds being fired. Once they are comfortable, real ammunition and targets can be incorporated into the training. If at all possible, agents and officers should be given the opportunity to actually fire through vehicle glass, but if cost is an issue (which it almost always is), agents can fire inside a vehicle through the windshield or side windows even if there is no glass. This will replicate the scenario as best as possible without having to spend money on windows.

Being able to use your vehicle for escape and, if need be, deploy a weapon inside a vehicle are critical skills that should be included in training for both the protective agent and the law enforcement officer. Hopefully the agent or officer will never have to use these techniques; however, it is necessary to have experienced these disciplines and have them stored away in the mental toolbox. Exposing both of these groups to this in a training environment will greatly increase their chances of survival if the tactical situation demands an immediate action against a threat outside the vehicle. (Video downloads of these techniques are available at www.1adsi.com.)

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Are Standardized Field Sobriety Tests Really Standardized?

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Review of the Literature

Introduction

The National Highway Traffic Safety Administration (NHTSA) developed and provided the Standardized Field Sobriety Testing (SFST) battery to law enforcement agencies in the United States as one method of increasing the detection and subsequent prosecution of intoxicated drivers. The SFSTs have been validated and found to be an accurate and reliable method of discriminating between impaired individuals based on a predetermined blood alcohol concentration (BAC) level in a variety of research studies (see Burns & Anderson, 1995; Burns & Dioquino, 1997; Stuster & Burns, 1998).

Standardized Field Sobriety Tests

The SFSTs are comprised of three separate tests: (1) horizontal gaze nystagmus, (2) walk and turn, and (3) one-leg stand tests. Since the ability of the SFST-trained officer (SFST practitioner) to correctly administer the SFSTs requires a significant number of competencies, the amount of administrative steps, instructions, and actions required by the SFST practitioner in each test will be discussed and separated. The information in the following sections regarding the SFSTs was taken from the NHTSA (2002a, 2002b) *DWI Detection and Standardized Field Sobriety Testing Manual*s.

HGN

The HGN test is comprised of two stages: (1) a preliminary examination to ensure the individual is a candidate for the HGN test and (2) the actual HGN test. During this test, the SFST practitioner must select a visual stimulus that contrasts with the background, such as a finger, pen, or light and position it slightly above eye level and approximately 12 to 15 inches in front of the individual's face as it is passed perpendicularly and horizontally across the individual's face.

The SFST practitioner must ensure that the individual is a candidate for the HGN test by checking for equal tracking and equal pupil size. The check for equal tracking is made by starting with the stimulus directly in front of the individual's face and quickly moving it across the individual's left visual field, back to the center, across the individual's right visual field, and returning back to the initial starting position. Both eyes must be able to follow the moving stimulus at the same time. The check for equal pupil size is a visual check by the SFST practitioner to ensure both of the individual's eyes are approximately the same size. If the eyes fail to track the moving stimulus or the pupils are unequal in size, the individual is not a candidate for the HGN test.

If the individual qualifies as a candidate for the HGN test, the SFST practitioner will then administer the actual HGN test. The HGN test is comprised of three separate

phases: (1) lack of smooth pursuit, (2) distinct nystagmus at maximum deviation, and (3) onset of nystagmus prior to 45 degrees. Some of the important aspects of the HGN test concern the timing or speed of the passes and the distance that visual stimulus is held from the individual's face.

The first phase of the HGN test is the lack of smooth pursuit. The test is initiated by obtaining the same distance and positioning as the check for equal tracking. Starting from the center, the visual stimulus is slowly moved at a consistent speed across the individual's left visual field in approximately two seconds, moved back across the individual's left visual field to center in approximately two seconds, across the individual's right visual field in approximately two seconds, and back across the individual's right visual field in approximately two seconds. The lack of smooth pursuit phase is conducted twice. The SFST practitioner is looking for the eye to jerk as it is tracking the visual stimulus. This jerking is comparable to the movement of a vehicle windshield wiper moving across a dry windshield as opposed to normal eye movement, such as a marble rolling across a sheet of glass.

The second phase of the HGN test is the check for distinct nystagmus at maximum deviation. Starting from the same distance and position as the check for lack of smooth pursuit, the visual stimulus is moved across the individual's left visual field until there is no white of the eye visible in the left corner of the individual's eye. The stimulus is held in this position for a minimum of four seconds. The stimulus is then brought to the same position on the individual's right visual field and held for a minimum of four seconds. The distinct nystagmus at maximum deviation phase is conducted twice. The SFST practitioner is looking for the eye to distinctly and consistently jerk as it is held in the extreme position. The observed jerking should be similar to a bouncing ball.

The third phase of the HGN test is the onset of nystagmus prior to 45 degrees. During this test, the stimulus is slowly moved from the starting position directly in front of the individual's face across the individual's left visual field. Unlike the other phases, the SFST practitioner is carefully looking for the jerking to begin prior to 45 degree angle. A triangle could be made in which the base is the distance the stimulus is moved to the left and the apex is the point just above the nose. The apex angle is the nystagmus onset angle.

In evaluating the performance of an individual, the SFST practitioner is looking for the standardized clues observed in each eye. There are six total possible standardized clues for the HGN test or three in each eye.

Vertical Nystagmus

The check for vertical nystagmus, while not a part of the HGN test, is conducted by moving the stimulus vertically instead of horizontally. The stimulus is raised to the uppermost position and held for approximately four seconds. The stimulus is then lowered, and the test is repeated. The SFST practitioner is looking for a jerking in the eyes as they are held in the uppermost position.

Walk and Turn

The walk and turn test is the first of two divided attention tests in the NHTSA SFST battery. Individuals are instructed to place their hands at their sides and to place

the left foot on the line and to place the right foot directly in front of the left foot so that the left toe is touching the right heel. The individual is instructed not to start the test until instructed and an affirmative response is obtained from the individual. The individual is instructed to walk down the line taking nine heel-to-toe steps, turn as instructed, and to take nine heel-to-toe steps back down the line. While performing the walk and turn test, individuals must be instructed to watch their feet while walking, count each step out loud, keep their hands to the sides, touch heel-to-toe on every step, and not to stop while walking. The SFST practitioner will demonstrate the walking and turning procedure and ask the individual if he or she understands the walk-and-turn instructions. If an affirmative response is obtained, the individual is instructed to perform the test.

The SFST practitioner is looking for a total of eight standardized clues. The first clue is the inability to maintain the starting position (breaking heel-to-toe contact) while the SFST practitioner is giving the individual the instructions on how to perform the test. The second clue is recorded if the individual starts too soon or before directed by the SFST practitioner. The other standardized clues include failing to keep hands to the sides (i.e., raising the arms more than six inches), incorrect number of steps (i.e., more or less than nine steps), stops while walking, steps off of the line, turns incorrectly or improperly (other than instructed), and failing to touch heel-to-toe (more than a half an inch). In scoring the walk-and-turn test, the officer is looking for the standardized clues.

One-Leg Stand

The one-leg stand test is the second divided attention test. This test has an instructional stage and a balance and counting stage. This test is conducted by having the individual stand straight, feet together, and arms to the sides. The individual is instructed not to begin the test until instructed and an affirmative response is obtained. The individual is instructed to raise the leg of choice approximately six inches off the ground and to count 1001, 1002, 1003, and so on until told by the SFST practitioner to stop. Individuals are instructed to watch the raised foot, keep both legs straight, point the raised toe out, and keep their hands to the sides. Individuals are asked if they understand the instructions and, once an affirmative response is obtained, told to begin the test. Once told to begin, the test will terminate after 30 seconds.

There are four standardized clues of impairment associated with the one-leg stand test: (1) putting the foot down, (2) using the arms for balance (more than six inches), (3) swaying (side-to-side, front-to-back, or circular), and (4) hopping on the nonelevated foot. In scoring the one-leg stand test, the officer is looking for the standardized clues.

Required Administrative and Evaluation Steps

In order to correctly administer and evaluate the SFSTs, the officer must demonstrate 78 different competencies (see Table 1). These competencies involve the instructional steps (e.g., verbal instructions or demonstrations) and standardized clues of impairment.

Table 1
SFST Administrative Steps and Evaluation Points

Test	Administrative Steps	Evaluation Points
Horizontal Gaze Nystagmus	21	6
Walk and Turn	22	8
One-Leg Stand	17	4
Total	60	18

SFSTs in the Courts

The specificity by which the SFSTs must be administered has been addressed by several courts. The scope of this article is not to provide a comprehensive history of court decisions involving the SFSTs, but to briefly illustrate the varying levels at which the misapplication of the SFSTs in terms of administration and evaluation have been considered by the courts.

In *Ohio v. State* (2002), the Ohio State Supreme Court held the SFSTs inadmissible due to the officer's inability to correctly administer the SFSTs. It is important to note the conviction was not reversed, but affirmed based on the totality of the evidence. The Ohio State Supreme Court held that the administration of the SFSTs must be within "strict compliance" with the NHTSA SFST testing procedures. The court further noted that when the tests are not administered in accordance with the NHTSA SFST testing procedures, the results could not be held reliable.

The Illinois State Supreme Court, in *People v. Linda Basler* (2000), addressed the foundational requirements for an officer to testify regarding the HGN test. The court held that the HGN test was not new and that the state could introduce the results of the test provided the state could show that the officer was "trained in the procedure and that the test was properly administered" (p. 6). The precision to which the HGN test must be administered was not addressed.

Other courts have only examined the officer's training and experience under the criminal rules of evidence determining the admissibility of the SFSTs, regardless of the officer's on-scene adherence to the specific NHTSA SFST testing procedures (*Emerson v. Texas*, 1994; *Singleton v. Texas,* 2002).

SFST Training from an Educational Perspective

The SFST training course is unlike many law enforcement training courses. The officer must memorize and demonstrate a set of specific procedural instructions on three different tests and recognize the standardized and nonstandardized indicators of impairment. Given the number of competencies the SFST practitioner must master to correctly administer the SFSTs and to evaluate the individual's performance, the NHTSA SFST training curriculum is void of many techniques commonly used to facilitate long-term memory of such tasks. Depending on the skill of the SFST instructor, a small number of these techniques may be inconsistently applied during individual SFST courses.

The amount of material presented during the NHTSA SFST course is designed to provide the officer with a comprehensive guide to the entire process of DWI detection

and the SFSTs. This material describes the problem of DWI, the effects of alcohol on the body, various steps involved in the detection of an intoxicated driver, the administration and evaluation of the SFSTs, report writing, and effective courtroom testimony. Within the 24-hour SFST training course, only 11 hours are specifically allocated to the administration and evaluation of the SFSTs.

Favorable Aspects of the SFST Curriculum

The most favorable component of the SFST curriculum is the manner in which the course material is presented to the students. When compared with the standards of the International Board of Standards for Training, Performance, and Instruction, the curriculum provides instructors with a structured and sequential presentation (Hutchison, Shepherd, & Stein, 1993). The presentation contains the course content, multi-media, and techniques or questions to ensure the course material has transferred to the individual students. Repeated practice sessions allowing the student to conduct the SFSTs on other students, while the instructor monitors the performance of each student, also increases the long-term retention of skills. The introduction of an alcohol workshop enables the student to gain confidence in his or her ability to administer, evaluate, and make a prediction on the test subject's level of intoxication.

Unfavorable Aspects of the SFST Curriculum

The attention given to the long-term retention of the cognitive and physical skills of the SFSTs in the NHTSA SFST curriculum is very limited. A review of literature and continuous research has shown several techniques to increase memory/skill retention, which may increase the amount of material retained. These techniques include the following:

- Limit the amount of course topics to those areas of most significance. While the other topics presented in the SFST course are important, overloading the learning with information has been shown to result in performance problems (Mager & Pipe, 1997).

- Mnemonics is the use of acronyms to memorize a set of words or other items (Gagne & Medsker, 1996). For example, the acronym of "PUSH" could be used to assist the officer in learning the standardized clues for the one-leg stand test: "P"uts foot down, "U"ses arms for balance, "S"ways, and "H"ops. This technique has been shown to be effective in the long-term retention of materials but is absent in the SFST curriculum (Dick, Carey, & Carey, 2001; Wang & Thomas, 2000).

- Overlearning course content is the continued learning of material after the point of mastery (Farr, 1987). Through repetition of mastered material, it is believed the skills may become automatic and thus increase long-term retention (Dougherty & Johnston, 1996). This learning technique is not employed in the SFST course, as once a student has demonstrated his or her proficiency in administering the SFSTs, no further testing or practice is required.

- Having students "teach" the rest of the class the learned concepts has been shown to increase long-term retention of material (Semb, Ellis, & Araujo, 1993). Robinson (1999) has indicated the greatest long-term memory occurs when a person teaches the material he or she has learned. Students in an SFST course

are not encouraged to act as student teachers in monitoring or assisting in the learning of the SFSTs.

- Refresher training is a concept that has been widely accepted by the United States military in keeping reserve service members prepared for deployment (Rose, McLaughlin, & Felker, 1981). Providing refresher training has been shown to dramatically increase the long-term retention of cognitive and physical skills (Dar-El & Ginzburg, 2000). Once an officer has completed the SFST course, he or she is not required to attend any type of refresher training course.

Method

The state of Texas offers a unique environment for determining the competency level of officers to correctly administer the SFSTs. The Texas Engineering Extension Service (TEEX) – Law Enforcement and Security Training Division (LESTD) has been responsible for the statewide administration and record keeping of the SFST program in Texas since 1988.

Texas provides two distinctive programs designed to increase an officer's competency in correctly administering the SFSTs by memory. The first program is the offering of an eight-hour SFST update course, which is a review of the SFSTs and a proficiency examination to ensure that the SFST practitioner is able to correctly administer the SFSTs by memory. The second program enables a SFST practitioner to obtain "proficiency certification" by documenting the administration of the SFSTs to 35 intoxicated individuals. The SFST practitioner must administer all three SFSTs to the individuals, record the standardized clues displayed by the individuals, make a prediction of individuals' intoxication level (above/below 0.08 g/ml), and document individuals' actual BAC levels. While neither program is required, both are strongly encouraged.

Through an open record request, TEEX-LESTD provided a listing of all SFST practitioners; SFST practitioners with proficiency certifications; SFST-trained instructors; their affiliated agencies; and the dates of SFST, SFST update (a refresher course), and SFST instructor courses. The listing of officers and their agencies was examined, and in order to provide an adequate sample pool, Texas law enforcement agencies with at least 50 SFST practitioners were selected. The first 20 randomly selected agencies were included in the study.

Co-Investigator Selection

SFST instructors in the randomly selected agencies were solicited for their willingness to participate in the study as a co-investigator. SFST instructors, herein referred to as co-investigators, agreeing to participate were screened for their ability to recite and list the standardized clues associated with each SFST, administer the SFSTs correctly, and correctly identify the errors of a videotaped SFST practitioner. Two co-investigators failed the screening and their agency was subsequently removed. Due to time constraints, only one replacement agency was found.

Successful co-investigators were provided with a binder, which provided consent forms, data collection forms, and a randomized listing of all SFST practitioners within their perspective agency. Co-investigators signed an agreement to solicit the participation of SFST practitioners according to the randomized listing, to not assist

the SFST practitioners in any manner, and to attempt to have 20 SFST practitioners participate in the study.

Data Collection

SFST practitioners were asked a variety of background and attitudinal questions, which included their primary shift assignment, primary duty assignment, frequency of SFST use during a one-month time period, frequency of court testimony on the SFSTs, and other characteristics. The SFST practitioners were then required to administer the SFSTs by memory on another person or the co-investigator. During the administration, the co-investigator documented the number of successful and deficient administrative steps made by the SFST practitioner.

To obtain a more effective measure of the specific mistakes made by each SFST practitioner, the data collection form was an expanded version of the SFST proficiency checklist found in the NHTSA SFST curriculum. The data collection form provided the identical information found on the NHTSA checklist and included specific deficiency information. For example, if the SFST practitioner failed to complete the check for lack of smooth pursuit correctly during the HGN test, the data collection form provided an opportunity to document whether the passes were too fast, too slow, were not conducted, or only one pass was made for each eye.

Results

Originally, 19 co-investigators from different Texas law enforcement agencies were asked to solicit SFST practitioners for participation in the study. Of the 19 co-investigators, three failed to return any data collection materials. The remaining co-investigators contacted several hundred SFST practitioners in the randomized order to solicit their participation. Of those contacted, only 119 SFST practitioners participated. The primary reason given by officers to co-investigators for not agreeing to participate was their self-awareness of their inability to correctly administer the SFSTs.

SFST Practitioner Administration Competency

Data collection forms were analyzed and entered into a SPSS data analysis program for statistical analysis. In the administration of the SFSTs, the HGN test was the first test to be administered by the SFST practitioners. SFST practitioners made an average of 2.7 mistakes on the HGN test. A substantial number of these errors involved critical components of the HGN test used in making the arrest/don't arrest decision. Following the HGN test, officers administered the walk-and-turn test. SFST practitioners made an average of 2.9 mistakes on the walk-and-turn test. The two most common mistakes are also critical components of the arrest/don't arrest decision. The last test given by the SFST practitioners was the one-leg stand test. SFST practitioners made an average of 1.8 mistakes on this test. Unlike the errors made during the HGN and walk-and-turn tests, the errors made during the one-leg stand test are usually not considered in the arrest/don't arrest decision. Overall, SFST practitioners made an average of 7.4 errors during the administration of the SFSTs. See Table 2 for a summary of administrative errors and Table 3 for the most common SFST errors.

Table 2
Summary of SFST Administration Errors

	Administration Errors
SFST	***M (SD)***
Horizontal Gaze Nystagmus	2.7 (1.8)
Walk and Turn	2.9 (2.1)
One-Leg Stand	1.8 (1.5)
All SFSTs	7.4 (4.5)

Table 3
Summary of the Most Frequent SFST Administration Errors

SFST	Percentage	Most Frequent Errors
HGN	55.5	Distinct nystagmus at maximum deviation
	50.4	Onset of nystagmus prior to 45 degrees
	48.7	Vertical nystagmus
Walk and Turn	55.5	Failure to advise the subject not to stop while performing the test
	45.4	Failure to advise the subject not to begin until instructed and ask if this was understood
One-Leg Stand	54.6	Failure to advise the subject to keep legs straight while performing the test
	46.2	Failure to advise the subject not to begin until instructed and ask if this was understood

Note: The percentage represents the number of times the specific SFST subtask was incorrectly administered by the total number of SFST practitioners participating in the study.

Variables Responsible for SFST Administration Mistakes

An analysis of the data suggested several variables were responsible for the SFST practitioner's inability to correctly administer the SFSTs. The three most notable variables associated with a significant difference in the ability of the SFST practitioner to administer the SFSTs correctly were successful completion of an SFST refresher course, frequency of SFST use, and proficiency certification.

Refresher Training

Officers who completed refresher training (RT) made significantly less mistakes [$t(117) = 3.49$, $p < .001$] during their administration of the SFSTs than officers not completing refresher training (NRT) (see Table 4). SFST practitioners within the NRT categorization ($n = 91$) erred an average of 8.3 times on the administration of all three SFSTs with an average of three years elapsing since their original SFST training. There was not a significant relationship ($r = .09$, $p < .37$) between the passage of time and the number of administration errors.

The amount of administration errors and passage of time within the RT categorization (n = 28) was approximately half that of the NRT group. The SFST practitioners completing refresher training made an average of 4.8 administration errors on all three SFSTs, and the average amount of time that had elapsed since their refresher training was 1.5 years. There was not a significant relationship (r = -.06, p < 0.75) between the passage of time and the number of administration errors.

Table 4
Summary of the Time Relationship and Competency Level

	Errors	Time	
	M (SD)	*M (SD)*	*r*
NRT Group	8.26 (4.14)	3.03 (2.52)	0.10
RT Group	4.79 (4.75)	1.50 (0.56)	-0.06
Total	7.45 (4.52)	2.67 (2.31)	0.16

Note: The time represents the time since initial SFST training for the NRT group or the time since last refresher training for the RT group. NRT refers to SFST practitioners that have not received refresher training. RT refers to SFST practitioners that have received refresher training.

Frequency of Use

SFST practitioners participating in the study indicated the number of average SFST administrations per month regardless of arrest. The SFST practitioners participating in the study administered the SFSTs 7.9 times per month. An analysis of the data indicated that there was not a significant relationship between overall SFST administrations per month and the number of mistakes made by SFST practitioners; however, when SFST practitioners averaging less than ten SFST administrations (LMA) were separated from SFST practitioners averaging ten or more (MMA) SFST administrations, a significant difference, $t(117) = 2.61$, $p < .005$, surfaced. The MMA group (n = 26) erred an average of 2.7 times less than the LMA group (n = 93) during the administration of the SFSTs. Table 5 provides a summary of the relationships between the monthly administrations of the SFSTs and SFST practitioner administration errors.

Table 5
Monthly SFST Administrations and SFST Administration Errors

	Errors	Number of Administrations	
	M (SD)	*M (SD)*	*r*
MMA	5.19 (5.20)	26.56 (22.25)	0.29
LMA	8.08 (4.13)	2.73 (2.12)	-0.34*
Total	7.45 (4.52)	7.94 (14.36)	-0.11

Note: MMA represents SFST practitioners that have conducted ten or more SFST monthly administrations; LMA represents SFST practitioners that have conducted less than ten SFST monthly administrations.

* p < .01

Proficiency Certification

Proficiency certification is designed to provide the SFST practitioner with additional practice and show proficiency in the ability to make accurate arrest/don't arrest decisions. The SFST practitioner study sample pool was divided into two independent groups: (1) SFST practitioners who have obtained proficiency certification (PC) and (2) those without proficiency certification (NPC).

SFST practitioners within the PC group ($n = 14$) erred an average of 4.8 times less than the NPC group ($n = 105$) during the administration of the SFSTs ($M = 3.14$, $SD = 3.55$ and $M = 8.02$, $SD = 4.33$, respectively). A statistical analysis revealed a significant difference [$t(117) = 4.69$, $p < .001$] between the different administration means.

Conclusion

A significant number of SFST practitioners participating in this study were unable to administer the SFST testing battery exactly as indicated in the NHTSA SFST curriculum. Given the lack of long-term retention techniques used in the SFST curriculum, the amount of information provided during the SFST course, the infrequent use of the SFSTs by many officers, and the fact that most officers do not receive refresher training on the SFSTs, it is not surprising that most SFST practitioners cannot administer the SFSTs correctly from memory.

Impact of Incorrect SFST Administrations in DWI Cases

It is doubtful that the inability of the SFST practitioner to administer the SFSTs to the precision specified by the NHTSA SFST curriculum has substantially undermined the overall role of law enforcement in detecting, apprehending, and prosecuting the impaired driver. As with any other criminal case, officers do not base entire arrest decisions on only the impaired driver's ability to perform the SFSTs. Arrest decisions are based on the totality of the circumstances surrounding the arrest and include the observed moving violation, the individual's demeanor, odor of alcohol, and other factors. Additionally, while the body of literature confirming the validity and reliability of the SFSTs to categorize intoxicated individuals by BAC level is enormous, no research indicates that the incorrect administration of the SFSTs results in incorrect arrest decisions by the officer.

Officers electing to administer the SFSTs from memory, however, should be aware of the inherent complications resulting from incorrect SFST test administrations. This is particularly important and evident in cases in which the impaired driver has refused to submit a breath/blood test for chemical analysis, and the officer must base his or her entire case on the evidence gathered during the roadside investigation. Additionally, with the increased prevalence of video cameras in patrol vehicles, officer SFST administrations may be subjected to increased scrutiny by defense counsel.

Indirect Training Perspectives

The results obtained in this study impact the law enforcement trainer in three ways: (1) curriculum development for any course should incorporate proven techniques for long-term memory retention, (2) skills should be practiced often, and (3) critical course information should be periodically reviewed by officers through self-directed

learning or refresher training. By including proven long-term memory techniques into training courses, trainers may provide an avenue by which course content may be accurately recalled. Skills should not only be practiced, but skills should be practiced correctly. The use of practice is of higher importance when the skill is infrequently used. Using the assistance of another trained officer or instructor, skills should be assessed and corrective measures instituted when necessary. Vital course components should be reviewed in a structured format as another means to ensure that the material has not only initially transferred to the student but has been committed to memory.

The SFSTs are particularly vulnerable to these training principles as the courts have mandated specific guidelines for admissibility. Other training courses have also been subjected to a variety of different mandates for admissibility. These courses should be reviewed and presentations provided to ensure that the student is current and proficient. Determining what officer competencies should be refreshed and practiced will be a continual challenge for trainers with limited resources and time constraints.

References

Burns, M., & Anderson, E. W. (1995). *A Colorado validation study of the standardized field sobriety test (SFST) battery.* (Report No. 95-408-17-05). Denver, CO: Colorado Department of Transportation.

Burns, M., & Dioquino, T. (1997). *A Florida validation study of the standardized field sobriety test (SFST) battery.* (Report No. AL-97-05-14-01). Largo, FL: Florida Department of Transportation.

Dar-El, E. M., & Ginzburg, S. (2000). Skill retention and relearning – A proposed cyclical model. *Journal of Workplace Learning, 12*(8), 327-332.

Dick, N., Carey, J. O., & Carey, L. (2001). *The systematic design of instruction*. New York: Addison, Wesley, Longman.

Dougherty, K. M., & Johnston, J. M. (1996). Overlearning, fluency, and automaticity. *Behavior Analyst, 19*(2), 289-292.

Emerson v. Texas, 880 S.W.2d 759 (1994).

Farr, M. J. (1987). *The long-term retention of knowledge and skills: A cognitive and instructional perspective.* Arlington, VA: Springer-Verlag.

Gagne, R. M., & Medsker, K. L. (1996). *The conditions of learning training applications*. Belmont, CA: Wadsworth.

Hutchison, C., Shepherd, J., & Stein, F. (1993). Instructor competencies: The standards (Vol. I). Batavia, IL: International Board of Standards for Training, Performance, and Instruction.

Mager, R. F. (1997b). *Making instruction work.* Atlanta, GA: CEP.

National Highway Traffic Safety Administration. (2002a). *DWI detection and standardized field sobriety testing instructor manual.* Washington, DC: Author.

National Highway Traffic Safety Administration. (2002b). *DWI detection and standardized field sobriety testing practitioner manual.* Washington, DC: Author.

People v. Linda Basler, 740, N.E. 2d (2000).

Robinson, R. D. (1999). *Helping adults learn and change*. West Bend, WI: Omnibook.

Rose, A. M., McLaughlin, D. H., & Felker, D. B. (1981). *Retention of soldiering skills: Review of recent ARI research.* (Technical Report 530). Alexandria, VA: U.S. Army Research Institute for Behavioral and Social Sciences.

Semb, G. B., Ellis, J. A., & Araujo, J. (1993). Long-term memory for knowledge learned in school. *Journal of Educational Psychology*, *85*(2), 305-316.

Singleton v. Texas, No. 06-01-0036-CR (Tex. App. April 9, 2002).

State v. Homan, 89 Ohio St.3d 421 (2000).

Stuster, J. W., & Burns, M. (1998). *Validation of the standardized field sobriety test battery at BACs below 0.10 percent* (Report No. DOT HS 808 839). Santa Barbara, CA: Anacapa Sciences, Inc.

Sussman, D. E., Needalman, A., & Mengert, P. H. (1990). *An experimental evaluation of a field sobriety test battery in the marine environment.* Cambridge, MA: United States Department of Transportation.

Tharp, V., Burns, M., & Moskowitz, H. (1981). *Development and field test of psychophysical tests for DWI arrest* (Report No. DOT-HS-805-864). Los Angeles, CA: Southern California Research Institute.

Wang, A.Y., & Thomas, M. H. (2000). Looking for long-term mnemonic effects on serial recall. *American Journal of Psychology, 113*(3), 331-340.

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Training for Higher Education: The Criminal Justice Training Assessment Project

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They saw it in 1931: "Every man must be mentally, morally, physically, and educationally sound . . . such qualifications cannot be obtained by the hit-or-miss methods of selection in vogue at the present time."[1] They saw it again 36 years later: "Recruitment Standards . . . From the point of view of securing recruits . . . [the] Commission believes strongly that it should be the long-range goal of all departments to raise their educational standards."[2] Yet again six years later they recommended that "every police agency should establish the following entry-level educational requirements: Every police agency should require immediately, as a condition of initial employment, the completion of at least one year of education (30 semester units) at an accredited college or university."[3] They went on to state that by 1975, each agency should require two years of education . . . by 1978, three years . . . and by 1982, "require as a condition of initial employment the completion of at least four years of education (120 semester units or a baccalaureate degree) at an accredited college or university" (Carter, Sapp, & Stephens, 1989). The need for the arena of criminal justice and the traditions of higher education to come together was apparent, but while recommendations may be taken only as advice, definite action needed to take place.

This action took form in the 1970 creation of the Law Enforcement Assistance Administration, which awarded some "$18 million to 739 colleges and universities to assist students taking courses directly related to the criminal justice field. These statistics reveal the considerable interest of the government, students, and schools in higher education for criminal justice personnel" (Tenney, 1971). We would not see the U.S. government take such a direct action in an attempt to raise the educational level of criminal justice personnel for another 32 years.

Today's criminal justice professionals are faced with growing educational barriers, from the first day they are recruited and throughout their career in the form of education-based promotional requirements. To compound this, the number of agencies that support continuing education for their employees are few and far between, and even if employees find themselves gaining the needed support of the agency, in the forms of time and money, the sheer nature of shift work found in the criminal justice field denies many the ability to commit the necessary time to the traditional four-year educational programs offered by institutions of higher learning.

To date, training academies wishing to pursue higher educational recognition have had to do so primarily through two avenues: (1) evaluation by outside organizations such as the American Council on Education (ACE) and National Program on Non-Collegiate Sponsored Instruction (PONSI) or (2) by cooperating with local educational institutions willing to enroll recruit graduates. The difficulties faced by academies wishing to be evaluated by ACE or National PONSI include a lack of knowledge, personnel, and funds. For an academy to request an evaluation, they must first know that such a thing exists. Since ACE and PONSI are devoted to

evaluation of training programs of all kinds nationwide and have no direct focus on criminal justice programs, local and state agencies are not as highly targeted as many of the larger corporate, industrial, and military training programs. When agencies eventually learn of these organizations and consider an evaluation, many find that a lack of available personnel and "man-hours" to devote to the preparation of materials for an evaluation visit can limit participation. Lastly, and most painfully apparent in today's world of increasing demands on agencies with decreasing budgets, are the sometimes prohibitive costs of these evaluations. Depending on the number of training programs and hours to evaluate, an evaluation by an outside organization can easily run tens of thousands of dollars per visit, and the process would need to be repeated in as little as five years for those evaluations to remain valid.

The second avenue a training academy may pursue is working with a local educational institution, be it a two- or four-year degree granting program. Unfortunately, this offers its own problems. If a degree granting institution offers to allow any number of credits for training towards a degree, the recruit who decides to take advantage of the agreement usually finds that the credit award will be in the form of block credit, which is only transferable to that institution/degree program offering the transfer. When block credit is awarded, the individual who enrolls in the degree program can also find that while this does assist in a faster completion of the degree requirements, the award does not specifically assist the student in any major area of study. If the award goes to a specific program area of instruction at the granting institution, transferability of those credits to an outside college or university becomes extremely problematic because the credit award is institution-specific and may not coincide with nationally accepted criteria for evaluation. Finally, the majority of credit awarded under such an agreement is transferred into a program as elective credit. Again, the credit awarded for training is not applied to any specific program or area of instruction.

Problems such as this do not occur outside the United States. In Japan, police recruits will attend a one-year prefectural police school where they study approximately 12 hours a day over a year's time. The curriculum includes 190 hours of "general education," 158 hours of "law," 848 hours of "police activities," and 562 hours of "technical training" with 310 hours left to "miscellaneous training." New graduates are then given three months of on-the-job training, followed by nine months of field training and a final four-month refresher course. "The emphasis on training not only results in a well-educated and proficient police officer, but also breaks up the routine of police work that can reduce morale and efficiency" (Castberg, 1990).

Throughout Europe, not only is heavy emphasis placed on the education of police officers, but also many training programs are externally valid and recognized outside the criminal justice arena. At the associate level, police training in Germany, Belgium, Finland, the Slovak Republic, and the Ukraine are all accepted by and through educational institutions of higher learning. The same holds true at the baccalaureate level in Belgium, Turkey, Greece, Switzerland, Finland, the Slovak Republic, the Ukraine, and Croatia, and amazingly enough, besides Belgium, Turkey, and Greece, police training and education are externally valid at both the master's and doctoral levels (Pagon, Virjent-Novak, Djuric, & Lobnikar, 1996).

Now, some 32 years after the Law Enforcement Assistance Administration educational initiative award, the U.S. government is once again taking an active interest and role in the higher education of criminal justice professionals across the nation. In July of 2002, the United States Department of Justice–Office of Justice Programs, Bureau of Justice

Assistance) awarded Excelsior College in Albany, New York a $1 million grant for the "Evaluation of Law Enforcement Training for Academic Credit Project." Excelsior College is a private, nonprofit institution based in Albany, New York. Established by the New York State Board of Regents in 1971, it is the only institution in the country offering degree programs based exclusively on outcomes-based assessment of learning. The award of this grant by the DOJ/OJP/BJA allowed for the creation of the Criminal Justice Training Assessment (CJTA) project. The goals of the CJTA project are to enhance the ability of law enforcement and corrections professionals to obtain college degrees, establish a process/program to evaluate criminal justice training academies and agencies across the country for meaningful academic credit, and provide each evaluated training academy and agency with a report that includes a meaningful degree plan for students. The credit recommendations compiled by assessment teams, while accepted directly into the Excelsior curriculum, are designed to represent course descriptions on a national scope basis. That is, credit recommendations and course descriptions recommended by assessment teams are designed to be as widely translatable to as many criminal justice programs across the country as possible. The advantages of the CJTA project's credit recommendations are that credit will be assigned on an individual course basis, and one does not have to enroll at Excelsior College to transfer the course credits into another institution.[4]

The DOJ grant provides for the **cost-free** assessment of training providers (defined as not-for-profit organizations that provide criminal justice training) within an initial 20-month period. Training providers that are eligible to submit courses or programs for review include local, county, and state government agencies, training agencies and non-profits, training associations, training institutes, and organizations whose primary purpose is to provide criminal justice training. Due to the continuing success of the project, an outgrowth of the grant has allowed for the establishment of a separate, "pay-for" assessment process for for-profit agencies not originally included for consideration under the current grant (e.g., John E. Reid and Associates, Inc.).

The personnel involved in the project include the CJTA Advisory Committee, the Assessment Consultants, and the CJTA staff. The advisory committee is national in scope, and its members represent various professional organizations throughout the criminal justice system, including leaders in both the professional and academic fields. Members of the committee advise the CJTA project on matters related to the needs of criminal justice trainers and educators and the needs of participants in such training and education. The Committee members enhance the project's knowledge about how the professions of law enforcement and corrections are affected by the implementation of the training assessments and dissemination of degree plan information, and they provide recommendations concerning transition of the project into a permanent assessment unit performing continuous assessments and related activities on a national scale.

When the assessment of a training program or agency takes place, each assessment team includes three individuals. Each of these three individuals has no direct connection to the training being assessed, and each assessment consultant is used, generally, for one to three assessments. The first individual possesses a doctorate and is a faculty member in criminal justice from a college or university that grants baccalaureate degrees in the field. The second individual possesses at least a master's degree and is a faculty member in criminal justice from a community college that grants associate degrees in the field. The third individual possesses at least a master's degree and has professional experience in the area of training to be evaluated

(i.e., law enforcement or corrections). Currently, the CJTA project is staffed by a director, two assessment coordinators, and an administrative assistant.

The first assessment was performed in February of 2003, and to date, the project has assessed 15,095 hours of training and made recommendations for 547 semester credits. As of this writing, the CJTA project has assessed the following programs:

- Boise Police Department
- Colorado Springs Police Department
- Florida Highway Patrol
- Georgia Department of Corrections
- Illinois State Police
- John E. Reid & Associates, Inc.
- Maryland Division of Corrections
- Maryland Police and Correctional Training Commissions
- Massachusetts Department of Corrections
- Michigan Department of Corrections
- Michigan State Police
- Montana Department of Corrections
- Nebraska Department of Corrections
- Nebraska Law Enforcement Training Center
- Nevada Department of Corrections
- Nevada POST Academy
- New York City Department of Corrections
- New York State Department of Correctional Services
- Ohio Department of Corrections
- Pueblo, Colorado Police Department
- South Carolina Department of Corrections
- Texas Department of Public Safety
- Utah Department of Corrections
- West Virginia Department of Corrections
- Wyoming Department of Corrections

The following agencies are queued for review within the next six months:

- Arkansas Department of Corrections
- Delaware Department of Corrections
- Las Vegas Metro Police
- New Jersey Department of Corrections
- New York State Police
- South Bay Regional Public Safety Training Consortium – Corrections
- South Bay Regional Public Safety Training Consortium – Law Enforcement
- Vermont Criminal Justice Training Council
- Washington, DC Metro Police Department

The following agencies are queued for the next assessment cycle:

- APOSTC Law Enforcement Academy
- North Virginia Criminal Justice Training Academy
- Polk Community College
- Raleigh Police Training Center
- San Bernardino County Sheriff's Department

- Utah POST Academy
- Vermont Department of Corrections
- Virginia Department of Corrections

The assessment process begins with the initial request for an assessment. This form and other information can be obtained through the project's website at <www.excelsior.edu/cjta>. [Information may also be obtained by calling (518) 464-8572 or e-mailing <cjta@excelsior.edu>.] Since the number of training providers desiring assessment exceeds 30, readiness for assessment is an important consideration. Phase two of the process involves providing the assigned coordinator detailed materials regarding the training program, trainers' qualifications, history and evolution of the training program, etc. If necessary, the assessment coordinator may require an arranged one-day site visit to confirm the presence of all necessary materials at the training site. At that time, a date will be set with the training provider for the assessment team to conduct the on-site assessment. The on-site assessment for accreditation is a two- to three-day process that includes a one-half day training session for the assessment consultants and a two-day site visit to the training provider. Following the completion of the on-site assessment, the assessed agency will be provided with a report that details potential college credit for courses taught and will include a degree plan from Excelsior College for individuals who complete the training. Assessments performed by the Criminal Justice Training Assessment project will be valid for three to five years. Annual update reports are required to maintain validity by the training providers, and such reports will include changes to course curricula. Substantive changes may result in a new assessment being performed.

To facilitate an efficient review of the training curriculum, the assessment teams look for the following:

- Agency mandated minimum qualifications for instructor(s) of each subject
- A detailed lesson plan for the course
- A record of any substantial changes to the course of instruction and/or lesson plan
- Any official recognition or certification of the plan
- Name(s) and qualifications of individual(s) that have developed the lesson plan
- Instructional materials

While on-site, certain criteria will be used to inform the judgment and recommendations of the team members. This will include the following:

- Subject matter – must be of college level quality and breadth
- Lesson plan and materials – must be of sufficient detail to ensure learning objectives are well met
- Course duration – course must be of sufficient time to cover material properly
- Qualifications of instructors – must meet minimal requirements to lead instruction
- Learning techniques – methods must be appropriate to subject and objectives
- Examination materials – must correlate to learning techniques and objectives

Programs being assessed and that are recommended for credit will receive collegiate-level semester credit hour recommendations in the lower division (associate and baccalaureate), upper division (baccalaureate), and although rare, graduate level. It is expected that basic training courses provide an equivalent lower division level of instruction; supervisory courses could be assessed as upper-division credit and assist in obtaining baccalaureate degrees; management courses *may* contain both

upper-division and graduate coursework; and executive courses *could* be assessed as graduate credit. Only courses and programs that are conducted with official approval and control of the training organization will be reviewed. These courses must be "formal" and not consist solely of on-the-job training and/or job experience.

It has been shown that college-educated officers communicate better with the public, receive fewer citizen complaints, are more professional, use discretion more wisely, and are better decision makers (Carter et al., 1989). In a time when agencies find themselves having to initiate hiring freezes, or worse yet layoffs, to combat budgetary constraints, the Criminal Justice Training Assessment project provides a valuable, **no cost** service to bridge the existing gap between the arena of criminal justice and the traditions of higher education. The ability of the project to bring together such overwhelming practical and educational experience from across the country, in the form of training assessment teams, allows for not only a more thorough review and assessment of training for collegiate-level credit but the necessary experience to develop reviews that are translatable throughout the nation. The length and breadth of the CJTA project allow for such high-quality work to begin what was started over 70 years ago with the Wickersham Commission—the eventual transition from criminal justice training to criminal justice learning at the agency level.

References

Carter, D. L., Sapp, A. D., & Stephens, D. W. (1989). *The state of police education: Policy direction for the 21st century.* Washington, DC: Police Executive Research Forum.

Castberg, A. D. (1990). *Japanese criminal justice*. New York: Praeger.

Pagon, M., Virjent-Novak, B., Djuric, M., & Lobnikar, B. (1996). European systems of police education and training. In M. Pagon (Ed.), *Policing in Central and Eastern Europe: Comparing firsthand knowledge with experience from the West*. Ljublijana, Slovenia: College of Police and Security Studies. Retrieved November 10, 2003, from www.ncjrs.org/policing/

Tenney, Jr., C. W. (1971). *Higher education in law enforcement and criminal justice*. Washington, DC: National Institute of Law Enforcement and Criminal Justice.

Endnotes

[1] National Commission on Law Observance and Enforcement: The Wickersham Commission Report on Police (1931)

[2] President's Commission on Law Enforcement and Administration of Justice (1967)

[3] National Advisory Commission on Criminal Justice Standards and Goals: Report on Police (1973)

[4] Acceptance of academic credit in transfer from an academy or another college is always at the discretion of the receiving institution.

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Law Enforcement Cultural Diversity, Racial and Ethnic Sensitivity Training: Solutions and Recommendations

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Introduction

Training is a widely used strategy in managing cultural diversity approaches in the professional law enforcement agencies. Professional law enforcement service is vital to the maintenance of public order and the protection of individual rights and freedoms. Police are sworn to uphold the "rule of the law," in protection of individual rights, while dutifully enforcing traffic and criminal laws for the protection of the public at large. Operating in a dynamic community environment that is increasingly multi-ethnic/multicultural in nature, law enforcement officers must ensure that enforcement actions are based solely upon breaches of the law, without the influence of personal biases or stereotypes (Jurkanin, 2001).

Cultural diversity training for law enforcement officers has received considerable attention throughout the last decade as a result of the changing society:

- Today, almost one in three Americans is a racial or ethnic minority.
- Nearly one out of every five school-aged children in the United States speaks a language other than English at home.
- By 2010, nearly half of the total workforce of the United States will be comprised of women and people of color.

The issue of cultural diversity training was introduced through legislative initiative in many states around the nation. It is essential that law enforcement training design take every action necessary to ensure zero tolerance regarding enforcement actions that are discriminatory against any segment of the population. This article provides generic guidelines that can be tailored for use by different law enforcement training agencies.

The Training Challenge for Law Enforcement Agencies

The issue of cultural diversity and racial profiling recently catapulted into the national consciousness with allegations that the New Jersey State Police were employing race as a criterion for presumptive traffic stops to search for drug trafficking throughout the state. When New Jersey state troopers on the New Jersey Turnpike shot and injured three African-Americans and a Latino in a van in April 1998, allegations of so-called racial profiling first echoed across the country. Protests over "DWB" (driving while black) arose just as the issue caught attention in Washington, DC. A subsequent New

Jersey state study on the issue and a related inquiry by the U.S. Justice Department may have set in motion the nation's next major civil rights cause. In a recent monograph (Farrell, McDevitt, & Ramirez, 2000) on data collection in the context of claims of racial profiling, the Department of Justice explained this climate of activity: "National surveys have confirmed that most Americans, regardless of race, believe that racial profiling is a significant social problem." *Law and Order* recently published an excerpt from Aether Systems' Mobile Government Division report which stated, "A Mark Penn Poll conducted in June 2000 found that 75% of Americans believe 'racial profiling' is a problem, and 69% believe that police should be prohibited from taking race into account when targeting people as suspects." A Gallop poll supported this finding in their work in 1999, when they found that 81% of Americans disapprove of the use of racial profiling by police, and 59% believe it is a widespread practice used by the police. Forty-two percent of one survey involving African-Americans believes that they have been stopped based upon their race rather than any infraction of the law (Overcoming, 2001).

Legislation requiring cultural diversity and ethnic sensitivity training for police officers on a recurring basis has been introduced in virtually every state and passed in a number of states, including Illinois. Similar legislation has been explored at the federal level, culminating in President Bush requesting Attorney General Ashcroft to look into the matter (Palmer, 2000). Calls for investigation of the issue or suggestions that racial profiling has not been well-documented often lead to charges of racism (Taylor & Whitney, 1999). The general assumption behind such efforts appears to be that racial profiling by police officers does occur and is widespread. Virtually all Peace Officer Standards and Training Commissions have long recognized that this is an issue that deserves constant and vigilant attention.

Current Approaches to Cultural Diversity Training in Illinois

Cultural diversity in law enforcement has been considered important since the mid-1800s (Roberg & Kuykendall, 1997). Since the 1940s, cultural diversity training became more organized and focused. In 1942, Joseph Lohman developed the course, "The Police and Minority Groups" for the Chicago Police Department Academy. This course included such topics as human relations, discussion about race, and the role of police in dealing with racial tensions (Fischer-Stewart, 2003). In 1965, the U.S. Department of Justice launched several projects of cultural diversity training for the police on the local level. In 1968, the National Advisory Commission on Civil Disorders (Kerner Commission) blamed the law enforcement agencies for provoking the riots by escalating routine traffic stops with their racism and abrasiveness.

From the 1970s through the 1990s, a number of community-oriented training programs had been developed, which included cultural diversity training components. Since the 1990s, cultural diversity training became a nationwide norm on the entry level. Diversity training was dissolved in such segments of training as use of force and community relations. Trainers and educators used various terms to describe such training: human relations, cultural diversity, cultural awareness, and sensitivity training. Throughout the country, basic training curricula stipulated for police patrol officers includes instruction specifically addressing nondiscriminatory enforcement, community relations, human relations, and law enforcement ethics.

In Illinois, the Illinois Law Enforcement Training and Standards Board (ILETSB) is reviewing the basic law enforcement training curriculum for updating lesson plans relating to cultural diversity and biased enforcement issues. The student performance objectives in basic training have addressed nondiscriminatory enforcement issues currently integrated within instruction in the areas of community relations, human relations, law enforcement ethics, constitutional law, and other related topics. ILETSB, through its regional mobile training unit system, has delivered in-service training in "Cultural Diversity" for about eight years under a federal grant administered by the Illinois Juvenile Justice Commission.

Training academies in Illinois have a wide spectrum of cultural diversity training courses. Our study encompassed eight programs of all lengths in the State of Illinois. Not every program in Illinois was surveyed, but programs selected are believed to comprise a representative sample of programs statewide.

Table 1
Program Length and Method of Delivery

#	Cultural Diversity Program	Sponsor	Length	Method of Delivery
1	Police Citizen Relations/ Cultural Diversity for Lisle Police Department Personnel	Suburban Law Enforcement Academy/College of DuPage	8 hours	Lecture, scenarios, discussion
2	Diversity Management	Chicago Police Department Basic Recruit Academy	24 hours	Lecture, scenarios, guest speaker, debate, discussion
3	Police/Citizen Relations	Southwestern Police Academy	6 hours	Lecture, exercise, discussion, video
4	Cultural Diversity	Illinois Police Corps Academy	8 hours	Lecture, scenarios, panel discussion
5	Cultural Diversity	Police Training Institute	4 hours	Lecture, scenarios, panel discussion
6	Cultural Diversity	Cook County Sheriff's Training Institute	4 hours	Lecture, discussion
7	Cultural Diversity, Discrimination, and Harassment	Illinois State Police Cadet Training	2 hours	Lecture, discussion

There were a number of points of comparison from program to program. Length of program and mode of delivery were compared (see Table 1). A conscious decision was made to eliminate MTUs courses or seminars, as they do not represent the basic training level. The longest programs were 24 hours. The average length of a program (excluding intervals) was eight hours. Viewed in a different way, seven programs were eight or fewer hours. Regarding delivery mode, six programs offered courses running in a continuous consecutive way. One program employed an interval separating each session. Sessions in these programs ranged from one to two hours. All the programs utilize such methods of delivery as lecture, discussion, and scenarios. In contrast with the Chicago PD Academy, which is spending 14 hours (58% of the course duration) on related scenarios training, most of the academies spend more time on lecture and discussions.

Table 2
Training Topics Included in Programs

#	Cultural Diversity Program	Sponsor	Topics
1	Police Citizen Relations/Cultural Diversity for Lisle Police Department Personnel	Suburban Law Enforcement Academy/College of DuPage	Ableism, Acculturation, Ageism, Assimilation (melting pot), Assumptions, Behavior, Bias, Culture, Discrimination, Diversity, Diversity Education, Ethnocentrism, Ethnorelativism, Homophobia, Norms, Pluralism, Prejudice, Racism, Religious Intolerance, Sexism, Values, Trends in American Work Force, Diverse Populations, Crime Diversity Statistics, Affirmative Action, Multi Cultural Definitions, Values and Vision, Diversity Awareness Continuum, Stereotypes, Gender Issues, Sexual Harassment, Interacting with Sexual Minorities, Workplace Anxiety
2	Diversity Management	Chicago Police Department Basic Recruit Academy	Diversity Management, Labeling, Stereotypes, Cultural Diversity Definitions, Society's Perceptions of the Police, Hate Crimes, Traffic Stops, Social Norms, Observations & Perception, Conflict Resolution & Feedback
3	Police/Citizen Relations	Southwestern Police Academy	Positive Police-Citizen Relations, Types of People Officers Will Encounter, Officer Interaction with Public (Trouble), Effective/Positive Police Citizen Relations, Behavior: Exclusionary Behavior, Inclusionary Behavior, Stereotyping, Community-Oriented Policing, Policing a Diverse Society, Stress and Influence of Social Vacuums, Racism
4	Cultural Diversity	Illinois Police Corps Academy	Learned Behaviors, Religious Practices/Beliefs, Communication/Language, Rites of Passage, Social Structure/Hierarchies, Motivating Factors, Law Enforcement as a Culture, Proximity/Personal Spacing, Language Barriers, Cultural Diversity in the Community, Profiling, Recognizing Cultural Norms, Advocating the Law Enforcement Profession
5	Cultural Diversity	Police Training Institute	Culture, Diversity, Stereotype, Bias, Professional, Professional Law Enforcement Officer, Discrimination, Benefits of Officers with the Knowledge of Different Cultures in Their Community, Recognizing Stereotypical Comments and Their Impact, Awareness of Different Cultures' Communication, Understanding Minorities, Tactics for Encounters with Non-English Speaking People, Safety Confronting an Officer Who Does Not Speak English, Legal Issues
6	Cultural Diversity	Cook County Sheriff's Training Institute	Definition of Cultural Diversity, Cultural Diversity and Society, Cultural Diversity and the Workplace, Cultural Diversity in the Home and the Impact on Law Enforcement, Power and Control, Minority Sub-Cultures, Unethical and Illegal Profiling, Non-Discriminatory Law Enforcement in Cross-Cultural Contact and Communication
7	Cultural Diversity, Discrimination, and Harassment	Illinois State Police Cadet Training	Cultural Diversity, Discrimination, and Harassment in the Workplace; Prejudice; Discrimination; Harassment; Employment Laws; Potential for Liability

Core areas of cultural diversity training identified in Table 2 include the following:

- Diversity and society
- Discrimination
- Prejudice and bias
- Stereotypes
- Profiling
- Community relations
- Safety
- Liability

A number of other topics have gained wide acceptance as necessary in police cultural diversity training, resulting in the addition of several new categories:

- Ageism, Ethnocentrism, Homophobia
- Language Barriers
- Religious Intolerance
- Sexual Harassment, Interacting with Sexual Minorities
- Hate Crimes
- Law Enforcement as a Culture
- Power and Control

A variety of other topics were perceived as important in some programs but not included in most others. They include Ableism, Acculturation, Assimilation, Diversity Education, Ethnorelativism, etc.

Diversity training courses can be grouped into the following four categories: (1) awareness-based training, to increase officer's knowledge and sensitivity to diversity issues; (2) skills development training, to provide cadets with a set of skills to enable them to deal effectively with multicultural communities; (3) integrated training, which merges cultural diversity approaches with other training courses; and (4) comprehensive training, which incorporates all three previous categories. Currently, most of the courses relate to awareness and skills development. Each category of training courses has specific strengths and weaknesses. A fundamental weakness of the awareness training is that it does not provide a generalized understanding of common experiences of different cultural groups. One strength of the awareness model is that it is the easiest to implement. The main strength of the skills development training is that the results may be facilitated. Strengths of the comprehensive training are that cadets can become culturally competent by acquiring crosscultural communication skills, the awareness of one's attitude toward multicultural populations in the community, increased cultural diversity knowledge, and the development of a multicultural behavior.

There are several problematic features in the training courses mentioned above that need to be corrected:

- Training that represents only one of the cultures
- Attempts to change attitudes, biases, and stereotypes, not behavior
- Training initiatives that are not connected to police agency's goals
- Hostile methods of training (blaming the students for prejudices)

Recommendations for Cultural Diversity Training

The need for cultural diversity training is on the increase with the reality of demographic shifts nationwide; however, most recruits have very little experience interacting with people who are different in terms of culture, race, or ethnicity. There is a need to close the gap of miscommunication between the police and the public. Training academies should be focused on specialized courses and related to cultural diversity segments of training. The following recommendations may allow training academies an option of open communication regarding issues of cultural diversity. In a broader context, the recommendations address all types of training on cultural diversity.

The Importance of Cultural Diversity Training

Motivations behind cultural diversity training for police include compliance with legal mandates (e.g., Public Act 93-0209 the curriculum for probationary police officers in Illinois), fear of lawsuits, social justice, and overall law enforcement organizational transformation. Police administrators are faced with deep-seated prejudice, misunderstanding of diversity among officers, and formally implemented training programs. The considerations of well-utilized training programs are as follows:

- Training programs that develop cultural empathy among cadets
- Raising the cadets' awareness of the needs of a particular community as a whole, encompassing the needs of minorities and ethnic community (Shusta, Levine, Harris, & Wong, 2002)
- Improved working relationships with community members
- Increased safety through understanding different cultures
- Increased job effectiveness (Cultural Resource Officers, 2003)
- The research that shows that diverse work teams that have received training on managing diversity score six times higher on problem-solving tests than homogenous groups (The Case for Diversity, 2003)
- Rapidly changing demographic patterns in the nation
- Increasing requests for police services that more accurately meet the needs of communities of color and other nonethnic cultural groups.

The general goal of cultural diversity training is to develop cultural competence as the ability of officers and law enforcement agencies to apply and integrate multicultural knowledge and skills in police-citizen interactions.

What Is Cultural Diversity Training?

Definitions of the cultural diversity range from the very specific to the very broad. Narrow definitions tend to reflect Equal Employment Opportunity (EEO) law and define diversity in terms of race, gender, ethnicity, age, national origin, religion, and

disability. Broad definitions may also include sexual orientation, values, personality characteristics, education, language, physical appearance, marital status, lifestyle, beliefs, and background characteristics, such as geographic origin, tenure with the organization, and economic status (Cordova-Wentling, 2003). Police training has focused on diversity in the broadest sense, which includes all the different characteristics that make one individual different from another. This type of training should provide cadets with the knowledge, skills, and abilities that enable them to value and utilize the diversity that exists in communities served and, thereby, implement the general philosophy of community-oriented policing. Recognizing cultural diversity; integrating cultural knowledge; and acting, when possible, in a culturally appropriate manner enables cadets and officers to be more effective in initiating cultural assessments and serving as client advocates. All police training curriculums should include pertinent information about diverse beliefs, values, and practices. Such training programs would demonstrate to cadets that cultural beliefs and practices are an integral part of policing. Many of the law enforcement agencies have already initiated basic and inservice training to achieve a wide array of diversity goals in their communication with communities and establishing a well-represented police force.

Instructors' Assumptions

With a largely white male policing force and increasing numbers of cadets from culturally diverse backgrounds, cultural misunderstandings can negatively impact both instructors and students. This environment sets the basis for cultural miscommunication that potentially undermines the learning of cadets and frustrates instructors.

Instructors must understand that they might encounter resistance to the training by some cadets and experienced police officers. The research suggests that there are five main reasons for resistance: (1) lack of community understanding of police work, (2) the perception that law enforcement administrators have lost the feel of the realities of the job, (3) the feeling that police administrators are turning officers into "scapegoats" for the problems of police-minority relations, (4) the lack of resources for dealing with cultural diversity on the street; (5) the gap between what was being taught on the course and what people actually demanded from the police (Policing a Diverse Society, 2003).

Also since police officers were hired primarily based on their basic skills, they consider communication skills as secondary to technical ones, such as firearms and control tactics skills. Ethnocentrism can be the platform for police officers' resistance. Ethnocentrism is the belief that one's own culture is superior to all others. This belief is common to law enforcement officers from all cultural groups. Prejudice is another common basis for discriminatory practices in the law enforcement community. Prejudice is a judgment or opinion formed before facts are known, usually involving negative or unfavorable thoughts about groups of people.

Training Needs Assessments

Conducting a needs assessment of an officer's level of awareness, knowledge, and skills is a first step in structuring a cultural diversity training program. Assessment lays the groundwork for police training. Effective cultural diversity audits, training

needs assessments, evaluations, and policy reviews are the primary methods of assessment, and they are conducted through individual interviews, focus groups, surveys, and the review of documents.

Often, training academies choose not to undertake a full diversity initiative. Nevertheless, they wish to provide training for cadets. In such instances, it is permissible to conduct a limited needs assessment to gather information on the current status of diversity within the academy and community. Needs assessment is essential for a successful training program, as it begins the process of inclusion and provides input from cadets and instructors.

Cultural Diversity Training Objectives

Student performance objectives must be related to the underlying philosophy of training. They bring the philosophy from abstraction into action. These objectives will in turn determine the instructional strategies chosen. These could include reading assignments, writing assignments, participatory learning, and technology-assisted training. The learning strategies chosen will determine how the program is to be "packaged," (i.e., will indicate the appropriate program design).

Knowledge

After successfully completing the training course, cadets will be able to . . .

- Describe how culture influences the ways in which people and law enforcement perceive each other and how these perceptions affect behavior.
- Recognize the benefits and importance of understanding cultural groups represented in an officer's community.
- Identify universal human behaviors that affect law enforcement behaviors.
- Describe methods of developing a rapport with different cultural groups within an officer's community.
- Explain the difficulties faced by different cultural groups in the areas of language, history, employment, and discrimination.
- Explain the role and importance of empathy in law enforcement interactions.
- Demonstrate how to effectively overcome language barriers and communicate with different cultural groups through active listening, verbal communication, and nonverbal communication.
- Describe the advantages of fair and consistent treatment of those in the community and the consequences for unfair and inconsistent treatment (policy, procedure, legal statutes).
- Recognize how an individual's and a law enforcement officer's stereotypes affect people.

- Establish a working vocabulary for discussing issues related to cultural diversity and relevant to law enforcement.
- Describe the impact of a multicultural environment on law enforcement policy, procedures, and responses.
- Enhance the platform to protect themselves by responding with control and professional manner.
- Understand how to value cultural differences.
- Get insight into various cultures and subcultures and ways to be more effective in providing services to all "customers."
- Obtain information about public and private agencies providing assistance to needy members of the community, such as immigrants and the poor.

Skills

Cadets should obtain the following skills through the training course:

- To increase the ability to maintain personal safety in dealing with different cultural groups
- To treat fairly and impartially all individuals placing the highest emphasis on respect for fundamental human rights
- To be able to protect the individual dignity and worth of all persons with whom we come into contact
- To utilize a zero tolerance approach for racial, sexual, gender, or religion-based discrimination
- To apply active listening (i.e., communication through observation) and communicating tactics with representatives of different cultural groups
- To develop techniques of "controlling" the situation
- To enhance conflict resolution techniques and effective verbal and nonverbal behaviors

Cultural Diversity Training Design

The cultural diversity trainer, Joyce St. George (1991) advocated that course design must . . .

- Be multidimensional (include organizational, community, and legal approaches).
- Be relevant (training program must satisfy specific interests and needs of the cadets and the community).

- Be behavior-based (cadets should express their attitudes through their actions and behaviors; scenarios encourage behavioral changes and not attitudinal adjustments; attitudes are not likely to be altered in limited training blocks).
- Be empathetic (discourage the promotion of stereotypes).
- Be practical (training program must offer cadets practical ways to assess and confront human dynamics).
- Allow for controversy (allow cadets to openly question the materials presented).
- Be experiential (role-playing, scenarios).
- Provide follow-up supports (FTOs should implement follow-up training).
- Identify potentially hostile cadets (training coordinators/supervisors and instructors should identify cadets who are aggressive and adversarial toward members of certain groups).

Training Delivery Methods

The ability to intervene with a culturally diverse community is an important aspect of cultural competency for the law enforcement officer. Culturally competent officers should be able to apply self-awareness and knowledge to actual situations. Training methods should be logical extensions of training philosophy and design.

The most effective methods are simulations, role-playing, group exercise, and simulated interactions. Cadets are engaged in these exercises and receive direct feedback from the instructor and peers. Direct observation and immediate feedback allow instructors to analyze the dynamics of their communication skills; however, engaging in behavioral exercises that require cadets' interaction with an observer may be difficult to accomplish with a disproportionate number of students passively watching the training. Also, there can be a limited opportunity for cadets to practice with a culturally diverse peer group. Start by demonstrating the need and relevance of the training, using examples drawn from the real situation, such as the need to communicate with a non-English speaking driver during a traffic stop.

Other methods could include reading and writing assignments. Cultural diversity instructors should utilize a mixture of instructional approaches and strategies (e.g., combining lectures with skills development and self-appraisal techniques; critical incident case studies, experiential assignments, and cross-cultural films).

Training Blocks

- The relationship between cultural diversity training and police professionalism (It is important to emphasize that the knowledge and skills gained will improve cadets' effectiveness in working with diverse communities. *Exercise*: Divide the class into two groups, and request them to list why cultural diversity and skills training is important; two spokespersons present the list and a discussion is held.)

- Recognizing personal prejudices (Identify prejudices and stereotypes; small group exercise; discussion.)

- Police-community relations (Instructor should invite some community members and develop a specific lesson plan.)

- Interpersonal relations skills training (The goal is to improve cadets' verbal and nonverbal communication skills.)

The training blocks should be translated into the following basic components:

- **Knowledge** needed for an officer to understand, identify, and function effectively in multicultural communities
- **Effective methods**, which will allow developing an ability to perform in multicultural environments
- **Skills** including crosscultural conflict resolution and creative problem solving

Training Evaluation

- Outgoing examination and course critique by all participants
- Instructor's evaluation
- Training materials review by law enforcement agencies and advocacy groups
- Community survey before and after training
- An analysis of citizen complaints of all types after the training

Cultural Diversity Instructor Selection

The selection of a part-time instructor is crucial to the success of cultural diversity training programs. The selection of the trainer should be based on effective communication and good interpersonal skills.

According to Sandra Glosser (1997), an effective trainer must possess several competencies and attributes:

- *Self-awareness*. The trainer understands how personal belief systems and values may affect others and is comfortable discussing diversity issues.
- *Commitment to diversity*
- *Expertise in the subject*
- *Facilitation skills*

Glosser also outlines *common mistakes* diversity trainers make:

- Telling cadets that they should not be prejudiced
- Allowing "white male bashing" to take place
- Focusing on differences instead of commonalities
- Using too many gimmicks
- Implementing techniques that emphasize negative stereotypes
- Embarrassing cadets by using them as examples of stereotypes
- Moving through the material too quickly

Train staff on the culture, language, and customs of racial and ethnic groups. Use "ethnic experts" to help conduct the training (Department of Justice, 2003). Academy instructors should attend technical courses to develop their teaching skills.

Cadets' Participation in Training

Cadets . . .

- Must be able to express themselves openly and freely in front of the group.
- Can offer constructive criticism of the information being taught.
- Should keep an open mind and be willing to learn about other cultures, races, religions, and lifestyles.
- Should make an effort to learn about community.
- Will be open to learning about interpersonal and crosscultural communication skills.
- Will not take remarks by trainers personally.
- Will accept that one purpose of training is to make their job safer (Shusta et al., 2002).

Tips for Academy's Administration

- Academies should take a proactive position against all types of bias discrimination by cadets.

- Academies should implement an internal review of training materials that may impact biased-based enforcement and cultural diversity training.

- Academies should review or adopt a "values statement" and policy that contains a cultural diversity approach and a condemnation of biased enforcement and racial profiling.

- Training programs should clearly develop a policy prohibiting "pretext stops."

- Cadets should be provided with clearly defined training on handling citizen's complaints.

- Cadets should be introduced to community demographics.

- Training programs must have effective methods of introducing the systems of accountability for identification and control of police misconduct and civil rights violations.

- The training academies must have a process that ensures appropriate discipline for cadets who use discriminatory practices (i.e., cadets who observe such illegal actions but fail to report them).

- Academies should review traffic stop, detention, search, and arrest procedures training to assure that race and other biased decisionmaking is not improperly used in the process. Academies should consider expanding human relations and communication training.

- Academies should encourage local government officials, legislators, the media, and citizens to participate in training operations.

Summary

Cultural diversity training that helps familiarize cadets with ethnic and cultural groups is a high priority for law enforcement in Illinois. Cadets can effectively address community needs only when they understand the diverse cultural climate of the community.

Effective training models concentrate on cultural education, communication skills, interpersonal skills with minority-group members, and conflict resolution techniques.

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Bibliography

Annual poll shows that most people believe racial profiling by cops is common. (2000, January 10). *Jet, 97*, 6.

Barovick, H. (1998, June 15). DWB: Driving while black: Incidents in New Jersey and Maryland heat up the issue of racial profiling by state highway patrols. *Time, 151*(23), 35.

Bryant, K. A., Greenspan, R., Hamilton, E. E., Weisburd, D., & Williams, H. (2000, May). *Police attitudes toward abuse of authority: Findings from a national study. National Institute of Justice, Research in Brief.* Washington, DC: U.S. Department of Justice.

Carrick, G. (2000). Professional police traffic stops: Strategies to address racial profiling. *FBI Law Enforcement Bulletin, 69*(11), 8-10.

The case for diversity: Why diversity? Why now? (2003). Retrieved October 24, 2003, from http://www.nmci.org/otc/default.htm

Cole, D., & Marcello, J. (1999, July 19). Symposium (opposing views on racial profiling). *Insight on the News, 15*(26), 24.

Commission on Accreditation for Law Enforcement Agencies (CALEA). (2000). *Racial profiling update-2000 state actions.* Retrieved January 18, 2001, from www.calea.org/newweb/news/20OStatesactions.html

Cordova-Wentling, R. (2003). An analysis of diversity training provided by business and industry: Work in progress at the University of Illinois. Retrieved November 17, 2003, from http://ncrve.berkeley.edu/CW63/Diversity.html

Cultural Resource Officers. (2003). University of Illinois. Retrieved October 24, 2003, from http://www.dps.uiuc.edu/diversity.aspx

Department of Justice. (2003). Twenty plus things law enforcement agencies can do to prevent or respond to hate incidents against Arab-Americans, Muslims, and Sikhs. Retrieved October 24, 2003, from http://www.usdoj.gov/crs/twentyplus.htm

DWB: Driving while black. (1999, March 15). *U.S. News & World Report, 126*(10), 72.

Farrell, A., McDevitt, J., & Ramirez, D. (2000, April 29). A resource guide on racial profiling data collection systems: Promising practices and lessons learned. Washington, DC: United States Department of Justice.

FindLaw. *Whren et al. v. United States*. (1996). United States Supreme Court [online]. Retrieved March 25, 2000, from http://Iaws.findlaw.com/US/000/u2OO5.html

Fischer-Stewart, G. (2003). Multicultural training for police. In M. Palmiotto (Ed.), *Policing and training issues* (pp. 130-180). Upper Saddle River, NJ: Prentice Hall.

Gallup News Service Poll Release. (1999, December 9). Racial profiling is seen as widespread, particularly among young black men. *The Gallup Organization, Princeton.* Retrieved May 16, 2000, from www.gaflup.coni/poll/releases/pr991209.asp

Glosser, S. (1997, September-October). The nuts and bolts of valuing differences training. *Community Policing Exchange* (Phase V, # 16). Retrieved November 19, 2003, from www.communitypolicing.org/publications/exchange/a_s-o97.htm

Harris, D. A. (1997, Winter). "Driving while black" and all other traffic offenses: The supreme court and pretextual traffic stops. *Journal of Criminal Law & Criminology, 87*(2), 544-582.

Harris, D. A. (1999, June). *Driving while black: Racial profiling on our nation's highways: An American Civil Liberties Union special report.* New York: American Civil Liberties Union.

Hartnett, S. M., & Skogan, W. G. (1999, April). Community policing: Chicago's experience. *National Institute of Justice Journal, 239*, 3-11.

Hickman, M. J., & Reaves, B. A. (2001). *Community policing in local police departments, 1997 and 1999*, (NCJ 184794). Washington, DC: U.S. Department of Justice, Office of Justice Programs.

Hoover, L. T. (2000, July). Why the resistance to collecting race data on police traffic stops. *Police Labor Monthly*.

Jurkanin, T. (2001, July). Editorial. *Illinois Law Enforcement Executive Forum, 1*(2), i.

Kelling, G. L. (1999, October). *Broken windows and police discretion*. Washington, DC: National Institute of Justice, U.S. Department of Justice, Office of Justice Programs.

Kroeber, A. L., & Kluckhohn, C. (1952). *Culture: A critical review of concepts and definitions*. New York: Random House.

Lefevre, G. (1999, June 2). Driving while black–racial profiling under study. *CNNinteractive.* Retrieved June 2, 1999, from www.cnn.com/45/9906/02/racial.profiling/index.html

Meeks, K. (2000). *Driving while black.* New York: Broadway Books.

Merriam, S. B. (1998). *Qualitative research and case study applications in education.* San Francisco: Jossey-Bass Inc.

Myers, S. L., Jr., & Simms, M. C. (1993). *The economics of race and crime.* Brunswick, New Jersey: Transaction Publishers.

O'Connell, T. (2001). Retail racism: Caught red handed. *Security, 38,* 9-14.

Overcoming the perception of racial profiling. (2001, April). *Law and Order, 49*(4), 94-101.

Palmer, E. A. (2000). House judiciary approves bill authorizing attorney general to study racial profiling by the police. *CQ Weekly, 58*(10), 479.

Policing a Diverse Society. (2003, January). Part I. Bureau of Justice Assistance. Cultural Diversity and the Police Project Partnership: Washington, DC.

Porter, R. (November 1999). Skin deep: Minorities seek relief from racial profiling. *Trial, 35*(12), 13.

Roberg, R., & Kuykendall, J. (1997). *Police management* (2nd ed.). Los Angeles, CA: Roxbury Publishing Company.

Scarry, L. (2001, January). Racial profiling: Legal issues for the law enforcement officer. Lake County, IL: Lake County Chiefs of Police Association.

Shusta, R., Levine, D., Harris, P., & Wong, H. (2002). *Multicultural law enforcement* (2nd ed.). Upper Saddle River, NJ: Prentice Hall.

Smith, M. R., & Petrocelli, M. (2001). Racial profiling? A multivariate analysis of police traffic stop data. *Police Quarterly, 4*(1), 4-27.

States Focus on Data Collection as Legislative Response to Racial Profiling. (2000, July 24). American Civil Liberties Union Freedom Network. Retrieved August 10, 2000, from www.aclu.org/news/200/wO72400c.html

St. George, J. (1991, November 30). Sensitivity training needs rethinking. *Law Enforcement News, 17*(347), 8-12.

Taylor, J., & Whitney, G. (1999). Crime and racial profiling by U.S. police: Is there an empirical basis? *Journal of Social, Political, and Economic Studies, 24*, 485-510.

Tuch, S. A., & Weitzer, R. (1999, October). Race, class, and perceptions of discrimination by the police. *Crime & Delinquency, 45*(4), 494-507.

United States Code Annotated, Constitutional Amendment IV. (1987). St. Paul, Minnesota: West Publishing Company.

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Empirical Experiences of Required Electronic Recording of Interviews and Interrogations on Investigators' Practices and Case Outcomes

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Introduction

In recent years, defendants convicted of serious crimes have had their convictions overturned as a result of exculpatory evidence. The fact that a number of these individuals confessed following police interrogations has sparked controversy about interrogation practices. Some academics have strongly advocated electronic recording of interviews and interrogations as a safe-guard against false confessions; there are also individuals who have expressed a belief that the interrogation techniques taught by John E. Reid and Associates are coercive and that the use of these techniques results in false confessions (Gudjonsson, 2003). Gudjonsson (2003) writes, "The experiments of Kassin and McNall are important because they show that the techniques advocated by Inbau and his colleagues are inherently coercive in that they communicate implicit threats and promises to suspects" (p. 21). One vocal critic of the Reid Technique goes so far as to allege that when using this technique, "police routinely elicit false confessions" (Leo & Ofshe, 1998, p. 429).

Almost across the board, federal agencies do not electronically record interviews or interrogations. Barring an all-encompassing U.S. Supreme Court decision, it would appear that the required recording of interviews and interrogations will be decided on a state-by-state basis. The first state to require electronic recording of interviews and interrogations was Alaska (*Stephan v. State*, 1985). Nine years later, Minnesota followed suit (*State v. Scales*, 1994). This year, at least two other states have introduced and/or passed similar legislation requiring electronic recording of all interrogations (Illinois AB XX, 2003; Nebraska Legislative Bill 614, 2003).

There has been scant research in the area of electronic recordings of interviews, interrogations, or confessions. The most detailed attempt at this effort was a 1992 National Institute of Justice (NIJ) study that surveyed about 2,400 law enforcement agencies across the United States (Geller, 1993). This report indicated that only 16% of the agencies surveyed videotaped interviews, interrogations, or confessions. The three most reported benefits of videotaping confessions were (1) to minimize doubts as to the trustworthiness or voluntariness of a confession, (2) to help an investigator prepare for testimony, and (3) to defend against allegations of improper interrogation tactics. The majority of agencies surveyed did not videotape interviews, interrogations, or confessions. There were two primary reasons cited for this: (1) a concern that the recording would increase defense claims of improper interrogation tactics and (2) a belief that videotaping the interrogation would inhibit a suspect's willingness to tell the truth.

While the NIJ report provides a baseline of law enforcement recording practices, the methodology omitted some significant variables relative to electronic recording. First, the study focused only on videotaped recordings. In addition, there was a failure to identify whether or not agencies recorded the entire interview and interrogation of a suspect or just the suspect's confession. Finally, most agencies surveyed indicated that they selectively videotaped only certain cases. Despite these shortcomings, the NIJ report is significant in that it serves as a barometer of the attitudes towards and concerns about electronic recording by law enforcement agencies that existed in 1992.

To fully understand the implication of electronic recordings of police interactions with subjects, a distinction must be made between an interview, an interrogation, and a confession. An *interview* is a nonaccusatory question-and-answer session with a person who may have useful information about a crime under investigation. This person may be a witness, an informant, an individual with helpful knowledge, or a suspect. Some interviews result in confessions or incriminating statements. In other situations, the person may be cleared of any wrongdoing. If the person being interviewed is a suspect, he or she may or may not be placed in custody.

An *interrogation* describes an accusatory interaction with a suspect believed to be involved in a crime. Through active persuasion, the investigator attempts to convince the suspect to tell the truth using arguments that are based on factual or emotional elements of the crime. An interrogation may result in a confession, a partial admission, or when the suspect does not make any incriminating statements, an increased belief of his or her probable involvement in the crime. Some interrogations may produce the opposite result, and the investigator accepts the suspect's denials as truthful statements. A suspect may or may not be taken into custody prior to an interrogation.

A *confession* is a statement acknowledging commission of a crime coupled with information about the crime that would only be known by the guilty person and/or that can be independently verified following the confession. An unsupported statement such as, "I didn't intend on killing him," "I'm sorry I did this," or "I lied about my alibi" is not a confession. A confession may be offered by a suspect who may or may not be in custody.

Because of the potential impact electronic recording of interviews or interrogations may have on an investigator's ability to perform duties and on the criminal justice system itself, there is much controversy surrounding the practice. A unique opportunity, however, exists, which may provide meaningful data and insight on this important issue. Investigators working in Alaska and Minnesota have had many years of experience working within the constraints of these laws. Consequently, it was believed that these investigators would be in the best position to offer real-life experiences with electronic recording of interviews and interrogations.

Methodology/Sample

Data Sheet

Eight hundred questionnaires were mailed to police investigators in the states of Alaska and Minnesota who had received training in the Reid Technique of Interviewing and Interrogation within the last two years. The questionnaire

requested no personal information and was, therefore, anonymous. Respondents mailed the questionnaires to the author who entered their answers into a database file for analysis.

One of the reasons this sample included only investigators who received training in the Reid Technique is that the training emphasizes the distinctions between interviewing and interrogation and also clearly defines terms such as *admission* and *confession*. By selecting a sample of investigators who shared the same training in interviewing and interrogation, it was believed that the data would most accurately reflect the questions asked on the survey.

Sample

Out of the 800 surveys, 112 investigators responded, representing a 14% return. Thirty-four of these were from Alaska and 78 from Minnesota. The sample included responses from 21 different agencies in Alaska and 53 agencies in Minnesota. The average number of years employed in law enforcement for the sample was 8.9 years, with a range from 1 to 24 years. Over the last two years, these investigators conducted an estimated total of 9,375 interviews and 5,651 interrogations.

Results

Recording Practices

The laws regulating electronic recording of interviews and interrogations in Alaska and Minnesota do not specify the type of recording made; therefore, it was of interest to determine whether there was a preference for either audio or audio/visual recordings. Table 1 lists these preferences.

Table 1
Type of Electronic Recording Generally Made

Type of Recording	N (%)
Audio	83 (74%)
Audio/Visual	18 (16%)
Half Audio, Half Audio/Visual	11 (10%)

In Alaska and Minnesota, only custodial interviews or interrogations are required to be recorded. An investigator often has a choice as to whether to conduct a voluntary, noncustodial interview or, conversely, to take a suspect into custody before conducting the interview and interrogation. It was speculated that investigators may try to minimize the impact of the law by increasing the number of suspects who are interviewed or interrogated in a noncustodial environment. In the survey, participants were asked to identify whether or not investigators by-passed the electronic recording requirement by more frequently conducting noncustodial interviews/interrogations. Those results are listed in Table 2. Participants were also asked to estimate the frequency with which they record interviews and interrogations. Table 3 lists those findings.

Table 2
Effect Required Recording Has on Increasing Noncustodial Interviews/ Interrogation

How much have you increased the number of noncustodial interviews/interrogations?	N (%)
Significantly	9 (8%)
Somewhat	29 (26%)
Not at all	74 (66%)

Table 3
Frequencies of Recording Interviews and Interrogations

% Frequency of Recording	During an Interview	During an Interrogation
0 - 20%	3 (2%)	0 (0%)
20 - 40%	4 (4%)	2 (2%)
40 - 60%	5 (5%)	3 (3%)
60 - 80%	10 (9%)	5 (4%)
80 -100%	90 (80%)	102 (91%)

As these results indicate, investigators in Alaska and Minnesota electronically record the majority of their interviews and almost all of their interrogations, even though this is required only when a suspect is in custody.[1] Furthermore, the majority of investigators did not make a significant effort to avoid electronic recording by increasing the number of noncustodial interviews or interrogations conducted.

Effect on Confessions

One of the primary concerns expressed by law enforcement relating to electronic recording of interviews or interrogations is that the suspect's knowledge that his or her statements are being recorded would inhibit the truth-seeking process. In the NIJ report, 30% of agencies who chose not to videotape interviews or interrogations cited this as a primary concern. From a psychological perspective, it must be appreciated that it is not the electronic recording of interviews or interrogations that potentially inhibits truthfulness; it is the suspect's knowledge and awareness of being electronically recorded. An obvious solution to this dilemma is surreptitious recording without the suspect's knowledge.

In Alaska and Minnesota, an investigator is not required to advise suspects that their statements are being electronically recorded and also has the option to hide the recording device during an interview or interrogation. To determine the extent to which investigators took advantage of their ability to surreptitiously record interviews and interrogations, one survey question addressed the frequency with which subjects were told that their conversations were being recorded. A second question asked about the frequency with which the recording device was visible to the subject. In this sample, relatively few investigators attempted to surreptitiously record interviews or interrogations (see Table 4).

Table 4
How Often Subjects Are Advised They Are Being Recorded and Can See the Recording Device

Frequency	Advised They Are Recorded	Can See Recording Device
Never	26 (23%)	10 (9%)
Sometimes	35 (31%)	48 (43%)
Usually	25 (23%)	30 (27%)
Always	26 (23%)	24 (21%)

To investigate the effect electronic recordings have on the frequency in which investigators obtained confessions, both empirical and objective data was generated. Respondents were asked how they believed electronic recording affected their rate of eliciting confessions both during an interview and interrogation (see Table 5).

Table 5
Experience of Electronic Recording on Confessions During Interviews and Interrogations

Observation	Interview	Interrogation
Not affected number of confessions	85 (76%)	82 (74%)
Decreased number of confessions	20 (18%)	25 (22%)
Increased number of confessions	7 (6%)	4 (4%)

An important variable to consider with respect to electronic recordings and confession rates is the suspect's knowledge of being electronically recorded. Clearly, the greatest reminder of this is having the recording device visible. Table 6 reflects the reported confession rates during an interrogation ranging from never having the recording device visible to always having the recording device visible.

Table 6
Effect of Visibility of Recording Device on Confession Rates

Condition	Confession Rate
Never Visible	82%
Sometimes Visible	52%
Usually Visible	50%
Always Visible	43%

While the majority of investigators (74%) reported that they believed electronic recording did not affect their ability to elicit the truth during an interrogation, Table 6 indicates that when a subject is not able to see the recording device, confession rates are much higher than when the recording device is visible. While correlation coefficients were not calculated because of the nature of data collected, the gradual

decrease of confession rates, as illustrated in Table 6, suggests a significant relationship between the number of suspects who confess and the lack of visibility of a recording devise.

Effects on Trial

A concern some agencies have with electronically recording interviews and interrogations is that the practice provides the defense with unnecessarily detailed material that could be used to suppress an otherwise legally admissible confession or to bog down the court system with a prolonged suppression hearing. The NIJ report indicated an 18% increase in defense claims of improper interrogation techniques when the interrogation was videotaped. The remaining 82% of the agencies reported that defense claims stayed the same or decreased. In this study, investigators were asked whether electronic recording of interviews and interrogations most favored the prosecution or defense (see Table 7).

Table 7
Effects of Electronic Recording on the Adversarial System

Observation	N (%)
Most benefits the prosecution	54 (48%)
Most benefits the defense	8 (7%)
Benefits the prosecution and defense equally	50 (45%)

Respondents were also asked to assess the effect electronic recording of interviews and interrogations has had on the length of a trial. The survey option indicating a decrease in trial length suggested such reasons as more plea bargains and shorter suppression hearings. The option indicating an increase in trial length suggested defense expert testimony and the time it takes for the court to review the electronic recording (see Table 8).

Table 8
The Effects of Electronic Recording on the Length of Trial

Observation	N (%)
Not affected the length of trial	28 (25%)
Decreased the length of trial	76 (68%)
Increased the length of trial	8 (7%)

Tables 7 and 8 both reflect positive findings about electronic recording from a prosecution perspective. That is, electronic recording generally does not benefit the defense and also decreases the length of a trial. A number of the respondents wrote on their surveys that electronic recording of confessions significantly increased the number of plea bargains.

The survey specifically inquired about the number of confessions that were suppressed at trial. Of the 3,938 confessions obtained during an interview, 33 (0.83%) were suppressed at trial. Twelve of these suppressed confessions were electronically recorded, and 21 were not. The survey did not pursue the grounds for suppression; however, considering that two-thirds of these confessions were not electronically recorded suggests that the investigator believed that the suspect was not in custody at the time of questioning. It is, therefore, probable that many of these suppressed confessions involved either *Miranda* issues or state imposed regulations (e.g., was the suspect in custody at the time of the questioning and, therefore, was electronic recording required?).

Out of the reported 3,162 confessions obtained following an interrogation, 18 were suppressed at trial (0.56%). Fourteen of these were electronically recorded, and four were not.[2] Because the survey did not pursue grounds for suppression, it is not known to what extent, if any, electronic recording contributed to the suppression of these confessions. It is important to remember that the vast majority of the 3,144 confessions that were not suppressed as evidence were electronically recorded (see Table 3).

An impressive statistic that can be drawn from this finding is that 99.44% of confessions obtained during an interrogation were not suppressed even though the vast majority of them were electronically recorded, and in those cases, the defense was able to scrutinize every word of the interrogation. Considering that all of these investigators received training in the Reid Technique and presumably used that technique, at least in part, to obtain these confessions offers a strong challenge to opponents' claims that the Reid Technique is inherently coercive and results in false confessions.

Discussion

Investigators who responded to this survey offered real-life experiences of mandated recording of custodial interviews and interrogations that should serve as a valuable source of information to states considering similar legislation. The clear preference for electronic recording is audiotaping versus audio/visual recording. This may be due to cost or convenience factors. While some opponents of police interrogation advocate audio/visual recordings, this medium may involve perceptual problems that potentially could result in longer and more confusing trials (Lassiter, Geers, Handley, Weiland, & Munhall, 2002). Overall, investigators in Alaska and Minnesota have adapted their interviewing and interrogation practices to accommodate the recording laws; 80% indicated that they electronically record 80-100% of their interviews, and 91% indicated recording 80-100% of interrogations. Only 8% of investigators reported legally evading the law by increasing the number of noncustodial interviews or interrogations they conduct.

A significant part of an investigator's job involves gathering information and evidence through interviews and interrogations. While 74% of investigators in this study did not believe that electronic recording affected their ability to elicit confessions, objective findings challenge this perception. Investigators who never allowed subjects to see the recording device during an interrogation achieved a 39% higher confession rate than investigators who always had the recording device visible. This finding suggests that a suspect who is aware that a conversation is being recorded may be less likely to be forthright. Another possibility is that more

skilled interrogators have learned not to make the recording device visible to suspects. Because of the general nature of data collected, this must be considered a preliminary finding and deserves further research. In the meantime, it may be prudent for investigators to make an attempt to surreptitiously record interviews and interrogations.

Another significant issue related to altering police procedures is the effect those changes have on the court system. Investigators in this sample did not believe that electronic recording provided an unfair advantage to the defense. In fact, 48% believed that it favored the prosecution. A coinciding finding is that 68% of investigators believed that electronic recording decreased the length of a trial. At first, this may appear to be a very positive finding; however, this is only true if electronically recorded interrogations and confessions serve to efficiently resolve common suppression hearing disputes, such as whether or not the suspect was given *Miranda* warnings, or to refute claims of alleged threats or promises. The other possibility is that an electronically recorded interrogation and confession is considered so damaging that an average defendant feels powerless to refute it and pleads guilty. Further research in this area is certainly warranted.

The total number of reported confessions that were suppressed was so small that no meaningful statistical analysis can be made. Combining confessions from interviews and interrogations, a total of 51 (0.71%) confessions were suppressed. Of these, 26 were electronically recorded, and 25 were not. It would be interesting to pursue this statistic further. For example, do states that require electronic recording have a greater or lesser rate of suppressed confessions than states that do not? Are the grounds for suppressing confessions in states that require electronic recording different from states that do not? Because of the specific standard of requiring electronic recordings in only custodial situations, common sense indicates that defense attorneys may focus on the suspect's state of mind at the time a confession was given (e.g., did the defendant believe he or she was in custody and, therefore, the session to be electronically recorded?). In this regard, it would be to the investigator's advantage to clearly advise noncustodial suspects that they are not under arrest and are free to leave at any time.

The final consideration when enacting legislation that alters existing procedures is how the people affected will respond to the change. To address this, participants were asked about the impact required recording has had on the investigator's job. The results are listed in Table 9. As can be seen, the vast majority of investigators in this study either strongly support electronic recording or believe that it has not affected their ability to do their job.

Table 9
Investigator's Opinion of Requiring Electronic Recording of Interviews and Interrogations

Opinion	N (%)
Support the law and believe it should be passed in other states	53 (47%)
Not affected by the law one way or another	42 (38%)
The law has decreased the investigator's ability to perform duties.	12 (11%)
The law is wrong and should be repealed.	5 (4%)

In conclusion, much of the concern surrounding electronic recording of interviews, interrogations, and confessions described in the 1992 NIJ study appears to be unwarranted. In actual practice, a preponderance of investigators report no overwhelming negative effects associated with required electronic recording and generally express positive experiences. This reform in interviewing and interrogation practices suggests that the requirement of electronic recording in custodial cases is not only feasible, but may have an overall benefit to the criminal justice system. In an era in which academics generalize from laboratory studies and use anecdotal accounts to support claims that police routinely elicit false confessions, electronic recordings may be the most effective means to dispel these unsupported notions.

Endnotes

[1] Quite a few investigators from Minnesota wrote on their survey that their prosecutor would not even accept a confession as evidence unless the interrogation was electronically recorded. To the other extreme, one investigator from Minnesota indicated that most of his interrogations are noncustodial, and he places a suspect in custody after the person confesses. He indicated that the courts have upheld all of his nonelectronically recorded confessions because he made it clear to these suspects that they were not in custody.

[2] Supplemental notes on the survey indicated that three of the electronically recorded confessions that were suppressed at the original trial were later upheld by a court of appeals.

Bibliography

Geller, W. (1993, March). *Videotaping interrogations and confessions. Research in brief*. Washington, DC: National Institute of Justice, Office of Justice Programs, U.S. Department of Justice.

Gudjonsson, G. (2003). *The psychology of interrogations and confessio*ns. West Sussex: Wiley and Sons.

Illinois AB XX (2003).

Kassin, S. M., & McNall, K. (1991). Police interrogations and confessions: Communicating promises and threats by pragmatic implications. *Law and Human Behavior, 15*(3), 233-254.

Lassiter, G. D., Geers, A. L., Handley, I. M., Weiland, P. E., & Munhall, P. J. (2002). Videotaped interrogations and confessions: A simple change in camera perspective alters verdicts in simulated trials. *Journal of Applied Psychology, 87*(5), 867-874.

Leo, R., & Ofshe, R. (1998). The consequences of false confessions: Deprivation of liberty and miscarriages of justice in the age of psychological interrogation. *Journal of Criminal Law and Criminology, 88*, 429.

Nebraska Legislative Bill 614 (2003).

State v. Scales, 518 N.W. 2d 587 (MN, 1994).

Stephan v. State, 711 P.2d 1156 (AK, 1985).

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Police Performance Evaluations: Employee Development May Solve Many Problems

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> "Thus the beaver builds his dam, and thus when his fishing is about to begin, comes the flood and sweeps his work and luck and fish away together. So he has to begin again."
>
> Winston Churchill, 1930

> ". . . service can have no meaning unless one takes pleasure in it. When it is done for show or for fear of public opinion, it stunts the man and crushes his spirit. Service which is rendered without joy helps neither the servant nor the served. But all other pleasures and possessions pale into nothingness before service which is rendered in a spirit of joy."
>
> Mohandas K. Gandhi, 1948

The Purpose of Performance Evaluations

The law enforcement performance evaluation systems traditionally have done little good for employees or the organization. Few police organizations are satisfied with their performance evaluation systems (Jurkanin, Hoover, Dowling, & Ahmad, 2001). Whether a police department evaluates with a system of rank, ordering police officers by performance or scoring them by a Likert scale of assigning subjective numbers to a behavioral anchor, either system does little to clearly identify organizational goals and expectations. Motivation, morale, and legal problems for the organization will occur if performance evaluation systems are not based on objectivity and connected to merit increases (Jurkanin et al., 2001). Chiefs of police should assign line employees the responsibility of developing the performance evaluation system, attaching those systems to merit increases, training supervisors for consistency, and allowing employees to evaluate their supervisors.

What Performance Evaluations Do

The purposes of evaluation systems are to strive toward employee improvement, provide an avenue for administrative action, and develop organization research concerning staff members (Berry & Houston, 1993). They also provide feedback to employees concerning work behavior, objectives to be met, areas in which improvement can be made, and guidance on what is important to achieve (Jurkanin et al., 2001).

On paper, those are appropriately and properly stated organizational objectives. Unfortunately, usually the opposite occurs. Performance evaluation systems are based on subjectivity, and supervisors are given little guidance for completing the task. Evaluator errors are common and cause internal problems, and morale suffers.

Usually systems list performance anchors with a scoring system, but the scores are based entirely on the supervisor's opinion without any formal justification. Rank order systems used by departments charge the supervisor with the responsibility of ranking their subordinates subjectively, which is perceived as a political process (Jurkanin et al., 2001).

Organizations, whether for-profit or nonprofit, build their businesses on good reliable middle producers, plus a few superstars (Brown, 1985). People repeat behavior that is rewarded, avoid behavior that is punished, and drop behavior that produces neither (Kouzes & Posner, 1995). When a company pays everyone the same, it cuts off incentive and self-esteem and kills productivity. When employees all receive the same cost-of-living increase, regardless of performance, they settle into lethargic modes, and the organization finds it difficult to stimulate personal improvement or increase output (Brown, 1985).

Evaluation systems need to be administered consistently by supervisors who should be well-trained within the system at hand. If employees have the perception that systems are solely subjective and inherently political, they will become apathetic; morale will suffer; and performance will dwindle. Employees need to be respected by management (Brown, 1985) for their day-to-day contributions to organizational goals as well as through the yearly performance evaluation. When employees feel appreciated by the organization's leadership, they will increase their sense of self-worth and precipitate success at work (Kouzes & Posner, 1995). Objective performance evaluations are the first steps toward respecting employees' worth to the organization and appreciating them as individuals, whether they are a top performer or middle producer.

Legal Considerations

Performance evaluation systems can be the basis for civil action against the department. Courts are interested in determining whether the system was used to discriminate unfairly (Berry & Houston, 1993). In the book *Enduring, Surviving, and Thriving as a Law Enforcement Executive*, Jurkanin (2001) said . . .

> Performance evaluations can be open to legal action, especially if the evaluation is used to make employment decisions such as termination, pay increases, or promotion. Employees can contest the content of the evaluation as well as the reliability and validity of the process. It is, therefore, important to ensure that the performance evaluation process is job-related, based on the duties and responsibilities for the position being evaluated and is derived from job analysis or up-to-date job description. The process must be documented; the supervisor must also record facts on important incidents. The chief executive must also ensure that the performance evaluation does not create unnecessary adverse impact and is defensible if challenged.

If an evaluation system is to defend against a civil suit, it must be developed through a rational procedure and thorough job analysis; within the framework of content validation; by the people who perform the tasks, rather than a system based on an empirical job description (Berry & Houston, 1993). The belief is that employees who perform the job on a day-to-day basis develop the means for thorough job analysis.

The Spirit of Service and Performance

Some of you may be thinking that if the employees develop the evaluation system, it would be watered down in favor of the employees. Employees would revolt, and their input would require management to develop a system that fosters mediocrity and a "free for all" concerning merit increases. "Quite the contrary is true as employees in self-evaluation tend to be harder on themselves," according to Dr. Terry Mors of Western Illinois University (personal communication, February 1, 2003).

Police agencies must be focused on high performance, without room for complacency and low standards (Whisenand, 2001). Researchers say that when high performance standards are reinforced by supervisors, their employees respond accordingly. The reverse holds true for supervisors who hold their employees to minimal standards; employees respond with minimal work (Hergenhahn & Olson, 2001). When leaders in the organization have high expectations of performance, usually their constituents act in ways that are consistent with those expectations (Kouzes & Posner, 1995). Ziglar (1994) refers to it as being a "good-finder." The more supervisors emphasize an employee's good qualities, the more good qualities will be found.

The typical evaluation systems in law enforcement today include graphic rating scale, rank order method, forced choice, critical incident method, paired choice, narrative, forced distribution, numerical or percentage method, factor point scoring, behavioral anchored rating scale, and coaching appraisal technique. The graphic rating scale is the most widely used evaluation in law enforcement mainly because it is the easiest to use. This system compares officers' performance to set standards including all of the tasks, traits, and characteristics listed with a Likert scale so the supervisor can make the rating of "below average," "average," and "above average." The disadvantages of the system include rater bias; different supervisors may rate the same subordinate differently, and it is difficult to determine where one category ends and another begins. Departments should not adopt a canned performance evaluation system. Instead, they should develop a system in-house that meets the needs of their organization mission, goals, and objectives.

High achievers in organizations should be selected for the task of developing the evaluation system. Employees who are assistant supervisors, training officers, and specialists in their position are the best candidates. They should also be balanced with employees who are well-respected by their peers, and each shift or specialty should be represented in a committee of people assigned the developmental process.

Developing a System That Works

A supervisor's performance evaluation decision affects people and their placement, pay, promotion, demotion, and severance. The performance evaluation system must express the values of the organization as this system represents the true controls of the organization (Whisenand, 2001). Organizations need an effective system that properly evaluates employees reliably—that is, they measure the same thing over and over, validly, meaning the evaluation tool measures what it says it will measure. This entire process must be based on a thorough job analysis (Whisenand, 2001), not by supervisors, but by police officers that do the job. The evaluation criterion and measuring anchors must have content validity (Berry & Houston, 1993) or in

other words, those who are living the job truly understand how to define the job and evaluate top, middle, as well as bottom level employees.

There are many different evaluation systems available in law enforcement and other organizations. According to Whisenand (2001), the basic functions of the evaluation process should be as follows:

- Individual job analysis
- Multiple raters for objectivity
- The raters (being aware of inherent system flaws)
- Trained raters (for consistency across shifts and rater error factors)
- Employees rating the raters (using the same basic system)
- A department rating manual
- Critical incident data
- Feedback
- Making the department's mission happen

There should also be an organizational appeal process in place that is clearly understood by all employees and supervisors (Jurkanin et al., 2001).

The most powerful measurements in the evaluation process are those that offer timely feedback and can be monitored by the individual doing the work (Kouzes & Posner, 1995). When the officers who perform the tasks that are being evaluated actually develop the format of the evaluation, intrinsic reinforcement begins to develop, which is more influential than any extrinsic reinforcement dispensed by supervisors (Hergenhahn & Olson, 2001). When evaluation systems are developed that link actual job-related functions to an objectively rated system for the betterment of organizational objectives, a powerful relationship can be fostered between employees, the evaluation process, and supervisors.

The Nuts and Bolts of Development

The chief appoints a line officer as the chair of the evaluation committee. The chief clearly outlines the officer's objectives and the process to be followed. Committee recommendations will be reported directly to the chief of police who will in turn consult the command staff. Middle management will be included in the command staff review.

The chairperson forms the committee from the rank-and-file officers. The chairperson should assure that each shift and specialty unit is represented, including records and communication personnel. The chairperson is free to research outside department evaluation systems or an academic review of the topic. Committee personnel will be compensated for their time and efforts through normal departmental procedures. The chief should delegate to the committee the latitude to junk the entire current process, make improvements on the current process, or make no recommendations at all.

The committee must utilize the department's mission statement, job description, and other related documents pertinent to job analysis. To keep the committee focused on the job at hand, a time frame of no less than six months and no longer than one year must be followed to provide final recommendations, and no supervisors will

attend meetings unless previously scheduled. This will assure that the committee is free to discuss any topic necessary.

Essentially, this is a bottom up organizational procedure. Those who do the job are assigned the task of developing a system that evaluates all important and relevant aspects of the job assignment. Employees who develop the system will also remove as much subjectivity as possible, while removing inconsistency issues wherever they may potentially occur. If evaluations are tied to merit pay, employees will develop systems that are fair and objective and that recognize good work, poor work and exceptional work, with the proper justifications and definitions to remove as much subjectivity as possible. If the chief chooses the chairperson correctly, the chairperson should surround him- or herself with others who would be high performers and understand the need for the development of a good system for the entire department.

Merit Pay

In summary, it is common that police departments pay all police officers at the same rate and make incremental raises according to longevity. The upside for employees is that they reach top pay in a set amount of years and receive cost-of-living increases accordingly. The downside is that while everyone gets the same pay, nobody really needs to perform above standards for pay. The officer that does exceptional work gets paid the same rate as the officer that does just enough not to get fired. As said before, whether supervisors expect exceptional work or mediocrity, employees will respond accordingly.

Merit pay can be tied to the evaluation process very effectively with the approval of city government and the appropriate labor organization if applicable. Take the top pay of officers across the organization, including the chief of police, and subtract it by 10%. That 10% represents the merit bonus. The top pay becomes a dollar amount less than 10% of top pay. This system can be instituted over a period of years that would hold the top pay from cost-of-living increments and make those increments part of the merit bonus system. When the cost of living increases reach 10% and the pay standard has a 10% merit ceiling, cost of living increases resume normally. At the end of each employee's performance evaluation cycle, the evaluation score is equal to the percentage of a cash bonus. For example, if top salary is $40,000, a score of 10 on the evaluations equals a 10% bonus, or $4000. The actual top pay for the officer is $44,000. The bonus system only applies if the officer is earning top salary and until that occurs, the evaluation score moves the officer's pay range according to the evaluation score. Poor performers will take longer to obtain the top salary range, while top performers will reach it sooner.

Rating Supervisors

It has been a long-standing belief that subordinates should be able to evaluate their supervisors. Subordinate evaluations should not be tied to merit increases; the same type of format should be utilized for the supervisor, from the sergeant being rated by line officers to the chief being rated by his or her deputy chiefs. Evaluation provides information on how we can improve in our current position and can give a healthy dose of reality to those bosses who rule by the "do as I say and not as I do" mentality. Law enforcement as a whole would benefit from this evaluation process.

The leadership and supervisors of the organization need to be held accountable to those they have power over (Whisenand, 2001). Management must practice what it preaches (Jurkanin et al., 2001). This evaluation process will elevate trust, empowerment, and a host of other positive workplace values (Whisenand, 2001). This process can also improve the level of first line supervision, and when you improve line supervision, you improve overall department effectiveness. Employees usually respond to citizens that they serve in the manner in which they are treated by their supervisor. When increasing the accountability of supervisors to line officers, you are in turn increasing the accountability of your officers to the citizens they serve.

This Can't Possibly Work in Law Enforcement

The evaluation system development discussed in this article is modeled after the Buffalo Grove, Illinois Police Department's evaluation process. The merit pay system of less than 10% of top pay was a system in place before 1984. After an employee reaches top pay, the rating earned from the evaluation, scored between one and ten, ten being the highest, equates to a bonus check at the end of the rating period.

The process of officers developing the evaluation tool and process was done by Chief Leo McCann. At the time, the current evaluation tool was the long-standing brunt of complaints of officers, and morale suffered. The tool was very subjective in definition and in the anchors that justified the ratings by supervisors. To give a top score, the supervisor checked the box stating, "this officer's performance highly exceeds that of other officers." It was a subjective system that reeked of favoritism and politics, whether they truly existed or not.

The chief asked me to develop a committee of officers as stated above and tear the system apart. The entire process took about eight months. What we developed has now been in place for over ten years. Chief McCann provides a yearly department survey for all employees; prior to the changes, the performance evaluation suffered much criticism. After the changes, very few comments were made about the evaluation system. Periodic system evaluations were conducted and addressed by the employee survey as recommended in the literature (Jurkanin et al., 2001), and the chief also consistently has the process evaluated to assure it is currently reflecting job requirements and organizational changes.

Conclusion

As stated before, performance evaluation systems traditionally have done little good for the employee or the organization, and few police organizations are satisfied with their performance evaluation systems. Departments can do much to improve morale, employee performance, and supervisory performance by changing their evaluation tools. Be assured, this process is slow and time consuming, but the benefits will be experienced department-wide and throughout the community. When employees develop the system by which they are evaluated, the system will have a proper means of job analysis; it will have content validity and will be valid and reliable. A financial benefit will be associated with job performance for the betterment of the organization and our service to the community.

References

Berry, L., & Houston, J. (1993). *Psychology at work: An introduction to industrial and organizational psychology*. Madison, WI: Brown & Benchmark Publishers.

Brown, S. (1985). *Thirteen fatal errors managers make and how you can avoid them*. New York: Berkley Books.

Churchill, W. (1930). *My early life: A roving commission*. New York: Macmillan Publishing.

Gandhi, M. (1948). *Mohandas K. Gandhi autobiography: The story of my experiments with truth*. New York: Dover Publications.

Hergenhahn, B., & Olson, M. (2001). *An introduction to theories of learning* (6th ed.). Upper Saddle River, NJ: Prentice Hall.

Jurkanin, T., Hoover, L., Dowling, J., & Ahmad, J. (2001). *Enduring, surviving, and thriving as a law enforcement executive*. Springfield, IL: Charles C. Thomas, Publisher.

Kouzes, J., & Posner, B. (1995). *The leadership challenge: How to keep getting extraordinary things done in organizations*. San Francisco: Jossey-Bass Publishing.

Whisenand, P. (2001). *Supervising police personnel: The fifteen responsibilities* (4th ed.). Upper Saddle River, NJ: Prentice Hall.

Ziglar, Z. (1994). *Over the top*. Nashville, TN: Thomas Nelson Publishers.

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John's education includes an AA degree from Harper College and a BA magna cum laude in psychology from North Central College. He is currently pursuing a master's degree at Western Illinois University in law enforcement and justice administration. John is also a graduate of the University of Southern California's Delinquency Control Institute.

Command School: The Education Process for Future Law Enforcement Leaders

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Purpose

The following article will discuss some of the objectives of the Northwestern University Center for Public Safety School of Police Staff and Command. It will specifically cover course content describing how the principles, techniques, and methods covered in the course relate to the development of command personnel. At the conclusion of this article, I will make suggestions on how agencies can improve service to the citizens they serve. There were over 30 topics covered dealing with managerial development and leadership enhancement. For the purpose of this article, I have selected four main topics that I feel are essential to the growth and development of any potential law enforcement executive. They are management, leadership, ethics and integrity, and policing in the 21st century.

Management

The School of Police Staff and Command is an executive level management school focusing on understanding fundamental management skills. Management is "the art of getting things done through people." While attending this school, I developed my own definition of management. I believe that management is the attainment of organizational goals in an effective and efficient manner through planning, organizing, leading, and controlling organizational resources.

It is through planning that management defines goals for future organizational performance and determines the tasks and resources needed to obtain them. Organizing involves assigning tasks, grouping tasks into departments, and allocating resources to departments. Leading is the management function that involves the use of influence to motivate employees to achieve organizational goals. Controlling encompasses motivating employees' activities, keeping the organization on track toward its goals, and making corrections as needed.

There is no one perfect overall management style for leading police organizations to the next level of professionalism; however, the following prescriptions can increase police managers' effectiveness from ground zero thereby turning theory into practice. These include the following:

- Plan before you plunge.
- Don't crusade alone.
- Bring everyone on board.
- Be sensitive to the various impact of change within the organization and among individuals.
- Implement the entire change strategy not just slogans.

- Measure, modify, monitor, and maximize.
- Use time as a tool.
- Reinforce desired behavior, and highlight progress.
- Confront and deal with dysfunctional behavior.
- Beware of the half-way blues.

The secret to effective utilization of new management theories is to avoid change simply for change's sake and to attempt to implement only those practices that will aid the organization in accomplishing its mission more effectively.

Leadership

To understand and excel in leadership in police organizations, you must first define the difference between management and leadership. A good manager does things right. *A leader does the right thing*. It is through Northwestern University's teachings that I learned the true meaning of leadership, specifically transformational leadership for managers. Leadership consists of four common organizational universals: (1) purpose, (2) people, (3) power, and (4) politics. Transformational leadership is defined as "determining what subordinates need to do to achieve objectives, classify those requirements, and help subordinates become confident that they can reach their objectives."

It is my belief that leadership can be taught. With this in mind, I have developed five key values for effective leadership: (1) clear communication, (2) ethical practices, (3) a diverse workforce, (4) ongoing recognition, and (5) participatory empowerment.

While leadership is a complex process, it can be described by identifying its main elements, each of which is an ingredient, a component, and a facet of leadership that can be isolated and examined. These elements are initiative, inquiry, advocacy, conflict resolution, decisionmaking, and critique. All six elements are vital to effective leadership because none can compensate for the lack or over-abundance of any other.

Initiative is exercised whenever effort is concentrated on a specific activity—to start something that was not going on before, to stop something that was occurring, or to shift direction and character of effort. Inquiry permits a leader to gain access to facts and data from people or other informational sources. The quality of inquiry may depend on a leader's thoroughness. To advocate is to take a position. Conflict resolution is when people have different points of view and express them; disagreement and conflict are inevitable. A leader who can face conflict with others and resolve it to their mutual understanding invokes respect. It is through decisionmaking that leadership is applied to performance. It may involve solo decisionmaking in which the leader alone is the ultimate decisionmaker or delegation of responsibilities for decisions (teamwork), in which all available resources are involved in making and implementing decisions. Critique describes a variety of useful ways to study and solve operational problems, which members face either individually or collectively as they carry out their assignments.

I agree wholeheartedly with the following quote attributed to leadership by Colonel Paul McNicol, United States Marine Corp: "If you are not making anyone mad, you are not getting anything done."

Ethics and Integrity

Probably one of the most important learning experiences I brought back from Northwestern University was the teaching of principles and ethics for police managers/executives. Ethics and integrity in police departments is public service with honor. Integrity is a yardstick for trust, competence, professionalism, and confidence. Policing in a democracy requires high levels of integrity if it is to be acceptable to the people. Historically, in the United States, there have been many times when public trust in the integrity of the police has been questioned. Events in the 1990s eroded public trust in the integrity of police; this situation has resulted in a closer scrutiny of the profession and its response to this critical issue.

The most essential element of a successful democratic government is freedom for all citizens to exercise their constitutional rights without the fear of threat or endangerment. The basic mission of the American criminal justice system is to protect this freedom. The police, one of the strongest elements of the foundation of the criminal justice system, must ensure the public's trust if the system is to perform its mission to the fullest. Public trust can exist only when the police execute their duties with fairness, equity, professionalism, and rigor. A police agency that performs in this manner also has integrity and honor.

During my ten weeks at Police Staff and Command, I had the assignment of developing my own dynamics of police integrity/ethics. The following elements will impact and challenge the integrity of police officers during their career: economy/personal finance, diversity issues within the department, family values/moral literacy, experience with aggressive police tactics, the police subculture, community response to police activities and presence, frustration with the criminal justice system, peer influence, and alcohol/drug abuse.

I believe that ethics is the single most important quality a police executive can possess. In law enforcement, we should all work toward the day when the bad cop will fear the good cop and not the other way around.

Why must the police act ethically? The need for police officers to act ethically is rooted in our very understanding of what it means to live in a democratic society. The public makes two commitments: (1) to give the state the authority to govern and (2) to abide by the rules of the state. In exchange, the state agrees to govern in the public's interest. Trust is the foundation of the contract between the people and the state in democratic societies. It is the glue that binds us together. The police have a special responsibility to act ethically and to ensure that the public's confidence remains intact. Both the public's feelings and the importance of ethical behavior are aptly captured in the question, " If you can't trust a cop, who can you trust?"

Policing in the 21st Century

This category includes many topics that law enforcement agencies are going to be faced with as we are beginning the 21st century. I feel one of the most critical issues is managing "Generation X" employees. Generation Xers are ambitious, determined, independent, confident, and have much to offer. With that in mind, I developed a list of "do"s and "don't"s for managing Generation Xers. The following

methods are particularly productive for managing and working with this group of the population:

- Accept them.
- Support them outside of work.
- Don't baby them.
- Ask, ask, ask.
- Discuss your methods.
- Train and orient.
- Set specific standards.
- Make work enjoyable.

Some of the challenges that top law enforcement executives will face with Xers are listed below:

- Expect less loyalty and commitment.
- Generation Xers keep options open/willing to move from department to department for perceived better job.
- They crave attention.
- They have propensity for fun—not work ethic first.
- They often question the boss.
- They have unrealistic and materialistic views.

Generation Xers have evolved in dramatically different ways from previous generations. What motivates past generations is far different from what motivates this new breed, but the changes will be for the better in many ways. Future police employees may not be what they use to be, but if we listen, there is a lot we can learn from them. The future of law enforcement may very well depend on our clear understanding of this population.

Conclusion

The following are my suggestions as to how law enforcement agencies can improve service to the citizens through the principles, techniques, and methods I studied while attending Northwestern University School Police Staff and Command.

The awareness of the importance of leadership in law enforcement is at an all time high. I believe that this is evident by my graduation from Northwestern University. Under previous administrations, the opportunity for me to attend would have never been possible. Management, leadership, and professional growth were not a top priority until a leader took over who was not threatened by his subordinates.

I would also encourage the departments to stay focused on the new management policy of progressive discipline. The role that progressive discipline plays in law enforcement today is one that assures that the police department has a firm set of policies. A disciplined police department is a well-trained police department. A well-trained police department is a professional police department. A good discipline program in place within any agency provides the department with good policies because discipline is not just punishment; it is training.

The management of Generation X employees has arrived. My suggestion for continued success in managing this group of individuals is strong management policies from the top. These policies must be clearly defined and discussed within the department. With the propensity for Generation Xers to challenge authority, strong leadership is essential. The phrase that best fits this category is "lead by example."

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Responsibility in Policing

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For nearly three decades, I have been honored to be a member of the police service. As one of society's front-line representatives in an American "post-industrial city," I have smelled and seen decaying bodies and violent death. Suffering, fear, and confusion have emanated from those who have been victimized by crime and disorder of all kinds, including riotous crowds. I have observed babies whose parents have let them live in feces, urine, and cockroaches without proper nourishment and who have sported the open sores of filth and neglect. I have experienced radical modifications in how the police respond to the citizenry—from authoritative to collaborative—and how we respond to our own—from the "code of silence" to self-policing.

I have seen children grow up in environments in which there was the ongoing threat of no food and no warmth. Such families reside in an environment in which the slightest emergency consumes the next day's funds for food. These children travel to school on the streets that most middle class families would not travel even while armed in daylight hours. Courageously and patiently, families like these have persevered and motivated their children to accept the responsibility to, and for, themselves and to the larger society. These successes, and others, enable most officers to endure the ugliness and tragedy that we encounter regularly.

In the passing years, I have been sickened by the waste of human talent and potential of those who were self-denied or otherwise deprived of opportunity and its pursuit. When I reflect upon opportunity, I am referring to the kind of self-development, self-discipline, and self-restraint that contributes to the formation of a unique being that is a nurturing part of the social whole. The underlying notion that remains with me is that people, especially police officers, must be *responsible* to and for themselves as well as to family and community.

Resulting from the relatively small amount of data available to the public, the general consensus is that the greatest danger to the police lies on the streets. Street risks most often associated with police work are criminals, weaponry, and explosives. The fact that police officers are generally reluctant to discuss the minute details of their observations and the feelings they encounter from within, as are many war veterans, further leads to these misconceptions. This may be due in part to the lack of potent adjectives that will properly describe the smells, sights, and even tastes of some experiences. Another contributing explanation may be internally and subculturally developed defense mechanisms that evolve in response to prolonged exposure to the negative end of the human spectrum without any significant organizational intervention.

I contend that the greatest threat to the individual officer is *not* from a crazed killer, nor from a 9 mm, nor a bomb—but from within him- or herself and his or her police organization. The last 20 plus years of my career have witnessed the demise of hundreds more officers from responsibility and ethically based disciplinary action than from physical danger. My point is that thousands of American law enforcers

are sacrificed by themselves and by their organizations to issues of ethics and responsibility. Often officers are assigned to function in environments that reflect the extremes of human behavior, the maximum of "evil" temptation, and the ultimate tests of temperance. They perform with little ongoing, contemporaneous input and training. Furthermore, most are without the benefits of organizationally mandated crisis counseling and critical incident debriefing, which the medical community recognizes as an absolute necessity.

When a police officer errs, he or she is often made a scapegoat due to considerations, such as vicarious liability. Furthermore, few, if any, policy responses result that are intended to promote the individual and organizational maxims of development (Harmon, 1995a). The prevailing "objectivist legalistic ethic makes it easy for those in positions of institutional power to avoid the responsibility that all the parties, including those in power, involved in a 'morally charged event' inevitably share" (White & McSwain, 1987, p. 489). The organization, therefore, minimally loses the dedication and negatively impacts the productivity of the individual and, at the same time, refuses to proactively protect other officers from the same recurring ethical issue (Harmon, 1995a).

Modern American policing "dictates that officers must consistently make immediate and demanding decisions. These decisions call into play ethical and moral, as well as procedural and legal, questions and are most often made without recourse to specific directions from superiors or specific policy directives" (Braunstein & Tyre, 1992, p. 6). In no other profession can the countervailing principles of order and liberty be so vividly played out on a daily basis, on both the individual and grand scales. In no other profession can the respective pathologies associated—oppression and permissiveness—be so immediately apparent. These tensions are exerted on police organizations and their officers in the following manner.

The Guiding Principles of Policing

Order <---------"to protect & to serve"----------> Liberty

(countervailing poles)

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Oppression <---------policing extremes---------> Permissiveness

Pathologies of Irresponsible Policing

(Adapted from Harmon, 1995a)

The guiding principles (order and liberty) are reflective of the prevailing police mission, which is "to protect and to serve." The preceding adaptation of Michael Harmon's "countervailing principles" illustrates the continuous balance that must be maintained between "order" and "liberty" to facilitate accomplishment of the police mission. If the principle of order is too strongly pursued, we resort to police-state tactics or "oppression." Conversely, if an inordinate emphasis is placed upon liberty, there are few if any social controls. Policing, therefore, is minimal, and we find ourselves in a state of "permissiveness" due to the unrestrained pursuit of individual liberty. Maintenance of this balanced state is the burden that our officers must face each day as they perform their duties with little supervision, input, feedback, or immediate ethical guidance.

Complicating the messages and pressures involved in aspiring to perform according to the guiding principles is the transition of society from the ideals of order maintenance and civility to emphasis on the "individualistic ethos" (Kelling, 1987). In by gone years, the thrust of government and of its neighborhoods was toward maintaining the peace, tranquility, and character of the community. Today, as officers and public servants, we are required to respond to citizen complaints of disorder, which involve behaviors that are disruptive to the community. An ongoing contradiction in expressed values and expectations is ever present in the daily lives of most officers. For example, the statutes and laws that govern our response to the community are no longer compatible with the neighborhood desires for peace, tranquility, and security. Community policing has, however, mandated that officers will address the "fear" that citizens feel when confronted by loud groups of youths loitering on the streets by taking the "appropriate action." This action may be enforcement or problem solving, but the governmental hierarchy expects problem resolution. Still another set of values and expectations comes into play as young people have been brought up in an atmosphere that encourages an individualistic ethos. Topping off the dilemma, is the court system that reflects values and expectations that are often diametrically opposed to the community values and are further complicated by revenue issues. Since courts generally avoid conviction, confinement, fining, or punitive action for acts of disorder, the youthful offenders believe that community disruption is permissible. This most often results in the return of the juvenile to the streets with a corresponding increase in undesirable behavior, additional community fear and disruption, and significantly more confusion for the officer. Little organizational effort is undertaken to make the experience a developmental one for the disoriented officer; the upset community; or an ineffective, unresponsive court.

As indicated, the police officer is caught in a crossfire of responsibility and value concerns that are all vaguely referenced in the broad mission statements of his or her police organization, "to protect and to serve." The result of prolonged exposure to this type of cycle is the development of the pathologies of irresponsible policing both by the officer and by the organization. Despite the grim social dilemma in which officers and police agencies must function, however, there are valuable opportunities for officer and department development that may be seized. The development can occur if supervisory and training efforts are uniformly and consistently directed toward "teaching students [officers] the necessary analytical and critical skills and encouraging them to create their own moral systems" (Callahan, 1980), based upon the guiding principles of policing and the concerned department's rules and regulations. Although the contradictions will still exist, as well as the associated stresses, the probability of maximizing ethical and responsible officer action will be significantly increased.

Furthermore, policing, by its nature and the diversity of its functions is characterized by "schismogenic paradoxes." This simply means that there are "sets of opposing or contradictory virtues, values, and principles whose individual elements have become split off from one another, and in which one side or element has been comprehended or chosen to the exclusion of the other ostensibly in the interest of logical consistency and the pursuit of a purpose" (Harmon, 1995a, p. 79).

Representative of the schismogenic paradox is the current debate concerning vehicular pursuits and the impact on officer decisionmaking. Officers are bombarded

by citizen demands to get violators off the streets and into the jails to make the streets safer; however, when the life of an innocent citizen is lost during a pursuit, public outrage is directed toward the police even when the perpetrator is at fault. A further complication is realized when the police decide to terminate a pursuit for the public's safety and the violator's actions result in the injury of an uninvolved citizen. This situation reflects Bateson's "double bind" (1972). Adding further confusion for the officer are the messages that the police department sends. The oral and written directives that are often vague, encourage blaming and "scapegoating" thus contributing to furtherance of the schismogenic paradox.

Various theories provide foundations for ethical action and responsibility in police organizations. The theories of Immanuel Kant (Kantianism), Jeremy Bentham (Utilitarianism), Herodotus (Ethical Relativism), Michael Harmon (Responsibility Espousal), and Cynthia McSwain and Orion White (Social Processes and Personal Development) are all apparent in the police department documents that are intended to encourage the ethical and responsible performance of the various police functions. Inherent in the application of the theories is the threat of an imbalanced tension between the theories themselves. That is, with too great an emphasis on any theoretical application, an organizational pathology will develop. For example, police responses guided solely by Kantian ethics would in all likelihood result in suspect and officer injuries, if the "categorical imperative," more commonly known as the golden rule, were to be applied universally to all arrest situations. At times, there is an absolute need for demonstrated containment and control.

In theory, the police have been ethically nurtured so that they may effectively fulfill their difficult, dangerous, and diverse responsibilities. The notion generally held is that officers possess the moral answers to respond to virtually any situation that may arise in the "right" manner. The Utilitarian and Kantian approaches assume that an ethical and moral answer exists. The Relativist approach broadly assumes that the answer lies within the varied cultures that we may encounter.

Many police departments have evolved from reliance on utilitarianism justifications—"the ends justify the means"—especially in the areas of interrogation, search and seizure, and arrest procedures. This ethical approach dominated many of the tactics utilized in the first half of this century. Stories of rubber hoses and bright light bulbs are brought to mind when one thinks back to bygone eras of policing. In those days, virtually all cases were cleared by arrest and were often accompanied by a corroborating confession. Presently, the theoretical foundations may be found in rule utilitarianism—reliance upon rules and procedure geared at producing the greatest good for the greatest number (Harmon, 1995)—primarily due to court precedent and a variety of legal sanctions that reflected the public morality. A sort of relativism has also entered the policing world in that officer discretion is encouraged in the enforcement of and the response to individual situations and neighborhoods.

Most officers have, in fact, been coached in the concise meaning of the "Law Enforcement Code of Ethics" authored by the International Association of Chiefs of Police; however, "although persons in official life find guidelines useful, codes of ethics do not motivate people to behave well. They assist only people who already want to do so" (Delattre, 1989, p. 33). Harmon (1995a) also espouses this belief

and further states that ethics are often too remote to relate to the individual action required by those in public service.

The theoretical model seeming most appropriate for the natural development of police officer values and responsible, ethical reasoning is Kohlberg's Stages of Moral Development (Kohlberg, 1969). Individuals travel through the phases in "invariant sequence," which means that all progressions are the same. The level that is achieved in the hierarchical integration of the stages varies by individual. Each succeeding stage becomes more complicated technically and/or ethically. People at one level cannot comprehend the reasoning of someone more than one level higher (Harmon, 1995).

The key to morality is *relationship* (Harmon, 1995a). Kohlberg's theory can be significantly enhanced if both social relationships and intrapersonal relationships are intertwined. In simple terms, this means facilitating officers' self-awareness in order to bring into focus more immediate consciousness of his or her actions. Follett (1918), McSwain and White (1987), and Harmon (1995a) advocate the importance of this understanding between the conscious and unconscious. This type of awareness in police officers would tend to mitigate the rationalizations, judgements, and victimization syndromes that officers acquire during their public service years. As far-reaching and nontraditional as this may sound to the upper echelons, the savings in human (e.g., employees and citizens) and real costs would be quickly realized. The primary outlay is in selling the philosophy to first-line supervisors and providing minimal training in interpersonal relationship development. The amount of training required is significantly less than in other occupations, as most officers possess these skills by virtue of the police occupation. Kohlberg's highest level, Universal Principles should be the articulated guiding force for all police response. Specifically, "Appropriate conduct is determined by one's conscience, based upon universal ethical principles . . . founded in justice, the public welfare, the equality of human rights, and respect for individual human dignity" (Hellriegel & Slocum, 1992, p. 152). The model must be integrated with "relationship" to positively impact officer and department ethics.

Public policy also yields broad guidelines for public servants to follow. Policing, especially in the last decade, has had few correct answers, as many of the issues requiring response during turbulent times have not reflected a consistent public policy. Officers are, therefore, left to depend on their interpretation of responsible action. Despite the many abuses of police power historically documented, local governments have overwhelmingly guarded the discretionary powers of their police officers. These broad powers include the authority to arrest or not to arrest, to seize property in specific cases based upon probable cause, and to detain individuals if reasonable suspicion exists. Incidences involving incivility, disorder, and civil disobedience tax the limits of this discretion as the definitive prohibitions on individual behavior have been markedly decreased in recent years.

Adding to the "double bind" (Bateson, 1972) of moral action is the commitment by government to become more responsive to its citizens and neighborhoods, and because the police are the most visible and most accessible representatives of government, we are called first even on noncrime issues. Current estimates are that approximately 85% of police time is spent performing public service work (e.g., escorts, traffic service) and social welfare functions (e.g., mentally deranged, attempt

suicide, domestic crisis intervention, neighborhood disputes, etc.) in addition to responding to general citizen complaints and requests for service (paramedical assists). This "double-bind" commitment to individuals and neighborhoods most often places the officer directly in the middle of a "rights" dispute between those exercising their "individual ethos." Most departments score poorly in the areas of recruiting, hiring, training, and leadership initiatives that properly equip their agencies and personnel to address these issues.

As discussed, American law enforcement is plagued by a "paradox of responsibility" (Harmon, 1995a) each minute of each day. Police personnel are required to carry out public policy with little guidance considering the diversity of their responsibilities, most often with a high school education and minimal encouragement to create a responsible moral code that is corroborative of the police department's mission.

To alleviate the dilemma of paradoxical responsibility that officers and police agencies find themselves in so often, the following adaptation of Dr. Michael Harmon's "The Antinomimial Paradox of Personal Responsibility" has been modified for police. Countervailing influences in translating public policy into responsible police action are as follows:

Self-Reflexivity <-------- Public Policy ---------> Relationships
reflective self-awareness moral action basis

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Value Posturing Pathologies Loss of Individuality

To enable officers to responsibly carry out their roles as implementers of public policy and public morality, the officer must be self-aware or self-reflexive. "Self-reflexivity, wherein people engage in an open and flexible dialogue between their outer and inner worlds, depends fundamentally on the quality of the relationships that bound and provide them with a social context" (Harmon, 1995a, p. 99). The basis for moral action will require a "new way of employing managerial authority, namely through *relationship*. Relationship itself provides the best moral guidance, though it may be subjective, affective, and intuitive" (McSwain & White, 1987, p. 429).

The pathologies parallel the characteristics displayed by many of our frustrated officers. Value posturing or "narcissism" is characterized as "the self-absorption of an inflated ego desperately fending off the anxiety of being alone in the world. . . . The tragedy of narcissism inheres in its fear of intimacy. In the absence of intimacy, the social context that enables genuine self-reflexivity is therefore denied . . ." (Harmon, 1995a, p. 100). The loss of individuality or "confluence" is described in Gestalt Psychology as "relationships in which people lose their individual identities . . ." (Harmon, 1995a, p. 101). To prevent and counteract these pathologies, police organizations have to modify their approaches from judgmental to developmental. Judgmental philosophies of the past left no margin for error, despite the vagueness and incongruities with which the police had to work on a daily basis in carrying out the public policy. This philosophy presumed that, "for public servants, no . . . tinkering [with ethics and issues of responsibility] should be allowed; and worse, that academics, pundits, and official ethical tribunes have both the wisdom and the rightful prerogative to do their tinkering for them" (Harmon, 1995a, p. 222).

Community policing has at its core the idea of collaboration between the police and the community. More officer autonomy, new modes of supervisory guidance (rather than direction), and a new mandate for personal and organizational development are evolving from this policing philosophy.

This new way of doing business will allow for the development of a police "administration, where the association between citizens and government is more immediate . . . [and] fruitful possibilities lie for creating and sustaining practices that link citizens to government [the police] in a moral community" (Harmon, 1995a, p. 220). Officers will still experience the paradoxes of responsibility, but will be ethically safer as individuals and organizational members.

An environment of relationship, the reflection of organization and personal ethics reflecting Kohlberg's "universal principles", and responsive public policy can counteract the "paradoxes of responsibility" (Harmon, 1995). Officers, supervisors, law enforcement agencies, communities and all stakeholders share in the responsibility for ethical officers and police organizations. Resulting from shared responsibility will be more principled, professional law enforcement organizations in the 21st century.

References

Bateson, G. (1972). *Steps to an ecology of mind*. New York: Ballantine.

Braunstein, S., & Tyre, M. (1992, June). Higher education and ethical policing. *FBI Law Enforcement Bulletin*, 6-10.

Califano, J. A. (1981). Administering abortion policy. In A. Gutmann & D. Thompson (Eds.), *Ethics and politics: Cases and comments* (pp. 253-281). Chicago: Nelson-Hall Publishers.

Callahan, D. (1980). Goals in the teaching of ethics. In D. Callahan & S. Bok (Eds.), *Ethics teaching in higher education* (pp. 61-80). New York: Plenum Press.

Delattre, E. J. (1989). *Character and cops: Ethics in policing*. Washington, DC: American Enterprise Institute for Public Policy Research.

Delattre, E. J. (1992, September 29). *Ethics & law enforcement training*. Lecture. Charlottesville, VA: University of Virginia.

Follett, M. P. (1918). *The new state: Group or organization the solution of popular government*. New York: Longmans, Green.

Harmon, M. H. (1995a, January 20-February 25). *Ethics & public values*. Public Administration Course 208. Hampton, VA: George Washington University.

Harmon, M. H. (1995b). *Responsibility as paradox: A critique of rational discourse on government*. Newbury Park, CA: Sage.

Hellriegel, D., & Slocum, J. W. (1992). *Management*. Reading, MA: Addison-Wesley Publishing Company.

Kelling, G. L. (1987). Acquiring a taste for order: The community and police. *Crime & Delinquency*, *33*(1), 90-102.

Kohlberg, L. (1969). Stage and sequence: The cognitive-developmental approach to socialization. In D. A. Goslin (Ed.), *Handbook of Socialization Theory and Research* (pp. 347-380). Chicago: Rand McNally.

McSwain, C. J., & White, O. F. (1987). The case for lying, cheating, and stealing: Personal development as ethical guidance for managers. *Administration & Society*, *18*, 411-431.

Sommers, C. H. (1986). *Right and wrong: Basic readings in ethics*. New York: Harcourt Brace Jovanovich College Publishers.

White, O. F., & McSwain, C. J. (1987). Transformational theory and organizational analysis. In G. Morgan (Ed.), *Beyond method* (pp. 292-305). Newbury Park: Sage.

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The Victim's View[1]: Domestic Violence and Police Response

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Introduction

As society's values and attitudes change, so also do its laws, the codification of these values. Yet those responsible for enforcing the law have broad discretion, freedom to choose when to act, and freedom to choose their deportment toward those involved when exercising enforcement. This issue of police discretion is particularly acute in matters of domestic violence (DV). What the police do and how they conduct themselves in DV situations can profoundly affect those directly and indirectly involved. The reasons are multiple. First, DV often results in physical injury and psychological damage to the victims themselves as well as to their intimates (Campbell, Kub, Belknap, & Temalin, 1997; Riger, Raja, & Camacho, 2002). The psychological impact on children reared in such environments can have long-term adverse consequences (Tajima, 2002). In addition, DV often is a pattern of violence rather than an isolated instance (Pence & Paymar, 1993). Failure of law enforcement to intervene successfully in a given incident may permit this pattern to persist. Also, the traditional view of DV held it to be an internal family issue rather than a crime. Despite the presence of mandatory arrest laws in many municipalities, the legacy of the earlier vantage still has influence (e.g., Smith, 2000). There may well be situations in which officers' judgments may be influenced by historically persistent schema (Robinson, 2000). Finally, the sensitivity of the circumstances surrounding DV may inhibit victims' willingness to call for help or, if help is sought, to seek arrest of an intimate victimizer, a phenomenon potentially exacerbated by evidence suggesting that police officers' values may not, in general, be conducive to victims' expectations (Caldero & Larose, 2001).

A considerable amount of attention has been paid in the literature to DV. The role of the police in DV has also been repeatedly investigated, although much of its focus has been on issues related to, for example, the effectiveness of arrest tactics, (e.g., Wooldredge & Thistlethwaite, 2002). Relatively little DV research, however, has been devoted to victims' perceptions of police intervention, particularly their attitudes toward and satisfaction with the intervention. The purpose of this study was to contribute to this area of DV research.[2] Satisfaction, we conjectured, might reasonably be related to victims' behaviors, including the intent to call for police assistance in subsequent incidents as well as their behavior with others involved, during and after the incident. This relationship between satisfaction and behavior has been cited in the literature (Reisig & Chandek, 2001). Indirectly, how victims perceive the police intervention might also influence victimizers' behaviors. If, for example, a repeated victim of DV perceives police intervention in a negative light, her victimizer may reason that she will not call again for assistance or, should she, he will be able to manipulate the situation to his advantage, particularly given the considerable effort required to escape abusive relationships (Burke, Gielen,

McDonnell, O'Campon, & Maman, 2001; Fry & Barker, 2001). Within this context and building on research with similar focus (e.g., Brandl & Hovarth, 1991; Brown, 1984; Coulter, Kuehnle, Byers, & Alfonso, 1999; Martin, 1997; Shoham, 2000; Stevens & Sinden, 2000; Wensdale & Johnson, 1998), this exploratory study was undertaken to answer three interrelated questions:

1. What is the extent of police compliance with departmental policies?

2. What are DV victims' perceptions and levels of satisfaction of the police intervention, from initial call through police follow-up by uniform patrol officers and DV investigators?

3. What are the predictors of victims' overall satisfaction with police involvement, and what are the potential consequences of satisfaction?

Background

It is estimated that approximately 1.5 million women annually are victims of violence inflicted by intimate partners or ex-partners (Tjaden & Thoennes, 1998). The U.S. Department of Justice National Crime Victimization Survey reports an estimated incidence of one million violent crimes by intimate partners annually (Bachman, 1994).

America's attitude toward DV has changed over the past several decades, from that of an internal, family matter, to that of a criminal act (Pleck, 1987; Robinson, 2000). The reasons are multiple and have been well-documented in the literature. In response to shifting public attitudes, police departments increasingly instituted pro-arrest policies in the 1980s (Buzawa & Buzawa, 1990), providing behavioral guidance to police officers as well as, presumably, signaling to the community a change in values. Guidance, however, is not edict, and officers' discretion may be broad. As referenced by Whetstone and Tweksbury (2000), there exists "noticeable" variation among officers in interpreting the threshold for reporting DV incidents. What is important to officers may differ substantially from what is needed by victims (Caldero & Larose, 2001).

While the effectiveness of these policies remains an issue of debate (Mills, 1998; Wooldredge & Thistlethwaite, 2002), the nature of the police intervention in such inherently volatile situations has potentially profound implications for those directly involved in incidents of DV as well as the communities in which they occur (Dolon, Hendricks, & Meagher, 1986). There are several reasons. First, the perception of police response has been shown to be a factor in the decision to call for assistance. Felson, Messner, Hoskin, and Deane (2002), for example, suggest that a perception of police leniency may influence victims' decisions to call the police. If victims perceive that an arrest will not be made, they may, logically, elect not to call for help. The authors also found that female victims of DV are less likely to seek help from the police than victims in other situations, stemming from fear of reprisal by the offender. Ruback, Greenberg, & Westcott (1984) posit that there is a significant relationship between the extent to which victims view an intervention as helpful and the likelihood of seeking help in subsequent incidents. In addition, how police conduct themselves has been shown to have an effect on victims' decisions to pursue legal action. Shoham (2002), for example, in a study of Israeli women

noted a statistically significant difference in victims' pursuit of complaints related to the "seriousness" with which the police were perceived to view the incident. Were the incident not perceived to be taken seriously by the police, 57% of the women withdrew complaints. In a large domestic study, Whetstone (2001) suggests a relationship between the perception of how seriously police took incidents of DV and satisfaction with police involvement. Additionally, there is substantial evidence that victims expect police to act in a particular manner. Shoham documented victims' expectation that the police be "supportive" and understanding of their suffering. Mills (1998) relates victim empowerment to the perception of the concern expressed by the police and, in turn, relates concern to recidivism. Martin (1997) summarizes several studies relating length of stay in violent relationships to the perception of police helpfulness. In reporting results from her own study, Martin found a relationship between police "helping behavior" and victim satisfaction. Fleury (2002) reports a similar relationship between perceived support by the police and satisfaction with the police involvement. As reported by Stephens (2000), Muraoka (1996) found that satisfaction with the police by shelter residents was related to residents' perceived respect and understanding by police. Stephens (2000) found a similar pattern: positive attitude toward the police was related to the perception that the victim was believed and that understanding and concern were demonstrated. While it might be argued that these investigations measured victims' perceptions rather than police behaviors, per se, the adage about perception being reality is apt. What is essential is how victims perceive police behaviors. Another consideration is that the way the police respond may exacerbate an already complex and volatile situation and result in intensified physical and/or psychological abuse toward the victim and other household members (Avakame & Fyfe, 2001; Mills, 1998). Finally, for the community at large, the perception of the police is shaped by such interventions. Setting aside legislative and judicial issues, the reputation of the local police can reasonably be argued to have some impact on a victim's decision to call for help when faced with a situation of DV. The police, it has been argued, ". . . play a part in helping to diminish the occurrence of domestic violence and in helping to prevent serious crime in the family" (Dolon, Hendricks, & Meagher, 1986). As Martin (1997) writes, "When victims perceive that their needs are met, police gain legitimacy, as does the criminal justice system."

The District of Columbia: DV and Municipal Response

While reported violent crime in the District of Columbia has generally declined in recent years, the incidence of DV crimes remains high. Of the approximate 39,000 violent crime calls received by the Metropolitan Police – District of Columbia, (MPDC) in the year 2000, 49% were related to DV (MPDC, 2000). The number of DV related protection orders submitted to MPDC for processing in 2000 exceeded 3,000. Patrol officers have informally estimated that DV calls represent between 60% and 80% of their workload (Nicholl, personal correspondence).

In 1990, the DC Domestic Violence Prevention Amendment Act mandated arrest in cases of DV when supported by probable cause. In 1995, district government agencies, in partnership with nonprofit organizations, established the Domestic Violence Intake Center (DVIC) at DC Superior Court where victims could access legal and nonlegal services, including advice and support. In the same year, MPDC designated DV investigators within each district to back up the first-line uniform patrol response. Since 1999, MPDC has had a DV coordinator dedicated to addressing

violence-against-women issues. MPDC recently spearheaded efforts to build an extensive database across the entire district to gauge the magnitude and nature of violence against women as reported to hospitals, law clinics, and service providers. During the year 2000, MPDC staff began to receive new training curricula on DV and sexual assault issues. In June of 2001, a program to train command staff was introduced.

These initiatives, while laudable, are in and of themselves, at best, process measures, which avoid the key metric: impact. It is to this issue that we devote much of this article's attention.

Method

Participants

Participation in the study was based on several criteria: the presence of a police report, ability to contact the victim, a duration of less than five weeks between the incident and the interview, and the victim's willingness to participate in the study. Several of the criteria warrant elaboration. In regard to the first criterion, and despite MPDC policy requiring an incident report for all allegations of interfamilial offense and sexual assault, the majority of responses to calls for service made by the police were not documented. In 2000, for example, in approximately 66% of the police responses to calls for service, no report was made (MPDC, 2000). The failure to follow prescribed policy may in part be attributable to reporting errors documented in other studies on DV (Whetstone, 2002; Whetstone & Tewksbury, 2000). Other studies as well have reported discrepancies between police and victim reports (e.g., Harris, Holden, & Carlson, 2001). The issue, nonetheless, raises concern, particularly in light of estimates of DV for which a call for police assistance is never initiated. Gelles and Straus (1988), for example, estimated that only approximately 14% of female victims of severe violence ever contact police. The second criterion, ability to contact the victim, while intuitively logical, also conveys interesting information. Two hundred seventy five of the total number of victims for whom police reports existed (1,017) could not be interviewed, predominantly due to missing or inaccurate contact information. The third criterion, a limit on elapsed time, was established to minimize victim memory error. For the final criterion, willingness to participate, 93 persons specifically declined to be interviewed, often expressing safety concerns to interviewers. In sum, a total of 293 DV victim interviews are reported in this study. Five of these interviews were incomplete but contained usable data. As necessary, multiple attempts were made to contact each victim, varying the time of the day the call was made.

Table 1 summarizes some key demographic data for the study's participants.

Table 1
Select Characteristics of Victims Interviewed

Demographics	Domestic Violence
Previous calls to MPDC for similar incidents	1 – 3 calls: 73% 4 – 5 calls: 13% 6 or more calls: 14%
Race	90% African American
Average Age	30 years of age
Average Household Annual Income	58% earn $35K or less 7% earn $50K or more
U.S. Citizen	97%
Employment Status	55% employed * 31% unemployed 4% students * Full or part time

Administration

All interviews were conducted by phone, using a largely structured interview protocol, by three trained female interviewers, one of whom was multilingual, and all of whom had direct prior experience working with victims of DV. This approach was taken to enhance the opportunity to build rapport with interviewees, as well as to permit the opportunity for clarification with sensitivity to the victims interviewed.

The interview protocol included screening all incident reports for any heightened, identifiable risk factors; attempting to block all calls to avoid being identified as a government agency on caller identification boxes; beginning each interview with a cover story before the interviewers identified themselves as representing the MPDC; and assuring confidentiality. Once a victim's safety was established, it was made clear that although the survey was sponsored by MPDC, it was not part of the criminal investigation.

In keeping with the focus on victims, interviewers were instructed that—notwithstanding any intention not to interfere with the operational investigation—service referrals would be made to any victims who required them. Such referrals were made in a number of cases. A list of service provider names and numbers were available to each interviewer, as were police district contact numbers. In a small percentage of the cases, interviewers gave specific advice to those victims who were perceived by the interviewer to be in immediate danger.

Instrument Development & Validation

The instrument used in the study was developed by persons from MPDC's Domestic Violence Unit, with input from experts and research drawn from the medical, legal, and victim service provider and research communities. It comprises both qualitative questions as well as closed questions. Closed response questions measuring attitude were constructed on a five-point Likert-type scale ranging from "very satisfied"

to "very dissatisfied." The structure of the instrument parallels the chronology of police involvement in DV cases (i.e., initial call; first-line officers' behavior upon arrival; investigation; follow-up, if any) and was deliberately selected to provide a sequential progression of events with which victims were familiar.

To evaluate measurement integrity, quantitative data were submitted to principal component and reliability analyses. In the principal component analysis, five questions, intended to measure dimensions of victim satisfaction, were included in the model. All questions loaded, at values > .530, on a single, general factor, accounting for approximately 67% of the variance in the construct assessed (satisfaction). This satisfaction scale, with the inclusion of an additional item related to respondents' perceived safety, had a technically acceptable calculated $\alpha = .76$ (Nunnally & Bernstein, 1994).

Results

We present the findings in a sequence that parallels victims' involvement with the police. We begin by describing victims' first contact with the police: the call. The reported behavior of the police upon arrival is then reviewed, followed by the victim's perceptions of the investigation and subsequent follow-up. Victims' general attitudes about police involvement are then considered. Results of statistical analyses relevant to overall satisfaction with police involvement and their implications are then presented.

The Police Dispatcher/Call to Law Enforcement

MPDC's General Order 304.11 requires that dispatchers obtain and relay to the responding officers, information regarding a number of aspects of the situation, including, for example, whether the suspect is present, weapons are involved, injuries have been sustained, and so forth. A sample set of questions is presented in Table 2 as are frequency statistics from this study.

Table 2
Frequency of Select Questions Asked by Dispatcher

	Did the dispatcher ask the question?	
Sample Questions Required to Be Asked by the Dispatcher	*Yes*	*No*
Is the victim in immediate danger?	22% (67)	78% (241)
Is the alleged assailant still present?	42% (128)	58% (180)
Were weapons involved?	21% (64)	79% (244)
Is medical attention needed?	30% (93)	70% (215)
Is there a protection order against the alleged perpetrator?	9% (28)	91% (280)

The discrepancy between what *should* have been asked and what *was* reported to have been asked leaves little room for interpretation: prima facie, protocol is apparently often breached. It has been argued, however, (Whetstone & Tewksbury,

2000) that calls for service (CFS) are inherently error riddled. It is also possible, for example, that in some instances, police response was so rapid that the dispatcher interview was still in progress when the police arrived or that the stress of the situation affected respondents' ability to remember such detail with high accuracy. Potential reasons for such discrepancies would be a good topic to explore in future research. It is reasonable to conclude, however, that some of the discrepancies are at least partially accurate measures of what was prescribed to happen and what actually happened. The possibility is bolstered by the previously noted incidence of failure of police to file a report, despite an unambiguous directive to do so.

Who Called the Police?

Sixty-eight percent (n = 189) of the calls were initiated by the victims themselves; approximately 15% (n = 41) were initiated by the victim's child. While the age of the child was not recorded, virtually all of the respondents who reported that a child called the police also reported themselves to be 40 years old or younger, and most between 20 and 30 years of age. In other words, the child who placed the call was, in all probability, a minor.

The Incident

Interviewees were asked to describe briefly what happened on the day of the incident. Circumstances that precipitated DV were, in most instances, strikingly ordinary and normal (e.g., a visit to see a child, an argument over money, an unfulfilled promise to purchase a household item).

Approximately 48% (n = 46) of those answering the question indicated that one or more persons witnessed the incident. Of these persons, 19% (n = 18) noted that children were among the witnesses. When witnesses were children, they were interviewed by police in approximately 38% of the cases (n = 8). In less than 2% of the cases (n = 2), however, was further help for the children suggested by the officers. In 61% (n = 175) of the calls, the victim identified the alleged perpetrator as a family member or someone with whom she was having or had an intimate relationship. Thirty-six of those identified as "other" were members of the victim's family (e.g., child, father, uncle, aunt, etc.) When added to the first category (intimate relationship), the percentage increases to 73% (n = 211). These statistics are not dissimilar to other studies (e.g., Smith, 2002).

Arrival of Police Officers

Response Time

Forty-six percent (46%) of victims (n = 121) recalled that officers arrived on the scene in ten minutes or less. Approximately 64% (n = 163) reported that they were very satisfied or satisfied. The relationship between the two variables is statistically significant (Somer'd d = .555; p. < .0001). We will return to the relationship between response time and overall satisfaction later in the article.

Who Were the Responding Officers?

In approximately 91% of the cases (n = 251), two or more officers responded to the call. In 39% (n = 101) of the cases, officers were exclusively male; in only about 5% of the cases (n = 12) were the officer(s) exclusively female. Very few gender differences, however, were observed in the behavior of male versus female officers, suggesting that officers tend to respond similarly regardless of gender. Bivariate analyses of the survey data revealed only a small number of main effects due to gender, with results equally likely to favor all-male versus mixed gender officer teams.

An interesting pattern of results emerged, however, depending on whether the victim had previously contacted police to respond to a complaint of DV. This effect was found in the more subjective ratings of performance, such as the degree of concern and professionalism expressed by officers, the extent to which officers appeared to understand the victim's feelings, and the overall level of victims' satisfaction with the police response to their complaints.

Interaction effects with Analysis of Varience (ANOVA) indicated that officer teams with at least one woman received similar ratings regardless of whether or not the victim had previously called police for a complaint of DV. For all-male teams, however, the ratings were quite different depending on whether or not this was the first time the victim had contacted police to complain of a DV incident. If the victim had not previously called the police, all-male teams received more favorable ratings than mixed gender teams. The most negative ratings were given to all-male officer teams by victims who had previously called the police.

This interaction was significant for the extent to which the officers appeared to understand the victim's feelings, $[F(1, 257) = 5.25; p < .02]$ and the overall level of satisfaction with police service $[F(1, 255) = 6.62; p < .01]$. Although not significant at the conventional level of 0.5, a similar pattern was also observed with the degree of concern expressed by officers $[F(1, 259) = 2.79; p < 0.1]$ and their professionalism $[F(1, 259) = 2.73; p < 0.1]$. This pattern of results suggests that all-male teams appear to differentiate to some extent between the two groups, providing better service to "first-time callers" than "repeat callers." Such a difference was not observed in the ratings of officer teams with at least one woman.

How the officers identified themselves to the victim is particularly interesting. Approximately 10% (n = 26) of the officers identified themselves as detectives or DV investigators on the first response. This is consistent with departmental practice that usually uniform patrol officers conduct the first line response but, in a small number of cases, the DV investigator may attend as well. Eighteen percent (n = 48) of victims reported that someone identified him- or herself as a detective after the initial call, either via a telephone call to the victim or in person. In 73% of the cases (n = 196), however, no one identified him- or herself as either a detective or DV investigator at the scene or on a follow-up call or visit. This speaks to either victims not recalling that a detective contacted them or a very low proportion of cases actually handled by specially trained investigators.

Officers' Behavior Upon Arrival

The data supports that police generally followed a number of key procedures upon arrival at the scene (e.g., separating the victim and alleged perpetrator, interviewing the victim in private, etc.), as recalled by victims. When asked whether the abuser was present at the time police arrived, 30% (n = 34) responded affirmatively. The interviewees reported that the police separated the victim and abuser in 9% (n = 14) of those cases and failed to separate them in 5% of the cases, (n = 8). In 7% (n = 12) of the cases in which the abuser was still present, the victim reported that the parties were already separated when the police arrived.

In cases in which the abuser was still present when police arrived, four of the women (12%) reported that the police interviewed them in the presence of their abusers. In 55% (n = 90) of all cases, the victims reported that the police allowed sufficient time to provide their accounts; by contrast, 45% (n = 73) said the time provided was insufficient.

In 69% of the cases (n = 112), the victim reported that she was never asked about a history of violence with the assailant, despite MPDC policy requiring that this question be asked. In nearly 85% of the cases (n = 138), the victim reported that she was never asked whether she was trying to leave the relationship. Inquiries about whether the victim had tried to leave the relationship in the past were made in only 6% of the cases (n = 9).

Perceptions of Officers' Deportment

In 28% of the cases (n = 77), respondents expressed that the officers lacked sufficient understanding; 22% characterized the officers as unconcerned (n = 61); and 12% (n = 34) expressed that the officers acted unprofessionally. As one victim expressed, . . .

> When I told the officer what happened, he said, "Well, what do you want me to do?" . . . I showed the officer my injuries. He showed no concern at all. He was rude. . . . He actually told the other officer, "She ain't going to do nothing but get back with him anyway." Even if that was true, I was hurt then.

A victim's perception, however, is not necessarily related to officers' behaviors as much as it is to officers' attitudes, as reflected in the following comment.

> The officers were very, very good. They were both female. They went above and beyond the call of duty. Since they were arresting both of us, they let me feed the baby and pack her bag for when my parents came to pick her up. They called Child Protective Services, and the woman who responded waited with the baby until my parents arrived. The police said they had to take me to jail. They could not allow me to wait for my parents to arrive, but I understood. They had done more than I expected already.

The Investigation

Table 3 documents a number of procedurally required steps (GO 304.11) and data from the survey regarding whether the procedures were executed, as reported by

the respondents. The data suggest a clear and pervasive pattern that officers are not following documented police investigative procedures.

Table 3
Frequency with Which Officers Performed Select Prescribed Procedures

	Did the officers perform the procedure?	
Departmental Procedure	*% Yes (number)*	*% No (number)*
Photograph crime scene.	11% (33)	89% (248)
Photograph injuries, when sustained.	33% (17)	66% (34)
Determine whether victim had obtained a restraining order (a CPO or TPO).	17% (27)	83% (136)
Ask whether there was a history of violence with assailant.	31% (51)	69% (112)
Provide aid to injured. (The values show responses to the question "Did the officers ask whether you had any injuries?")	43% (70)	57% (93)

Arrests

In late 1991, the then MPD police chief issued a special order (91-10-A), acknowledging arrest as a deterrent to DV and included the following capitalized statement: "If probable cause exists, you, the officer, must arrest the offender or you shall be in violation of the law." As documented elsewhere (e.g., General Order 304-11), probable cause is specified as the belief that a person involved in an intrafamilial dispute acted in a way that caused physical injury *or* threat of such injury.

The study found, however, a discrepancy between what is required of MPDC officers and the officers' actual behaviors. In 61% of the cases, (n = 170), the victim reported that no arrest was made. Of the 108 victims reporting that an arrest was made, the abuser alone was arrested 83% of the time (n = 90); a dual arrest (i.e., both parties were arrested) occurred 16% of the time (n = 17); in one instance, the woman alone was arrested. Respondents reported that in 34 instances, the abuser was present when police arrived. In 50% of these cases in which the assailant was reported to be present when the police arrived (n = 17), one or more persons was arrested on the scene. Of the 16 cases in which the victim reported that she had sustained injuries *and* the assailant was present when police arrived, no arrest was made in 50% of the cases. These findings of leniency in making arrests are consistent with other studies (e.g., Avakame & Fyfe, 2001; Felson & Ackerman, 2001) and for women seeking police protection, unsettling.

Equally unsettling is the brevity of the time the assailant was detained when arrested. In 71% (n = 67) of the cases in which an arrest was made, respondents reported that the assailant was released within 24 hours.

Communication & Safety

Documentation for victims of DV is obviously essential to support patterns of abuse for hearings relating to restraining orders, child custody, and divorce and visitation rights. As such, victims should be allowed access to reports of all incidents reported to police. The study found, however, that in only 29% (n = 82) of the cases, victims reported that they were informed about how to receive a copy of the police report.

Recognizing that the victim's situation requires a safety plan (to protect against further abuse) as well as referrals to services that the police cannot themselves be expected to provide (e.g., general legal advice, housing assistance, counseling and ongoing support), questions about the officer's attempts to discuss safety and provide useful information about where she could access assistance were asked.

In 46% of the cases, (n = 128), officers failed to discuss how the victim might maintain her safety. In 29% of the cases, (n = 78), victims were given no information for subsequent contact with the police. In the preponderance of cases (82%; n = 228), respondents reported that no literature concerning support services was ever provided to them.

Follow Up

In approximately 59% of the cases (n = 163), interviewees noted that there had been no contact, either in person or by telephone, with the police department since the reported incident. The result should be read in light of the fact that interviews were generally conducted more than two weeks after the reported incident, which would be a reasonable time to expect that some follow-up had occurred. Of the 115 instances in which contact had occurred, however, 83% had been initiated by MPDC.

Victims' Feelings Following Police Intervention

Approximately 77% (n = 211) of those questioned indicated that they were, overall, very satisfied (110) or somewhat satisfied (101) with police service related to the incident. Twenty-one percent expressed some level of dissatisfaction (n = 57), and while 76% (n = 211) indicated that they would call the police again were a similar incident to occur, 24% (n = 67) expressed that they would not.

Summarizing Victims' Comments

Hundreds of pages were required to capture all of the comments victims made during the interviews, a full analysis of which is in preparation for separate publication. What follows, therefore, highlights only some of the most prominent themes. Table 4 summarizes select recommendations for improvement and reasons given for not intending to call police in the future. Values represent the number of times the issue was voiced by respondents without solicitation out of the total number of comments made in response to questions. Several of the issues that emerge in response to "suggestions for improvement" reappear in "reasons for not calling police," and foreshadow the next section of this article.

Table 4
Victims Suggestions for Improvement

Suggestions for Improvement	Frequency Issue Was Mentioned
Need to respond more quickly	42
Need to be more compassionate about DV	32
Officers prejudged situation	23
Need support services information	20
Officers were arrogant/nonchalant	19
Need follow-up information	15
Abuser not arrested, or not arrested earlier	8
Reasons for Not Calling Police Again	
Abuser not arrested, or left scene	19
Unprofessional attitudes and behaviors of officers	12
Slow response time	6
Officers didn't take situation seriously	5
Calling police makes things worse	4
Don't trust the police	2

Satisfaction and Intent to Call Police

Not surprisingly, the level of overall satisfaction is significantly associated with intent to call upon the police again. A χ^2 test of independence supports rejecting the null hypothesis that there is no relationship between the two variables ($\chi^2 = 84.7$; p. < .0001). The relationship is moderate ($\eta = .556$). To test our hypothesis that level of satisfaction predicts intent to call police, we conducted multiple regression analyses to determine which, if any, relevant variables in the survey instrument might usefully explain what drives overall satisfaction with police involvement in DV incidents. Data were examined for necessary assumptions (e.g., heteroscedasticity, linearity, etc.), and all assumptions were met on continuous variables (excluding binary dummy variables). The final model includes the five survey questions shown below. Collectively, these variables account for approximately 55% of the variance in overall satisfaction with the service provided by police ($F = 68$; p. < .0001). The variables, in descending order of importance are as follows:

1. Professionalism of the officers
2. The concern shown by the officers
3. Extent to which victims believe that the officers understood their feelings
4. Whether the officers provided information about how to contact them
5. The extent to which the intervention led to additional problems

Full output is shown in Table 5.

Table 5
Coefficients

		Unstandardized Coefficients		Standardized Coefficients		
Model		B	Std. Error	Beta	t	Sig.
1	(Constant)	.899	.276		3.251	.001
	Concern of officer(s)	.273	.064	.276	4.250	.000
	Professionalism of officer(s)	.330	.072	.290	4.583	.000
	Extent to which officer(s) understood your feelings	.199	.063	.207	3.159	.002
	Did officer(s) provide information for contacting them?	.123	.047	.114	2.643	.009
	Problems with abuser resulting from law enforcement intervention	-.128	.054	-.098	-2.392	.017

Concern and professionalism have the strongest impact on overall satisfaction. While adherence to procedure is obviously important, these results support the argument that the deportment of officers in investigating crimes of DV is of even greater importance.

Next, we examined the relationship between overall satisfaction and expressed intent to call the police in the event of a similar incident using logistic regression. The analyses indicate that satisfaction predicts intent to call the police (-2 Log Linear = 220.4; χ^2 = 77.4; p< .0001). The model correctly classifies 91% of those instances in which persons would call the police given overall satisfaction and 59% of the cases in which persons would not call the police given overall dissatisfaction. Wald statistics (92.29, p. < .001) indicate that the predictive relationship is statistically significant. The Nagelkerke value is .371.

Discussion & Conclusions

Effective police interventions in DV situations are those that resolve the incident with appropriate actions toward both the perpetrator and the victim and are adequately supported in policy and in resources. Effective interventions have not only a direct influence on crime against women, but also help bolster community confidence in the police and, as such, potentially contribute to the deterrence of crime in general.

The study attempted to answer questions related to police compliance with prescribed policy, perceptions of victims of DV, and the predictors and consequences of victim satisfaction.

Evidence supporting failure to file reports is incontrovertible; it is a matter of record. While acknowledging that the evidence presented pertaining to police personnel compliance with other policies is indirect and subject to error, the magnitude of the discrepancies observed suggests serious potential problems with compliance pertaining to virtually all aspects of the law enforcement intervention. If intervention

in DV cases is to be successful, it is a necessary, albeit not sufficient, condition that there is adherence to mandated policy. Research should be conducted to assess why officers and dispatchers ignore policies and procedures. It would, as well, be potentially useful to replicate this study in other locales, particularly in departments with a progressive reputation for responding to DV cases. Comparative analyses may help differentiate those factors culturally engrained in the profession from those more immediately alterable. If a policy is ineffective, and we are not suggesting that this is the case, it seems reasonable that the policies be changed rather than ignored.

Of comparable importance is the manner in which police officers conduct themselves throughout the process. As noted earlier, victims of DV expect understanding, respect, comfort, and that they will be treated with dignity. While some officers act in a manner sensitive to the victims' feelings, others were found to be perceived as having little or no concern for the victims. Some were found to act with belligerence.

What are the consequences of officers not conducting themselves in a manner consistent with victims' needs and wants? The literature, as cited earlier, suggests potentially adverse physical and psychological consequences. This study provides additional evidence that how officers conduct themselves—the concern and sensitivity they demonstrate, the professionalism and understanding they convey—are statistically significant determinants of overall satisfaction with police service. In turn, overall satisfaction significantly predicts intent to call the police again for similar incidents. The importance of acting in ways that enhance victim satisfaction are justified on a number of grounds, including one of simple humanity.

Effecting change in an area of public policy such as violence against women is arduous, complicated, and painful. To change an organization's responses in any significant way is never easy or quick work. The criminalization of DV, for example, did not result in police departments and other parts of the criminal justice system implementing necessary change overnight; it took several years for the legislation to be widely understood and applied. We believe that if a strong focus on change continues and problems are addressed honestly, progress will be made. The impact on victims of violence against women, as well as their children, will be huge.

References

Avakame, E. F., & Fyfe, J. J. (2001). Differential police treatment of male-on-female spousal violence: Additional evidence on the leniency thesis. *Violence Against Women*, 7(1), 22-45.

Bachman, R. (1994). *Violence against women: A national crime victimization survey report*, NCJ-145325. Washington, DC: Department of Justice.

Brown, S. E. (1984). Police response to wife beating: Neglect of a crime of violence. *Journal of Criminal Justice*, *2*, 277-288.

Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice. (2001). *National Crime Victimization Survey*, NCJ-184938. Washington, DC: Author.

Burke, J. G., Gielen, A. C., McDonnell, K. A., O'Campon, P., & Maman, S. (2001). The process of ending abuse in intimate relationships: A qualitative exploration of the transtheoretical model. *Violence Against Women*, *7*(10), 1144-1163.

Buzawa, E. S., & Buzawa, C. G. (1990). *Domestic violence: The criminal justice system response*. Newbury Park, CA: Sage.

Caldero, M. A., & Larose, A. P., (2001). Value consistency within the police: The lack of a gap. *Policing*, *24*, 162-180.

Campbell, J. C., Kub, J., Belknap, R. A., & Temalin, T. N. (1997). Predictors of depression in battered women. *Violence Against Women*, *3*(3), 271-293.

Coulter, M. L., Kuehnle, K., Byers, R., & Alfonso, M. (1999). Police reporting behavior and victim-police interactions as described by women in a domestic violence shelter. *Journal of Interpersonal Violence*, *14*(12), 1290-1298.

Dolon, R., Hendricks, J., & Meagher, S. (1986). Police practices and attitudes toward domestic violence. *Journal of Police Science and Administration*, *14*(3), 187-192.

MPDC Family Violence Prevention Unit and Office of Research and Development. (2000).

Felson, R. B., Messner, S. F., Hoskin, A. W., & Deane, G. (2002). Reasons for reporting and not reporting domestic violence to the police. *Criminology*, *40*(3), 617-647.

Felson, R. B., & Ackerman, J. (2001). Arrest for domestic and other assaults. *Criminology*, *39*(3), 655-675.

Fleury, R. E. (2002). Missing voices: Patterns of battered women's satisfaction with the criminal legal system. *Violence Against Women*, *8*(2), 181-205.

Fry, P. S., & Barker, L. A. (2001). Female survivors of violence and abuse: Their regrets of action and inaction in coping. *Journal of Interpersonal Violence*, *16*(4), 320-342.

Gelles, R., & Straus, M. (1988). *Intimate violence: The causes and consequences of abuse in the American family*. Newbury Park, CA: Sage.

Gouvis, C., Johnson, C., DeStefano, C., Solomon, A., & Waul, M. (2001). *Violence in the District of Columbia: Patterns from 1999*. Washington, DC: Urban Institute.

Harris, S. D., Holden, K. R., & Carlson, M. J. (2001). Assessing police and protective order reports of violence. *Journal of Interpersonal Violence*, *16*(6), 602-609.

Martin, M. E. (1997). Police promise: Community policing and domestic violence victim satisfaction. *Policing*, *20*(3), 519-529.

Mills, L. G. (1998). Mandatory arrest and prosecution policies for domestic violence: A critical literature review and the case for more research to test victim empowerment approaches. *Criminal Justice and Behavior*, *25*(3), 306-329.

Nunnally, J. C., & Bernstein, I. H. (1994). *Psychometric theory* (3rd ed.). New York: McGraw Hill.

Pence, E., & Paymar, M. (1993). *Education groups for men who batter*. New York: Springer.

Pleck, E. (1987). *Domestic tyranny*. New York: Oxford University Press.

Quigley, B. M., & Leonard, K. E. (1996). Resistance of husband aggression in the early years of marriage. *Violence and Victims, 11*(4), 355-370.

Riger, S., Raja, S., & Camacho, J. (2002). The radiating impact of intimate partner violence. *Journal of Interpersonal Violence*, *17*(2), 184-205.

Reisig, M. D., & Chandek, M. S. (2001). The effects of expectancy disconfirmation on outcome satisfaction in police-citizen encounters. *Policing*, *24*(1), 88-99.

Robinson, A. L. (2000). The effect of domestic violence policy change on police officers' schemata. *Criminal Justice and Behavior*, *27*(5), 600-624.

Ruback, R. B., Greenberg, M. S., & Westcott, D. R. (1984). Social influence and crime-victim decision making. *Journal of Social Issues*, *40*(7), 51-76.

Sherman, L. W., & Beck, R. A. The Minneapolis domestic violence experiment. *Police Foundation Reports*, *1*, 1-8.

Shoham, E. (2000). The battered wife's perception of the characteristics of her encounter with the police. *International Journal of Offender Therapy and Comparative Criminology*, *44*(2), 242-257.

Smith, A. (2002). It's my decision, isn't it? A research note on battered women's perceptions of mandatory intervention laws. *Violence Against Women*, *6*(12), 1384-1402.

Stevens, B. J., & Sinden, P. G. (2000). Victims' voices. *Journal of Interpersonal Violence*, *15*(5), 534-547.

Tajima, E. A. (2002). Risk factors for violence against children: Comparing homes with and without wife abuse. *Journal of Interpersonal Violence*, *17*(2), 122-149.

Tjaden, P., & Thoennes, N. (1998). *Prevelance, incidence, and consequences of violence against women: Findings from the National Violence Against Women Survey* (Rep. No. NCJ-172837). Washington, DC: Department of Justice.

U.S. Census Bureau. (2000).

U.S. Department of Justice. (1994). *Violence against women, a national crime survey report*. Washington, DC: Government Printing Office.

Whetstone, T. S. (2001). Measuring the impact of a domestic violence coordinated response team. *Policing*, *24*, 371-398.

Whetstone, T. S., & Tewksbury, R. (2000). Desperately seeking significance: Problems and difficulties associated with evaluating the efficacy of domestic violence response programs. *Social Pathology*, *6*, 102-120.

Wooldredge, J., & Thistlethwaite, A. (2002). Reconsidering domestic recidivism: Conditioned effects of legal controls by individual and aggregate levels of stake in conformity. *Journal of Quantitative Criminology*, *18*(1), 45-70.

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[2] While the study included victims of sexual assault, this article limits itself to DV.

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Youth Gangs and Criminal Conduct

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Youth involvement in gangs has existed for what seems like forever. History tells us that the first gangs ever documented in North America formed along ethnic lines in the early 1800s with the arrival of Irish immigrants in the state of New York. At that time, social survival of the newly arrived groups fueled engagements in criminal activity to enable them to afford food and shelter in order to stave off effects related to poverty and a lack of employment and educational opportunities. Class distinction related to social strata fueled feelings of anger and disdain for the mainstream as the immigrants coped with making themselves feel safe and equal.

Many of the characteristics and activities related to historical gang formation are still seen today. What is different, however, is the fact that youths are becoming gang members at ever-younger ages. Their choices of drugs and weaponry have also become more and more dangerous with the apparent increased availability and accessibility of both.

In neighborhoods where firearms are more readily available, the incidence of gang-related homicide has increased. Many gang members equip themselves with knives or other weapons (e.g., chains, lead pipes, etc.) in the name of self-protection.

Drug-use by gang members is also omnipresent, with the drugs of choice often being central nervous system stimulants such as hydroponics marijuana, methamphetamines, ephedrine, or MDMA (ecstasy). These substances fuel levels of energy and provide false senses of power. Many other substances such as phencyclidine (PCP) and psilocybin (magic mushrooms) are used as these substances numb pain receptors—an effect youthful offenders find desirable when engaging in physical combat.

Developing and fostering relationships with peers have always been normal tasks of adolescent development. Increasing amounts of time spent socializing with peers, away from the restrictions imposed by parents and guardians, has always attracted youth at the adolescent stage. When a youth becomes part of a criminally inclined social group, however, the results often lead to social deviance. These criminally engaged adolescent groups are often defined as "youth gangs."

Simply mentioning the words "youth gangs" generates a reaction of fear and concern in most people. There is no collective agreement as to defining the words *youth* or *gangs*. To some, a youth is a young person between the ages of 12 to 17 years, as seen in our federal laws; others in the youth treatment field define a youth as being aged 12 to 21; yet others in government programs describe a youth as being aged 12 to 30 years.

There exists even further confusion in defining the word *gangs* as the definitions vary even among service providers within similar fields. For example, the definition of *gangs* varies from one police service to another.

For the purpose of this article, a *youth* is defined as a child between the ages of 12 to 17 years, and a *gang* will refer to a group of three or more youths who consort together on a continual basis to engage in criminal conduct.

Most service providers and even gang members agree on the causative factors that lead to youth gangs. Instinctual and inherent needs to belong, feel loved, and have social status and safety are met through adherence to a gang especially when these basic human needs are not met within primary family structures. Other needs, which are also part of normal adolescent development, such as excitement, thrill seeking, curiosity, and risk taking, are also afforded to youth involved in gang activities.

Equally as important are the risk factors that exist when poverty, substance abuse, sexual/physical/emotional abuse, family violence, premature parental detachments, untreated learning disabilities, or generational membership to gangs are present. In many cases, a youth is afflicted by a combination of these factors that seem to justify his or her gang involvement.

When interviewed, many youth gang members report receiving love, acceptance, safety, status, and self-esteem from the gangs to which they have given their loyalty. In addition, many youth gang members disclose receiving food, shelter, and illicit substances from their membership with the gang. In fact, most youth gang members refer to their gang as being their "family." Belonging to a gang often gives a youth a false sense of power and mastery over others and environments as is often the case in gang-infested neighborhoods or school settings.

Regrettably, gang members receive positive reinforcement for behaving antisocially. For example, youth gang members are applauded for being truant, oppositional, and defiant as well as for fighting, robbing, or committing other criminal acts resulting in victimization. Common to the majority of youth gang members is the fact that they possess attitudes and sentiments that support criminal engagement and a level of cognitive functioning that neutralizes guilt. This can be best described by the behaviors with which they are commonly associated, such as personal robberies, illicit drug use, extortion, intimidation, and educational absenteeism.

The youth gang members seem to live for the moment with disregard for future planning. They are impulsive and often lack anger control skills; this can prove dangerous when coupled with mind-altering substances and use of weapons. Furthermore, they reportedly have strong survival instincts, a type of "win-at-all-cost mentality" on both individual and group levels.

Gangs thrive on intimidation and the fear that results. The potential for gang crime and violence permeates all neighborhoods, from rural to urban and suburban communities, and all social strata, rich or poor. Their existence fluctuates in severity based on the level of structure under which they operate. In other words, the more organized and structured the gang, the greater the propensity for longevity of existence. Furthermore, the more organized and structured the gang, the higher the incidence of financial gain, as seen with street gangs who thrive financially from the sales of illicit drugs or from the control of prostitution.

The concern with youth gang members is the potential for youthful members to join, or be used by, more organized street gangs. These youth gang members are reportedly attractive entities to more organized street-gang counterparts, given their access to other youths seeking to purchase illicit drugs or female escorts. Furthermore, it is well-documented that youthful offenders receive less lengthy dispositions when apprehended or intercepted by police and others within the criminal justice system. The average age of most youth-gang members is 12 to 14 years. While males are identified to be greater

in number within gangs, their female counterparts are seen to be associate members to the gangs and are often used as "sex-slaves" to the males. These young females often engage in sexual behaviors as directed by the male members of the gangs.

Naturally, the more vulnerable the young female, the greater the risk of her becoming recruited to the gang as an associate member. A 13-year-old female gang associate perhaps said it best when interviewed. The member stated, "In a gang I know how to behave. I know how to act, how to speak, what to say, when to say it, what to do, and how to do it. I feel loved, like I am important to someone, and at the very least someone believes I can be good at something!"

Most juveniles eventually outgrow the gang lifestyle and move on to become adults with conventional lifestyles; however, many of them suffer years of hardship as they try to survive without having matured or developed as successfully as those in the mainstream. Many go on to survive with the additional challenges resulting from the effects of drug dependency and the lack of educational training.

Every city, every community has the potential of being afflicted by problems associated with youth gangs. The prevalence of gangs and the extent of their violence is symptomatic of much larger social issues, which reach all the way from the amount of time we devote to our children to how we relate to our children and the extent to which we become involved in our communities.

The lack of information and awareness regarding gangs and gang violence is rampant in our society. The denial of gang existence is also a barrier to effective and efficient intervention strategies.

Recognizing that gang-related problems within the community warrant discussion is a first step to addressing the issue and the factors contributing to gangs forming within the effected neighborhoods. Equally as important, the discussions also need to take place in areas where there is an absence of gang violence. In doing so, greater involvement in prevention and early detection strategies can prove to be successful in reducing the probabilities of gang formations.

In addition, it is imperative that a community implement prevention, early detection, and suppression strategies as a whole. This problem-solving model seeks involvement from all available citizens, as well as community-service providers within the youth serving fields and corporate partners. Driven by a common goal of improving the safety of all, the philosophical basis for this approach must have convictions in addressing the social and individual factors that fuel the phenomena of gangs.

In other words, all available community partners need to be willing collaborators in a process collectively addressing both the related incidents as well as the risk factors that fuel the formation or risk of formation of gangs.

In summary, to be involved in the war against gang violence involves engaging oneself in . . .

- Reducing and eradicating drug and weapon availability.
- Addressing child poverty.
- Developing recreational opportunities.
- Providing academic support.

- Providing family support.
- Developing social skills training programs and "early years" stimulation and support programs.
- Implementing mentorship programs.
- Engaging in employment training development.
- Offering employment counseling.
- Supporting crime reduction and suppression strategies.
- Affording youth involvement in program development.

Police officers, interventionists, and educators are in unique positions within the community to identify, at the earliest opportunity, youth at risk of offending or re-offending. In doing so, these groups can become the catalysts for change by mobilizing community groups that include youth.

To do nothing means nothing will change!

Every child has the potential to accomplish greatness; some require reminding. Every parent has the potential to be successful in parenting their offspring; some need coaching to do so! Those who can assist, should! Any amount of contribution to the human race is a worthwhile investment.

C. Louise Logue is a registered nurse who graduated in 1977. Since that time, she has specialized in working with "at-risk" youth in a variety of settings, including psychiatric institutions, secure custody facilities, and police services. In 1986, she obtained a certificate in chemical dependency counseling. In 1988, she developed and implemented a substance abuse treatment program for incarcerated youth. In addition, she has developed numerous community-based programs with special emphasis on skills training for youth.

Through the University of Ohio, Louise studied in the field of functional family therapy. Her studies in the field of behavioral pharmacology have resulted in her being qualified as a Drug Expert in the Supreme Courts of Ontario and Quebec since 1991.

Louise is co-chair of the National Auto Theft and Joyriding Prevention Project as well as co-chair of the National Integrated Committee on Chemical Drugs and All Night Dance Parties. In 2002, she coordinated a provincial Street Gangs Training Project for the Solicitor Generals' Office of Ontario that resulted in the development of a curriculum for both police officers and members of the community.

Louise maintains a comprehensive understanding of youth issues and trends, including raves and youth gangs by attending the front lines on a regular basis.

As an executive board of directors member of numerous youth serving agencies in Ottawa, Louise advocates for youths and families in need of timely, meaningful, and appropriate services.

The recipient of the 2002 Woman of Distinction Award for Public Service and two Police Awards of Merit, Louise is currently employed with the Ottawa Police Service where she holds the title of coordinator of youth intervention and diversion in the criminal investigative division.

Trends in the Illicit Use and Controls of Amphetamine Type Stimulants: The Case of Hong Kong

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Introduction

In the early 1990s, the United Nations Drug Control Program [now renamed to the United Nations Office for Drug Control and Crime Prevention (UNODCCP)] reported that amphetamine type stimulant (ATS) use including amphetamine, methamphetamine, and 3,4-Methylenedioxymethamphetamine (MDMA or ecstasy) was steadily increasing (1996). The rise in ATS use, first noticeable in North America, Europe, and the Far East, became a global phenomenon by the latter 1990s (UNODCCP, 2002a). This global trend shows no signs of slowing in the 21st century given prevalence estimates. The global annual prevalence of ATS abuse is estimated at 0.8% of the population over 15 years of age or 33.4 million users (UNODCCP, 2002b).

One of the most pressing aspects of the increase in ATS use is its concentration in Asia. Currently, two-thirds of the 33.4 million users are in the Asia region. With over 80% of the global ATS seizures concentrated in Asia, China being the main ATS source in the region, there are no indications of a decline in the near future. Within the Asia region, the trends are indeed worrying. Although Japan's association with methamphetamines dates back to World War II, many other Asian countries have recently witnessed dramatic increases in ATS consumption including the Philippines, Indonesia, Myanmar, Thailand, Hong Kong, and mainland China (Laidler, 2002; UNODCCP, 2002b). The Philippines has experienced one of the largest growing methamphetamine problems in Asia in the last ten years. Arrest and accredited treatment center data indicate that over 80% of users report methamphetamine as their primary drug (Philippines Dangerous Drugs Board, 2001). In Manila alone, its use is eight times higher than in the United States (UNODCCP, 2000).

Of particular urgency is the dramatic rise in ATS consumption in countries that have had a longstanding association with opiate use. Thailand's heroin epidemics shifted in the 1990s such that methamphetamine use currently represents the most serious drug abuse problem (Poshyachinda, Srisurapanont, & Perngparn, 1999). Similarly, Hong Kong has had a long history with opiates, dating back to the 1800s. This pattern has shifted in the last few years so rapidly that Hong Kong has been identified as experiencing one of the largest rises internationally (UNODCCP, 2002b). This shift to stimulant use represents important challenges for the control and treatment of drug use as the production, distribution, use, and consequences of heroin are significantly different from ATS. In order to understand the challenges in dealing with this shift, this article examines the trends of use, sales, and law enforcement in Hong Kong. The data for this discussion draw from research conducted for the UNODCCP and United Nations Interregional Crime and Justice Research Institute (UNICRI) study on the global drug market and a study on the marketplace of dance drugs.

Data collected for these two studies include official statistics, field observations, interviews, and focus groups with those who work in the drug field, including outreach workers, police, corrections staff, social workers, teachers, and treatment staff and in-depth interviews with 35 psychotropic drug users.

Drug Use Trends

Although it is impossible to determine the precise number of drug users, there are several methods to access the trends in the types of drugs being used and the traits of users. One source of information derives from the Hong Kong Narcotics Division's Central Registry of Drug Abuse database (CRDA), which has documented, since 1972, those users who come to the attention of agencies like law enforcement, hospitals and clinics, social welfare agencies, and treatment centers. The CRDA has been viewed as a relatively consistent indicator of opiate use patterns. It has also been able to document the rise in ATS use. These data are published in an annual report issued by the Hong Kong Narcotics Division.

Table 1 provides an overview of drug use trends from 1995 through 2001 by age and drug type. In general, there has been a notable drop in reported heroin users. This drop in the number of reported heroin users is largely among younger users as the percentage of reported heroin users 21 years and older has remained relatively stable from 1995 (93%) to 2001 (85%).

During this period, the most significant change has been the decline in heroin use among reported younger users, dropping from 72.5% in 1995 to 13.3% by 2001. This decline in opiate use among reported young users has been met with a dramatic and rapid rise in ATS use. The proportion of reported young persons using the ATSs (i.e., MDMA and ice) grew from less than 2% to 59% in seven years. In the last two years, ketamine has also surfaced as a drug of choice among younger users. Among all reported older users, there has also been an increase in MDMA and ice use, but the proportion and the rise over the last few years has been much more modest compared to their younger counterparts.

This shift in the drug preferences among younger persons is even more pronounced if we consider only those young persons who are newly reported to the registry over the past seven years (data not shown). The percentage of newly reported young heroin users dropped from 72.5% in 1995 to 13.3% by 2001. A complete reversal has occurred in drug preferences as the percentage of newly reported young amphetamine users grew quickly from 1996 onward, and in the first half of 2001, it accounted for two-thirds of all newly reported young users. In the first few years, this appeared to be due to an increase in ice use, but quite rapidly MDMA took the lead and later ketamine.

Table 1
Reported Individuals by Age and Type of Drug Abused

	1995 %	1996 %	1997 %	1998 %	1999 %	2000 %	2001 %
Under 21							
Heroin	72.5	66.6	64.3	58.4	49.1	21.6	13.3
Opium	*	-	-	-	-	-	-
Morphine	*	-	-	-	-	*	*
Physeptone/Methadone	0.4	0.5	0.5	0.2	0.3	0.2	0.1
Amphetamines	1.8	8.0	15.8	19.4	29.2	61.9	59.3
MDMA	-	*	1.7	2.0	13.1	56.2	53.0
Ice	1.5	7.6	14.4	17.3	17.3	11.0	10.8
Cocaine	*	0.1	0.1	0.1	0.3	0.3	0.4
Methaqualone	0.1	0.5	0.2	*	0.1	0.3	*
Cannabis	20.2	21.0	21.8	26.6	30.2	21.2	17.4
Ketamine	-	-	-	-	0.6	36.9	59.8
Diazepam	0.1	-	0.2	0.2	2.0	2.3	0.6
Flunitrazepam	4.8	4.1	1.6	0.7	0.8	0.3	0.1
Triazolam/Midazolam	2.0	1.9	2.5	2.0	1.5	1.2	0.9
Cough Medicine	9.7	7.8	7.4	5.2	4.5	2.6	1.3
Organic Solvents	1.5	4.7	4.8	4.3	4.5	1.8	1.5
# of Persons with Type of Drug Reported	3,581	3,363	2,887	2,551	2,219	3,466	3,210
21 & Over							
Heroin	93.0	90.8	91.4	91.7	91.8	88.3	85.0
Opium	0.4	0.4	0.3	0.2	0.4	0.4	0.2
Morphine	0.1	*	*	*	-	0.1	*
Physeptone/Methadone	1.3	1.2	1.1	0.7	0.7	0.5	0.6
Amphetamines	0.7	1.9	3.3	4.0	5.4	7.3	8.6
MDMA	-	*	0.1	0.1	0.4	3.0	4.4
Ice	0.7	1.8	3.1	3.8	4.9	4.5	4.6
Cocaine	0.1	0.1	0.1	0.1	0.1	0.2	0.3
Methaqualone	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Cannabis	4.8	5.8	5.1	5.5	4.8	5.4	5.1
Ketamine	-	-	-	-	0.1	2.5	6.3
Diazepam	*	*	0.2	0.1	0.2	0.2	0.3
Flunitrazepam	0.9	1.0	0.6	0.2	0.3	0.3	0.2
Triazolam/Midazolam	2.6	3.5	6.7	6.4	6.9	6.7	6.5
Cough Medicine	1.2	2.0	1.8	1.1	1.4	1.7	1.9
Organic Solvents	*	*	*	0.1	0.1	0.2	0.1
# of Persons with Type of Drug Reported	14,425	15,265	13,609	13,195	12,984	12,957	13,121

*Multiple answers are possible; therefore, totals may not equal 100%.

Source: Narcotics Division (2002)

Characteristics of ATS Use

Ice or Crystal Methamphetamine

Ice typically appears in Hong Kong in the form of powder or fine crystals, and it has been available in small quantities since at least the early 1970s. The drug was a source of energy for late night entertainment workers from the Philippines living in Hong Kong. Local consumption of ice was low during this period, and the majority of ice

seizures were shipments from China en route to Japan and the Philippines where demand has been consistently high (Hong Kong Police, personal communication, June 31, 1994).

From 1996 onward, Hong Kong witnessed an increasing number of reported ice users. There are a number of reasons for this increase in use reported by users, including the belief that ice is not addictive and that it is a "cure" for getting off heroin. It is claimed to be a useful method for coping with and transcending evening and long work hours, and more generally, a source for energy, sociability, and ironically, aggressiveness. Ice is typically smoked or its fumes inhaled. Use occurs as an episode (from one to seven days), and the drug is shared among a small group of users in a rented room, guest house, or flat. Unlike other drugs used and sold within Hong Kong, ice is a relatively private affair with use and transactions occurring in prearranged private settings. As Table 2 shows, the average retail price of ice per kilogram grew from approximately $38 U.S. in 1996 to $65 U.S. in 1998 and dropped to $38 U.S. per gram by 2001.

Table 2
Average Wholesale & Retail Prices of Different Drugs from 1995 to 2001
(In U.S. Dollars based on 7.8 currency exchange)

	1995	1996	1997	1998	1999	2000	2001
Heroin							
Wholesale (kg)	$26,474	$29,487	$19,688	$19,089	$19,696	$20,615	$24,457
Retail (gm)	$46	$52	$54	$55	$49	$48	$48
Herbal Cannabis							
Wholesale (kg)	$1,314	$1,570	$1,228	$1,089	$1,183	$1,789	$2,252
Retail (gm)	-	-	$6	$6	$6	$7	$8
Cocaine							
Wholesale (kg)	-	-	$46,154	$40,385	$41,346	$41,667	$31,410
Retail (gm)	$135	$154	$173	$173	$173	$147	$143
Ice							
Wholesale (kg)	$5,577	$4,679	$5,139	$6,202	$6,111	$5,641	$5,496
Retail (gm)	-	$38	$43	$65	$56	$45	$38
MDMA (per tablet)							
Wholesale (tablet)	-	-	$13	$13	$13	$13	$12
Retail (tablet)	-	-	$32	$32	$29	$27	$23
Ketamine							
Wholesale (kg)	-	-	-	-	-	$4,188	$4,776
Retail (gm)	-	-	-	-	-	$23	$51

Source: Hong Kong Police, Narcotics Bureau, 2002

Ecstasy

Ecstasy use differs considerably from the patterns of ice consumption. While ice is used and bought in a private setting, ecstasy use and purchase generally occurs in public venues. Ecstasy normally comes in tablet form. The average retail price since 1997 has ranged from $23 U.S. to $32 U.S. per tablet, based on police reports. User interviews suggest a retail price of far less at $13 U.S. per tablet. The Government Chemist indicates that the majority of ecstasy tablets from seizures are not pure in

MDMA content and contain approximately 0.10-0.15 grams of MDMA.HK1 (range of 0.05-0.27 grams). Other adulterants found in seized tablets include amphetamine, methamphetamine, ketamine, phenobarbitone, caffeine, panadol, and even chalk.

Ecstasy first appeared in Hong Kong in 1993, and until 1996, it was principally found in the occasional organized rave party, popular among expatriates. At that time, small quantities of tablets were brought in, usually by expatriates. In 1997, an increasing number of local residents began frequenting rave events. The popularity of these organized party events began to diminish by 1998 as many Hong Kong entrepreneurs recognized the potential profits of converting existing karaoake bars and restaurants into permanent venues for dancing and clubbing. From 1998 until present, there has been a tremendous growth in the number of dance clubs and discos.

Ketamine has been gaining ground in the Hong Kong drug market since at least 1998 and is likely to become as popular, if not more so, than ecstasy. It is frequently used as an enhancing supplement to ecstasy. Ketamine is relatively easy to use in dance club settings and is either snorted or dissolved in alcoholic beverages. Ketamine is normally sold in white crystalline powder, wrapped in small colored paper packets. The Government Laboratory analysis of seized ketamine shows that there is usually little adulteration of this drug, but occasionally paracetamol and caffeine have been found. According to the Hong Kong Police, the average retail price grew from $23 U.S. to $51 U.S. from 2000 to 2001.

MDMA and ketamine's popularity among young persons is consistent with reports from other countries. Users perceive MDMA as not addictive and having few long-term physical or mental side effects. Furthermore, these stimulants are not associated with the negative identity or stigma of heroin use. Users are also aware of the limited risks of law enforcement intervention. Most users report that while the police conduct routine license checks of dance establishments, few people are arrested. In the event of license checks, consumers can simply dump their supply on the floor, and if it is not in their possession, police action is often limited to the confiscation of dumped drugs. Some users report buying and using before entering discos to lessen the potential for police intervention. Finally, the proliferation of venues provides a wealth of choices for entertainment.

Trends in Distribution and Controls

Ice

In the early 1990s, there were a number of relatively large ice seizures in Hong Kong, but given that local ice use was relatively low, the ice was believed to be destined for export to other Asian countries including Japan and the Philippines. In 1994, members of the triad group, who were known to be an active syndicate in ice trafficking, smuggled the synthetics used to make ice (in cooperation with a crime group in Guangzhou) into Hong Kong for final processing. The police believed this was the first local manufacturing center for the production of ice and seized 22 kilograms. As Table 3 shows, seizures increased from 15.4 kilograms in 1995 and peaked in 1998 with the seizure of 232.7 kilograms. Wholesale prices are consistent from 1995 onward, and the retail price increased. It is unclear what impact the complete move of manufacturing and production to the mainland had on the rise of local retail prices.

Table 3
Seizure of Major Drugs in Hong Kong (In Kilograms Unless Otherwise Indicated)

	1995	1996	1997	1998	1999	2000
Heroin (#4)	411.0	309.1	202.2	209.4	287.5	339.3
Cannabis Herbal	1,052.4	8,822.7	1,002.1	585.1	26.3	226.7
Cocaine	1.8	13.9	31.3	167.7	12.0	9.4
Ice	15.4	46.8	73.6	232.7	102.1	87.6
	-	+196tab	+3461tab	+13tab	+1111tab	+7879tab
MDEA/MDMA						
(tablets)	24	14,295	49,613	282	21,202	378,621
	+.2mg(mix)	+86.4 (mix)	-	-	-	+58.8gm
Ketamine	-	-	-	0.4	2	15.3
				+1ampoule		+110tab

Source: Hong Kong Government Chemist and Hong Kong Police, 2000

From 1996 onwards, it appears that ice for local consumption in Hong Kong has been completely manufactured in China (there has been no evidence of re-crystallizing it in Hong Kong). It is likely that the risks of manufacturing in Hong Kong were perceived to be too high, particularly in light of the compactness and density of Hong Kong. Interviews with officials and observations from news reports indicate that clandestine laboratories had emerged, scattered throughout China, particularly in Yunnan, Guangdong, and Fujian provinces. Compared to Hong Kong, the availability of locales in a vast area makes China a more suitable and less risky venue for manufacturing. Still, the potential legal consequences of manufacturing and trafficking in China are comparatively more severe than in Hong Kong. Chinese officials have responded to the emergence of these laboratories by stepping up their aggressive anti-drug campaign, using the death penalty for ice traffickers, and introducing regulations on management, as well as export of ephedrine. There is no death penalty in Hong Kong, and the penalty for methamphetamine for 600 grams or more is 18 years plus.

In 1998, there were a number of unusually large seizures in Hong Kong, which appear to have been destined for other countries. For example, seizure figures for 1998 reached a record with 232.7 kilograms, which was largely attributable to a 160 kilogram seizure of ice worth $82 million HK (along with 7 kilograms of heroin worth $17 million HK) arriving from a container vessel from Foshan in Guangdong Province believed to be headed for the Philippines or Indonesia. Since then, smaller quantities have been found.

According to several police officers, there are approximately three to four tiers in the organization from purchasing to moving the supply into Hong Kong. A broker arranges the transaction in China where the shipment is held in storage. A courier drives the shipment down to the border of Hong Kong and mainland China. Different methods are used to bring it across the border like bodypacking small quantities and driving or walking across the border. The shipments are normally in crystalline form, but in 1999, there were a few cases involving a liquid version of methamphetamine. Because of the heavy daily traffic (especially goods vehicles) across the Hong Kong and mainland border, authorities indicate that lorry drivers

are a good source for importing drugs into the locale. Larger quantities are often brought in by lorry compared to couriers who walk across the border.

Once the supply enters into Hong Kong, carpark "drop off" points are often used for large quantities. Smaller quantities are sometimes brought back to the courier, delivered to another courier, or placed in a locker near the train station. Another courier picks up the supply to deliver to a packaging center. Couriers are often strategically selected for their "double vulnerability," that is from the dangers of police detection and the dangers of debts owed to the drug syndicate.

Supplies of ice are sometimes stored in distribution with couriers bringing smaller quantities to retail dealers. Ice dealers normally conduct transactions in private settings, and users frequently buy as a group, which is not surprising given that it is often used in a group setting.

Ecstasy

The police indicate that the majority of MDMA imported for local consumption is manufactured in China and brought into Hong Kong via ship or speed boats (*dai fei*) or is walked across the border. It is not clear who the principal stakeholders are nor whether they are connected to syndicates dealing in heroin, ice, or cannabis. Some police, however, believe that traffickers at the wholesale and retail level are shifting to dealing in ecstasy and ketamine, as these drugs are associated with less severe sanctions and generate better profits. Given the stability of the heroin scene over the last several years, it is likely that ecstasy and ketamine have resulted in a diversification rather than a substitution or replacement for heroin. There has been, for a long period, a consistent and stable demand for heroin.

The emergence of MDMA and ketamine has significantly altered the market of drugs in Hong Kong. Over the last few years, Hong Kong has witnessed the proliferation of dance clubs. These dance clubs typically contain at least a few private rooms for rent so that groups can enjoy the club in a semiprivate setting (easy for consuming). Tables near the dance floor can also be reserved and "rented" for large groups. These dance venues compete with each other through a variety of means—offering discounts and "freebies" on drinks and entrance fees, hosting particular disc jockeys, using sophisticated sound systems, decorating the interior with sophisticated designs or illusory effects.

According to interviewed police and users, club managers are typically associated with a particular triad. Among the most important staff of the manager are the doormen who belong to a security group (typically with the same triad affiliation as the manager) that normally provide protection for several clubs on one street or area (territory). Retail sellers are often affiliated with the security group or pay a fee to work as a team or as independent sellers in the clubs or discos. Some retail dealers work in one club, while other dealers patrol from one club to another. Most users report buying directly on the premises from retail dealers; although, transactions are sometimes conducted outside the club on the street to avoid police detection within the club.

As our interviews with police and others have noted, however, the disco itself does not have an "investment" in the retail sale of these drugs. While the "investors" and

managers of the disco generate revenue from entrance fees and refreshments, the security group affords protection and generates revenue from the sale of drugs. In other words, the dance club/drug enterprise does not exhibit a distinct and clear hierarchy but rather represents a network of entrepreneurs.

Observations and Conclusion

The government's response to ATS has resulted in educational campaigns, task forces, research, stiffer penalties, and codes of practice. The police keep a high presence in entertainment districts, but there are few signs of a decline in ATS use among young people. ATS use has, over the course of the last ten years, become firmly entrenched in local and global youth culture. Local and global trends also suggest that ATS use has become increasingly problematic as users search for the sensation of their original high or seek to alter their high and resort to polydrug use. In Hong Kong, ketamine use, along with ecstasy, clearly shows that polydrug use is becoming more prevalent. While Hong Kong clearly has been successful in developing a comprehensive control and treatment strategy for heroin use, it, like elsewhere, must address the issues of supply and demand for ATS.

References

Hong Kong Government Chemist. (2000). Data supplied by Government Chemist.

Hong Kong Police. (2002). Data supplied by Narcotics Bureau Research Section.

Laidler, K. J. (2002, December). Globalization, drugs and the stimulant society. *Eastern Horizons*, (12), 19.

Narcotics Division. (2002*). Central registry of drug abuse, 50th report*. Hong Kong: Hong Kong Government.

Philippines Dangerous Drugs Board. (2001). Special report prepared for the author. Manila.

Poshyachinda, V., Srisurapanont, M., & Perngparn, U. (1999, November). Amphetamine type stimulants epidemic in Thailand: A country profile. Proceedings from the WHO Meeting on Amphetamine, MDMA, and Other Psychostimulants. Phase II. Bangkok, Thailand.

UNODCCP. (1996). *Amphetamine type stimulants: A global review*. Report #3 prepared for the Commission on Narcotic Drugs. New York: United Nations. Retrieved December 1996, from www.unodc.org/unodc/technical_series_1996-01-01_1.html

UNODCCP. (2000). Global illicit drug trends: 2000. *ODCCP studies on drugs and crime*. New York: United Nations. Retrieved February 1, 2001, from www.unodc.org/unodc/report_2000-09-21_1.html

UNODCCP. (2002a). Global illicit drug trends: 2002. *ODCCP studies on drugs and crime*. New York: United Nations. Retrieved February 1, 2003, from www.unodc.un.or.th/material/document/global2002.pdf

UNODCCP. (2002b). Amphetamine type stimulants threaten East Asia. *UNDCP Fact Sheet*. Retrieved March 1, 2002, from www.undcp.un.or.th/factsheet

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Russian Organized Crime – An Ethnographic Study

Minwoo Yun, BA, MS

Introduction

For the last decade, the so-called Russian mafia has been one of the most interesting topics in the field of criminal justice. When the communist Soviet Union opened its doors to the West in the mid-1980s, most people in the West believed that the ultimate threat from the Red Empire was over; however, as history always teaches us, unintended consequences often drive history into unexpected directions. This Russian mafia phenomenon is an unintentional consequence of the collapse of communist Russia.

The unintended consequence has been a fascinating topic for both journalists and academic scholars. Many have investigated and reported the charming, threatening, and saddening saga of Russian criminals and their victims. Thanks to many devoted and courageous researchers and journalists, a great number of quality works have been completed for the purpose of identifying and understanding the Russian mafia phenomenon for the last ten years.

From those meaningful works, we have been told of many events and problems with respect to the Russian mafia phenomenon, such as the trafficking of Russian women. We have heard that many Russian women have been voluntarily or involuntarily sent overseas and forced into prostitution by Russian organized crime (Stoecker, 2000). The Russian mafia has also been a key player of international drug trafficking (Dunn, 2000). The Russian mafia has also operated various illegal operations worldwide. They include weapon trafficking, nuclear material smuggling, stolen car smuggling, smuggling of other goods and natural resources, and money laundering (Finckenauer & Voronin, 2001; Voronin, 2000; Williams, 2000).

Also, many reports (Gilinskiy, 2000; Passas, 2000; Williams, 2000) tell us that Russian society has experienced a state of anomie and that the Russian mafia has dominated Russian society in various ways since the collapse of the Soviet Union. Williams (2000) said that post-Soviet Russia has been without rule of law. Gilinskiy (2000) assessed present Russia as "a situation of catastrophe." We should not forget that Boris Yeltsin, the former Russian president, once said that his country is "the superpower of crime" (Waller & Yasmann, 1997).

Although a great number of studies have been done regarding the topic of Russian organized crime, few studies have been based on criminological theory. Most studies are anecdotal and narrative. They suggest superficial problems and concerns. Few studies have focused on the causes of the Russian mafia phenomenon or uncovering the social dynamic interrelations of it. Criminological theories for explaining the Russian mafia phenomenon are rare and underdeveloped.

This article was inspired by the desire to comprehend the Russian mafia phenomenon more deeply. There are already plenty of informative studies out there. This article

aims to explore the relevance of that information with the possibility of building a theory that may explain the Russian mafia phenomenon properly.

Literature Review

A great majority of Russian organized crime study is anecdotal or narrative. Those studies are similar to journal articles or intelligence reports. They tend to show the ongoing situation of criminal activities or criminal organizations. Examples of them include women trafficking studies, drug trafficking connection studies, mafia operation in a certain geographical area, or general narrative reports of Russian organized crime covering broad areas.

Some studies tend to seek the causes of the Russian mafia phenomenon. These types of studies are often historical. They look back to the historical development of not only the Soviet Union, but also Tsarist Russia. From thoughtful research, they provide the causal factors of the burgeoning of the Russian mafia since the collapse of the Soviet Union. Nevertheless, these studies still tend to be narrative and have no theoretical basis. Patricia Rawlinson's study (2000) is a typical example of this kind.

Although few, there are some studies that try to provide a theoretical basis to explain the Russian mafia phenomenon; however, theory building in this area is still in an infantile stage. There is still much room left for systematic and scientific understanding of this phenomenon based on criminological theory. Until now, there were five different types of theoretical attempts available to explain the Russian mafia phenomenon.

The first attempt is the conspiracy theory. This way of thinking assumes that Russians are evil people who are trying to dominate the world. As the Soviet Union during the Cold war was a great evil that tried to conquer the world, the Russian mafia is the substitute or successor of communist Russia. Through the criminal conspiracy, the Russian mafia still tries to dominate the world. Most ex-KGB agents and ex-communist ruling elites in the Soviet era have become mafia bosses or lieutenants since the collapse of the communist regime. Accordingly, they are still a great threat to the world, although they have changed their appearance (Sterling, 1994; Williams, 2000).

The second attempt is the "robber barons" theory. This line of thinking views the Russian mafia phenomenon as simply an "early stage" of capitalism. Conditions in Russia today are similar to that in the mid-1800s in the United States. The Russian mob boss is a Russian version of Rockefeller. The Russian mafia provides benefits for developing Russian capitalism; therefore, there is nothing to worry about. As Russian capitalism progresses, the present organized criminals will be respectable capitalists in the future (Anderson, 1999; Luttwak, 1999).

The third approach is the "new authoritarianism theory" of Louise I. Shelley (2000). She contends that Russian organized crime is a new type of authoritarianism that corresponds with Soviet authoritarianism. Accordingly, she argues that there is not much change in Russian society even though the old authoritarian communist ruling system collapsed. Under the new ruling system, Russian citizens still suffer from authoritarian control.

The fourth attempt is the "three-factor model" developed by Albanese (2000). He intended to develop a prediction model that can identify the high risk of organized crime. Three major elements are essential in predicting the incidence of organized crime in this model: (1) opportunity factors, (2) the criminal (offender) environment, and (3) the skills or access required to carry out the criminal activity.

The fifth attempt is the "criminogenic asymmetries" theory of Nikos Passas (2000). According to Passas, the term "criminogenic asymmetries" refers to structural discrepancies and inequalities in the realms of the economy, law, politics, and culture. Basically, this theory is the extension of Merton's anomie theory into the realm of the global stage in order to explain not only the Russian mafia phenomenon, but also transnational crime in general. According to him, globalization and neoliberalism create criminogenic asymmetries, which lead to the anomie. In the anomie state, people, especially in underdeveloped countries, experience means-ends disjunctions and turn to the innovation (or retreatism). The Russian mafia phenomenon is a microcosm of the global anomie.

As far as methodology is concerned, a majority of Russian organized crime studies have adopted either content analysis or interview formats. Most studies have used journal articles, government reports, intelligence reports, investigative reports, congressional and court hearings, and biographies of mafia bosses or members. For another method of research, they have interviewed journalists, law enforcement officers, intelligence officers, experts, and former or active members of organized crime. Quantitative and objective traditional research methods are rarely used to conduct organized crime studies. As Carter (1997) acknowledged, this tendency of limited methodological selection seems to be drawn from the very nature of the research topic.

Ethnography might be a great tool for studying organized crime and the Russian mafia phenomenon. Siegel and Bovenkerk (2000) conducted this type of study on Russian speaking immigrants in the Netherlands. By adopting a nontraditional approach, they could examine the Russian mafia phenomenon from a different angle. Although this methodology has some problems of subjectivity and sampling bias, it may provide a new instrument for the study.

This study starts by basically agreeing with Passas' (2000) criminogenic asymmetries approach. One theoretical basis, criminogenic asymmetries and anomie, is an essential frame in understanding the Russian organized crime approach. The theory certainly explains the increase of Russian mafia activity; however, it may not explain the difference between Russia and China. China has also experienced criminogenic asymmetries like Russia, but the historical development of both countries after 1990 has run in different directions. In Russia, mafia power has significantly increased and dominates the state and society. In China, however, the state has firmly controlled and dominated Chinese society. Although Chinese organized crime is influential, it is controlled by the Chinese state. China has experienced social stability and economic growth. This discrepancy seems to be caused by the difference of the state deterrence power. Thus, the strength of the state deterrence power, either ideological or physical, may overcome criminogenic asymmetries and suppress the increasing mafia phenomenon. This matter seems to relate to the political conflict around the matter of crime, especially organized crime. Crime might be another means of politics. The state controls its people and maintains its ruling system

by criminalizing and enforcing its criminalizing definition. Over the matter of criminogenic asymmetries and anomie, the state withdraws from or impresses its power on its people according to the size of its deterrence power. Thus, this political nature should be integrated into the concept of criminogenic asymmetries.

Methodologically, this study is ethnographic in nature. It follows the heuristic example of Siegel and Bovenkerk's (2000) study.

Theoretical Hypothesis

In the state of nature, human beings are very similar to animals. Our minds do not include any differentiated consciousness of the wrong from right, immoral from moral, and crime from legitimacy. We just act, which is neutral.

Consciousness and socialization changed this amoral state of nature. As human beings realized the discriminative concepts between right and wrong or moral and immoral, we began to define all acts as either moral or immoral. At the same time, socialization began. As human beings socialized with the fellow species, we enforced our consciousness into each other. Naturally, conflicts and anomie began. In the middle of the chaos, the strong party arose and became the state.

As soon as the first state appeared in human history, its main mission became implementing the consciousness that defines right from wrong and taming all people under its rule with that consciousness. This "taming" came to be the essential part of the state ruling system and its strength of domination.

Meanwhile, a mutual contract was formed between the state and its people. On the one hand, the state needs to tame its people to be loyal, supporting, and obedient to the official consciousness in order to maintain the stability and strength of its ruling system. On the other hand, an individual member within the state ruling system may need to be quickly tamed to receive protection and satisfaction from the state ideologically, physically, economically, and socially.

Along this two-way mechanism, four taming instruments appeared: (1) belief, (2) physical force, (3) economic feeding, and (4) conventional social success. Belief is "a collective consciousness" that dominates a certain society. Both individual members of the society and the state are subordinated to this collective consciousness. Legitimacy and righteousness are drawn from bonding to this belief. Durkheim's (1999) concept of the collective order may correspond to the belief. In particular, the belief is apparent as the form of religion, custom, ideology, morality, and the rule of law.

The state represents this belief and acts as a guardian to protect it. The legitimacy of the state is based on its bonding to the belief. On the other hand, an individual person feels the mental satisfaction and protection from the bonding to the belief since he or she can feel the sense of righteousness and integrate it into his or her identity.

The state continuously tames its people with belief. It propagandizes and persuades its people to support the belief and its rightness. During this process, the state sends an important message to its people, which is that the state is the representative and

the protector of belief. Thus, loyalty or support to the state is interpreted as the loyalty or support of belief. At this point, patriotism and belief are intertwined. In the normal state, this belief is successfully implanted into a majority of individual members' minds. Most people voluntarily obey the belief and the state authority. Crime (e.g., disobeying the state authority) is low.

Physical force is another instrument used to tame people. It is the compulsory tool to enforce one's will on others to do or not to do something regardless of the others' will. For whatever reason, there are some people who disobey the state authority and violate its rules. The state needs to tame these people to obey the state authority and norms by use of physical force. The state maintains and operates its agencies to do this mission. They are the criminal justice system. Yet, in some cases, the military or the intelligence agency can be used as a taming tool of physical force. By using this taming instrument, the state can achieve the stability of its ruling system by extracting loyalty and support from its people through the use of fear. On the other hand, people will enjoy a sense of security from the state since the state monopolizes the physical force within its territory.

Economic feeding is the third instrument used to tame people. The state needs to provide material protection and satisfaction to its people as much as possible in order to achieve voluntary loyalty and support from them. On the other hand, people will enjoy material or economic well-being from the state service. They will be satisfied with their present status and will not attempt to break norms and challenge the state authority. Instead, they will support the state authority and obey norms. Social welfare or economic aid policy has this purpose.

Conventional social success is the last instrument of taming. The state needs to establish the conventional social success mechanism and fairly operate that social success game. When the game is fairly opened and refereed, citizens can be indirectly tamed to support the state authority and its norms. The state can achieve its stability of the ruling system, and people can be satisfied.

Although much time has passed since the initial establishment of the human political society and taming mechanism, it still exists today. There might be various different types of state ruling systems and taming tactics, but the basic mechanism is still the same. Most of us are tamed beings. As soon as new members of society are drafted by either birth or immigration, taming bombardment immediately starts to work upon them.

In times of crisis, criminogenic asymmetries appear and disturb the stable taming mechanism. It damages the rightness of the belief and creates the anomie state or the absence of the rule of law. Fewer people respect the dominant belief and the state authority. More people are mentally liberated from the dominant belief.

Criminogenic asymmetries also weaken the physical force of the state. Taming by punishment or threat of punishment is no longer effective or trusted. Fewer people are deterred by the state physical force exercise.

Economic feeding cannot be adequately provided to the majority of populations. Fewer people enjoy material protection and satisfaction, and more people are forced

to self-help to achieve it. During this process, the taming power of the state becomes weaker, and more people become self-dependent.

The conventional social success game may be severely disturbed. As anomie theorists explain, means-ends disjunction plays a significant role here. The taming function of conventional social success conditioned by the means-ends integration weakens or disappears. More people are out of the conventional social success game and search for alternative means.

Due to disturbances in the taming mechanism, many people temporarily return to the untamed state. They are now free to take any means to fulfill their self-interests. They are wild and self-dependent. As a result, crime, especially organized crime, increases. The state authority becomes weaker.

Methodology

This study adopts the ethnographic approach impressed by Siegel and Bovenkerk's study (2000). The writer conducted an ethnographic study of local residents in a mid-size Russian city about 300 kilometers south of Moscow. From August 2001 to January 2002 and from July 2002 to August 2002, the writer stayed in that city and conducted interviews and observations. Local residents interviewed included university students, professors, teachers, local merchants, an ex-convict, and a taxi-driver. About 30 people were interviewed.

In addition, Russian journal articles were also used in order to supplement the original data collected from the ethnographic interviews and observations.

Data Analysis

Russia experienced criminogenic asymmetries during the mid-1980s and the early 1990s. The initial source of criminogenic asymmetries came from inside Russian society. The fundamental chasm between the communist ideology, in theory, and the Soviet life, in reality, created the severe asymmetries across all sectors of the Soviet system. In the mid-1980s, the Soviet state could no longer stand these destructive asymmetries and could not help opening its doors to the outside.

As soon as the Soviet state opened its doors, the second source of criminogenic asymmetries invaded Russian society from outside. As Passas (2000) mentions, globalization and neoliberalism became another destructive force to Russian society.

Two different streams of criminogenic asymmetries were integrated between the mid-1980s and the early 1990s and became destructive forces, which damaged the Russian taming system. As a result, the Russian mafia phenomenon has been widespread in modern society.

Weakening of the Dominant Belief

In the city of Bolkgrad (alias for the actual Russian city where the writer was; all following names are also aliases), the conventional belief was weakly supported by local residents. Money was the primary concern for most people the writer met.

How to make money was not treated as a significant matter. Becoming rich was considered the important issue. In general, norms and morality were considered secondary matters. Law and the state agencies that enforce the law were not respected and were often ridiculed among local people. Another example of the weakening belief was the absence of the rule of law. Because of the abrupt system change from communism to capitalism, the state of an instant legal anarchy emerged. Many essential laws for the new system did not exist, whereas many ambiguous and conflicting laws and regulations coexisted. People were confused and were not sure what they could or could not do. The long authoritarian tradition deteriorated to this confusing legal situation. Most influential people arbitrarily used those confusing laws and regulations for their self-interests. They had little interest in establishing clear laws and regulations.

Dmitri said, "Values and morals had been changed. People got confused. Legal system is not yet established. People do not trust and like government and the police." A local university professor also told me that people are struggling with new values and ideologies. There was nothing that could hold people together. For the last ten years, his country had no such thing.

Katcha remembered when the Soviet Union collapsed. Nothing was operational. People got confused. They did not know what to do. People stole everything from the government. No one thought that it was wrong. A schoolteacher also reported that most people had no idea of the new capitalistic life and did not know about estate laws and private property matters. Those laws and regulations did not exist.

The police are distrusted and despised by many local residents with whom the writer spoke. The police are useless and powerless. They have no desire to protect law and people. The police work with local mafia. When people have some problem, they prefer to go to the mafia for help instead of the police.

In the state of the weakening belief, things were decided by a few influential people. They arbitrarily decided matters for their self-interests. The situation of legal anarchy was abused to support the rationalization of those influential people's self-interests. The following story might be a good example:

> It was Oleg's birthday. Several people gathered in the student dormitory to celebrate his birthday. They drank together and joked with each other. It was a very good time until a middle-aged man (a director of all student housing in the university) showed up. He criticized Oleg and several other students about drinking and dirty garbage. Then, he ordered two female students to move out of their student dorm, because they broke the university regulation that prohibits drinking in the dorm. The decision was very unusual since drinking inside the student dorm is frequently practiced and no one had ever heard about that kind of school regulation. Nevertheless, the director was very obstinate. Two female students were, after all, forced to vacate their room without any reasonable explanation. Several days later, the real truth was uncovered. The director had an acquaintance who had asked him about a room in the student dormitory and offered some amount of money for a favor. He needed a room but at that time, all rooms were occupied. The regulation that the director used was made about 30 years ago, but it had never been practiced

for such a long time. No one even knew that such regulation existed. Anyway, the director needed a room, and there was a suitable regulation.

Weakening of the Physical Force

Someone said to a Russian policeman, "Is it safe here?" The policeman said, "Yes it is." "If it is not, I wouldn't be here."

This is a Russian joke that I heard from one of my Russian friends. As an important representative of physical force, the Russian police enjoyed very little confidence from the people. According to the *Moscow News*, the police credibility in current Russia is under 40% (New Broom, 2001). Both corruption and inefficiency are the two main reasons people cite for losing confidence in the police.

Everyone the writer interviewed showed negative feelings toward the police. They said that the police are helpless and useless, or they are criminals. They did not believe that the police could do anything for solving crime. When they have a criminal problem, they refuse to go to the police for help. Instead, some of them said that they go to the local mafia, since it is more effective.

Pavel told me a story that shows the incapability of the local police. One day, there was a fight in a nightclub. The police were called up to mediate the incident. When people saw the police, they turned over the police car and beat the policemen.

If the problem is handled by the mafia, the incapability of the police becomes multiplied. No one believes that the police can do anything to bust the local mafia. Rather, many people believe that the police are controlled by the mafia. A local merchant told me that he pays some protection money to the local mafia on a regular basis. Then, the paid mobs protect his business from the corrupted cops. Irina also told me that she belongs to a system organized and run by a local mafia in order to work as a prostitute. Then, the police do not dare to touch her. In fact, the writer observed the scene that the prostitution business was running right in front of two patrolmen. Some policemen were drunk when they were on duty even in daytime.

Corruption among the local police is another factor that damages the reputation and capability of the police. Local residents believed that the police are too corrupt and the police and the mafia are friends working together, or sometimes the same people occupying two different positions at the same time. Dmitri told me that the police are sometimes hired by the gangsters. A local merchant also told me that local merchants are afraid of the police because the police extort money from them. When the police stop them, the message is obvious. They should pay tribute for the police. The police and the mafia are the same.

The Incapability of the Economic Feeding

It is obvious that the current Russian state cannot economically protect the majority of the population, and living conditions for many Russian people are extremely harsh. After the collapse of the communist state, most people lost socioeconomic protection, such as job security, housing, pension, free health care, free education, cheap food, and transportation. The new capitalist state has done little to protect

people's economic needs. As a result, daily life for most people has fallen into deplorable conditions. Twenty-three percent of the population lives below the poverty line (The Bureau of Democracy, Human Rights, and Labor, 1997).

Local residents in the city of Bolkgrad met the same fate. The unemployment rate was very high. Most people earned very small amounts of money, which barely provided enough to survive. Most local residents made $10 to $80 a month. An old lady who I met on the street told me, "Russians are very poor. Life in Russia is hard. It is not a good place to live." A taxi driver also said that he misses the Soviet Union because life at that time was much better than now. Life now is too hard for him to stand.

"Everything is so expensive," Olga said of the economic condition in the countryside. According to her, Russian villages exist outside of the money economy. Russian farmers have little money. They grow their necessary foods by themselves. That is how they could survive. Sometimes, they bring their homegrown agricultural products to the city. They sell them by themselves there. They make little money from it. In fact, I observed that a good number of people stand on the street in Bolkgrad and sell milk, fruits, and vegetables.

Since 1980, one of the primary problems that has contributed to the economic disaster for most local residents seems to be the huge gap between the skyrocketing prices and the tied-up salaries. Here is an example:

> In Bolkgrad, 1,500 rubles (about $50) to 2,000 rubles (about $67) is considered normal monthly salaries. Most people make less than that. A South Korean CD player costs about 1,700 rubles (about $57) in Bolkgrad. However, this is a humble price in South Korea. Almost anyone can buy it. In South Korea, it is extremely rare that a monthly salary is less than 1,000 dollars. Someone may buy the same CD player in about 30,000 or 40,000 won (about $30 to $40). So, here is the irony. Someone has to pay more to buy the CD player in Bolkgrad than in South Korea. For most Russians, . . . 1,700 rubles means the whole salary for a month, if he or she has a job.

Galina also discussed the irony of the price-salary gap that she had experienced:

> When she started to work as teacher in 1974, the beginning salary was about 150 rubles. The train fare (the most expensive one) between Bolkgrad and Moscow was 10 rubles. Now, the starting salary for teacher is about 320 rubles, but train fare is between 300 rubles (the cheapest one) and 600 rubles (the most expensive one). Prices for everything have skyrocketed, but the salary is still the same more or less. As a result, people cannot travel realistically and are tied up in their living place. The transportation fee is too expensive. Russia is a big country. Family members and friends scatter here and there, but without money they cannot see each other. For example, during the USSR, she could frequently travel to the "Black Sea" and other places, but now it is impossible because it is too expensive for her. She knows a mother and a daughter. The mother lives here in Bolkgrad, and the daughter in Irkutzk (located in Siberia). They have not seen each other for ten years, mainly because they cannot afford the travel expenditure. They rarely talk over the telephone, a minute or two minutes, because the telephone is also expensive.

The Disturbance of the Conventional Social Success

During the Soviet Union, the conventional social success system was quite stable. Communist party members, state officials, military officers, university professors, and medical doctors, etc. were respected among local residents as conventional social successes. In other words, those positions symbolized the socially approved goals. College education was the primary socially approved means to success. The state strictly determined who could receive college education and what specialty each student could acquire. Education was provided for free. Everyone could get a proper job relating to their specialty after graduation. As a result, means-ends disjunction was very low during the Soviet time. Most people pursued the socially approved goals by way of socially approved means. A local businessman told me how the Soviet social success system worked. During the communist time, the higher someone climbs up along the hierarchy of the communist power, the bigger house he could get, and the richer he became. Accordingly, most people worked hard to become successful within the communist ruling system.

The situation totally changed after the collapse of the Soviet State. There were no more communist party members. Traditional social successes, such as university professors, military officers, teachers, and medical doctors, have little prestige among local people, and they also suffer from meager salaries.

College education no longer serves as the conventional means for pursuing socially approved goals. Mainly because of the severe fiscal shortage, the universities started to charge students for education in various ingenious ways. Many college students quit pursuing their education due to financial difficulty. Some students could barely afford to complete their college education, and they had little prospects. There were no jobs for them in Bolkgrad. Most students who I interviewed had no expectation to get jobs after graduation. No one believed such things could happen. They did not even think of life after graduation. They just continued education without planning for their future careers. They paid attention to their present fun events, drinking, dancing, and socializing with other young people. Some college students vaguely dreamed about living in the United States or other wealthy countries, but they knew that their dream was beyond their reach.

In contemporary Bolkgrad, businessmen are celebrated as primary social successes among local residents. They are rich, and being rich is the socially consented value of the majority of the local residents; however, the opportunity to become a businessman is only available for some selected people. The majority of the population has no access to the resources necessary to become a businessman.

There are two ways to become a businessman in contemporary Bolkgrad. One is to work for a local company; however, to find a job in such company, one needs to know someone in an influential position. Otherwise, one needs to bribe an influential figure to be able to find a job. Either way is an insurmountable block for most people, since being rich and being acquainted with an influential figure are intertwined. Working in a company is beyond the reach of normal people.

The other option is for an individual to open his or her own business; however, the means for this are also unavailable to the majority of the population. Following the same logic, one should know influential people or otherwise should have enough

money to pay influential people in order to create relationships with them. Sergei told me this story:

> His girlfriend's father has a construction business here in town. He is very successful in his business, since he has very good connections with the local mafia. Knowing important people is the key to running a business here. The mafia does exist here. If you want to do business, you must know someone who will protect you. If you pay him well, he will be your friend. Then, everything goes well. When you start business, they (the mafia) will come to you and nicely ask for some protection money. You must not refuse. You must pay them. Then, everyone will be happy.

Increase of the Mafia Phenomenon

Since the mid-1980s, the mafia phenomenon has continued in the city of Bolkgrad. Slava told me that the mafia started right after "Perestroika" here in Bolkgrad. According to many interviewees, in the early 1990s, mafia and other crimes had rapidly increased and became very violent. Many swindlers, thieves, bandits, and gangsters preyed on local residents. Streets were very unsafe. Many people were victimized by various types of criminals. People lost their family members, houses, and money.

At present, the mafia has become more of an enterprise. The level of violence has decreased. The street crimes have noticeably disappeared. This does not mean, however, that the influential power of the mafia has decreased. Rather, the power of the local mafia has become stronger. It dominates local politics and the economy. People are very afraid of the mafia. They do not believe that the state can suppress the mafia anytime soon. Rather, they believe that the mafia and the state are working together or that the mafia controls the state. A local merchant said, . . .

> Mafia and government officials are the same people. Often, one occupies two different positions at the same time. One is in the government. The other is in the mafia. In a normal country, the government is stronger than the mafia. But in Russia, it is opposite. Here, the mafia is stronger than the government. Whenever a government official does something against the mafia, he will be removed. Then, a new official will replace the old one's position. Once the Russian government creates a policy, it has to go through the mafia's hands. Thus, the government policy is severely distorted in favor of the mafia. This is Russia."

In contemporary Bolkgrad, four mafia groups exist. Their names are taken after animal names. One of them is called "wild pig." They divide their territory, avoid unnecessary conflict, and cooperate. The mayor of the city was a boss of a mafia organization. A high-ranking police officer was the boss of another organization. They are friends. The director of a local university also had a connection to the local mafia. He is an important member in an organization.

The important income sources of the local mafia are prostitution, nightclubs, local bars, casinos, and shops. The local mafia also controls the central open market, which is the center of the local economy. They collect protection money from each merchant. According to local merchants, they pay the protection money every month

to the market control association that is controlled by the local mafia. No one has any question about the authority of the mafia. If you do not pay, you cannot do business.

The authority of the mafia seems to be something unchallengeable. People are extremely afraid of the mafia. They tend to think that the mafia exists beyond their reach, and they take the present situation of the mafia for granted.

Often people say, "Eta Rassia (This is Russia)!" when they explain their society's problems. This means that this is Russia, so you can do nothing, and nothing will be changed.

Conclusion

Between the state and its people, the taming relationship is formed. The state needs to tame its people in order to make them support the dominant collective consciousness and support the state ruling system. The more people are effectively tamed, the more stable the state ruling system is, and the result is less crime, especially organized crime.

Belief, physical force, economic feeding, and conventional social success are four main instruments that the state uses to tame its people. When those instruments are effectively operated, the organized crime phenomenon can be controlled. When the stability of the state legitimacy is maintained, people can enjoy their protection and become satisfied both mentally and physically.

When in crisis, criminogenic asymmetries occur and damage the stable taming mechanism resulting in the dominant belief being less supported by people. Also, the physical force weakens; the economic feeding weakens; and the conventional social success is disturbed. Furthermore, this damaged taming system creates the favorable condition for organized crime to prosper, while the power of the state diminishes.

The experience of Russian society since the mid-1980s seems to fit into this model. A chasm between the communist ideology and real life during the Soviet time became internal criminogenic asymmetry. Globalization and neoliberalism imported from the West became the external criminogenic asymmetries. Both factors were integrated and damaged the taming system in Russian society. The rapid increase of the Russian mafia phenomenon is the product of that damage.

The experience of Bolkgrad is a microcosm of the Russian experience. From the ethnographic study of the local residents, criminogenic asymmetries were found. The damaged taming system was identified. The increase of mafia power and the weakening of the state power were uncovered. The experience of this city may not differ much from other Russian cities and Russian society in general.

Limitations

Certainly, this study includes limitations. These limitations come from two sources: (1) the theoretical problem and (2) the methodological problem. The theoretical hypothesis of this study may be problematic. The writer subjectively designed and

adopted this theoretical hypothesis. It has never been tested. General empirical validity is in doubt. The causal relationship between the collapse of the taming system and the increase of mafia phenomenon should also be further clarified. There may exist a reverse causal relationship. Also, it is possible that rival causal factors may intercept the hypothesized causal relationship. After all, the theoretical ground of this study is weak, since it has not been verified.

Next, the ethnographic method that this study used is subjective. The number of interviewees may be too small. They may not accurately represent the local residents in Bolkgrad. Also, the information collected from those interviewees and individual observations may not be accurate. Rumors or false information may be included. Also, the writer's subjectivity may have influenced the analysis.

In spite of these problems of the study, it is worthwhile to conduct such research. The Russian mafia phenomenon is a relatively new phenomenon. A theoretical explanation has not been well-developed. The topic of study throws a number of obstacles for the researchers. Quantitative or scientific study is difficult to adopt for this kind of topic. Scientific knowledge has been accumulated through many attempts and failures. New phenomena require new challenges and failures. This study may be a step towards a more complete understanding of this phenomenon.

References

Albanese, J. S. (2000). The causes of organized crime. *Journal of Contemporary Criminal Justice, 16*, 409-423.

Anderson, A. (1999). The Russian mafia is not encouraging capitalism. In J. D. Torr (Ed.), *Organized crime: Contemporary issues* (pp. 138-143). San Diego, CA: Greenhaven Press, Inc.

The Bureau of Democracy, Human Rights, and Labor. (1997). *Russia country report on human rights practices for 1996*. Retrieved April 10, 2001, from http://www.state.gov/www/global/human_rights/1996_hrp_report/russia.html

Carter, D. L. (1997). International organized crime. In P. J. Ryan & G. E. Rush (Eds.), *Understanding organized crime in global perspective* (pp. 131-148). Thousand Oaks, CA: Sage Publications.

Dunn, G. (2000). Major mafia gangs in Russia. In P. Williams (Ed.), *Russian organized crime: The new threat?* (2nd ed., pp. 63- 87). Portland, OR: Frank Cass.

Durkheim, E. (1999). Anomic suicide. In S. H. Traub & C. B. Little (Eds.), *Theories of deviance* (5th ed., pp. 131-141). Itasca, Illinois: F. E. Peacock Publishers, Inc.

Finckenauer, J. O., & Voronin, Y. A. (2001). *The threat of Russian organized crime*. Report prepared for the National Institute of Justice.

Gilinskiy, Y. (2000, July 31). *Organised crime in Russia*. Paper presented at the Plenary Session of VI World Congress, Tampere, Finland.

Luttwak, E. M. (1999). Russian gangsters benefit Russia's economy. In J. D. Torr (Ed.), *Organized crime: Contemporary issues* (pp. 134-137). San Diego, CA: Greenhaven Press, Inc.

New Broom Starts Sweeping. (2001, August 15-21). *Moscow News*, *33*(3987), 3.

Passas, N. (2000, Summer). Global anomie, dysnomie, and economic crime: Hidden consequences of neoliberalism and globalization in Russia and around the world. *Social Justice, 27*, 16-44.

Rawlinson, P. (2000). Russian organized crime: A brief history. In P. Williams (Ed.), *Russian organized crime: The new threat?* (2nd ed., pp. 28-52). Portland, OR: Frank Cass.

Shelley, L. I. (2000). Post-Soviet organized crime: A new form of authoritarianism. In P. Williams (Ed.), *Russian organized crime: The new threat?* (2nd ed., pp. 122- 138). Portland, OR: Frank Cass.

Siegel, D., & Bovenkerk, F. (2000). Crime and manipulation of identity among Russian-speaking immigrants in the Netherlands. *Journal of Contemporary Criminal Justice, 16*, 424-444.

Sterling, C. (1994). *Thieves' world*. New York: Simon & Schuster.

Stoecker, S. W. (2000). The rise in human trafficking and the role of organized crime. *Demokratizatsiya: The Journal of Post-Soviet Democratization, 8*(1).

Voronin, Y. A. (2000). The emerging criminal state: Economic and political aspects of organized crime in Russia. In P. Williams (Ed.), *Russian organized crime: The new threat?* (2nd ed., pp. 53-62). Portland, OR: Frank Cass.

Williams, P. (2000). Introduction: How serious a threat is Russian organized crime? In P. Williams (Ed.), *Russian organized crime: The new threat?* (2nd ed., pp. 1- 27). Portland, OR: Frank Cass.

Waller, J. M., & Yasmann, V. J. (1997). Russia's great criminal revolution: The role of the security services. In P. J. Ryan & G. E. Rush (Eds.), *Understanding organized crime in global perspective* (pp. 187-203). Thousand Oaks, CA: Sage Publications.

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The LPAC 1997 Lawyer Suicide Study Update, April 2003

Adrian Hill; LSM, PhD, LLB, JD, ADAC, CCGA; Executive Director, Legal Profession Assistance Conference of the Canadian Bar Association; Clinical Supervisor, Ontario Bar Assistance Program

The original *LPAC 1997 Lawyer Suicide Study* was the first reported investigation of lawyer suicide in Canada. The data has been widely reported and quoted in research papers and in professional articles in Canada and the United States.

In 1997, LPAC received an urgent call for help from Nova Scotia after a series of lawyer suicides in Halifax. The Barristers' Society, the Nova Scotia Branch of the Canadian Bar Association, and the entire legal community were in distress.

LPAC initiated a comprehensive response that included an attempt to research and understand the scope of the problem. LPAC's executive director was given two years of mortality data from the Canadian Bar Insurance Association (CBIA), one of the larger group insurers in the world and one of the very largest life insurers of lawyers. The CBIA was willing to help by providing data to allow LPAC to research the extent of the issue across Canada. While the CBIA data was to be kept strictly confidential, LPAC was permitted to report its findings following a review and study of the data and an analysis of the extent of the problem in other Canadian provinces.

The LPAC 1997 Lawyer Suicide Study

LPAC studied the CBIA Basic Term Life Insurance claims (deaths) reported from December 1, 1994, to November 30, 1996, a full two-year period. These records revealed that suicide was the third leading cause of death among these insured lawyers for this period, after cancer and cardiac. Significantly, suicide accounted for 10.8% of all deaths. The suicide rate calculated out at 69.3 suicide deaths per 100,000 population.

In the general population in Canada and in the United States, the rate of suicide is in the range of 10 to 14 suicide deaths per 100,000 population. The rate of death by suicide for lawyers was nearly six times the suicide rate in the general population. LPAC'S Report appears to be the first time that lawyer suicide has been studied.

The group identified in the CBIA data as most at risk was lawyers and judges aged 48 to 65. This is consistent with other studies and with public health data. The Surgeon General's Report (2001) contains a nearly identical rate (69.2 per 100,000) for older males, aged 48 to 80.

Lawyers over 65 are excluded from the CBIA term life insurance risk pool, and we could not report any data for lawyers over 65. Lawyer Assistance Program experience over the last 25 years teaches us that the rates are at least as high for lawyers and judges over 65, and this observation is supported by the findings of Surgeon General's Report.

The LPAC Suicide Prevention Program

In response to the situation in Nova Scotia, LPAC began a nationwide suicide prevention and bereavement support and training program for lawyers and judges and for lawyer assistance programs in 1997. LPAC consulted with Dr. Brian Tanney and Dr. Roger Tierney of the Canadian Association for Suicide Prevention (CASP) and with Dr. Lanny Berman and Dr. Morton Silverman of the American Association of Suicidology (AAS) for ideas and direction. We accessed information, data, and materials from the Suicide Information and Education Centre in Calgary, the leading suicide library facility in the world. We enlisted the support and expertise of Dr. Heather Fiske, a clinical psychologist with expertise in hospital and community-based suicide prevention programs and strategies whose innovations have enjoyed strong peer support and approval within both CASP and AAS.

LPAC presented a half-day suicide prevention program at the 1997 National Workshop for the American Bar Association Commission on Lawyer Assistance Programs (CoLAP) in Washington, DC featuring Dr. Fiske and Dr. Berman, Executive Director of AAS. This was the first time that suicide prevention was addressed at any CoLAP Workshop or other conference for lawyers.

LPAC presented a second suicide prevention program the following year at the joint LPAC/CoLAP 1998 International Workshop in Montreal. This program, featuring Dr. Tanney and Dr. Fiske, focused on suicide bereavement support training.

LPAC and Dr. Fiske created the Suicide Prevention Education Manual with teacher and student materials for LPAC's Health, Wellness, & Recovery Education Series in 1999. Awareness of suicide risk in the legal profession has been greatly improved. Suicide prevention is now an accepted part of the mandates of assistance programs for law students, lawyers, and judges. The cluster of lawyer suicides experienced in 1997 has not occurred again in Canada.

In every year since 1999, LPAC has provided suicide prevention programs for the Canadian Bar Association and for many provincial and state lawyer assistance programs and bar associations in Canada and the United States. In 2001, LPAC presented its course materials at a major medical conference to addiction physicians.

In 2002, LPAC's website was expanded to include all of the 25 courses in the Health, Wellness, & Recovery Education Series. Our courses can now be read, downloaded, and printed without charge by anyone in the world. LPAC's suicide prevention course has been translated into four languages for use by bar associations in Canada, the United States, Europe, New Zealand, and Australia.

Adrian Hill, LSM, PhD, LLB, JD, ADAC, CCGA, is executive director of the Legal Profession Assistance Conference of the Canadian Bar Association and clinical supervisor of the Ontario Bar Assistance Program. He practiced law for 30 years as senior counsel and managing partner of a Toronto law firm, receiving the Law Society Medal, the highest honor for Ontario lawyers, and the Queen's Jubilee Gold Medal for outstanding and exemplary service to Canada. Dr. Hill is a professor of addiction medicine in Denmark, a Certificated Alcohol and Drug Counsellor in Canada, a former California Certified

Gambling Counsellor. He earned a post-graduate Doctor of Jurisprudence in Legal Ethics in Chicago. Dr. Hill is a director of the Canadian Association for Suicide Prevention and of FASWorldCanada. He is an advisor to the Ontario Suicide Prevention Network and a member of the American Association of Suicidology. He teaches and lectures as an invited speaker and faculty member on professional assistance and on health, wellness, and recovery.

Dr. Hill received the American Bar Association Service Award for his work with its Commission on Lawyer Assistance Programs and was appointed to the Federal Court Task Force on Judicial Competence by the President of the United States. Adrian has been a paramedic, a dance critic for a national newspaper, and a trainer of Greenland sled dogs. Dr. Hill is the author of numerous manuals, texts, and practice guides for professional assistance programs.

Forensic Hypnosis: A Viable Law Enforcement Tool

Paul B. Kincade; MA, SWA, DAPA, CMH; Forensic Hypnotist; Reserve Detective, Washoe County Sheriff's Office, Reno, Nevada

In the late 1970s, three young men intercepted a school bus containing a driver and 26 children in rural Chowchilla, California. They forced their hostages into a buried truck trailer, covered it with dirt and rocks, and went off to seek ransom. After 16 hours of terrifying entrapment in their hot, dark prison, the driver and some older boys managed to free the group and seek help. Due to the trauma, none were able to assist in the investigation until the bus driver was hypnotized and recalled all but one digit of the kidnappers' license plate. That led to apprehension and conviction. Had that crime occurred after 1982, the three criminals might still be at large today. Because of the heinous nature of their crime, the trio has been consistently denied parole.

What happened in 1982 to make such a difference? The California Supreme Court handed down a ruling in *People v. Shirley*, an alleged rape case, in which they said that anyone who has been hypnotized in a criminal investigation cannot subsequently testify henceforth. In a later review of their decision, the justices exempted defendants from the prohibition, as it denied them due process, thus creating a discriminatory double standard, rather than totally reversing the ruling. The court based their original decision on two suppositions: (1) that hypnosis violated the ancient *Frye* standard and (2) that hypnosis rendered a person impervious to cross-examination.

Since 1982, for some strange, unknown reason, is a bellwether for other states; it wasn't long before other states followed suit, disenfranchising honest citizens of the right to equal justice under the law, a cornerstone of democracy. Prior to that ruling, hypnosis had proved extremely useful in solving crimes. Solutions to many cases such as the Son of Sam killings, Ted Bundy's serial slayings, the aforementioned Chowchilla school bus kidnapping, and the Metropolitan Opera House murder, were aided by hypnosis, but this useful tool fell victim to an extremely liberal supreme court.

The state legislature later enacted a law that permitted posthypnotic testimony but only regarding that which was recalled and reported *prior* to the hypnosis. That did no good, since hypnosis is a tool of last resort and isn't used unless the victim or witness is unable to provide any useful information. When a person is the victim of a traumatic experience, the conscious mind will invoke an involuntary amnesia as a protective device. While not available at a conscious level, the repressed information is lurking in the subconscious and can be retrieved via hypnosis. It should be noted that any such information may be factual, or it may only be perceptual. It is the job of the forensic hypnotist to seek to obtain new information, and it is the responsibility of the investigator to obtain hard evidence to either corroborate or refute it.

Two rulings by the United States Supreme Court put a new face on the issue. In 1987, in *Rock v. Arkansas*, the Court stated standard cross-examination techniques are effective, even in the face of a confident (hypnotized) witness and reversed the

conviction. Of course, the appellant, Vickie Lorene Rock, was a defendant and had been hypnotized to recall what happened when she shot and killed her husband. The Arkansas court convicted her on the grounds that her posthypnotic testimony was inadmissible, citing *Shirley* as the precedent and ignoring the fact the modified California law exempted defendants. When Mrs. Rock appealed to the Arkansas Supreme Court, the court reiterated *Shirley*, and the conviction was upheld. The U.S. Supreme Court said Arkansas should develop guidelines for the conduct of the hypnosis, which they have yet to do. The high court also said they were uttering no opinion with respect to other witnesses, since only the status of a hypnotized defendant was at issue. They said they were leaving the door open on that issue for another time, which is yet to come. That same year, however, the Colorado Supreme Court, in *People v. Romero* extended *Rock* to other witnesses, and in 1989, the state of Texas followed suit in *State v. Zani*.

The second U.S. high court ruling that, in effect, reverses *Shirley* emerged from *Daubert v. Merrell Dow Pharmaceuticals, Inc.* in 1993. That ruling stated the Federal Rules of Evidence had superceded the infamous *Frye* ruling, saying, in part, that all evidence is relevant and it is the responsibility of the trier of fact to determine its credibility. Unfortunately, that ruling is the law of the land in federal courts, but it is up to individual states to decide whether they want to retain *Frye* or adopt *Daubert*. To date, only one state has faced that decision. Oddly enough, that state is California, the one that created the whole problem. In 1995, the state court heard oral arguments in *People v. Michael Patrick Leahy*, who had been convicted of DUI. Leahy had passed all the standard field sobriety tests, except for the horizontal nystagmus gaze test, which indicated his intoxicated state. That test had been used for many years without challenge, until Leahy's attorney did so. He won a reversal, and the district attorney appealed to the state supreme court. There, the justices heard oral arguments as to whether the new standard should be adopted or the old one kept. To the dismay of the law enforcement community, that court voted 6-1 to retain the septuagenarian *Frye*!

In 1997, a bill was introduced in Nevada, one of 11 states that had neither case law nor legislation related to hypnosis-refreshed testimony. Following testimony for and against the bill, the State Senate voted 20-1 to pass, and the Assembly followed suit with a 40-1 vote. The bill became law on October 1, 1997, as Nevada Revised Statute 48.039, and six months later, hypnosis was used to solve a rape case, which resulted in conviction. Subsequently, several other cases have been solved or assisted with hypnosis, including a double homicide that resulted in the death sentence and a three-year-old double homicide for which the shooter received four consecutive life sentences, without parole. The Nevada Supreme Court denied the latter's appeal.

Presently, there is legislation pending in California and Hawaii to permit post-hypnotic testimony. It is interesting to note that, while this is not a political issue, for the most part, the Democratic legislators oppose it, while the Republicans strongly support it. Knowing the ACLU would undoubtedly speak in opposition, as was the case when a bill heard in 1987 to amend the California Evidence Code, the author of the Hawaii bill invited the local ACLU chapter to support his bill. The response was in the negative, stating the bill "eroded the rights of the criminal defendant." This astounded the author, who asked, "What about the rights of the victims?" He was confused by the terminology used and asked whether the respondent

considered the defendants criminals, which was implied. Of course, no answer was forthcoming.

One interesting facet of the situation is that both the California and United States Supreme Courts recognized the value of hypnosis as a means of obtaining new information. The state court specifically said they weren't completely ruling out the use of hypnosis, so long as it was understood anyone hypnotized cannot subsequently sit in the witness box. That is fine, where there are multiple victims/witnesses, as one or more may be used as "throwaway" witnesses, in hopes they may come up with some new, vital information that will lead to an arrest. Then, the others can identify the suspect. This has been done in a number of cases in California, but there still remains a reluctance on the part of prosecutors to authorize the use of hypnosis. And, what about the case of rape, in which the victim is also the sole witness? If she cannot recall information to help solve the case, it won't be solved. But, if she's hypnotized and provides important evidence, she can't testify. It's a lose-lose situation for the public.

With an education program and a cadre of well-trained forensic hypnotists, this viable law enforcement tool can make a comeback. The honest citizens of the country deserve the same right granted suspects. They deserve no less.

Paul B. Kincade is a retired naval officer who has been associated with law enforcement for 23 years. He is an internationally recognized forensic hypnotist and author of the Nevada bill that permits posthypnotic testimony. He was assistant to the police chief in Chula Vista, California, and a reserve police officer with the San Diego, California, police department for 12 years. For the past ten years, he has been a reserve detective with the Washoe County Sheriff's Office in Reno, Nevada. He has provided his services, free of charge, to many agencies, including the FBI, U.S. Marshal's Office, U.S. Customs Service, U.S. Postal Inspectors Service, and the Mexican State Judicial Police. Kincade was inducted into the International Hypnosis Hall of Fame for his work and nominated for state and national crime victim assistance awards. He served 13 years as president of the International Society for Investigative and Forensic Hypnosis. He teaches a course in forensic hypnosis.

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Illinois Legislative Updates, 1995, 1996, 1997, Kevin Burke, author, Illinois Law Enforcement Training and Standards Board Executive Institute. (Videotapes produced as well as an annual satellite interactive television program through Educational Broadcasting at Western Illinois University.)

Zero Tolerance, 1994 Illinois Secretary of State Police. (Videotape produced as well as a satellite interactive television program through Educational Broadcasting at Western Illinois University.)

Sexual Assault Investigation Series (three tapes) in cooperation with the Illinois Coalition Against Domestic Violence through a grant from the Illinois Criminal Justice Information Authority, 1996.

1. *Preliminary and In-Depth Interview of the Victim of Adult Sexual Assault*
2. *Evidence Collection*
3. *Suspect Interview*

Domestic Violence Investigations Series (three tapes) in cooperation with the Illinois Coalition Against Domestic Violence and the Illinois Attorney General through a grant from the Illinois Criminal Justice Information Authority, 1997.

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