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## Editorial

In 1979, the national law enforcement community undertook a milestone initiative and created the Commission on Accreditation for Law Enforcement Agencies (CALEA) through the combined efforts of four major law enforcement organizations: the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, and the Police Executive Research Forum. The conceptual approach targeted the development of a set of law enforcement standards and the establishment of an accreditation process through which law enforcement agencies could demonstrate voluntarily that they meet professionally recognized criteria for excellence in management and service delivery.

Accreditation can present many opportunities to law enforcement agencies because it strengthens an agency's defense against lawsuits and complaints, increases the agency's ability to prevent and control crime through more effective and efficient delivery of services, assures community leaders of the quality of service delivered, improves citizen confidence in the policies and practices of the agency, and provides external review of the agency's policies and standards.

This issue describes the impact of accreditation on specific law enforcement practices and reviews the history and operations of accrediting organizations in an effort to draw lessons from these agencies. It also examines the need for change in the way law enforcement agencies' performance is assessed, why accreditation should be considered, and how to use accreditation effectively. In addition, this issue points out that there are a number of unanswered questions that must be carefully addressed in a study of applicability of accreditation to law enforcement. As any application of a set of standards, it brings constructive criticism and the request for further research.

It is our hope that this collection of articles will provide you with a better understanding of accreditation and its implications.

*Vladimir A. Sergevin, PhD*  
*Editor*  
*Law Enforcement Executive Forum*



# Measuring the Performance of Law Enforcement Agencies

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Part 1 of a two-part article appearing in the *CALEA Update*

## Introduction

This is the first segment of a two-part article on measuring the performance of law enforcement agencies. It is written for a policing audience and draws in part on my discussions with members of CALEA's Performance Measurement Subcommittee and those who have attended my training workshops at the last two CALEA Conferences. In this first segment, I introduce the general concepts, terminology, and history of comparative performance measurement in policing. The second segment will show you how to develop, pilot-test, and implement comparative performance measurement in your agency. This article is one small part of a larger effort by CALEA to explore the feasibility and utility of agency-level performance measurement in policing. That journey is just beginning, and will proceed slowly, but it is expected to be a worthwhile one.

From corporate boardrooms to elementary school classrooms, performance measurement is everywhere. Our children are required to take standardized tests designed to ensure that school performance is up to snuff.<sup>1</sup> When a patient dies, physicians must now wonder whether the event will inflate the hospital's "risk adjusted mortality rates"<sup>2</sup> beyond established performance benchmarks. Even the Internal Revenue Service has not escaped the movement toward performance measurement.<sup>3</sup> With performance measurement appearing in such a diverse array of organizational settings, it is not surprising that it is now becoming a hot topic in policing.

Performance measurement is at the heart of nearly every innovative management fad or organizational development strategy in the past two decades. It is an essential component of zero-based budgeting and management by objectives,<sup>4</sup> reinventing government,<sup>5</sup> re-engineering the corporation,<sup>6</sup> total quality management,<sup>7</sup> benchmarking,<sup>8</sup> balanced scorecards,<sup>9</sup> and organizational learning.<sup>10</sup> Despite its popularity, *performance measurement* is an inherently ambiguous term. It is used in various ways to refer to the performance of individuals, products and services, subunits, projects, and organizations. Yet the methods and data used to measure performance at these different levels can vary significantly. This report discusses some options for measuring the performance of police organizations. Moreover, it focuses on *comparative* performance measures: those that can be used to compare units over space or time. Comparative performance measures can be used to compare the performance of two or more organizations, or they can be used to compare a single organization's performance at multiple points in time.

This article provides a brief review of comparative performance measurement in policing. It is written with practical application in mind, alerting readers to



the many issues that arise in performance measurement, and suggesting some concrete steps that CALEA and its members can follow if they choose to implement a performance measurement system. The next section provides a brief history of police performance measurement followed by a description of what I have called a “Golden Thread,” a theme that is woven throughout a story, linking together its disparate parts. In this case, that theme is very simple, yet very powerful: police performance is multidimensional. This idea, as simplistic as it might seem, is the foundation of effective performance measurement. The last section reviews some of the dimensions of police performance that have been examined in the past, offering some practical suggestions for those who are thinking about generating their own lists. The next segment of this article will feature a number of additional sections that explore how to implement performance measurement, both nationally, and within your agency.

## **A Brief History of Police Performance Measurement**

In this section, I provide a brief overview of comparative performance measurement in policing. The review is brief in spite of a large and growing body of academic and professional literature on the topic. I begin by discussing the role of performance measurement in the early part of the 20th century, with particular focus on the 1930s. I then skip ahead to the 1960s, 1970s, and beyond, assessing the level of progress that has been made in the development and implementation of comparative performance measurement. I finish by briefly discussing the influence of the community policing movement on police performance measurement.

Police organizations have been collecting data about their performance since the birth of modern policing in the mid-19th century.<sup>11</sup> Most of these efforts were primarily local and intended to demonstrate the inputs, activities, and outputs of individual police agencies. The idea of comparative performance measurement began to take root in the early 20th century, shortly after the birth of the International Association of Chiefs of Police (IACP) in 1894. In 1927, the IACP created a Committee on Uniform Crime Records to develop a standardized system for collecting crime data from police agencies throughout the nation. The Committee created the architecture for the Uniform Crime Reports (UCR), and in 1930, Congress authorized the Attorney General to begin collecting UCR data, a task he assigned to the Federal Bureau of Investigation. During its first year, the UCR program collected data from 400 police agencies in 43 states. By 1998, it was routinely collecting data from more than 17,000 police departments in all 50 states.<sup>12</sup> The UCR has now become the primary foundation for comparative performance measurement of police agencies in the United States.

The 1930s saw several significant milestones in the history of police performance measurement. In 1930, Donald Stone, Director of Research for the International City Managers’ Association, proposed two measures of police effectiveness: “the number of cases cleared and the value of stolen property recovered.”<sup>13</sup> Both proposed measures were later criticized; though, in practice they continue to be used by both police and academics. In 1935, Arthur Bellman, a protégé of August Vollmer, created an extensive instrument designed to measure the quality of police service.<sup>14</sup> Containing 685 specific items, the instrument was designed to be completed by expert police analysts asked to render a professional judgment on each item. With its vast array of standards, Bellman’s scale looked curiously like an accreditation

checklist. Bellman's approach to police performance measurement was criticized on three primary grounds. First, it was based on "conformity to current notions of good administrative practice" and, therefore, was poorly equipped to accommodate innovations and improvements in policing.<sup>15</sup> Second, echoing a theme to which we will return at the end of this article when we discuss "weighting," Bellman's rating system treated each of the indicators equally. According to critics, the additive nature of Bellman's system "resulted in mixing significant and petty issues indiscriminately."<sup>16</sup> Finally, Bellman's approach focused exclusively on internal measures relating to policies, practices, and equipment. It completely neglected the processes, outputs, and outcomes of police agencies.<sup>17</sup>

In 1938, responding to problems with Bellman's system, Spencer Parrat proposed an alternative performance measurement system involving the use of citizen surveys to measure public confidence in the police. Parrat's recommendation has been adopted in many jurisdictions throughout the nation; however, there is little research to demonstrate how much time elapsed before the idea took root. Citizen surveys were a crucial component of the research done by the President's Commission on Law Enforcement and the Administration of Justice in the late 1960s in response to the disorder and civil unrest of that rebellious period.<sup>18</sup> The 1970s saw the blossoming of citizen surveys as a standard research tool for police researchers. By the late 1990s, nearly one-third of police agencies reported having conducted citizen surveys within the past year.<sup>19</sup> Nonetheless, the proliferation of citizen surveys has done little to move the policing field closer to the use of comparative performance measures since such surveys are usually designed and administered locally. The Bureau of Justice Statistics and the Community Oriented Policing Services Office recently completed a study of victimization experiences and satisfaction with the police among citizens in 12 cities. The results demonstrated important intercity variation in citizen experiences and perspectives—valuable information for police managers in these cities.<sup>20</sup>

Starting in 1939, the International City Managers' Association (now called the International City/County Management Association or ICMA) began collecting data from police organizations as part of its Municipal Yearbook series.<sup>21</sup> The Municipal Yearbooks include data on a variety of city government features, with police data only one small part of a much larger data collection effort that inquires about form of government, salaries of local officials, personnel practices, technology, economic development, and other related topics.<sup>22</sup> It is unknown to what extent this data collection series was used as a platform for comparing the performance of police organizations in the 1930s. Anecdotal evidence suggests that it continues to be used today in spite of two limitations: (1) it is one of the only databases on police performance that must be purchased; nearly all others are available for free in various archives and (2) a recent review of surveys of police organizations found that response rates in the ICMA surveys were among the lowest of all the surveys examined in the review.<sup>23</sup> Low response rates led social scientists to wonder whether a sample is biased—whether those agencies represented in the ICMA databases are representative of all police agencies, especially those that refused or otherwise failed to complete the ICMA surveys.

In summary, the 1930s saw a mix of ambitious activities and proposals for measuring the performance of police agencies. A national system, the Uniform Crime Reports, was developed to collect "official" statistics on crime and arrests.

This was followed almost immediately by proposals about how the data ought to be used for comparative performance measures. The ICMA instituted its Municipal Yearbook series containing data that continues to be collected today. Bellman created an exhaustive list of performance standards containing mostly internal features and inputs. Parrat criticized Bellman's approach, recommending instead subjective indicators of public confidence and satisfaction derived from surveys of citizens. As I will show throughout this article, although many people now recognize the need for alternative performance measures, many of the issues that warranted discussion and debate in the 1930s are still with us today.

Throughout the next three decades, "traditional" measures of police agency performance became entrenched within the policing profession with little debate or fanfare. Crime rates, arrests and citations, clearances, and response times all played a key role in measuring police performance at multiple levels, from the individual police officer to the organization as a whole. According to Geoff Alpert and Mark Moore, these "generally accepted accounting practices became enshrined as the key measures to evaluate police performance."<sup>24</sup>

During the 1960s, several themes converged to cast light upon these traditional performance measures. Passionate discontent about the military action in Vietnam, the civil rights movement, and other social forces led a generation of youth to rebel against the conventions of mainstream society.<sup>25</sup> Since police are the gatekeepers of mainstream society, much of the civil unrest of this period brought the police face-to-face with citizens expressing various forms of protest, from peaceful civil disobedience to violent rebellion and rioting.<sup>26</sup> Police use of force and mistreatment of minority citizens became a prominent theme during the 1960s. Research conducted during that period showed that many police officers held racist attitudes toward minorities.<sup>27</sup> Several of the riots that engulfed American cities occurred in the aftermath of police actions such as shootings, traffic stops, or raids occurring in minority neighborhoods.<sup>28</sup> The National Advisory Commission on Civil Disorders (1968) found that "deep hostility between police and ghetto communities" was a primary determinant of the urban riots that it studied. The U.S. Supreme Court, under Chief Justice Earl Warren, began to scrutinize closely the activities of the police. In several "landmark" cases, the Court restricted the powers of the police to conduct searches, obtain confessions, or prevent detainees from consulting with an attorney. While civil libertarians praised this "due process revolution," others complained loudly that these new rules interfered with the ability of the police to fight crime.<sup>29</sup> All of these factors combined to produce an epidemic crisis of legitimacy for the American police. From 1968 to 1971, three national commissions recommended sweeping reforms intended to improve the relationships between police and communities, reduce the levels of racism, limit the use of force, and encourage lawful behavior by the police. All of these themes pointed rather forcefully to the need for alternative measures of police performance.

With these themes in mind, many critics pointed out that police departments that excel at controlling crime; generating arrests, citations, and clearances; and responding quickly to calls-for-service might still perform poorly in many other ways. They might have low morale, poor relationships with communities, problems with corruption or brutality, or an undeveloped capacity to deal with large-scale civil disturbances. Furthermore, numerous observers began to note that a substantial proportion of police work is unrelated to crime:

No longer can we group police noncriminally related public services into a “miscellaneous” category which composes 70% of recorded police activities, but must refine our measurement of this group of activities and develop performance measurements and criteria relating to the adequacy and quantity of these services . . .<sup>30</sup>

Therefore, a comprehensive suite of performance measures needs to account for a broader spectrum of the work that police do, not just that part of their work related to issuing citations and arresting offenders. If police are supposed to prevent crime and motor vehicle accidents, solve community problems, reduce disorder, and build lasting community relationships, then performance measures should reflect their success in producing these and other valuable outcomes.<sup>31</sup>

Research in the 1960s and 1970s revealed not only that police performance measures needed to be broader and more inclusive; it also pointed out severe flaws in existing traditional measures. Below I highlight some of the criticisms that have been leveled at four traditional measures of police performance: (1) crime rates, (2) arrests and citations, (3) clearances, and (4) response time.

### **Crime Rates**

Most policing scholars argue that there is no single “bottom line” in policing.<sup>32</sup> Like other public agencies, police departments have multiple, perhaps even competing goals; therefore, to focus exclusively on one goal at the expense of the others is to invite poor performance on alternative goals. William Bratton, Chief of the Los Angeles Police Department and former Commissioner of the New York City Police Department, disagrees vehemently with this notion. Under his administration of the NYPD, “crime statistics [became] the Department’s bottom line, the best indicator of how police are doing, precinct by precinct and citywide.”<sup>33</sup> Elsewhere, he wrote that “crime reduction is to a police department what profit is to a private company—the bottom line.”<sup>34</sup> Critics were quick to illuminate the dangers inherent in this perspective. For instance, as Mark Moore, Professor at Harvard’s Kennedy School of Government, points out, “We have learned through the efforts of pioneering police chiefs that there are ways of operating police departments that reduce crime and enhance security without harming civil liberties or community satisfaction.”<sup>35</sup> Criminologist George Kelling has argued that “measuring police performance solely by crime statistics simply ignores consequential values . . . [such as] justice, integrity, fear reduction, citizen satisfaction, protection and help for those who cannot protect or help themselves, and many others.”<sup>36</sup>

Regardless of one’s perspective on the relative importance of crime rates as measures of police success, there are two primary problems with using “unadjusted” crime rates as performance measures for police.<sup>37</sup> First, police are not the only factor that influences crime rates. Crime is the product of a complex array of social, economic, and political forces. Research demonstrates clearly that police departments can have a substantial impact on some types of crime.<sup>38</sup> Some crimes, like open-air drug markets, are more visible, preventable, and suppressible than others. Other crimes may be more difficult for police to reduce. Sometimes crime is reduced through the efforts of police, while in other instances, it is reduced through factors having nothing to do with the police. Similarly, when a variety of social factors coalesce to increase crime, it is inappropriate to blame the police for factors beyond their

control. Police can have an effect on crime, but so can many other factors. Before using crime rates as measures of police performance, it is necessary to “adjust” them statistically to account for these other factors. Later in this report, I will describe some methods for performing these adjustments.

Second, reported crime rates often have as much to do with how local police departments process the information they receive as they do with the “true” level of crime. Crime rates derived from police data have been referred to as “organizational outcomes.” In other words, they are as much a product of the police department that produced them as they are of the community or situation in which the alleged offenses took place.<sup>39</sup> Police departments can influence crime rates in any number of ways: departmental policies or structures that inhibit or encourage reporting, the behavior of a call-taker or police officer toward an alleged victim, or outright manipulation of crime statistics.<sup>40</sup>

Finally, not all crime is reported to the police; therefore, it makes sense to supplement “official” crime data with victimization surveys that indicate the extent of unreported crime. Through such surveys, police agencies might be able to identify high-risk populations that do not routinely ask for police assistance when needed. For instance, when immigrants fear deportation, domestic abuse victims fear retaliation from their attackers, or teens fear that reporting a crime will hurt their reputation among their peers, unknown pockets of crime will exist. Knowing they exist will enable police to design potentially effective responses. Some research has combined “official” crime data with victimization data to compute composite performance measures.<sup>41</sup>

## **Arrests and Citations**

Arrest represents one of the most visible measures of police output. Furthermore, it is one of the few output measures collected from most police agencies in the country. The Federal Bureau of Investigation has been collecting arrest data from American police departments since 1930 as part of its Uniform Crime Reports program.<sup>42</sup> Data is available for 29 general offense categories. Although this measure might appear on its face to be clear, research has shown that the legal definition of arrest varies widely across agencies.<sup>43</sup> One study concluded that “differing arrest definitions make productivity comparisons between agencies impossible.”<sup>44</sup> Research findings suggested that state Uniform Crime Reporting agencies failed to ensure quality control of arrest data and that, in some cases, they failed to understand the rules themselves. The study concluded that “the regulation of arrest statistics is inadequate and that UCR arrest statistics cannot be used to evaluate police performance.”<sup>45</sup>

In addition to these measurement problems, arrests are also conceptually ambiguous. As George Kelling has suggested, arrests are not effective measures of police performance because sometimes they represent a failure by police to adopt other, more useful solutions.<sup>46</sup> Herman Goldstein, the architect of problem-oriented policing, views arrests as just one tool in the police officer’s toolkit.<sup>47</sup> It is often the right tool to use, but sometimes other solutions may be more effective. Simply counting arrests, therefore, produces a figure of unknown value.

Unlike arrests, there is no national data on citations issued by police agencies. Police departments traditionally maintain their own records on citations and have historically paid close attention to citation productivity. Citations are one of the

basic outputs of police agencies, used much more frequently than arrests. Of the estimated 19.3 million drivers who were pulled over by police at least one time in 1999, about 54% received a traffic citation, about 26% received a warning, and only about 3% were arrested.<sup>48</sup> Research has shown that there is substantial interagency variation in traffic citations for moving violations.<sup>49</sup> Traffic tickets are not the only kind of citation used by police agencies. Many jurisdictions now rely on citations in lieu of arrest for certain misdemeanors. For instance, many states authorize the use of citations for possession of small amounts of marijuana.<sup>50</sup> The use of field citations played a role in the well-publicized changes instituted in the New York City Police Department in the 1990s. William Bratton, former Commissioner of the New York City Police Department, derided the use of “Desk Appearance Tickets” (DATs), a form of field citation used in lieu of arrest, in which people accused of minor offenses were given a court date and released. Bratton directed his agency to curtail its use of DATs in favor of making more arrests: “No more DATs. If you peed in the street, you were going to jail.”<sup>51</sup> Implicit in Bratton’s statement is a judgment that citations are a less effective pretrial strategy than arrest. Little is known about whether this assumption is valid. We do know, however, that the number of arrests under Bratton’s tenure rose dramatically, suggesting that he was able to mobilize his officers to reduce their use of citations in favor of arrests. Citation data may be useful for individual police organizations to keep track of how officers are spending their time or, as in the example with regard to former Commissioner Bratton, to ensure that the organization is producing outputs in the manner prescribed by the chief executive. This data is not available nationally; therefore, it cannot be used to compare police departments nationally.

Furthermore, arrests and citations are “output” measures. They demonstrate the extent to which organizations engage in certain activities, but they say nothing about whether these activities were effective in producing something of value for communities. In other words, they are not “outcomes.” When police departments cite the number of arrests they make or citations they issue, it is the equivalent of a carpenter boasting about how many board feet of lumber he cut or how many nails he sank. Certainly these are some of the activities we expect of our police officers and our carpenters. These measures clearly show that the police officer and the carpenter were busy, but they do not demonstrate that the community is safer or happier or that the home has been well built. This is not to say that arrest and citation data should not play any role in performance measurement. Rather, it is a challenge to police executives to think creatively about what these measures represent and how they might contribute to a more comprehensive performance measurement scheme.

## **Clearances**

Like the arrest rate, the clearance rate, which is the proportion of reported crimes solved by the police, is another measure of police output that is collected widely and frequently by police agencies around the nation.<sup>52</sup> Despite numerous conceptual and technical problems with clearance rates, they are “the most common measure of investigative effectiveness” used by police.<sup>53</sup> Some critics have argued that clearance rates are beset with measurement problems.<sup>54</sup> For example, in his classic 1966 book, *Justice Without Trial*, Jerome Skolnick demonstrated how clearance rates are sometimes manipulated by detectives who deem certain offenses as “unfounded” due to suspicious circumstances. According to one supervisor Skolnick interviewed,

“. . . we’re an honest department. All these other departments that have fancy clearance rates—we know damned well they’re stacking the cards. It’s easy to show a low crime rate when you have a category like suspicious circumstances to use as a waste basket . . . .” Another study described how detectives manipulated clearance rates to inflate their performance measures. If they arrested a suspect, sometimes they would use the arrest to clear other similar offenses, even when the evidence that the cases were related was slim. Furthermore, the detectives demonstrated a profound disinterest in whether the “cleared” cases resulted in court convictions; they viewed their job as generating the clearance regardless of the consequences.<sup>55</sup>

Similarly, Gary Cordner has argued that both the numerator (cases cleared) and denominator (total reported offenses) used in computing the clearance rate are “susceptible to manipulation and measurement error.”<sup>56</sup> A 1985 report on the future of the Uniform Crime Reporting program listed a number of problems with clearance rates that reduce their utility for measuring police performance.<sup>57</sup> Despite these problems with the measurement of clearance rates, they are reported routinely by police departments, and they are used routinely by researchers.<sup>58</sup> Nationally, clearance rates for homicide have been falling almost linearly over the past 4 decades, dropping from 92% in 1960 to 66% in 1997.<sup>59</sup> If clearance rates do represent investigative effectiveness, then this trend illustrates a substantial decline.

Clearance rates can be useful measures. As with arrest and citation measures, important concerns have been raised about the quality of the data, particularly when used to compare different agencies. In a later section, I will discuss some methods for ensuring quality in clearance rate data.

## **Response Times**

The standard response to calls for service in most police departments has historically been to dispatch a sworn police officer, who responds quickly. Yet, research and experience have shown that not everybody who calls the police requires, or even necessarily expects, a rapid response. Police agencies facing resource shortages have often been able to streamline their existing resources and improve both efficiency and effectiveness by implementing some form of alternative response strategy. Collectively, these alternative responses have come to be known as “differential police response” (DPR) strategies. The development and diffusion of DPR strategies in American police agencies was informed by several influential research findings. Several studies showed that rapid response to reports of serious crimes led to an arrest less than 5% of the time.<sup>60</sup> For offenses in which there are no witnesses and no evidence, citizens are often willing to file a police report over the telephone.<sup>61</sup> A series of studies also showed that the single most important factor in citizen satisfaction with police response was whether the response time matched citizen expectations, even if the response time was lengthy. In other words, providing citizens with an accurate estimate of the response time is often more important than providing a rapid response.<sup>62</sup>

What challenges do response rates raise as comparative performance measures? First, community standards vary widely. Some communities demand a different police response than others. Second, communities differ in geography, topography, traffic patterns, and other features that make it difficult to compare response rates. As we will show later, it may be possible to adjust for these factors, but the scientific

foundation for generating accurate adjustment procedures is still incomplete. Third, rapid response can sometimes be a less efficient, less effective response strategy than alternative approaches. Rapid response to nuisance calls is sometimes wasteful and may detract from more important police priorities. It is possible to compute a comparative performance measure that is based on response times, but it would require careful thought. It would mean developing a uniform definition of calls requiring a rapid response and measuring the response times for only those calls. Furthermore, even these measures would require statistical adjustments (which I describe later in this report) to render them meaningful across communities of different sizes and types. Response time is important, but using it as a comparative performance measure invites several challenges. One more feasible alternative to using actual response times is to use customer satisfaction with response times as a performance measure.<sup>63</sup>

### **Toward a New Conception of Police Performance**

With the evolution of community policing, police reformers have recommended an entirely new way of viewing police performance measurement.<sup>64</sup> The community policing reform literature suggests important changes in the way we measure police performance. Police departments and communities are urged to engage in the philosophical and conceptual work of identifying the goals that they expect the police to produce. This exercise will help the police in any community clarify their mission and expand beyond the traditional performance measures reviewed. Certainly maintaining safe communities with a good quality of life will play a role in any thoughtful analysis of the goals of policing. As I demonstrate in the next section, however, there are many more goals worth pursuing. In addition, these goals need to provide an accurate reflection of the work that police actually do. If police spend a large amount of time on traffic safety functions or maintaining community order, for instance, then those functions should play some role in the list of the goals of policing. Evaluating police departments only on their prowess in apprehending offenders ignores the vital importance of all the other work that they do. Furthermore, it relieves them of accountability for performing equally well in all of their other work. In the next section, I explore the multidimensional nature of police performance in much more detail and provide some ideas about how to specify the appropriate dimensions.

Finally, the community policing reform literature suggests that police agencies need to adopt outside-the-box thinking when generating performance measures. Police are accustomed to thinking about performance measures that exist already within the many data sets available to them. Yet, many alternatives exist. Once those interested in developing performance measures have established a list of general goals, they must then initiate the work of turning these into performance measures. Implicit in any goal is a series of more specific outcomes that reflect the general goal and can be translated into specific performance measures. For instance, suppose one of the goals is "citizen satisfaction with police." A number of more specific performance measurements might issue from this single goal. For instance, police agencies might determine the proportions of victims, witnesses, and drivers who are satisfied with the police. Perhaps citizen complaints could be used as a proxy for citizen satisfaction (though this measure is often problematic).<sup>65</sup> Perhaps different kinds of satisfaction might be parsed out (e.g., satisfaction with the call-taker, the response time, and the effort provided by the patrol officer or detective on the scene).



These specific measures should extend beyond the traditional measures outlined earlier. Furthermore, the methods used to collect them should vary widely; general surveys of residents, “contact” surveys with those who have had recent contact with the police, employee surveys, direct observation of community conditions or police-citizen encounters, administrative data collected by the police department, or data collected by other agencies are all permissible and can be mixed in a variety of ways. The goal is to assemble information from a wide variety of data sources that can be used to generate knowledge useful for organizational learning.

## **The Multi-Dimensional Nature of Police Performance: A Golden Thread**

Police agencies provide a variety of public services to their communities. The nature of these services varies widely, from educating citizens about crime prevention and responding to automobile accidents, to investigating crimes and apprehending offenders. It is this variety in the day-to-day tasks that police perform that makes measuring their performance so difficult. Some agencies might do a terrific job at maintaining positive and interactive relationships with their communities but fail to be adequately prepared for critical incidents. Others may take advantage of the newest investigative and information-processing technologies while still relying on outmoded or inefficient patrol deployment strategies. In other words, police agency performance is multidimensional. Those police agencies that concentrate only on one or a handful of performance dimensions to the exclusion of others do so at their peril.

The idea that police agencies might be very successful in some ways but less successful in others is not unique to the police. It is an axiom among public organizations that performance is multidimensional. Fire departments need to excel at responding quickly to emergency situations, yet they must do so without getting into an automobile accident en route or running over a pedestrian along the way. They must rescue citizens in danger, while at the same time not incurring serious injury or deaths among the firefighters. They must manage the scene, often in concert with other agencies. They must excel in the various technical aspects of their duties, from putting out fires to administering emergency medical aid. It is not difficult to imagine a fire department that excels in one of these dimensions but performs less adequately in others. A fire department that excels at the technical aspects of putting out fires, without paying much attention to the safety of pedestrians, drivers, and its personnel will eventually find itself in crisis.

Think long enough about an organization and what its various constituencies expect of it, and it becomes rapidly apparent that performance is multidimensional in virtually every organizational setting. Even among corporations, who have a readily available measure of performance—the bottom line, or corporate profits—performance can still be thought of as multidimensional. Corporations can be rated on a variety of measures outside of the profits they generate. For instance, they are rated on their “greenness”: the extent to which they engage in environmentally responsible practices.<sup>66</sup> Each year, *Business Ethics* selects the 100 Best Corporate Citizens, a distinction that is measured based on corporate service to seven primary stakeholders: “stockholders, employees, the community, the environment, overseas stakeholders, minorities and women, and customers.”<sup>67</sup> They are also rated on consumer confidence, responsiveness to customers, and

customer satisfaction using the *American Customer Satisfaction Index*.<sup>68</sup> *Consumer Reports* and other outlets routinely rate the quality of products and services offered by companies. As recent events in corporate America have demonstrated so aptly, a corporation that puts profits ahead of all other dimensions of performance, such as maintaining fair and accurate accounting and employment practices, places itself and its investors at significant risk. These risks range from poor profits to civil and criminal penalties leveled at both the organization and its leaders. Clearly, there are crucial differences between corporations and local government agencies like the police, yet even the famed bottom line is often not the only important measure of corporate performance.

One way of thinking about the dimensions of performance in organizations of any type is to consider the three *Es*: (1) equity, (2) effectiveness, and (3) efficiency.<sup>69</sup> Equity, also referred to as rectitude, refers to the fairness, or the ethical standards by which the organization operates.<sup>70</sup> It is one generic dimension of performance. Effectiveness refers to how well the organization meets its goals. This dimension can sometimes be broken down into multiple sub-dimensions since organizations often have multiple goals, which may even conflict with one another. Efficiency is a ratio of outputs or outcomes to inputs. If one firm is able to build the same bridge as another firm for half the cost, the former is twice as efficient as the latter.

These three generic dimensions are helpful for beginning to think about some of the ways that organizations might vary in terms of their performance. It is not difficult to think of departments that might score highly on some dimensions but not others. An agency might embrace fair practices throughout and produce an optimal level of public safety but require a substantial level of funding that is out of range when compared to its peer agencies. In this case, it would score highly on equity and effectiveness but lower on efficiency. These dimensions are also useful for thinking about the normative decisions a community must make about public safety. As David Bayley has pointed out in his book *Police for the Future*, hiring a cop to stand on every corner would probably reduce crime substantially, but at what cost?<sup>71</sup>

While the three *Es* have some value as a thought exercise, it is often more useful in practice to measure performance using dimensions that conform closely to the specific industry in question. One reason for this is that effectiveness is itself typically multidimensional. Effective police agencies might be those that produce low crime rates, low rates of revictimization, high quality of life, feelings of safety, and high clearance rates. Equity too might refer to various kinds of fairness and rectitude: to officers and other employees within the organization, to victims, to arrestees, and to those they encounter on the street. Efficiency, as a ratio in which the denominator is the measure of resources, can be expressed in different ways: per dollar, per officer, per employee, or per hour.

Rather than relying on a set of generic dimensions for measuring performance in any kind of organization, it makes a lot of sense to focus on the dimensions of performance within a particular industry. The purpose of this report is *not* to suggest the dimensions on which performance might be measured. Instead, the idea is to clearly demonstrate that whatever performance measurement scheme is selected must, first and foremost, recognize that performance is multidimensional. That sets up the rather daunting task of deciding upon the relevant dimensions for policing.

CALEA, with its ready access to forward-thinking police executives from around the nation, is situated ideally to engage in this process.

The next section reviews some of the measures contained in previous research on performance measurement in policing. Some of these dimensions relate to conditions internal to the police organization, such as structure, management, and policy. Others relate to the way the organization interacts with its environment.

## **The Dimensions of Performance**

Dimensions are independent categories or domains of a characteristic or property. I have found that a useful example or metaphor for thinking about the dimensions of police performance worth measuring is the idea of intelligence testing. Researchers who study human intelligence have debated the dimensions of intelligence for many years. Some theorists argue that intelligence is comprised of a single dimension known as “g” or general intelligence, a unitary phenomenon.<sup>72</sup> This reasoning is what led to the development of standardized IQ tests, which result in a single overall score that measures intelligence. Others believe that intelligence is a multidimensional phenomenon and that there are really multiple kinds of intelligence. For instance, psychologist Howard Gardner argues that there are seven dimensions: (1) linguistic, (2) logical, (3) spatial, (4) musical, (5) kinesthetic, (6) interpersonal, and (7) intrapersonal.<sup>73</sup> Furthermore, these seven dimensions are independent of one another; therefore, it is possible for a person to exhibit high intelligence in one area (such as logical) but low or moderate performance in another (such as musical). Other “multiple-intelligence” theorists eschew the idea of an overall general intelligence but disagree with Gardner on the number or nature of the dimensions.

The debate over the dimensions of human intelligence is a helpful metaphor for thinking about the performance of police departments. Treating performance as a unidimensional phenomenon means that “good” departments are good at all aspects of policing, while poor departments are poor in all aspects. As I proposed in the previous section, one of the most useful methods for thinking about police performance is to avoid the tendency to view it as unidimensional. Police performance is multidimensional; the number and nature of those dimensions is a matter for speculation and debate. In this section, I review a handful of methods outlined in the past for categorizing the dimensions of police performance.

In 1980, Michael O’Neill and his colleagues developed the Police Program Performance Measurement system. It was a modular performance measurement system “into which each locally based organization could plug its own goals and objectives.” As part of this exercise, the authors prepared a “model structure of police objectives” containing five dimensions.<sup>74</sup>

### ***O’Neill’s Five Dimensions***

1. Crime prevention
2. Crime control
3. Conflict resolution
4. General service
5. Police administration

Within these five dimensions were 46 specific outcomes that were operationalized into 65 performance measures. This effort, like all of the others presented here, has not been institutionalized widely. It is now part of the historical record of police performance measurement.

Another system, devised by Harry Hatry and his colleagues at the Urban Institute and ICMA contains five dimensions of police performance.<sup>75</sup> This proposed system, like the one before it, has not yet led to a widespread, systematic suite of performance measures institutionalized across the nation. One important area for reflection among police executives is why such measures get so much lip service but so little action.

### ***Hatry's Five Dimensions***

1. Prevention of crime
2. Apprehension of offenders
3. Responsiveness of police
4. Feeling of security
5. Fairness, courtesy, helpfulness/cooperativeness, honesty

The most recent framework for measuring police performance was developed by Professor Mark Moore and several colleagues at Harvard's Kennedy School of Government. Their work appears in a book, entitled *Recognizing Value in Policing: The Challenge of Measuring Police Performance*, published in 2002 by the Police Executive Research Forum. Moore's framework lays a solid intellectual foundation for measuring seven dimensions of police performance.

### ***Moore's Seven Dimensions***

1. Reduce criminal victimization.
2. Call offenders to account.
3. Reduce fear and enhance personal security.
4. Guarantee safety in public spaces.
5. Use financial resources fairly, efficiently, and effectively.
6. Use force and authority fairly, efficiently, and effectively.
7. Satisfy customer demands/achieve legitimacy with those policed.

One element of policing that often gets overlooked in performance measurement is the nature of the policing process. Stephen Mastrofski has outlined a spectrum of humanistic concerns that he terms "Policing for People."<sup>76</sup> According to Mastrofski, traditional police performance measures ignore a fundamental element of the relationship between police and communities: the nature of police-citizen encounters. He highlights six features of these encounters that should be measured. Like other variables we have discussed, these are characteristics of individual encounters and officers, but in the aggregate, they can be used to characterize and compare police agencies over time and place. One option is to think of these as full dimensions, but a more likely solution is to think of them as subdimensions of a single broader dimension that focuses on the nature of the policing process (such as Mark Moore's seventh dimension).

## ***Mastroski's Six Dimensions: "Policing for People"***

1. Attentiveness
2. Reliability
3. Responsiveness
4. Competence
5. Manners
6. Fairness

Research has shown that current data on policing is insufficient for either measuring performance or doing adequate comparative research on police organizations because it fails to capture the full range of work that police do.<sup>7</sup> Whatever dimensions one chooses, they should reflect a full and realistic range of police functions and goals. It may be that some of these functions are more important than others; this and other technical issues are discussed later.

The next segment will show how to use the principles and concepts introduced in this first segment to create comparative performance measures. It will show how such measures can be developed nationally in the policing industry, as well as how you can begin to implement them in your agency.

## **Endnotes**

- <sup>1</sup> Pasi, 2000
- <sup>2</sup> Thomas & Hofer, 1999
- <sup>3</sup> [www.irs.gov/pub/irs\\_pdf/p3560.pdf](http://www.irs.gov/pub/irs_pdf/p3560.pdf)
- <sup>4</sup> Hoover, 1984
- <sup>5</sup> Osborne & Gaebler, 1992
- <sup>6</sup> Hammer & Champy, 1993
- <sup>7</sup> Cohen & Brand, 1993
- <sup>8</sup> Ammons, 1996
- <sup>9</sup> Kaplan & Norton, 1996
- <sup>10</sup> Geller, 1997
- <sup>11</sup> Maguire & Uchida, 2000
- <sup>12</sup> The material in this paragraph was drawn from Maguire and Uchida (2000) and Uchida, Bridgeforth, and Wellford (1986).
- <sup>13</sup> Parks, 1971, p. 9; Stone, 1930
- <sup>14</sup> Bellman, 1935
- <sup>15</sup> O'Neill, Needle, & Galvin, 1980, p. 254
- <sup>16</sup> O'Neill et al., 1980, p. 254. Also see Parrat (1937).
- <sup>17</sup> O'Neill et al., 1980
- <sup>18</sup> President's Commission on Law Enforcement and Administration of Justice, 1967
- <sup>19</sup> According to the Bureau of Justice Statistics, 30% of local police conducted citizen surveys in 1997, and 27% conducted such surveys in 1999. See Hickman and Reaves (2001).
- <sup>20</sup> Smith, Steadman, Minton, & Townsend, 1999
- <sup>21</sup> Uchida, Bridgeforth, & Wellford, 1986
- <sup>22</sup> Maguire, 2002; Uchida et al., 1986
- <sup>23</sup> Maguire, 2002
- <sup>24</sup> Alpert & Moore, 1993, p. 110

- <sup>25</sup> Barlow & Barlow, 2000; Walker, 1980
- <sup>26</sup> Walker, 1980
- <sup>27</sup> Bayley & Mendelsohn, 1969; Reiss, 1971, p. 147; Westley, 1970, pp. 99-104. To be fair, research in the 1960s also showed that police were not substantially more racist than others in the communities they served (Bayley & Mendelsohn, 1969).
- <sup>28</sup> Walker, 1980
- <sup>29</sup> Cassell & Fowles, 1998; Leo, 1996
- <sup>30</sup> Hoffman, 1971, pp. 172-173
- <sup>31</sup> Maguire & Uchida, 2000
- <sup>32</sup> Alpert & Moore, 1993; Kelling, 1996; Maguire & Uchida, 2000; Moore, 1999, 2002
- <sup>33</sup> Bratton, 1999, p. 15
- <sup>34</sup> Bratton, 1998; Also see Moore (1999).
- <sup>35</sup> Moore, 1999
- <sup>36</sup> Kelling, 1996, p. 32
- <sup>37</sup> Unadjusted crime rates are simply those that are provided by the FBI without any transformations. Later in this article, these unadjusted measures are contrasted with "risk-adjusted" crime rates. These are crime rates that have been adjusted statistically to account for differences between communities (like income inequality or population density) that might be expected to affect crime rates.
- <sup>38</sup> Sherman, 1998
- <sup>39</sup> McLeary, Nienstedt, & Erven, 1982
- <sup>40</sup> Black, 1970; McLeary et al., 1982; Seidman & Couzens, 1974
- <sup>41</sup> Decker, 1980, 1981
- <sup>42</sup> Maguire & Uchida, 2000; Maltz, 1999
- <sup>43</sup> Sherman, 1980a, 1980b
- <sup>44</sup> Sherman, 1980b, p. 468
- <sup>45</sup> Sherman & Glick, 1984
- <sup>46</sup> Kelling, 1992
- <sup>47</sup> Goldstein, 1990
- <sup>48</sup> Langan, Greenfeld, Smith, Durose, & Levin, 2001
- <sup>49</sup> Gardiner, 1969
- <sup>50</sup> Feeney, 1982, p. 38
- <sup>51</sup> Bratton, 1998, p. 229
- <sup>52</sup> Once a reported offense is designated as founded, it may be cleared in two ways: (1) by arrest or (2) by exception (FBI, 1980; Martin & Besharov, 1991). A crime is cleared by arrest when at least one person is "arrested; charged with the commission of the offense; and turned over to the court for prosecution (whether following arrest, court summons, or police notice)" (FBI, 1980, p. 394). An offense is cleared by exception when the investigation has clearly identified the offender; there is sufficient information on which to make an arrest; the offender's location is known; and extenuating circumstances outside the control of the police make it difficult to make an arrest (FBI, 1980, p. 395). One of the most common reasons for clearing an offense by exception is the unwillingness of victims and/or witnesses to testify in court. Another instance is when the offender is dead (Cordner, 1989).
- <sup>53</sup> Cordner, 1989, p. 146
- <sup>54</sup> Alpert & Moore, 1993; Hoffman, 1971; Riedel & Jarvis, 1999
- <sup>55</sup> Nadel, 1978
- <sup>56</sup> Cordner, 1989, p. 146

- <sup>57</sup> Poggio, Kennedy, Chaiken, & Carlson, 1985; Also see Schneider and Wiersema (1990).
- <sup>58</sup> Davenport, 1996
- <sup>59</sup> Riedel & Jarvis, 1999, pp. 279, 301
- <sup>60</sup> Caron, 1980; Eck & Spelman, 1987; Spelman & Brown, 1981; Sumrall, Roberts, & Farmer, 1981; Also see Bracey (1996) for an overview.
- <sup>61</sup> Eck, 1983
- <sup>62</sup> Pate, 1976; Percy, 1980; Tien, Simon, & Larson, 1979
- <sup>63</sup> Hatry, 1999, p. 23
- <sup>64</sup> Alpert, Flynn, & Piquero, 2001; Alpert & Moore, 1993; Horne, 1992; Langworthy, 1999
- <sup>65</sup> Walker, 1998, 2001
- <sup>66</sup> National Advisory Council for Environmental Policy and Technology, 2001
- <sup>67</sup> Miller, 2002
- <sup>68</sup> Anderson & Fornell, 2000; Fornell, 2001
- <sup>69</sup> Bayley, 1994; Eck & Rosenbaum, 1994
- <sup>70</sup> Bayley, 1994
- <sup>71</sup> Bayley, 1994
- <sup>72</sup> Spearman, 1927
- <sup>73</sup> Gardner, 1983
- <sup>74</sup> O'Neill et al., 1980, p. 257
- <sup>75</sup> Hatry et al., 1992
- <sup>76</sup> Mastrofski, 1999; Also see Eck & Maguire (2000) and Moore & Poethig (1999).
- <sup>77</sup> Maguire, 2002; Maguire & Uchida, 2000

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## Part 2 of a two-part article appearing in the *CALEA Update*

### Introduction

This is the second segment of a two-part article on measuring the performance of law enforcement agencies. It is written for a policing audience and draws in part on my discussions with members of CALEA's Performance Measurement Subcommittee and those who have attended my training workshops at the last three CALEA Conferences. In the first segment, I introduced the general concepts, terminology, and history of comparative performance measurement in policing. In this second segment, I show you how to develop, pilot-test, and implement comparative performance measurement in your agency. This article is one small part of a larger effort by CALEA to explore the feasibility and utility of agency-level performance measurement in policing. That journey is just beginning and will proceed slowly, but it will be a worthwhile one.

### Developing Police Performance Measures

Once the goals of policing have been identified and a salient list of dimensions (and perhaps sub-dimensions) has been prepared, it is time to begin formulating specific performance measures. Many times, people start off in the middle of the process by generating a list of performance measures without having first completed the necessary and far more difficult work of thinking about the broad dimensions of police performance. The process I am recommending is a rough analogue to the deductive model of science in which we start by identifying theories and concepts and then collect data on specific measures that reflect those broader theories and concepts. The search for specific performance measures should be a liberating, unconstrained process in which participants are encouraged to think well outside of the traditional boundaries. In this section, I provide a number of suggestions about potential data sources and research methods for generating performance measures.

Traditional performance measures in policing are often derived from administrative data maintained by the police department. While this data can often be very useful and should be included, official police data should not be the only source used in a comprehensive performance measurement system. Some other options are presented below.

### **General Community Surveys**

Nationwide, nearly one-third of local police departments conduct community surveys each year. The Bureau of Justice Statistics now makes available to police departments a free software package and guide for conducting community surveys.<sup>78</sup> These kinds of surveys are useful for several purposes: learning about crime, fear of crime, victimization experiences, and overall impressions about the police.<sup>79</sup> They are sometimes used as a crutch, however. Research on customer and client satisfaction across industry types has shown that satisfaction levels reported in response to general survey questions are routinely high and do not tend to differ greatly across organizations.<sup>80</sup> Other research, however, shows that the specificity and wording of the survey question can have a profound impact on satisfaction levels.<sup>81</sup> Therefore, police organizations can get out of a community survey what they put into it. If they want a public relations gimmick, they can ask one or two very general questions about citizen satisfaction with police. If they are interested in using the survey as a platform for organizational learning, they can ask a number of more specific questions about the quality of policing in the community. Another problem with general community surveys is that many of the respondents have not had any contact with the police; therefore, it is difficult to know whether their impressions of the police were formed through the media, through vicarious contact with friends or relatives, or through previous experiences with *other* police organizations.

### **Contact Surveys**

Contact surveys are administered to those who have had recent contact with the police. These kinds of surveys can be very revealing, particularly when they are focused on different kinds of contacts. Surveys of victims, for instance, can be useful for learning whether the department is responding appropriately to their needs. When police in Toronto surveyed rape victims, they received numerous complaints about the uniformed officers who responded to the initial call but nearly universal praise for the department's sex crimes unit.<sup>82</sup> Surveys of drivers stopped and/or searched by the police can be used to learn about citizen perceptions of police practices. Even arrestee surveys can be quite useful. Although a common perception is that such surveys would not be useful because all arrestees will be dissatisfied with the outcome, research has shown that citizens are willing to accept negative outcomes if they view the process that led to the outcome as fair.<sup>83</sup> Arrestee surveys administered in multiple cities could be useful for learning whether a department is perceived as more or less fair than others.<sup>84</sup> Contact surveys could also be administered over time within a single department to learn whether certain training programs or supervisory approaches are improving citizen perceptions of police.

### **Employee Surveys**

Employee surveys are valuable for many reasons. They can be used to gauge the perceptions of employees about certain administrative initiatives. They can be used

to assess morale issues. Employee surveys have also been used in some unique and helpful ways in recent years. For instance, researchers from the Federal Bureau of Prisons aggregated (combined) data from individual employee surveys to form composite measures of the organizational social climate in the Bureau's various prison facilities.<sup>85</sup> A similar approach was recently applied to the measurement of police integrity. Researchers aggregated the responses of more than 3,000 individual police officers to form an aggregate measure of the "environment of integrity" in 30 police agencies.<sup>86</sup> The results showed that police agencies vary widely with regard to their overall environments of integrity. This information was presumably quite useful to police executives in those agencies, particularly those who ranked at the bottom of the list.

### **Direct Observation**

Direct observation by trained raters or coders can also be a useful method for collecting valuable performance information. For example, the Early Childhood Environment Rating Scale uses trained observers to rate the quality of childcare facilities based on direct observation of the space and furnishings, the interaction between children and teachers, and several other dimensions of performance.<sup>87</sup> Observers in New York City use vehicles equipped with specially designed measuring instruments to rate the "smoothness" of 670 miles of streets in 59 districts.<sup>88</sup> In policing and criminology, there is some precedent for using direct observation to generate data useful for performance measurement. For instance, coders can use "systematic social observation" techniques to record the volume of physical and social disorder in neighborhoods.<sup>89</sup> This is a useful technique for generating data, independent of police, on quality-of-life issues in the community. Using techniques developed by Mastroski and his colleagues, trained coders can also conduct standardized observations of police-citizen encounters.<sup>90</sup> While direct observation can be a useful technique for gathering data on performance, it is personnel intensive, and therefore very expensive.

### **Independent Testing or Simulation Studies**

Another alternative source for collecting data on police performance is independent testing or simulation studies. Rather than observing performance in completely "natural" settings, independent tests create artificial opportunities to measure performance. For instance, the Insurance Institute for Highway Safety uses crash tests to rank vehicle safety. The Institute's primary mission is research, and insurance companies rather than auto manufacturers fund it. Many firms hire people to pose as customers (known as "secret shoppers" or "mystery shoppers") who visit their facilities to perform checks on quality of service, cashier accuracy, ethical standards, and many other issues. Internal affairs units in large police agencies have conducted various kinds of "integrity tests" for many years. ABC News conducted independent integrity tests of police in New York and Los Angeles by turning over 40 wallets or purses to police officers chosen at random. In every case, the officers turned in the wallets and purses with contents intact.<sup>91</sup> The Police Complaint Center (PCC) is a Florida-based firm that conducts proactive investigations of police misconduct. The PCC videotapes its investigators in a variety of settings: being stopped by officers, trying to secure complaint forms from police agencies, and other situations. PCC investigators have videotaped numerous instances of police misconduct.

While certainly controversial, testing and simulation offer promise for collecting performance data that are truly independent of the police.

### **Computing Aggregate Measures**

Once the performance measures have been selected and the data has been collected, the next question is what kind of analysis to perform. The first step, depending on the data being collected, is to aggregate the data to compute an overall organizational score for each individual performance measure. If the measure is a count variable (such as the number of arrests), it can be summed, or an average or ratio can be computed. If the measure is categorical (e.g., a survey question with five response categories ranging from strongly disagree to strongly agree), the proportion of people choosing each response can be computed. Since a comparative performance measure is intended to measure some aspect of the organization, each measure needs to be aggregated so it represents an organization-wide score.

### **Standardized Composites or Individual Measures?**

When a student takes the SAT, the GRE, or other similar standardized tests, the overall scores represent “composites” of the individual test questions. These composite scores are standardized so that they fall within a certain well-known range, such as 200-800 for the SAT. No one is very interested in performance on individual test questions, only the overall score within each dimension (e.g., math and verbal). Anytime we create new performance measures, we have a series of analytical choices about how we want to use the data. For instance, suppose we generate a list of 7 general dimensions of police performance. Within each one, we collect data on 7 specific performance measures. We will end up with 49 (7 x 7) separate pieces of information from each organization. One possibility is to treat each of the 49 specific items as a performance measure. In some ways, this is analogous to inspecting a student’s performance on each individual SAT question. There are commonly used statistical methods, however, that can be used to reduce these 49 separate items into 7 composite scores representing each overall dimension. Furthermore, these composites can also be standardized (e.g., an agency would receive a score falling between 0 and 100 on each dimension). This approach is common in psychology when making standardized instruments to measure a variety of individual traits. Our efforts to create performance measures nationally will focus on creating composite scores. Local police departments implementing performance measures on their own may not have access to sufficient statistical expertise to form composite measures.

### **Weighting**

One of the complaints about some performance measurement systems is that they treat each measure equally. This is acceptable as long as the different domains of performance are equivalent, but if some are much more important than others, it is misleading. Sometimes it is useful to assign greater weight to certain measures when computing composite performance scores. There are a variety of methods for doing this; they require technical expertise, but they can be executed easily. The more pressing question is how to assign the weights in a manner that is not totally arbitrary. For instance, former NYPD Commissioner Bratton explained that his strategies for reducing crime in New York came with some consequences:



We defined brutality as unnecessary behavior that caused broken bones, stitches, and internal injuries. But those were not the figures that had gone up significantly. What had risen were reports of police inappropriately pushing, shoving, sometimes only touching citizens. We were taking back the streets . . . we were being more proactive, we were engaging more people, and often they didn't like it.<sup>92</sup>

Implicit in this explanation is the argument that crime control is a *more important* function of policing than citizen satisfaction or appropriate use of minor levels of force. Policing is certainly not the only industry in which these kinds of questions arise. As Gormley and Weimer note, "A physician with a good bedside manner is not enough when a patient's life is at stake. A teacher with a winning smile is not enough if challenging subjects are being taught."<sup>93</sup>

Some goals may be more important than others. An important decision for those designing comparative performance measures is how to quantify differences in importance between multiple goals. If the differences are minor, they may be worth overlooking. If there are major differences in importance, such as the friendliness of the hospital staff versus its mortality rate, then it will be useful to either consider each performance measure individually, or to use a weighting procedure before forming composite scores.

How can the weights be formed? One method might be to use an expert group and ask them to compile a ranking system. Mark Moore and his colleagues at Harvard's Kennedy School of Government have already used a similar approach for ranking the most important innovations in policing.<sup>94</sup> Focus groups or surveys of citizens could also be used to determine which goals are the most important to them. Once again, a national system of performance measurement should take pains to compute weights for each dimension of performance. Local law enforcement agencies might not have access to the statistical expertise necessary to form an elaborate weighting system, but they should still go through the process of thinking about which dimensions of performance are most important.

After the performance measures have been specified; the data has been collected; and the analysis has proceeded through the possible stages of aggregation, formation of composites, and weighting, it is time to use the data to make comparisons. In the next section, I examine two methods for ensuring that comparisons are as fair as possible.

## **Making Fair Comparisons**

In 1923, Clarence Smith raised a number of concerns about using statistics to compare police departments. His argument, quite simply, was that police in different communities face different circumstances that need to be taken into account when comparing agencies. These differences range from demographic and economic features to topography and culture, including race; population density; the nature of industrial development; the condition and distribution of the streets and highways; the volume of tourist traffic; and "the habits, traditions, and natural law-abiding inclination and disposition of the people of the city."<sup>95</sup> Smith's concern with comparative statistics is apropos today as we consider how to develop the systematic capacity for comparative performance measurement in policing.

This concern with making fair comparisons is not unique to the police. It affects all kinds of organizations. For instance, students graduating from Harvard University are likely to have higher GRE scores than those of students attending state universities. Does that mean Harvard performs at a higher level than state universities? Not necessarily. The typical student admitted to Harvard presumably entered with much greater aptitude and higher SAT scores than the typical state university student. The important question is not whether one organization has better inputs than the other but which one adds more value. The key point here is that organizations often have different inputs, and this variation in inputs should be reflected in performance measures. This notion of “value-added” applies to schools, hospitals, police departments, and many other kinds of organizations.

Like other kinds of organizations, police departments face drastically different workloads, challenges, and environments. One department might work in a poor, ethnically heterogeneous community with high rates of crime and disorder. Another might work in a wealthy, ethnically homogenous, sleepy suburb in which a patrol officer’s greatest challenge is to write traffic citations and make an occasional arrest. The key to comparing these two organizations, despite their differences, is known as risk adjustment. Hospitals admitting the most at-risk patients might be expected to have the highest death rates. Prisons admitting the worst offenders might be expected to have the highest recidivism rates; however, inputs of an organization can be controlled when measuring performance. There are two primary methods: (1) stratification (forming peer groups) and (2) calculating “risk-adjusted” performance measures.

Stratification, or forming peer groups containing similar agencies, is one useful way to account for differing inputs. Groups of agencies that are approximately similar in size, type, jurisdiction, and workload will become peers. Each agency within the peer group can compare its performance measurements with the other peer agencies. Forming peer groups is much easier than doing risk adjustment, but it too will be tricky. Some cities are simply unique. Others may belong in certain classes of cities that are difficult to identify in advance. For instance, some “edge cities” have a small population, but due to their proximity to large urban areas, they may face issues that make them unique compared to other similarly sized communities.<sup>96</sup> Nonetheless, the difficulties inherent in peer groups are much less formidable than the difficulties with risk adjustment.

Criminologist Lawrence Sherman acknowledges that cities vary widely with regard to the social and economic correlates of crime. He proposes using statistical methods to purge homicide rate measures of the influence of these other factors. The resulting measure will be a “risk adjusted homicide rate” that is similar to the risk adjusted mortality rates used by hospitals. For instance, one could use relatively straightforward statistical techniques (e.g., regression analysis) to purge homicide rates of the influence of poverty, unemployment, race, divorce, and population density. Once such factors are controlled statistically, the resulting measure can more easily be compared across cities, even those that are very different from one another. One research team has already created a prototype ranking system based on risk-adjusted homicide rates for 21 cities.<sup>97</sup> Sherman suggests that such a measure can be used to rank the performance of police agencies at dealing with crime.<sup>98</sup> This process will require technical expertise and a substantial investment in testing and calibration to ensure that the risk-adjustment procedures are scientifically

defensible. Furthermore, since risk-adjusted crime rates are based on an implicit assumption that demographic and structural characteristics (e.g., poverty, race, and region) influence crime, the risk-adjustment procedures might inspire controversy. Although the research on risk adjustment in policing extends back to at least 1971,<sup>99</sup> much more work remains to be done before police agencies can rely on its scientific foundation. For now, comparative performance measurement initiatives will need to rely on stratification or the formation of peer groups.

## **Implementing Comparative Performance Measures in Your Agency**

Much of this background information might leave you wondering how to establish comparative performance measures in *your* agency. This section walks you through the steps, providing brief pointers to help keep you on track.

### **1. Make a commitment to *comparative* performance measures.**

- This involves comparing your agency's performance over multiple time periods or comparing your agency to other agencies. Other options include comparing district or beat-level performance within a large agency.
- Conducting *one* data collection exercise (e.g., a citizen survey) in *one* jurisdiction does not provide you with a "comparative" performance measure because it does not offer the opportunity for comparison.

### **2. Select the units that you intend to compare.**

- Will you compare time periods (months, years), beats, districts, or different agencies?
- Use caution in selecting "peer" agencies. Make sure they are comparable.

### **3. Select the dimensions of performance that are valuable for your agency.**

- This will feel like a philosophical or theoretical exercise.
- The search for specific performance measures should be a liberating, unconstrained process in which participants are encouraged to think well outside of the traditional boundaries.
- Do not focus yet on whether you can measure these items. That comes later.
- What does your community want from its police?
- Determine the relative importance of your dimensions: Are some more important than others?

### **4. Figure out how to measure those dimensions of performance.**

- Think broadly about potential data sources. Some will be contained in agency data, and some will need to be collected using surveys or other methods.
- Some alternative methods include general community surveys, contact surveys, employee surveys, direct observation, and independent testing or simulation studies.
- You may not be able to measure all of the important dimensions you've identified.
- Do not reverse steps 3 and 4. Step 3 comes before step 4 for an important reason.

## 5. Use the measures to improve your organization.

- All organizations are capable of self-learning, adaptation, adjustment, experimentation, and innovation. To do so, organizations need information and feedback.
- Comparative performance measures will provide police organizations with crucial information: how they are doing relative to other police agencies on a variety of performance dimensions and how they are improving relative to their own previous levels of performance.
- Use them and act on them. Don't just use them as a public relations gimmick for a news article or an annual report.
- Treat the process as an integral step in organizational learning. Take your organization's temperature. Take its blood pressure. Then, use those measurements to form a diagnosis and implement organizational change.

## 6. Repeat the process routinely.

## Conclusion

There are many ways to change organizations, from improved recruitment, hiring and training, to the selection of a new leader. This article presents just one potential method for improving police organizations: comparative performance measurement. All organizations are capable of self-learning, adaptation, adjustment, experimentation, and innovation. To undergo these processes, however, organizations need information and feedback. This article presents a systematic framework for improving policing by creating comparative performance measures. Such measures will provide police organizations with crucial information: how they are doing relative to other police agencies on a variety of performance dimensions or how they are improving relative to their own previous levels of performance. Performance measures are an essential component of an ongoing "organizational learning" strategy.

## Endnotes

<sup>78</sup> Weisel, 1999

<sup>79</sup> Hickman & Reaves, 2001

<sup>80</sup> Gormley & Weimer, 1999

<sup>81</sup> Gallagher, Maguire, Mastrofski, & Reisig, 2001

<sup>82</sup> Rape victims, 1998

<sup>83</sup> Tyler, 1990

<sup>84</sup> Arrestee surveys are common in the study of drug use but rare in the study of police performance. In the United States, the Arrestee Drug Abuse Monitoring (ADAM) project collects urine samples from arrestees in multiple cities. Local ADAM sites sometimes conduct arrestee surveys that focus on issues other than drug use, but these are isolated efforts. The ADAM program represents an ideal framework on which to build a national data collection effort on police performance as viewed through the eyes of the arrestee population. Similar programs exist in Australia, South Africa, and other nations, suggesting the possibility of collecting such measures internationally.

<sup>85</sup> Camp, Saylor, & Harer, 1997

<sup>86</sup> Klockars, Ivkovich, Harver, & Habersfeld, 2000

<sup>87</sup> Harms, Clifford, & Cryer, 1998

- <sup>88</sup> Fund for the City of New York, 2001  
<sup>89</sup> Sampson & Raudenbush, 1999  
<sup>90</sup> Mastrofski et al., 1998  
<sup>91</sup> ABC News, 2001  
<sup>92</sup> Bratton, 1998, p. 291  
<sup>93</sup> Gormley & Weimer, 1999, p. 205  
<sup>94</sup> Moore, Spelman, & Young, 1992  
<sup>95</sup> Smith, 1923, p. 267  
<sup>96</sup> Garreau, 1991  
<sup>97</sup> [www.cjgsu.net/initiatives/HomRates-PR-2003-08-03.htm](http://www.cjgsu.net/initiatives/HomRates-PR-2003-08-03.htm)  
<sup>98</sup> Sherman, 1998  
<sup>99</sup> Hoffman, 1971

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# Accreditation and the Smaller Police Agency

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**Sean F. Kelly, Lieutenant, Durham Police Department, Durham, New Hampshire**

As consumers, we have confidence in institutions that are accredited by an independent agency. We send our children to accredited colleges and universities. We seek medical care at accredited hospitals.

We also want our police agencies to be accredited. We entrust their officers with our safety, give them wide latitude to deprive us of our freedom, and arm them with deadly weapons. Fortunately, law enforcement accreditation has arrived and is available for all police agencies, regardless of size or makeup, to pursue, achieve, and maintain.

Nevertheless, some police managers view accreditation as an unattainable goal. It doesn't have to be. The 19-officer Durham Police Department earned accreditation; your agency can, too.

## What Is Accreditation, and Why Should My Agency Get It?

Law enforcement accreditation certifies that a police agency has written policies governing all the tasks it performs; that those policies and procedures meet the standards set by an accrediting organization; and that the police agency has proven that it follows those policies and procedures. An agency pursuing accreditation first examines its policies and procedures and revises or adds to them to bring them in line with published standards. It then develops files containing proof that it complies with each of those policies. Lastly, it undergoes inspection by the accrediting organization. To maintain accreditation, an agency must undergo inspection every 3 years.

There are a number of important reasons to embrace the accreditation process:

- It assures the service community that its police department meets recognized standards for service and management excellence.
- It makes oversight of the agency less of a burden on government officials.
- It fosters esprit de corps.
- It reduces the agency's liability exposure in high-risk areas, such as vehicle pursuits, use of force, prisoner processing, and property retention.

For the Durham Police Department, accreditation produced many other benefits. It gave the CEO new management tools that supported budget requests, such as workload analyses, reviews of force used by officers, and strategic plans. It gave



officers the sense that management had leveled the playing field when it came to grievances, performance evaluations, and discipline. No longer could favoritism or employee familiarity, so common in smaller agencies, affect the execution of those directives. Accreditation also reshaped the culture of the agency. Newer employees know no other way of conducting business. They have come to believe that an instruction manual always existed at Durham.

## **Agency Self-Assessment**

After an agency signs a contract with the Commission on Accreditation for Law Enforcement Agencies (CALEA), it has up to 2 years to prepare for on-site inspection. The first part of the preparation is self-assessment, which involves reviewing policies, adding policies to fill gaps, revising substandard policies, and training officers on the new policies.

### **Policy**

In the initial phase of accreditation, agency self-assessment, employees determine how closely the agency's existing policies match the 443 standards established by CALEA. Agencies are required to have a policy only if its officers perform the function governed by that policy. For instance, chapter 73 of CALEA's book of standards focuses upon policies necessary for any agency responsible for court security. Most small municipal agencies in the United States have no responsibility in this area and therefore have no need for such policies, rendering the entire chapter "not applicable by function."

As Durham reviewed its own policies, it turned to its regional police accreditation committee (PAC) for help. An unheralded success of the accreditation process is that virtually every region of the United States has a PAC. In Durham's region, New Hampshire, Vermont, and Maine have come together to form the Northern New England Police Accreditation Coalition (NNEPAC). Members of NNEPAC who had already earned accreditation helped Durham through the process by sharing model policies.

Durham adapted and amended the policies to suit the department's and town's needs. In doing so, Durham's police managers saved valuable time and energy.

### **Training**

During the self-assessment phase but after revised policies have been implemented, agencies train employees on the new policies. In Durham, many of the new directives simply memorialized existing agency practices, and training could be easily verified by an officer's signature. Others were new or so dramatically refined that they warranted extensive training. The newly implemented use-of-force policies, to take just one example, stipulated that only those officers who had demonstrated proficiency with a weapon would be authorized to carry that weapon. Annual qualification may seem basic to police managers, as it did in Durham, but documenting officer proficiency was new to the agency. For accreditation purposes, Durham began maintaining files to prove compliance with the new use-of-force directives.

## **Proof of Compliance**

File folders are a critical part of the accreditation process. Once an agency implements its new and revised policies, its members must maintain evidence that the agency adheres to its own policies. CALEA assessors will inspect these files to verify that an agency meets applicable standards.

Every police chief knows that his or her desk is covered with hundreds of problems that require immediate attention. With ease, and with a certain amount of justification, chiefs postpone that annual analysis of grievances or that personnel evaluation. With accreditation comes this voice in the CEO's head constantly reminding him or her that every 3 years someone will enter the agency and inspect and verify that the chief has carried out every task that the agency's policy says the chief must do.

## **Inspection and Verification**

Before it awards accreditation to an agency, CALEA sends a team of assessors to review the agency's policy manual and its proof of compliance with those policies. Conducting a mock assessment is an excellent way to identify problems and fix them before the CALEA inspectors arrive. The Durham Police Department held a mock on-site assessment 6 weeks before the CALEA inspection. PAC members arrived in Durham for a one-day inspection of the files and gave suggestions for improving file presentation and content as well as highlighting applicable directives.

Durham had anticipated that only a small number of repairable items would be identified or that the mock inspectors might discover some minor oversights that could be easily remedied. In fact, NNEPAC mock assessors reported a number of failures with policies and procedures that did not fulfill the requirements of CALEA standards. The files contained little of the required proofs of compliance, and a number of processes that needed to be followed had been totally overlooked. One mock assessor suggested postponing the CALEA inspection for up to a year.

The police department committed to going ahead with the inspection as scheduled. What happened next is one of those defining moments in the history of the organization. The entire agency came together as a team, going the extra distance to prepare lesson plans, develop procedures, and review files. Sergeants, patrol officers, detectives, and secretaries paid particular attention to reports and identified dozens of samples of documents that would serve as our proof of compliance.

The assessors arrived in Durham 14 months after the agency signed its contract with CALEA. The team consisted of two chiefs of police, one from Georgia and the other from Tennessee, and a civilian accreditation manager (see more on accreditation managers below) from North Carolina. The team produced a wide-ranging report articulating our compliance with applicable standards that was received, reviewed, and accepted at the July 1999 CALEA meeting in Montreal. The Durham Police Department has since been reaccredited in April 2002.

## **More Accreditation Tips for Smaller Agencies**

The challenges facing the Durham Police Department as it began its journey toward accreditation resemble those faced by smaller agencies every day: too little

money, too few officers, overworked employees. How can a smaller agency take on accreditation, too?

### **Convince your jurisdiction to pay for accreditation.**

One of the keys to becoming accredited is securing the support of the government officials who control the police budget. In Durham, the police department added a new line item, accreditation, to its budget. It asked for roughly \$14,000 on that line for such start-up expenses as file folders, a file cabinet, the initial accreditation fee, the on-site inspection by three out-of-state assessors, and the chief's trip to the CALEA meeting where the department would be reviewed. It was a sizable expense for a smaller agency. After the first year, however, that line item stabilized at approximately \$6,500 annually to cover the annual accreditation fee, on-site expenses, and attendance at one conference per year.

Two arguments in particular convinced town council members to approve the budget with that line item. First, the department reminded them that the department's insurance carrier had said it would reduce the police liability insurance premiums once the agency became accredited. Second, the town's legal counsel referred council members to a study by risk managers that confirmed that civil judgments against accredited police agencies were, on average, about one-third less than the judgments against agencies that were not accredited.

### **Get every employee involved.**

Smaller departments learn quickly that accreditation must be an agency-wide goal because everyone participates in the process. All employees participated in the self-assessment exercises in Durham, including the creation and revision of policies and procedures. Every employee had something valuable to contribute, and they all gained valuable insight into how and why the agency sets policies and procedures. They also learned that their failure to comply with agency policies could hurt the entire team.

### **Select an accreditation manager.**

It also helps to designate one employee as a full-time accreditation manager to coordinate the self-assessment component. The accreditation manager is responsible for coordinating the writing, borrowing and adapting policies, and creating file folders containing documents that demonstrate that the agency is doing what it says it does. Once the agency achieves recognition or accredited status, the position could revert to part-time.

Additional duties primarily consist of planning, developing annual and other time-sensitive reports, assigning training, overseeing the hiring process, and other administrative tasks. Small departments should not overlook the resources they have in civilian staff. Some departments have used nonsworn personnel to fill this need at a significantly reduced cost.

Durham didn't select an accreditation manager until one of the agency's patrol sergeants ignored his wife's counsel about carrying too much in his arms and fell

down the basement stairs at home. The sergeant and his broken leg were out of patrol and into the role of overseer of policy development and implementation.

### **Pursue accreditation one step at a time.**

New Hampshire, like many other states, has adopted a four-tiered accreditation process that encourages agencies in that state to gain accreditation step by step. This four-step strategy has been extremely successful in attracting even the smallest New Hampshire police departments to enter the process. Level 1, for instance, requires the agency to prove compliance with up to 97 standards pertaining to high-risk policy areas identified in the CALEA manual. The high-risk directives focus on safety and health issues. For managers of smaller police departments who have to personally address challenges daily, achieving Level 1 can be reassuring. CALEA, through its recognition program, now formally recognizes smaller departments who use the steppingstone approach and prove that they have adopted all relevant high-liability directives and comply with them.

In New Hampshire, Level 2 accreditation requires compliance with policies concerning management and personnel issues. Level 3 requires compliance with policies governing police response to civil disturbances and natural disasters as well as specialized police functions such as management of holding facilities. Level 4 is CALEA accreditation.

Each level of accreditation requires an on-site assessment, but an agency can delay inspection until its ready to be assessed for two or even three levels at once. For example, the Durham Police Department accomplished Levels 1 and 2 at the same time. The Hudson, New Hampshire, Police Department, which is now CALEA-accredited, did the same thing more recently.

### **Call on peers for help.**

Chiefs and other police managers interested in learning more about accreditation should visit <[www.calea.org](http://www.calea.org)> and follow the links to the membership section to find a list of accredited agencies in their state. Also available under the same link is a list of all 34 PACs, some of which represent areas of the country; others represent special police agencies, such as college and university police and housing police.

**David L. Kurz** is a 29-year law enforcement veteran. Chief Kurz is responsible for the supervision of the Durham, New Hampshire Police Department, a CALEA-accredited, full-service police agency committed to a customer-oriented delivery of services within a university community. He and his staff of 19 coordinates with the University of New Hampshire Police have developed effective strategies for dealing with underage drinking, loitering, and public drunkenness. Chief Kurz is one of 13 chiefs and sheriffs appointed by the International Association of Chiefs of Police to an advisory group that provides assistance and oversight to the IACP technical assistance project for smaller agencies. Chief Kurz has published three articles in *Police Chief* magazine and has co-authored a best practices guide, *New Technology Acquisition*. Prior to his appointment in Durham, Chief Kurz served as deputy director for the Maine Drug Enforcement Agency; Maine Department of Public Safety from

1990-1996; and police chief in Gorham, Maine, from 1985-1990. His professional associations include New England Chiefs of Police, New Hampshire Chiefs of Police, Maine Chiefs of Police, Police Executive Research Forum, FBI National Associates, and IACP. He obtained his bachelor's degree in criminal justice from the University of Southern Maine and has completed work towards a master's degree in public administration.

**Sean F. Kelly** is a 16-year veteran of New Hampshire law enforcement currently holding the rank of lieutenant and serving as the Personnel and Administration Division Commander of the Durham Police Department. Lieutenant Kelly is a graduate of the 201st FBI National Academy and has completed a one-year fellowship on the staff of the Leadership Development Unit at the U.S. Drug Enforcement Administrations' Training Academy in Quantico, Virginia. Lieutenant Kelly has authored articles on the subjects of stress in law enforcement, sports riots, internal affairs, and risk management in the *FBI Law Enforcement Bulletin* and NHPSTC's *Articulable Suspicion*. A graduate of Springfield College, Lieutenant Kelly has also completed graduate coursework in leadership and management. Lieutenant Kelly's professional affiliations include the International Association of Chiefs of Police, the FBI National Academy Associates, the FBI Law Enforcement Executive Development Associates, the National Tactical Officer's Association, and the International Tactical Officer's Training Association.

# Law Enforcement Agency Accreditation: An *Advocatus Diaboli* Brief

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When Roman Catholic church authorities seek to determine whether a nominated holy person deserves sainthood, they appoint a devil's advocate, an *advocatus diaboli*. The practice was established in 1587 by Pope Sextus V. The task of the *advocatus diaboli* is to marshal and present arguments against the sanctification of a proposed candidate for sainthood or, as current idiom has it, to advance unappealing viewpoints for the hell of it. The diabolic advocate need not personally agree with the position that he (for it invariably is a he) stakes out, but the job requires the best effort to try to be persuasive (Dodds, 2000; Woestman, 2002).

I will assume that role, rarely a popular one, on the issue of accreditation of law enforcement agencies because I believe that a full and fair discussion requires an airing of both the pros and the objections before an informed decision can be reached.

On its face, accreditation seems unassailable. Who can reasonably be opposed to uniform standards that presumably will make deficient law enforcement agencies improve their structure and performance in order to be rewarded for meeting pre-determined criteria of worthiness? What agency would not desire to earn a "Good Housekeeping" seal of professional approval to demonstrate its value to its city or county council, the citizens it serves, and the law enforcement fraternity at large?

But, let us look at some of the "buts" and "what ifs" of the matter.

## ***Accreditation procedures can be slipshod.***

There is no guarantee that an accreditation review will determine the true status and performance of a law enforcement agency. I particularly recall when, in recent times, the American Correctional Association (ACA) gave a near-perfect accreditation rating to the Northeast Ohio Correctional Center in Youngstown, Ohio, a private prison operated by the Correctional Corporation of America that exploded very soon after the ACA's action. Subsequent examinations of the facility found shocking deficiencies. Prisoners had been transferred from the District of Columbia to what for them was a faraway midwest site. There was no provision for needed medical care, and inmates who had long-standing grudges were not separated. As a result, two lethal stabbings took place (Mobley & Geis, 2001, pp. 212-215). A postmortem review noted sarcastically that the classification of inmates was so shoddy that even Jack the Ripper would have been designated as a medium security risk (Tatge, 1998). In short, the place was a mess and had been so when the accreditation committee visited it and made what obviously was a superficial and incorrect judgment (Clark, 1998).

It is not clear why the ACA erred so grievously in its accreditation performance in this instance. There is no satisfactory evidence to lead to a conclusion that other concerns besides quality influenced its decision, nor is there any acceptable reason to believe otherwise. The moral is clear: unless done diligently and thoroughly and with integrity, an accreditation procedure can be misleading and the consequences lethal. This is because the accreditation implies that all is well, and it tends to inhibit further scrutiny of what may be an operation that is far from healthy and wholesome.

There is eye-opening evidence from other situations regarding how readily in- and-out assessors are flummoxed by on-site entities who have the time, the imagination, and the impetus to arrange Potemkin villages to befuddle their visitors. In the most notorious scheme—the great salad oil scandal—Tony DeAngelis convinced auditors (the business equivalent of accreditation committees) that tanks in Bayonne, New Jersey, were filled with vegetable oil, though they largely held sea water. He transferred the contents from some tanks to others at night because he learned which sites the auditors planned to visit next. Nobody seriously scrutinized DeAngelis's operations and claims. If they had, they would have realized that he was claiming to possess more vegetable oil than existed in the entire United States (Miller, 1965).

### ***Accreditation procedures can be corrupt.***

Law enforcement does not enjoy the best of reputations for a self-critical posture. Police departments typically wage intense and usually successful campaigns to resist civilian review of accusations against their operations or their personnel on the ground that outsiders can never appreciate adequately what their mission is and how they sensibly go about accomplishing it. A commonplace observation of members of law enforcement agencies is that they are most comfortable with coworkers and that lay people simply do not understand them and their work (Parsons & Jesilow, 2001). There is an understandable, but unfortunate, tendency for the police to come to believe that only they truly appreciate the evils of crime and that they must at times bypass ill-founded constitutional rules and department guidelines in order to protect the public satisfactorily [the classic monographs are Rubinstein (1972) and Skolnick (1966)].

Given this state of affairs, it is not unreasonable to believe that accreditation teams will be loathe to hurt fellow law enforcers by harsh, even if deserved, judgments about their readiness to be fully accredited. My experience in academia has taught me how college professors are reluctant to blow the whistle on their colleagues, and medicine is notorious for the protective attitudes physicians demonstrate toward each other, most notably in court testimony or in disciplinary proceedings in which they are often unwilling to offer inculpatory evidence about another doctor (Starr, 1982).

### ***What are the ingredients of accreditation?***

It should not be accepted uncritically that accreditation is necessarily an unmitigated good. For one thing, the standards that are to be employed inevitably contain a certain amount of arbitrariness. Historically, for instance, the Los Angeles Police Department was regarded as something of a military-like force, with strict regulations and behavior. In New York, to the contrary, the officers were said to

be more relaxed, a bit sloppier, more informal. These are, of course, broad-brush stereotypes, but they do not stray too far from the truth. But which could be said to be the “better” department, and how would such a conclusion be reached and supported? Presumably, of course, both departments easily would be accredited, and perhaps there need be no further analysis. But as *U.S. News & World Reports* does with educational institutions, the next step might well be a ranking system that arranges law enforcement agencies in a hierarchical order (for a critique of educational ratings, see Graham & Thompson, 2001).

Put more simply, how much agreement might we expect if we asked police chiefs to list those matters that they believed should be core to an accreditation assessment? Would their officers agree with these judgments? How would outsiders, such as mayors and the public, assess the quality of a law enforcement agency? One might reasonably anticipate that consensus would not result and that people in positions of power will prevail.

### ***Accreditation invites skullduggery.***

The police are far from consistent in the way that they gather, tabulate, and interpret crime statistics (for an excellent overview, see Chambliss, 2003). If the crime rate is down, it is because they are doing a splendid job. If it is up, this indicates the failure of the municipality, county, or state to provide adequate funds with which to finance a better policing performance. Crime statistics have been manipulated to support one or the other of these themes. Some years ago, the National Commission on the Control and Prevention of Violence kindly gave me copies of the rape reports for the Boston and the Los Angeles police departments, and I was stunned at how differently the two agencies defined what they reported to the FBI as rape or attempted rape. In Los Angeles, a dirty word and a touch on the shoulder rated an attempted rape charge; in Boston, things had to get much more serious (Chappell, Geis, Schafer, & Seigal, 1971). If statistics are part of accreditation, how seriously should current numbers be taken, and how much would agencies maneuver so that they are viewed more favorably by the accreditation agency?

### ***Accreditation creates a burgeoning bureaucracy that diverts attention and recourses away from the main tasks of law enforcement agencies.***

Let it be noted that there are 293,000 “hits” when you punch in “‘Accreditation’ and ‘Police’” using the Yahoo search engine on the Internet. Innumerable law enforcement departments around the country brag that they are accredited by this or that group. I find a parallel to the situation created by the United States Sentencing Commission when it decreed in its guidelines that corporations might be excused a portion of their penalty for wrongdoing if they had in place internal procedures to try to combat law-breaking (Key, 1999; Laufer, 1999). The result, predictably, was a flourishing industry of consultants who for a price offered to establish at least a facade of regulations that would allow a law-breaking company to maintain that it had tried its best to control its bad apples. Part of the deal often included a willingness by the consultant to testify in court about the pains it had taken to preclude crime.

The first of the entries on Yahoo indicates that similar endeavors are rife in the law enforcement business. The Law Enforcement Accreditation Consultants, Inc. (2004)



advertises itself as offering “experienced and credible accreditation counseling” that includes play-acting the role of “mock assessors,” hardly an exercise likely to enhance the level of crime control. I cannot, of course, judge the group’s services: it may be worth every penny that it charges, but I can take exception to ideas that it will “ensure that your agency will become accredited in 18 months or less” and that in doing so, it will “decrease the number of personnel and reduce the financial resources needed to get your agency accredited or reaccredited by 50%.” If the number of employees is going to be cut by half and the accrediting group will look on the result favorably, there would appear to be something strangely amiss somewhere.

### **Accreditation can produce sterility and numbness.**

One has to note the lament of teachers that accreditation standards force them to teach to the tests and to relegate what they consider to be much more satisfactory learning to the background. Standardized tests, it is claimed, reward the ability to quickly answer superficial questions that do not require critical thinking or genuine analysis (Kohn, 2000; McNeil, 2000). Accreditation in law enforcement can readily fall heir to similar charges. The consulting firm mentioned earlier offers to “provide direct guidance to your agency so that it remains focused on attaining accreditation or reaccreditation.” This is not the kind of focus that ought to characterize a police force charged with tasks relating to public safety. Agencies should not be concerned with their own self-advancement and the securing of what in the final analysis is likely to be a rather meaningless imprimatur.

### **Recommendation**

These things being so, it is my recommendation that law enforcement agency accreditation not be approved for beatification and canonization.

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# Reliability of Risk Management Data in Measuring Police Performance: An Initial Empirical Analysis

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A product of the Reform Era of policing in the 1960s, law enforcement accreditation was conceived as a means to professionalize the industry (Kelling & Moore, 1988). Established in 1979 through the joint efforts of four major law enforcement associations—the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriff's Association, and the Police Executive Research Forum—the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) was formed to develop an accreditation process affording law enforcement agencies an opportunity to voluntarily demonstrate that they meet an established set of professional standards (CALEA, 1999).

As CALEA celebrates its 25th anniversary, however, the extent of accreditation's effectiveness remains undetermined. Less than 500 agencies, or only about 3% of the nation's nearly 18,000 local, state, and federal law enforcement agencies, are accredited by CALEA, and many law enforcement executives question the value of accreditation (Bizzack, 1993; Carter & Sapp, 1994). In an effort to support their position that accreditation is beneficial to law enforcement, CALEA has published the results of several insurance studies claiming they present "a positive correlation between CALEA accreditation and loss reduction and . . . quantitative evidence that CALEA accreditation significantly impacts a law enforcement agency's ability to prevent and reduce loss in the area of professional liability" (CALEA, 2003). The authors conducted a secondary analysis of the data in an effort to replicate the results.

## Review of the Literature

According to Cheurprakobkit (1996), accreditation is the benchmark of law enforcement professionalism since it provides a basis for modernization of the department, increased morale, and budget justification. Additionally, Crowder (1998) concluded that accreditation is required in order to receive professional standing in the law enforcement community. Falzarano (1999) found that the CALEA accreditation process often represents the first step in establishing law enforcement professionalism since it provides the standards that embody professionalism. Gallagher (1990) found that the accreditation process forces agencies to address these concerns and the critical link between the management of liability and police professionalism. McCabe and Fajardo (2001) found that accredited agencies provide more training for their officers and require higher educational standards for new officers and that accreditation is one avenue to achieve professionalism in law enforcement. Snow (1992) cites self-assessment, evaluation of public services, improved agency policies, liability protection and reduced insurance fees, and fiscal

accountability as benefits of accreditation. He concludes that accreditation is the primary means by which a law enforcement agency can demonstrate that it is a professional organization. Finally, Trautman (1988) found that agencies that refuse to become accredited will eventually be forced to do so by civil liability.

Some researchers, however, have questioned the overall value of national accreditation. Bizzack (1993) examined whether CALEA-accredited agencies reported a decrease in civil liability after receiving accredited status. He found that CALEA accreditation only decreased an agency's liability slightly (less than 1%).

Carter and Sapp (1994) observed that chiefs of nonaccredited agencies are uncertain about the value of accreditation. The authors conducted a national survey of 699 accredited and nonaccredited law enforcement agencies to determine the attitudes and concerns of police chiefs toward the effects of the accreditation process. Carter and Sapp suggest that agencies do not seek accreditation because the process is deemed too time- and resource-consuming, and it cannot be demonstrated that the benefits offset the costs.

The preceding discussion of the value of state or national accreditation is important because of its mixed reviews. Some research has found that accreditation does increase police professionalism, reduce liability claims, and improve the overall operations of participating police agencies while other studies have found that accreditation may fail to have the desired effect.

## **Prior Research**

Lawsuits against the police are rising in a trend that is expected to continue (Bell, 2001; Christensen, 2001; Dauler & Romano, 1993; Fisk, 2001; McCoy, 1983; Stevens, 2001). Although CALEA claims reduced lawsuits as a benefit of accreditation, little empirical research has been completed.

Practitioners are more familiar with three financial studies completed by risk management pools: (1) the Illinois Risk Management Association (Marino, 1998), (2) the Tennessee Municipal League Risk Management Pool (Fann, 2002), and (3) the Colorado Interlocal Risk Sharing Agency (Pomeroy, 2002).

CALEA has published the results of these studies as support for the idea that accreditation reduces an agency's liability. In 1998, The Intergovernmental Risk Management Agency (IRMA) examined the frequency and severity of claims over a 5-year period for 44 nonaccredited and 14 CALEA-accredited police departments in Illinois. The authors use a simple averaging technique to report the number of claims per 100 officers. Using this formula, the report concludes a 16% reduction in frequency and a 35% reduction in severity in favor of accredited agencies.

Using the same methodology, the Tennessee Municipal Risk Management League (TML) compared the loss histories of 5 accredited agencies against 23 nonaccredited agencies from 1994 through 2002. The authors concluded that accredited agencies were sued 51% less frequently than nonaccredited agencies and paid 11% less in damages.

Similarly, the Colorado Interlocal Risk Sharing Agency (CIRSA) compared the claims of 22 state and CALEA-accredited agencies to the claims of 22 nonaccredited agencies from 1999 through 2001. The authors reported that accredited agencies were sued 8% less frequently than nonaccredited agencies and paid 52% less in claims. CALEA has presented these studies to its members as quantitative evidence of a correlation between accreditation and a reduction in the frequency and severity of lawsuits.

## **Prior Methodology**

The data used in the risk management studies was obtained through a convenience sample available to each agency. These agencies insure both accredited and nonaccredited law enforcement agencies in their respective state. The company maintains a record of claims filed by the agencies they insure, and their results were obtained through an analysis of these claims.

We acknowledge that the data collection process used in the prior studies may not be scientifically sound and presents limitations to this study. Given these limitations, however, we believe the data remains a valuable research tool. We contend that since no viable data exists in this area, it provides a point from which we can begin to explore the issue and broaden our understanding of the effect of accredited status.

## **Present Study**

The purpose of this study is to re-examine the data used in prior research using statistical methods commonly accepted in social science research. Moreover, it is our objective to obtain a deeper understanding of what is accepted in the culture as a benchmark of accreditation's success. Research in this area is dated, and while several studies have found that law enforcement executives perceive that accreditation reduces an agency's liability (Houglund, 2004; Valori, 2000), the risk management studies represent the only known empirical data in the area of study. Since previous studies indicate that law enforcement executives believe accreditation reduces the frequency and severity of lawsuits filed against their agencies, it is prudent to validate the results of the risk management studies.

## **Findings**

First, we wanted to determine whether any differences existed between the accredited and nonaccredited study groups in the prior studies. The data used in each risk management study was examined using independent t-tests. The results of these tests are presented in Table 1.

**Table 1**  
**Independent T-Test Comparing Individual Risk Management Data**

Independent Variable	df	t	p	N	M	SD
<b>Frequency of Claims</b>						
IRMA	56	-.776	.441			
Accredited				14	3.86	3.20
Nonaccredited				44	3.14	2.35
TML	30	1.62	.115			
Accredited				23	5.0	4.38
Nonaccredited				9	8.0	4.80
CIRSA	42	.51	.613			
Accredited				22	16.45	18.92
Nonaccredited				22	13.36	21.22
<b>Severity of Claims</b>						
IRMA	56	-.298	.767			
Accredited				14	34,391	32,979
Nonaccredited				44	29,820	54,114
TML	30	.900	.375			
Accredited				23	122,664	26,062
Nonaccredited				9	79,381	38,123
CIRSA	23.85	1.35	.189			
Accredited				22	97,869	39,963
Nonaccredited				22	42,011	10,440

Table 1 suggests that no significant difference exists between the study groups for both the frequency and severity of liability claims. Surprisingly, only the TML data for severity of claims presents a mean value favorable to accredited agencies. For all other analyses, the mean value favors nonaccredited agencies.

Next, we wanted to see whether any differences existed between the study groups when data from the prior studies was analyzed in aggregate. Since the sample size of each study group is so small, we wanted to use as large a sample as possible. Based on the Central Limit Theorem, which states that as the sample size increases, it becomes more representative of the population, we felt it was necessary to examine the data as a whole. While it is acknowledged that there are limitations and risks associated with the aggregation of three separate study findings, all three data sets purported to measure the same factors and have been used by the industry as evidence of the benefits of accreditation. The aggregate data was analyzed using an independent t-test. The results of this analysis are presented in Table 2.

**Table 2**  
**Independent T-Test Comparing Risk Management Data in Aggregate**

Independent Variable	df	t	p	N	M	SD
<b>Frequency of Claims</b>	73	-1.32	.189			
Accredited				45	10.24	14.62
Nonaccredited				89	6.92	11.66
<b>Severity of Claims</b>	132	-.88	.376			
Accredited				45	74,422	21,217
Nonaccredited				89	56,827	9,156

The results presented in Table 2 indicate that no significant difference exists between the study groups. Accredited agencies reported higher frequency of claims (M= 10.24, SD=14.62) than did nonaccredited agencies (M=6.92, SD=11.66). Additionally, accredited agencies reported greater severity in the claims (M=\$74,422, SD=\$21,217) than did nonaccredited agencies (M=\$56,827, SD=\$9,156). This analysis suggests the results presented in Table 1 are accurate and not the result of a spurious relationship.

## Discussion

While the results reported by the risk management companies appear informative in the insurance arena, it is a simplistic analysis that raises many questions. Additionally, CALEA’s acceptance of this data, which on its face appears to benefit the organization, may be confusing and misleading to its membership and nonaccredited agencies considering the accreditation process.

The prior studies have been promoted by CALEA and claim a direct relationship between accreditation and reduced liability. Caution needs to be exercised in interpreting the studies’ results, however, since they were completed by financial analysts and may be limited in research and statistical methodology. Since each study was undertaken by a risk management or insurance agency, the applicability of their methodology to an academic and practitioner audience remains questionable. Specifically, the prior research focuses on liability issues and do not address the tasks, functions, and duties in which our nation’s police engages daily. As such, it can be difficult to interpret the findings of these studies in a law enforcement context. Additionally, each study uses a small sample size (Fann, N=28; Marino, N=58; Pomeroy, N=44) drawn from law enforcement agencies within the analyst’s state. Thus, it is difficult to generalize the results to a national or even a state law enforcement audience as suggested by CALEA.

Our analysis failed to validate the results reported in the three risk management reports when the data from the prior studies is analyzed in its original format and in aggregate. Despite the limitations of the prior studies and its implications on the present study, we conclude that this data fails to support the idea that CALEA accreditation has a positive effect on reducing the frequency and severity of lawsuits. We suggest that the accreditation community support future research in this area through large-scale, quantitative study that is capable of capturing additional factors that may be influencing these findings.



It must be further stated that this analysis was in no part an attack on CALEA or the process of accreditation. Rather, these findings suggest that the existing data in this field is not sufficient to base large-scale agency-wide policy decisions. As police executives face increasing challenges in the areas of budget, personnel, and public accountability, policy decisions must be based on sound data.

If there is one thing that we can say definitively, it is that more research needs to be conducted, both by the law enforcement community and academia. As law enforcement strives to become more professional in the 21st century, there may be no need greater than this.

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# Law Enforcement Accreditation (CALEA): A Note on Performance-Based Reviews

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In 1967, The President's Commission on Law Enforcement and Administration of Justice made various recommendations, including increasing the educational requirements for police officers, to improve the performance of law enforcement agencies. In 1979, the creation of the Commission for the Accreditation of Law Enforcement Agencies (CALEA) provided the opportunity to more specifically define standards and establish a voluntary accreditation process for law enforcement agencies (CALEA, 2004). Since the late 1970s, the number of Nationally Credentialed Law Enforcement Officers (NCLEOs) has continued to grow (Hill, 1999), and by 2001, approximately 500 agencies had undergone the voluntary accreditation process (Walker & Katz, 2002).

The standards developed by CALEA address six largely bureaucratic areas of law enforcement: (1) roles and responsibilities, (2) organization and administration, (3) personnel, (4) operations, (5) prisoners and court-related activities, and (6) auxiliary and technical services (CALEA, 2004). Research examining the impact of these standards on agency characteristics indicates that accredited agencies provide more field training hours, are more apt to operate special units, and require higher minimum educational requirements than nonaccredited agencies (McCabe & Fajardo, 2001). Furthermore, accreditation has been linked to improved performance appraisal systems among patrol officers (Gianakis, 1992). Although there is some indication that accreditation may have a beneficial impact on agency characteristics, critics argue that, in addition to being voluntary and expensive, accreditation may not influence police behavior (Walker & Katz, 2002); therefore, we propose the addition of performance-based measures to the accreditation process.

## Performance-Based Measures

There are numerous performance-based measures that can be utilized to evaluate law enforcement agencies. We are interested in measures that provide uniform, or nearly uniform, information. The Uniform Crime Reports (UCRs) can be a source for some information; although, by necessity, other data may come from individual police agencies. Although these performance-based measures can potentially be manipulated, the advantages of these measures may outweigh the shortcomings. The following represent the proposed measures:

- *Arrest Rates for Felonies and Misdemeanors* – This data is readily available from the UCRs. Arrest rates for specific felonies could also be identified and included. Court data on the percentage of arrestees convicted would also be useful but would probably entail the use of additional resources.

- *Citizen and Police Complaints* – The data is readily available in large police agencies (Griswold, 1994); although, this may be problematic for smaller ones. Whether or not complaints are sustained is of interest, as are dispositions of sustained complaints. Again, the collection of such data may require additional police resources, but it should provide some insight into the complaint process and identify agencies that have a high rate of complaints as well as those that are sustained.
- *Rates for Noncriminal Matters* – This would include such things as traffic and ordinance violations. Presumably, the rates would be high because they involved minor infractions. What percent of these cases results in a finding of guilt?

## Summary

The preceding measures are intended to be used as only a starting point. It is uncertain precisely how they would be used in the accreditation process; however, if a department had an inordinately low arrest rate or high rate of sustained complaints, these measures could certainly be taken into account in the accreditation process. Clearly, behavioral indicators such as those identified have advantages over more traditional accreditation criteria, and they provide an added dimension. Furthermore, it is possible for police agencies to collect data on all of the measures identified.

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# Accreditation Preparation for Basic Law Enforcement Training Academies

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## Introduction

In its basic form, an accreditation review is an evaluation to determine whether an agency is meeting the minimum standards established by regulatory entities and provides recommendations for performance improvement (Stufflebeam, 2001). This would seemingly call for two preparatory actions by agencies subject to an accreditation review: (1) identify and ensure minimum standards are realized and (2) continually conduct formative evaluations to identify areas of improvement. Many law enforcement agencies are subject to some level of accreditation review, one of which is the Illinois Police Corps (IPC).

IPC is accredited as an Illinois Law Enforcement Training and Standards Board (ILETSB) certified law enforcement basic training academy. IPC is a United States Department of Justice – Office of Police Corps (USDOJ) funded scholarship program in which college graduates receive college reimbursements in return for 4 years of service with an Illinois law enforcement agency. Currently, the academy is a split phase training academy where cadets complete 10 weeks of training between their junior and senior years in college and an additional 14 weeks of training after their senior year in college.

The best methodology in any accreditation review is preparation. Sufficient preparation should be an essential component to any program subject to accreditation review. Accreditation expectations, requirements, and/or procedures are generally available to the agency in advance and should be used to regulate program activities to ensure compliance during a review. This article will summarize the accreditation preparations taken by IPC in general and specifically for a USDOJ accreditation review in 2004.

## Accreditation Requirements

IPC is governed by two separate governmental entities: (1) ILETSB and (2) USDOJ. IPC must carefully balance the standard requirements distributed by both agencies to maintain compliance in training and operation. The following sections outline the requirements set forth by both entities.

### ILETSB Standard Requirements

ILETSB (1995b) provides each Illinois law enforcement training academy with *The Minimum Standards Basic Law Enforcement Curriculum* (hereafter referred to as *Minimum Standards*). The *Minimum Standards* contain 400 to 480 hours of required training topics that all Illinois certified academies must present in order to certify a cadet as eligible to take the ILETSB state certification examination. These standards provide guidance regarding training topics and curriculum.

ILETSB (1995a) also distributes *Accreditation: Standards for Basic Law Enforcement Academies* (hereafter referred to as *Accreditation Standards*). These standards must also be followed by all Illinois-certified training academies. The *Accreditation Standards* are separated into the following seven sections:

1. Administration and Management – This section outlines the general administration of the academy. Procedures include facility and records management, inventory control, supervision and qualifications of personnel, financial requirements, and policy/procedure development and implementation.
2. Communication – This section provides stipulations regarding communication among and between staff, students, and external law enforcement agencies.
3. Curriculum – This section refers to the *Minimum Standards* and requires adherence; specifies consistency, lesson plans, and a variety of instructional techniques; and mandates the development of a policy on curriculum.
4. Instruction – This section requires instructor credential files to be managed and outlines instructor requirements in interviewing and evaluation.
5. Student Support Services – This section governs the supporting services in counseling and learning activities provided to students by the academy.
6. Facilities, Equipment, and Materials – This section outlines the requirements of the facilities and equipment in general and the housing/meals available to students.
7. Planning and Evaluation – This section provides guidance on internal reviews, testing, and research.

### **USDOJ Standard Requirements**

IPC must also adhere to the requirements set forth by USDOJ. These requirements pertain to the academy's structure, training core values, additional training topics (e.g., leadership, community involvement, team building, etc.), and an integrated training curriculum emphasizing practical and scenario exercises. The specific USDOJ requirements are included in the *Police Corps Guidelines for Training* and *The Police Corps Principles for Selection and Training* (USDOJ, 2000, 2004b).

The *Guidelines for Training* delineate the USDOJ philosophy of training, which must be followed by IPC. This document outlines the goal of training; training session structure; training for physical fitness, ethics, and self-discipline; preparation for community patrol; and realistic training requirements.

The *Principles for Selection and Training* provides a comprehensive overview of the specific requirements in training, management, and organization within a state police corps program. The *Principles for Selection and Training* contains the following nine sections, which provide detailed mandates.

1. Training Environment and Structure – The training environment is addressed in this section, which prescribes detailed information regarding academy structure,

cadet orientation, preparatory training, academy staff, and overall academy organization.

2. Leadership and Conduct – Leadership of the academy staff, cadets, and instructors is covered in this section. Expectations are established, and adherence is required.
3. Core Values and Ethics – USDOJ has established several core values and ethical standards, which are required to be integrated throughout the entire training curriculum.
4. Physical/Mental/Emotional Fitness – This section prescribes standards for physical and emotional fitness, including stress management, nutrition, and physical activities.
5. People and Community – Outlines the requirements for civic engagement and participation in community events.
6. Communication – This section stipulates the various types of communication (e.g., written, verbal, nonverbal, etc.) and how training must address different issues involving effective communication.
7. Academic Content – The curriculum standards in consistency, content, and delivery are addressed in this section.
8. Technical Skills – These skills pertain to arrest and control tactics, firearms, and emergency driving. The minimum standards that must be realized through training are outlined.
9. Scenario Training – This section is a compilation of the entire training program, and the minimum requirements for cadet performance and competency are outlined.

### **USDOJ Special Requirements**

Prior to the USDOJ assessment in the summer of 2004, several documents were sent to IPC by USDOJ outlining several requirements based primarily on the *Guidelines for Training* and/or the *Principles for Selection and Training*. In addition to these requirements, the specific assessment evaluation instruments were sent to IPC approximately one month prior to the assessment. This objective performance measure gave the precise expectations and associated activities of the audit team.

The assessment was composed of three distinct sections with the following purposes (USDOJ, 2004a, Section II-1):

1. Pre-Assessment Phase – This is the period devoted to scheduling and staffing development for each on-site assessment, along with initial data gathering.
2. On-Site Assessment and Debriefing Phase – Typically a 3-day effort, this phase includes a series of interviews and on-site observations, gathering of data and documents, and a debriefing with the state director. The debriefing is a transparent



process in which the assessment team meets with the state director of the training program being evaluated to explore and clarify the findings.

3. Post-Assessment Phase – This phase of the assessment process focuses on the following areas:
  - a. Reporting – The final report will acknowledge innovative and effective practices, discuss required compliance with police corps standards, and describe discretionary program enhancements.
  - b. Compliance – If necessary, state directors will be required to meet changes outlined in the assessment report.
  - c. Evaluation of the Assessors – The Police Corps Staff Development Team will provide state directors with the evaluation form. The directors will submit the completed form to the national director.

Each phase was accompanied with a significant amount of written material, which included measurements, examples from previous assessments of other police corps programs, and measurable expectations (i.e., what would represent poor performance and what would represent exemplary performance). These special requirements were instrumental to IPC in preparing for the assessment.

## **Accreditation Preparation**

IPC realized the importance of complying with the aforementioned guidelines and took several preparation steps to ensure that when, or if, an accreditation review occurred, IPC would be well prepared. The following summary and expanded segments outline the specific actions taken by IPC to prepare for a training academy accreditation review.

### **Outline of Accreditation Preparation**

- I. Develop a Standard Operating Procedure (SOP) to consolidate all required mandates from single and/or multiple entities.
- II. Organize, standardize, complete, and audit curricula files.
- III. Develop, organize, and summarize records concerning cadets, staff members, training hours/schedule, course catalogue, testing, and financial documents.
- IV. Organize and summarize all evaluations conducted within the training academy.
- V. Conduct dress rehearsals.

### **I. Development of a Standard Operating Procedure (SOP)**

Using the ILETSB *Accreditation Standards* and *Minimum Standards* and the USDOJ *Guidelines for Training* and *Principles for Selection and Training*, the IPC developed a comprehensive standard operating procedure manual. The design and development

of this document was initiated with a thorough review of all requirements by ILETSB and USDOJ. During the review, several areas of overlap and new areas were documented.

Several individual sections were designed, and components of all requirements were placed into each relevant section. A review was conducted to ensure that each specific item within the ILETSB and USDOJ mandates had been adequately addressed. Corrections were made, and the finished product was reviewed and approved by the entire IPC staff.

The development of the IPC SOP served several purposes:

- It provided IPC staff members with a single reference for correct and expected actions within IPC operations.
- It ensured that all required mandates had been adequately addressed and identified any area for improvement.
- It provided independent evidence that all mandates were addressed during an accreditation review. The IPC SOP is reviewed annually or as necessary to ensure that all sections are current, accurate, and applicable to the entire training program.

## II. Curricula

Within the IPC SOP, the processes of assessing, designing, developing, implementing, and evaluating curricula are outlined with a considerable amount of detail. Compliance with the IPC SOP took a considerable amount of time to complete, primarily because the standards within the IPC are incredibly and unusually high.

Each training course consists of at least a lesson plan and a student handout. Many courses also include *PowerPoint* presentations, testing instruments, practical exercises, and various other components. These curricular items were standardized in terms of format, filing, and management. Once each course was formatted, it was checked against the IPC SOP. Within each course, each IPC core value and learning domain was specifically addressed.

1. Core Values
  - a. Honor
  - b. Courage
  - c. Commitment
  - d. Pride
  - e. Professionalism
  - f. Respect
  - g. Teamwork
2. Learning Domains
  - a. Skills (knowledge, skills, abilities)
  - b. Legal (statutes, case law, etc.)
  - c. Leadership

- d. Ethics
- e. Problem-Solving
- f. Communication
- g. Wellness
- h. Community

Items from the core values and learning domains were inserted into the curricula, as necessary, and filed electronically and via hardcopy documents. Once all documents had been completed, an audit was conducted, and an audit sheet, which highlighted the presence of the following documents, was placed in the course file.

1. Course name
2. Date developed
3. Course developer(s)
4. Course instructor(s)
5. Auditor's name
6. Documents found in the course file
  - a. Lesson plan
  - b. Student handout(s)/manual
  - c. *PowerPoint*/overhead
  - d. Testing instruments and answer keys
  - e. Supplemental materials (e.g., readings, sources, etc.)
7. Frequency with which the core values/learning domains were integrated within the course
8. Notes regarding the audit/course

This preparation proved valuable during the actual accreditation review. As auditors randomly selected several courses and completed an in-depth review of each course, they found that each course was in a standardized format and quickly realized that all required mandates were met or exceeded.

### **III. Organization and Summary Sheets**

#### ***Cadet Records***

IPC created several statistical summary sheets on individual cadet classes to illustrate past and current activity. These sheets listed the number of cadets starting each class, dismissed during training (and specific reasons), graduating from training, dropping from the program or resigning from full-time employment, and other various demographic information. At a glance, auditors quickly processed the necessary information, and IPC staff did not have to conduct an exhaustive search during the review to locate the information.

#### ***IPC Staff Records***

Each member of the IPC training staff provided a comprehensive biographical information sheet. Each sheet contained the staff member's educational and training background, employment experience, and current tasks/duties. These sheets also provided the review auditors with a quick reference to determine whether staff members were qualified to instruct certain courses and various other factors.

## Training Hours/Schedule

IPC organized several summary sheets to facilitate the review of the training schedule and total training time. These included a side-by-side training course comparison and training calendar/time breakdown. IPC created and organized this information for rapid illustration if needed during an accreditation review. Each was subsequently called for, which demonstrated the importance of this proactive measure.

The side-by-side training course completion document consisted of a chart outlining the required ILETSB *Minimum Standards* and those actually taught by IPC (see figure below for Section B, The Police Function and Human Behavior). The differences in requirements and those actually taught could easily be identified.

## Side-by-Side Training Summary

B. The Police Function and Human Behavior	ILETSB Req Hrs	IPC Course Name	Phase		Total	Difference
			I	II		
1. Domestic Violence	4	Domestic Violence	-	7.5	7.5	3.5
2. Child Abuse	4	Juvenile Certification	-	10	10	6
3. Communication in the Police Environment	17	Communication in the Police Environment	-	8	-	-
a. Verbal Judo	-	Verbal Judo	7	-	-	-
b. Nonverbal Communications	-	Nonverbal Communication	21	-	-	-
c. Spanish	-	Spanish	-	37.5	73.5	56.5
4. Crisis Intervention/ Disturbance Calls	6	Crisis Intervention	-	7.5	7.5	1.5
5. Crowd Behavior	4	Crowd Behavior	-	4	4	0
6. Dealing with Variant Behavior	4	Variant Behavior	-	7.5	7.5	3.5
7. Modern Police Role and Organizational Structure	2	Modern Police Role	4		4	2
8. Patrol Decisionmaking in Juvenile Matters	2	Juvenile Certification	-	10	10	8
9. Observation and Perception	4	Crucible	-	4	4	0
10. Police Citizen Relations	6	Police Community Relations	29	96.5	125.5	119.5
11. Police Ethics	4	Ethics	10	2	12	8
12. Problem-Solving Approaches	2	Crucible	-	2.5	2.5	0.50
13. Cultural Diversity	0	Cultural Diversity	-	7.5	7.5	7.5
14. Community Policing (RICP)	0	Community Policing	35	-	35	35
<b>Total</b>	<b>59</b>	-	<b>106</b>	<b>204.5</b>	<b>310.5</b>	<b>251.5</b>

The training times in Figure 1 require the time allocated to each training course be accurately documented and tabulated. IPC completed this by creating several Microsoft *Excel* spreadsheets, which were formatted to automatically tabulate training hours. Each training week was documented in a separate sheet, with days of the week on the X axis and course names on the Y axis. The total amount of time allocated to each course on any given day of the week was entered and automatically totaled. One comprehensive sheet was designed to automatically compile information from each week. To ensure that the hours were accurate, random checks of several courses were completed.

It is important to realize that the times indicated on the final training schedule must match those indicated by this comparison or summary sheet. During the accreditation review, several courses were checked by auditors. When the process of determining training hours was explained and subsequently reviewed by the auditors outside of the presence of IPC staff, all figures were found to be accurate. This process is initially time-consuming and requires continual attention, but it is also invaluable during an accreditation review.

### **Course Catalogue**

Each training course was summarized by course name, corresponding ILETSB *Minimum Standards* course name, length, goal, and terminal objectives. These course summaries were coupled with the side-by-side comparison. Again, it was imperative that the course content and time allotments were accurately reflected in the course files and training schedule. During the review, auditors quickly referenced individual IPC training courses to the ILETSB *Minimum Standards* to check for compliance.

### **Cadet Testing**

Three separate summary documents were prepared to outline the current testing results for all cadets. The first document contained the cadet academic testing scores for individual courses and an academic summary. The second document contained the physical fitness testing scores for each cadet. The physical fitness scores were based on an expanded Illinois Police Officer Wellness Evaluation Report (POWER). These scores were quantified and averaged over the six different testing dates. The third document provided a comprehensive overview of the first two documents and information about the academic standing of all cadets currently in training and those completing training in past classes.

### **Financial Records**

The financial documents of training academies should not be forgotten during accreditation preparations. The review of local, state, and/or federal requirements pertaining to financial document processing, maintenance, and storage are beyond the scope of this article. All financial files should be organized in a standard manner and clearly labeled. IPC provided several documents, which highlighted the following:

1. Current budget status
  - a. Annual budget
  - b. Expenditures to date
  - c. Budget balance

2. Monthly and/or quarterly budget status
3. The financial purchasing process and regulations
4. Backup or support documentation for purchases
  - a. Purchase receipts
  - b. Justification or reason for the purchase
  - c. Documentation on the "bid process" for large expenditures

Having all of these documents available and organized facilitated the accreditation process.

#### **IV. Evaluations**

As previously stated, Stufflebeam (2001) indicated that one reason for an accreditation review was to identify areas of program improvement. Evaluations, if conducted correctly, may identify potential improvement areas when there is still a sufficient amount of time to initiate corrective action(s). Ideally, program evaluations should be considered during the initial design of any training program (Brown & Kiernan, 1998). Evaluations in training academies should focus resources on two areas: (1) curricula (design, development, and implementation) and (2) personnel (cadets, staff, and adjunct instructors). Directors and managers must consider the extensive amount of time required to complete, analyze, and implement changes based on evaluations.

IPC has conducted evaluations beyond the typical critiques completed by cadets immediately following the completion of a course. Phillips and Stone (2002) have indicated that course critiques (those completed after the course) provide little evidence of actual learning or future on-the-job application. This is not to say that this type of course evaluation tool should be discontinued, but the weight given to these evaluations should be properly balanced with other evaluation methods. IPC supplements the end-of-course critiques by contacting past graduates to determine retention rates; frequency with which their daily job tasks required the knowledge/skills of the training course; and what changes, if any, should be made to the training course.

IPC has employed a mixed-methods approach (quantitative and qualitative) to evaluations, which is advocated by Stake (2004). Quantitative methods include paper surveys targeting training (at the end of the course/training), staff, instructors, and other cadets. As previously stated, surveys were also used in the questioning of past graduates to determine the relevance of current training content and scheduling. Qualitative methods have been used by the IPC staff informally while training classes are in progress and in interviewing cadets after graduation. IPC has found that these evaluations allow for a cadet and/or graduate perspective to be provided with little direction or bias from the IPC staff. For example, commonly asked questions of past graduates include "To what types of calls do you most frequently respond?; Do you feel you were completely unprepared for any call?; and If so, what could have IPC done to better prepare you for this type of call?"

IPC has developed a systematic process for conducting and storing evaluations. Each type of evaluation (i.e., curricula, instructors, personnel, cadets) is filed separately

by year and subject with a statistical summary sheet. During the accreditation review, two issues were readily recognized by the auditors: (1) specific and complete evaluation documents were easily located and organized and (2) IPC is actively engaging in the processes for self-improvement.

## V. Dress Rehearsal

The final component of the IPC accreditation review was a dress rehearsal. The staff collectively considered the general and special requirements and the potential questions or issues that could be raised during the accreditation review. All of the previously mentioned areas were given a review one last time prior to the actual accreditation. While this review did not reveal any significant deficiencies, the attention to detail was evident during the actual accreditation process.

## Conclusion

In closing, several issues surround an accreditation review of a law enforcement training academy. First, the specific regulations governing the operation of law enforcement training academies are likely to vary significantly across state lines. The purpose of this article was to illustrate the steps taken by IPC to prepare for a USDOJ accreditation review. It is anticipated that the general procedures enacted by IPC will help guide other law enforcement training academies in their preparation for reviews.

In addition, training directors and managers should be cognizant of the considerable amount of time required to prepare for an above average accreditation review. The best time to prepare for an accreditation audit is *before* a review is announced.

Finally, accreditation review results are generally a matter of public record and may be reviewed by law enforcement officials, the media, the defense attorney community, and many others. Negative reviews will not only reflect poorly on the training academy but on the entire law enforcement community as well.

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# Best Practices Guide for Developing a Police Department Policy/Procedure Manual

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## Introduction

This guide has been designed to assist police agencies in small communities with the development and revision of their policy/procedure manuals. The policy and procedure manual is the foundation for all of the department's operations. When properly developed and implemented, a policy/procedure manual provides staff with the information to act decisively, consistently, and legally. It also promotes confidence and professional conduct among staff.

Service delivery by agencies in small communities is often more responsive than departments in large communities due to partnerships within the community and knowledge about its citizens. In addition, officers working in small agencies must be prepared for the same challenges and situations as their colleagues in larger organizations. The only real difference between large and small communities is the degree of specialization in job assignments in smaller departments. Small agency officers are generalists, often seeing the case through from start to finish. Because of this, officers in small departments are provided more latitude to perform their jobs and are not locked into the same routine every day, allowing for more growth, job enhancement, and satisfaction for employees. Policies and procedures for small agencies must, therefore, be as thorough and complete as in their larger counterparts.

The remainder of this article will focus on the process of developing a manual in small departments. It will explore the general rules for developing policies, forming a policy committee, finding sources of information, organizing the manual, writing a policy, implementing a new policy, and preparing for compliance inspections.

## Definitions

Organizations call their policy and procedure manuals different names—policy and procedure, operations manual, standard operating procedures. Regardless of the name, the document provides staff with the guidance necessary to perform department operations. Before outlining the process for developing an operations manual, it is necessary to provide a baseline of terminology. Several terms will be used during the development of a manual. It is necessary to distinguish between each.

- Standard – Guidelines or performance requirements that establish benchmarks for agencies to use in developing the organizational structure and measuring the service delivery system.

- Policy – A course or line of action adopted and pursued by an agency that provides guidance on the department’s philosophy on identified issues.
- Procedure – A detailed description of how a policy is to be accomplished. It describes the steps to be taken, the frequency of the task, and the persons responsible for completing the tasks.
- General Orders – Written directives related to policy, procedures, rules, and regulations involving more than one organizational unit. General orders typically contain a broad statement of policy as well as the procedures for implementing the policy.
- Special Orders – Directives regulating one segment of the department or a statement of policy and procedure regarding a specific circumstance or event that is temporary in nature.
- Personnel Orders – Announcements of changes in status of personnel such as transfers or promotions.
- Rules and Regulations – Procedures that apply each and every time a situation occurs with specific guidelines for staff to follow. Rules and regulations usually proscribe specific behavior that will result in employees being disciplined for failing to follow the guidelines provided.<sup>1</sup>
- Employee Handbook – Manual provided by the governing authority that introduces employees to the organization, its benefits/compensation package, and an abbreviated listing of policies.

## **Rules for Effective Manual Development and Implementation**

When developing operational policy and procedures, seven general principles should be remembered.

1. The operations manual should be comprehensive, providing staff with direction and guidance for all aspects of the department’s operations.
2. The manual should be clearly written and easy to use.
3. The manual should be consistent with and mirror the organizational philosophy, legal requirements, and applicable standards.
4. Staff should be involved in the development of the manual and kept informed of any changes.
5. Staff should receive adequate training and participate in open, frank discussions about the policy and the reasons for its requirements.
6. The operations manual should be considered a living document. Routine inspections and reviews should be completed to ensure compliance with its directives so that the manual remains current.<sup>2</sup>

7. The manual should reflect and incorporate accepted state and national best practices (e.g., model policies like those developed by the IACP's National Law Enforcement Policy Center or other law enforcement organizations' general guidelines for policy/procedure manuals as developed by the Commission on Accreditation for Law Enforcement [CALEA], state law enforcement associations, and others).

## **Formation of the Policy Committee**

Developing a policy manual is a critical undertaking. One of the first tasks to be completed is the selection of a policy project coordinator. The selection of the proper person for this position is critical to the success of the development and implementation of the manual. In most agencies, this appointment is not a full-time assignment. Instead, the person must complete these responsibilities in addition to his or her current duties. As the leader, the policy project coordinator must have the authority, knowledge, and motivation to make assignments, draft policies, coordinate meetings, and complete the process. In addition, the coordinator must have sufficient administrative or clerical support to expedite the development process.

While one person can write the manual, the final product will likely be more complete, comprehensive, and accepted by staff if the document is developed with contribution from both sworn and civilian representatives of the agency. Diverse, heterogeneous groups tend to be more effective with complex problems and assignments than a homogeneous group or an individual.<sup>3</sup> It is, therefore, strongly suggested that as many staff as practical be involved in the manual's development and implementation. To accomplish this, many departments have organized policy committees to assist with development.

Involving staff in the developmental process provides a vehicle for employees' abilities and potentials to be both challenged and recognized. It is recommended that the chief post a memorandum or office e-mail explaining the development/revision process of the manual. Supervisors should ask interested persons to assist with the effort. In addition to volunteers, the policy committee should involve employees who may be critical of the department's operations. These officers can often provide information to improve the department operations. Inclusion of those with vocal opposition provides a safe avenue for discussion and promotes resolution. Alternatively, alienation of those critics of policy and procedures only undermines agency cohesion and morale. Finally, there may also be a need to involve persons from other agencies, particularly those with special knowledge areas.

## **Sources of Information**

When preparing to develop each area of the manual, a variety of sources should be reviewed for information to be included in the policy.

The local government's charter usually outlines the department's authority. Similarly, local, state, and federal laws and applicable court decisions prescribe standards of performance for department compliance.

Collective bargaining agreements, consent orders, and court decrees often . . .

- List requirements for the employment process.
- Describe individual duties and responsibilities.
- Outline discipline and grievance procedures, compensation, and benefits programs.

The governing authority's procedures are binding upon the department's operations in many areas, particularly employment procedures and compensation benefits. The department's procedures cannot be in conflict with policies of the governing authority, or they will automatically be considered null and void.

Intergovernmental agreements and contracts for services, such as detention of inmates or dispatch operations, may include requirements that should be considered and included in the operational procedures.

Mutual aid agreements, emergency operation plans, and previously agreed upon protocols (e.g., child abuse/molestation investigations) often outline binding procedures for officers to follow while working with other agencies. Because these documents are often updated on a different schedule than the review of the manual, it is wise to place the latest copy of the agreements in the appendices and refer to them in the body of the policy.

Standards such as the *CALEA Standards for Law Enforcement Agencies* or standards promulgated for state certification programs provide the benchmarks for professional conduct and are an excellent cornerstone for department operations.

Existing departmental policies, procedures, and general orders often provide ample direction for officers and should not be arbitrarily abandoned. With a little modification to ensure consistency in structure with the new manual, these procedures can be easily included in the manual. In many cases, the informal manner in which the department is operating simply needs to be recorded.

Since police operations are similar throughout the United States, there is no need to reinvent the wheel. Policies from other departments are an excellent resource for expediting the development process. Copies of manuals may be acquired from neighboring departments that have completed state certification or national accreditation. In addition, manuals can be obtained or requested on Internet sites such as IACP Net. In many cases, these policies can be downloaded in an electronic format, which simplifies the editorial process. The tendency is for departments to copy manuals from other communities verbatim. This process is completely acceptable if the manual represents the department's philosophy and procedures and is consistent with legal guidelines; however, this is usually not the case, and considerable editing is usually required.

Model policies provide a basic document to use as a starting point in the development of a manual. There are a number of sources for model operating policies including the IACP National Law Enforcement Model Policy Center and the National Center for Rural Law Enforcement. In addition, some state agencies and police chiefs' associations have developed policies to assist agencies in their area. Because of the diversity in the size of communities, state laws, and operational

philosophies between agencies, it is difficult to develop a policy that is applicable in all departments. Consequently, model policies should be thought of as general guidelines to be used in the development of the department's manual.

## Tips

- Academic research journals, trade magazines, and training lesson plans (e.g., *Journal of Criminal Justice* and *An International Journal of Police Strategies and Management*) are good sources for policy and procedure background information and address areas that may be overlooked in particular subjects.
- Interview subject matter experts, such as records clerks, evidence custodians, and narcotic agents, or persons whose contributions are critical to the manual's success, such as other chiefs and legal counsel.

## Organization of the Manual

Before beginning to write the manual, several issues relating to formatting must be discussed and decided including scope, headers, pagination, key phrases, and the index.

The scope of the manual must be identified. Most small agencies have a comprehensive manual that regulates all of the department's administration and operations. Larger agencies have found it necessary to have more than one manual for functional areas (e.g., administration, patrol, investigations, and detention).<sup>4</sup>

The beginning of each new section of the manual should be divided with a tab that readily identifies the chapter's subject or number. Each policy must contain a header that includes the agency's name, chapter/policy number, title, effective date (originally implemented), revised date (current revision), number of pages in the section, and to whom the policy is distributed. Before the policies can be finalized, the format for the header must be designed and approved.

Because manuals tend to be rather voluminous, it is necessary to develop a pagination system. This system should identify the exact policy and page. For example, 5-1.3 indicates the location is Chapter 5-1, page 3. There are several derivations of this format, but the pagination must allow staff to easily identify and locate the policy and page number.

To ensure consistency, key phrases, such as *detention facility* vs. *jail* and *investigator* vs. *detective*, must be identified, discussed, and decided upon for consistency throughout the entire manual.

As the policy manual is being developed, broad topic areas to be covered must be identified. Reviewing model manuals or other departments' policies may provide insight into developing these categories and the specific policies to be included in each area. Each policy should be organized in the sequential order they are to appear in the manual. Some policies may not be finalized until issues are addressed and resolved in other policies; therefore, it may be necessary for the coordinator to prioritize the order in which the policies must be composed.

Finally, some departments have found it useful to provide an index in the appendices of the manual to assist in readily locating relevant policies. The index cannot be compiled until the manual is complete.

## **Committee Review**

After the topics to be included in the manual have been identified and finalized, the drafting of policies can begin. To ensure that the manual is developed in a timely manner, a schedule should be developed to outline the tasks to be completed, time expected to complete each task, persons responsible, and deadlines for completing each task. This schedule helps the committee to prioritize work activity and focus attention on the manual's development. For the same reasons, an agenda should be developed and distributed at every committee meeting. Otherwise, the meetings will likely get off track and fail to accomplish anything. There are a number of ways to compose a manual. The process of policy development typically includes the following steps:

### **Policy Development Steps**

1. The policy committee meets, and members reach a consensus regarding what should be included in each section. Any discussion points, questions, and concerns identified during meetings should be noted by the coordinator and provided at the next meeting.
2. Using the information provided by the committee, the project coordinator (or the designated committee member) develops all draft policy (see "Procedure Development Steps" below). The policy development committee should not be used to write the manual. If members were expected to compose the manual as a collective group, it would never get done.
3. Copies of the draft policy are sent to committee members for review and comment.
4. Committee members may individually return their draft copies with comments to the coordinator or meet as a group to discuss their concerns. As the manual is reviewed, committee members should be primarily concerned with the validity of the policies. That is, does the policy regulate or direct department operations and employee conduct in the manner in which it was intended? Any contradictions, gaps, or inconsistencies should be identified and corrected. This review should also ensure that each policy is grammatically correct, correctly spelled, and easily understood.
5. The coordinator reviews the comments by the committee and makes the necessary changes to the drafts.
6. Copies of the second draft are sent to the committee members for review. In some cases, it may be necessary to repeat Steps 4 and 5.
7. The coordinator submits the final draft to the department's legal counsel to ensure that the proposed policy is in compliance with current local, state, and federal laws. There are differing opinions about the decision to have legal counsel review

each policy or restricting the review to areas of high liability and legal ambiguity. This is a decision that should be made by leaders in each community.

8. When the legal review is complete, any comments or changes may be sent to the committee for final review. In some communities, it may be necessary to send the approved policy to the city manager for review.
9. Upon final review, the coordinator places the policy in final form and prepares it for distribution to department staff.

## **Procedure Development Steps: Steps for Developing a Policy Procedure Manual**

Before embarking upon the procedure development, it is recommended that the committee take the time to identify and articulate the department's core values, mission statement, and vision statement. Of course, the department's manual can be developed without these documents, but they can prove invaluable to developing the organization and its culture. Embedding the organizational values throughout the manual will encourage desired behaviors by officers and a strong and consistent value system throughout the department. Some departments have found it necessary to contract with a facilitator to assist with the development of these statements.\*

When writing the procedures, the use of scenarios can be helpful in the development process, clarifying each component of the procedure and the supporting agency values and mission. Completing scenarios helps to identify the duties and functions that must be completed for each task.

### **Steps for Writing Operating Procedures**

1. Start with the end in mind. Assuming an officer completes the scenario successfully, identify the desired outcome. (Goal)
2. Review the literature/research material for issues that should be addressed in the policy being developed. Also review the committee's notes of discussion points, questions, and concerns.
3. Outline the actions/steps to be completed to achieve the goal or complete the function successfully. (What)
4. Place the outline steps in sequential order. (When)
5. Identify the person/positions to be involved in completing the tasks in Steps 2 and 3. (Who)
6. Be sure to identify and include any special equipment, supplies, and material to be used with the procedure.
7. Compose the draft directive, and submit it to the policy committee for review.<sup>5</sup>

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\* An excellent source for developing these documents in-house can be obtained from the IACP Services, Support and Technical Assistance for Smaller Agencies Project Staff at IACP. Contact Elaine Deck at (800) THE-IACP, ext. 262 for more information.



It should be noted that the tone of the language used in the manual subtly impacts the organizational culture. Unreasonable restrictions in operational policy have often been the source of dissension between line and supervisory staff. The purpose of the manual is to empower the staff, so it is important to recognize that every possible scenario cannot be identified. Officers should be allowed the latitude they need for making decisions in unusual circumstances. If a negative tone is used in the manual (e.g., *shall not*, *will not*, *are not*, *forbidden*), it can permeate the ranks and promote cynical attitudes in staff. Consequently, the text of the manual should avoid focusing on prohibited acts but rather emphasize conduct that the department expects and supports of officers. Finally, there are few absolutes in law enforcement. The courts have ruled that terms such as *should*, *are to*, and *directed to* are not absolute. Only *shall* means under all circumstances and conditions. It is difficult to identify when officers are to act in the same manner without regard to the circumstances; therefore, the use of absolute language should be avoided whenever possible.

## **Implementation and Confidentiality**

After the manual has received final approval, it is ready to be implemented. Each officer should be issued a copy. Before this can occur, sufficient copies must be produced. In small agencies, this can be accomplished by printing copies with a high capacity laser printer or photocopy machine. Larger agencies have found it necessary to contract with an outside copy center or commercial printer. If an outside printer is used, organizational security may dictate a contract agreement with the printer to ensure extra or disregarded copies are destroyed or returned to the department. Some agencies also post their manual on the department's computer server to ensure accessibility and allow easy search and reference at all times. Check with City Hall or an attorney for assistance.

Most departments issue their manuals in a three-ring binder. This allows easy modification and addition to existing policy. As each manual is issued, it should be stamped with a sequential serial number that is recorded as being assigned to the officer. As with most department equipment, officers may be required to sign for the manual when it is issued to them. Many agencies inappropriately require officers to sign a form indicating that they have received, read, understand, and agree to follow its requirements.

Once the manuals are issued, staff should be given ample time to read it before the training program begins. Since most manuals are rather substantial, officers will need a minimum of several days and likely weeks to thoroughly read the material. This gives officers time to note legitimate questions regarding the policy requirements and expectations of their performance.

After being provided sufficient opportunity to read the policy, officers must be trained on the manual and fully understand its requirements before it can be implemented. This training should cover administrative and operational topics, with particular emphasis on high-liability issues. This process usually requires several sessions and may include both classroom and practical exercises. To ensure that officers understand the policy and its expectations, some agencies test officers after the training. If an officer fails a test or several officers miss the same question, additional training is required. In addition to introductory training, time should be designated during every in-service training class to review the department's

operational procedures relating to the topic of instruction and the department's performance standards. This is a convenient way to ensure that training is relevant and staff remains current on the department's standards of conduct.

Some departments issue the policies to officers as they are developed and approved. This incremental approach has the advantage of allowing staff more time to digest requirements of the policy. At the same time, tracking and maintaining records of distribution are more cumbersome.

When the training is complete, documentation should be maintained that officers have been issued their manuals, trained on the content, and understand its requirements. This documentation may include a copy of the manual, lesson plan, sign-in attendance sheets, tests given to measure comprehension, and officers' test scores.

## **Inspection and Review**

Once the new manual has been implemented, only half of the work is completed. Department officials must ensure that the policies are being followed. If the work is not done in accordance with the policy, the manual is meaningless because the custom is the policy. This situation is more problematic than not having a policy. Informal customs attack the credibility of the department's operational procedures and administration. They also increase the department's exposure to potential liability.

What gets inspected is what gets done. There are several ways to ensure compliance with the manual. One way is to form a check sheet that lists various inspections to be conducted by staff and the frequency of the inspections. It is a simple process of checking off when the inspection is complete. In some cases, policy may require internal and external inspections.

In the event officers are not in compliance with the department policy, a decision must be made as to the appropriate corrective action, ranging from remedial training to counseling to punishment. In some cases, a change in policy may be required.

Finally, the entire manual should be reviewed on at least an annual basis. This review helps to ensure that the manual is in compliance with current management, operational, and legal standards. Instead of attempting to take on this task all at once, it is best to coordinate this review with key personnel over several weeks. As the review is conducted, listen to the staff members who are closest to the service delivery. They know the problems and often have the best ideas for addressing them. If modifications are necessary, the same procedures outlined in this guide should be followed for updating, distributing, and training staff of the changes.

## **Conclusion**

Developing, maintaining, and revising a police department's policy/procedure manual is a monumental undertaking; however, if completed properly, the community, its governing authority, chief executive, and department's staff can be assured their operations are in compliance with current standards. It will also

encourage staff to act in a consistent, professional, and legal manner and prepare staff for unusual circumstances and the correct course of action.

## Endnotes

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- <sup>3</sup> Prince, H., Halstead, J., & Hesser, L. (2002). *Leadership in police organizations*. Alexandria, VA: International Association of Chief's of Police, p. 208.
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## **Appendix**

### **Sample Organization of Department Operations Manual**

<b>Chapter 1</b>	<b>Introduction</b>
<b>Chapter 2</b>	<b>Agency Jurisdiction and Mutual Aid</b>
2-1	Law Enforcement Role and Authority
2-2	Contract Services
<b>Chapter 3</b>	<b>Organization and Direction</b>
3-1	Management of Information
3-2	Goals and Objectives
3-3	Fiscal Management
3-4	Hiring Standards
3-5	Promotion/Appointment Procedures
3-6	Performance Evaluations
3-7	Career Development
3-8	Job Analysis and Classification
3-9	Planning and Research
<b>Chapter 4</b>	<b>Training</b>
4-1	Fitness Standards
<b>Chapter 5</b>	<b>Conduct</b>
5-1	Discipline
5-2	Internal Investigations
5-3	Conduct Review Board
5-4	Outside Employment
5-5	Sexual Harassment
5-6	Receiving Civil Process Served Department/Employees
5-7	Polygraph
<b>Chapter 6</b>	<b>Uniform and Dress Code</b>
<b>Chapter 7</b>	<b>Arrest</b>
7-1	Taking Suspects into Custody
7-2	Processing of Juvenile Offenders
7-3	Family Violence
<b>Chapter 8</b>	<b>Search and Seizure</b>
<b>Chapter 9</b>	<b>Firearms</b>
<b>Chapter 10</b>	<b>Use of Force</b>
10-1	Use of Force Reports
10-2	Investigation of Use of Deadly Force
10-3	Critical Incident/Post Critical Incident
10-4	Line of Duty Seriously Injured/Death of Officer
<b>Chapter 11</b>	<b>Vehicle Operations</b>
11-1	Vehicle Pursuits
11-2	Interjurisdictional Pursuits
11-3	Vehicle Inspections and Maintenance
11-4	Personally Assigned Patrol Vehicles
11-5	In-Car Video Camera Film Procedures
<b>Chapter 12</b>	<b>Property and Evidence</b>
12-1	Departmental Property Control
12-2	Vehicle Inventory/Impound
12-3	Blood and Urine Test Kits
<b>Chapter 13</b>	<b>Records Division Operations</b>
13-1	Release of Information

<b>Chapter 14</b>	<b>Traffic and Parking Enforcement</b>
14-1	Traffic Citations (Special Processing)
14-2	Traffic Accident Investigation
14-3	Traffic Direction and Control
14-4	Use of Radar
<b>Chapter 15</b>	<b>Patrol Functions</b>
15-1	Investigating Suspicious Activity
15-2	Foot Pursuits
15-3	Racial Profiling
15-4	Blood Borne Pathogens
15-5	Courtroom Building Security
15-6	Taxicab Inspections
15-7	Administrative Notification
15-8	Hazardous Materials
15-9	On-Call Procedures
15-10	Citizen Ride-Along Program
15-11	Handling Mentally Ill Persons
15-12	Unusual Occurrences
15-13	Missing Persons
15-14	Rights of Victims and Witnesses
<b>Chapter 16</b>	<b>Criminal Investigation Division</b>
16-1	Covert and Raid Operations
16-2	Crime Analysis
16-3	Arson Protocol
16-4	Crime Scene Processing
16-5	Civil Condemnation Actions
16-6	Informants
<b>Chapter 17</b>	<b>Animal Control</b>
<b>Chapter 18</b>	<b>Communications</b>
18-1	Tactical Dispatch Plans

# Law Enforcement Implications from a Russian School Tragedy

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## Introduction

The last decade has demonstrated dangerous changes in international terrorism activities all over the world. The recent history of attacks, from the suicide bombing of two passenger airliners from Moscow to the hostage situation in Beslan, Russia, has captured the attention of security experts, reminding the law enforcement community that terrorists are not that distant and are capable of disrupting national security in the United States.

Present-day international terrorism is quite different from terrorist acts of the past, which include assassinations of political leaders and monarchs, such as Archduke Franz Ferdinand in 1914 or the bombing of the Russian Emperor Alexander II in 1881 (Glenny, 2001). Modern forms of international terrorism are “common-people-oriented,” and more lethal, suicidal, ideologically charged, and technologically advanced.

While Russia has experienced hostage-taking situations on a regular basis, the Beslan tragedy has demonstrated some outstanding consequences. It affected the political sphere and gave an opportunity to Russian President Vladimir Putin to claim that his seizure of more power was necessary to win the war on terrorism.

Major law enforcement agencies have always been aware, at some level, of the potential of direct threats to their jurisdictions by terrorists. As Beslan’s hostage situation shows, terrorists don’t hesitate to choose soft targets. The incident involved a school in a small rural town of the Russian Federation where over 340 people, mostly children, were killed. Although the federal agencies have reported that there is no imminent threat to U.S. schools, America’s 53 million students, 3 million K-12 teachers, and 92,000 school campuses present high value, lightly guarded, and easily available targets for terrorists.

In September 2004, President George W. Bush asked his national security team, led by Homeland Security Secretary Tom Ridge, to re-evaluate hostage crisis tactics in light of the recent Russian school attack. “The president said to all of us: just make sure you know what you are going to do, who is going to be doing it, where we are going to be doing it, what resources we are going to apply” if an attack like the Russian terrorist incident occurs, Ridge said in an interview with Associated Press reporters and editors (Bush wants, 2004).

U.S. security officials are investigating a recent intelligence report that a group of 25 Chechen terrorists illegally entered the United States from Mexico in July.

According to officials with access to intelligence reports, the Chechen group is suspected of having links to Islamist terrorists seeking to separate the southern enclave of Chechnya from Russia (Gertz, 2004).

Terrorism prevention measures require locating and analyzing terrorist risks and tactics, learning from past incidents, and using information to guide possible operations. Russian Special Forces have a great deal of experience in this area. According to the Russian Federal Security Service (FSB) in 2004, there were 500 prevented terrorist attacks (Fomin, 2004).

This article is an attempt to provide an analysis of the hostage situation and the current shift in terrorist tactics.

## **Background**

Russia has a long history of coexisting with terrorism, and its people live under fear of terror. It is ironic that Russia is suffering from international terrorism, which was once promoted by the communist government. In 1982, the Soviet Union initiated and sponsored the International Conference of the World Center for Resistance to Imperialism, Zionism, Racism, Reaction, and Fascism, which was held in Tripoli, Libya. This meeting resulted in the formation of a committee consisting of Libya, Cuba, Iran, Syria, and North Korea. The goal of the committee was the establishment of international terrorist training programs to prepare fighters to battle against all types of oppressors, primarily the United States (Holms & Burke, 2001).

Since the demise of the former Soviet Union and the first Chechen war (1994-1996), Russian law enforcement officials have reported a significant increase in the range and scope of terrorist activity in the Caucasus region. In 1999, Islamic justice was established in Chechnya. Terrorism, including a series of bombings in Moscow (several hundred people were killed there), erupted. After that, several thousand Islamic militants, armed members of a Chechen Muslim fundamentalist group whose aim was to merge Dagestan with neighboring Chechnya in a single Islamic state, invaded Dagestan. Russia responded with police and military attacks by federal forces, and the militants retreated; the incident contributed to Russia's decision to invade Chechnya later in 1999. International extremist organizations, including Osama bin Laden and other criminal associations, backed the Chechen terrorists. The territory of Chechnya is used to host and train terrorists from Arab countries and some Western European countries. The numerous terrorist groups are free and go unpunished and make raids in the territory of Russia. In 1999, there were 20 terrorist acts in the Russian Federation registered by the Ministry of Internal Affairs (MVD). In 2001, representatives of terrorist organizations were registered by FSB in 49 of 89 states in Russia, and in 2001, there were two incidents in which the terrorist groups attempted to gain access to Russian nuclear munitions dumps.

Since 2002, the Chechen terrorist forces have increasingly been linked to the following organizations led by Shamil Basayev: United Forces of the Caucasian Mujahideen (or The Supreme Military Majlis ul-Sura of the Mujahideen Forces of Caucasus) operated personally by Shamil Basayev; the Islamic International Brigade (or "Arab Brigade"), which is well connected with al-Qaeda; the Special Purpose Islamic Regiment; and Riyadus Salikhin Brigade of Martyrs, which is primarily a suicide bombing squad.

Field commander Shamil Basayev has claimed responsibility for the September 1-3, 2004, hostage-taking at a Beslan school by a group of militants. The detained terrorist named Aslan Maskhadov and Shamil Basayev as organizers of the capture of hostages, but he didn't see them on the site (Lenta RU, 2004).

Previously, Basayev participated in the Abkhaz (Georgia) rebellion of 1992-1993 and played a central role in the first Chechen war of 1994-1996, the invasion of Dagestan in 1999, and the current conflict since 1999 in Chechnya. He received training in guerrilla warfare and covert operations from both Russia and Afghanistan. In 2003, U.S. Secretary of State Colin Powell classified Basayev as a "threat to U.S. national security." Basayev's Riyadus Salikhin Brigade of Martyrs is undertaking "Operation Boomerang," applying the principle of collective responsibility to the Russians. "Collective responsibility" has long been an established policy in Israel's war on terrorist formations, and the United States has recently been accused of applying the policy in Iraq (in violation of the Geneva Conventions) through arrests of family members of suspected resistance members and the destruction of their homes (McGregor, 2004). In March 2004, Basayev threatened to target Russian children and later in July promised to launch some major attacks in Russia (NewsRu, 2004b).

Since the middle of August 2004, Basayev arranged and launched several terrorist attacks in the Caucasus mainly by members of the Riyadus Salikhin. On August 21-22, more than 60 Russian and Chechen-backed military personnel were killed in the Chechen capital of Grozny; on August 24, two suicide bombers took down two Russian commercial planes killing 89 people; on August 31, a double suicide bombing in Moscow killed 10. According to Basayev, the plane explosions cost \$4,000 to carry out; the two explosions in Moscow cost \$7,000; and the bill for the Beslan attack came to 8,000 euros (\$9,700) (Balmforth, 2004).

To reach the town of Beslan, which is located in the North Ossetia (Russian Federation), they first transited Ingushetia, which forms a wedge between North Ossetia and Chechnya. In the Malgobek district of Ingushetia, the terrorist group had a training camp (News RU, 2004c). There, the terrorist gang was joined by a handful of Ingushe terrorists, along with their Chechen commander, Magomet Yevloev, nicknamed "Magas" (alias for Ali Taziev); however, the Prosecutor General announced that the commander was Ruslan Hochubarov and that Magas did not mastermind the operation. His controller was a Wahhabi, who has still not been identified but whose voice was heard intoning Koranic verses on the videotape broadcast later. According to Shamil Basayev, the commander was "Colonel Orsthoev" with whom he coordinated the operation via phone. According to the post-incident investigation, every two to three hours, there was an outside call via cell phone to the hostage-takers (News RU, 2004b).

There is some controversy regarding the number of hostage-takers. Russian security agencies claim that 32 raiders took part in the September attack on the school. According to these agencies, 31 attackers were killed, and one (Nur-Pashi Kulayev) was captured. A soldier, who was identified only by his first name, told one of the Russian newspapers that he had personally seen 49 terrorists dead and 3 captured after the seizure ended. He claimed 13 more attackers managed to escape (Malik, 2004). Furthermore, there is a growing discrepancy between official statements coming from Moscow and survivors' testimony. While Russian ministers asserted that some of the 32 hostage-takers were Arab, survivors affirm that they spoke fluent



Russian. The hostage-takers were not Chechens but members of al-Qaeda cells, Arabs and natives, known locally as “Wahhabis” (after the austere state religion of Saudi Arabia), from the city of Nalchik, capital of Kabardino-Balkaria, northwest of North Ossetia. Russian investigators are now thought to have identified 17 of the 32 men who occupied the school in Beslan last month. They include two Algerians in their mid-30s (Osman Larussi and Yacine Benalia). Both are thought to have been based in London until recently and have attended the Finsbury Park mosque. It is also believed that they joined the network of groups loyal to Basayev on arrival in Chechnya. The security sources said that two calls were made on the second day in Arabic, one of them to Saudi Arabia (Newspaper links, 2004). According to Russian security sources, only 14 of the killed hostage-takers have been identified (Lenta RU, 2004).

At 9:30 AM local time on September 1, the morning of the first day of autumn, a group of around 30 armed men and women, arriving in a police minivan and military lorry (according to some sources, there were two military lorries), stormed Beslan’s Secondary (High) School Number One, whose pupils are aged from 7 to 18 years old. As the police guards at the gate tried to check their identity, the terrorists opened fire, killing two of them and injuring the other two. They also killed six parents who rushed to the assistance of the police guards.

The main forces of hostage-takers entered the school from three different directions and took everyone inside as hostages. There were over 1,181 (according to some sources, more than 1,500) people inside, including the children, their parents, and teachers. They forced the children into one hall and the parents and teachers into another. They placed some of the children near the windows in order to discourage any attempt by the security forces to raid the building to free the hostages. Fifty students and parents managed to escape during initial hostage-taking.

As the security forces, including special commandos, took position outside the building, a unified headquarters was established with the leadership of the President of North Ossetia Dzasohov and the Director of Administration of Federal Security Service (former KGB) on North Ossetia Valery Andreev.

Most of the attackers wore black masks, and a few were seen carrying suicide belts. Repeated shooting was later heard coming from the school buildings. It was later revealed that the attackers had killed 20 adult male hostages and thrown their bodies out of the building that day (according to one eyewitness who escaped, there were 14 adults killed). Hostage-takers didn’t allow security forces to remove the bodies.

On the first day, hostage-takers mined the building with explosives and surrounded it with tripwires. In a further bid to deter rescue attempts, they threatened to kill 50 hostages for every one of their own members killed by the police and to kill 20 hostages for every gunman injured. Two women went around and took away the hostages’ cell phones. They said that, if anyone had a phone hidden, they would kill 20 people for it. They also threatened to blow up the school should government forces attack. The Russian authorities then persuaded the Mufti of the local Muslim community to act as a mediator and persuade the terrorists to release the children. The terrorists refused to negotiate with Ruslan Baltagov, the Mufti of North Ossetia, saying that they would negotiate only with local officials or representatives of the local non-Muslim community.

The hostage-takers in Beslan are reported to have at first made the following demands:

- Release of Chechen fighters arrested in the aftermath of an earlier raid on Ingushetia
- Withdrawal of Russian troops from Chechnya

After some time, they insisted on negotiating exclusively with Alexander Dzasokhov, the North Ossetian President; Murat Zyazikov, the President of Ingushetia; or Leonid Roshal, a Russian doctor who had played the role of a hostage negotiator with Chechen terrorists during the October 2002 hostage situation in Moscow when at least 117 people were killed. The security authorities agreed and brought these three persons to the school.

The representatives of the security forces and governmental officials initially stated that they would not use force to rescue the hostages, and negotiations towards a peaceful resolution did take place on the first and second days, led by Leonid Roshal.

On September 2, negotiations between Roshal and the terrorists was not successful, and they refused even to allow food, water, and medicines to be taken in for the hostages or for the bodies of the dead to be removed from the school. As a result of the worsening conditions, many hostages took off their clothing because of the sweltering heat within.

In the afternoon, camouflage-clad soldiers carried crying babies away from the school; 26 women and infants were freed following new negotiations with former Ingush Republic President Ruslan Aushev, who is a well-known war hero in the region. Some mothers with more than one child were forced to choose one to take with them and leave the others behind. At around 3:00 PM, there were two explosions of rocket-propelled grenades, which had been fired by the hostage-takers in an apparent attempt to keep the security forces well away from the school.

On the afternoon of September 3, terrorists agreed to allow Emergencies Ministry workers to pick up the bodies of those killed, which had been lying outside of the school since the first minutes of the siege. As the ambulances approached, explosions were heard. At first, it was thought that the Russian troops had stormed the school, but in reality, the terrorists had set off powerful explosives, thinking that the rescue workers were really commandos. The explosions blew the roof off the building, and two medical workers were killed; the rest fled under gunfire. Part of the gymnasium collapsed, allowing a group of about 30 hostages to escape, but they were fired on by the hostage-takers, and some of them were killed. According to security sources, the cause of the firing and subsequent storm had been a spontaneous explosion. A former hostage had reported that one of the bombs had been insecurely attached by an adhesive tape and had fallen, and that had been the reason for the explosion. As a result, armed civilians, some of them apparently relatives of the hostages, started shooting; no security forces or hostage-takers were shooting at this point; however, the gunfire led the hostage-takers to believe that the school was being stormed, despite assurances to the contrary by negotiators. The Russian Special Forces activated their immediate action plan to storm the school. A chaotic attack of a massive level of force was used including the Special Forces, the regular army and

Interior Ministry troops, as well as military helicopters and at least one tank. Many local civilians also joined in the battle, having brought along their own weapons.

The hostage-takers set off more large explosives, totally destroying the gym and setting much of the building on fire, while the Special Forces blew holes in walls to allow hostages to escape. By 3:00, 2 hours after the assault began, Russian troops claimed control of most of the school; however, fighting was still continuing in the grounds as evening fell, and three gunmen were located in the basement along with a number of hostages. They were eventually killed, along with the hostages they were holding. The operation was over at 10:45 PM.

According to official data, at least 342 people died, 175 of them children, and more than 700 were wounded, mostly children. During the operation, 11 fighters of the special divisions Alpha and Vimpel were killed, among them the commander of Alpha. By the families' own count, there are 122 missing children, 84 unrecognizable and unclaimed in the morgue, and 38 who seem to have left no trace at all (Medans, 2004).

## **Tactical Shift**

### **More Lethal Attacks**

International terrorism is becoming more lethal. Most of the international groups are turning to indiscriminate killings of civilians. In the 1990s, a terrorist incident was almost 20% more likely to result in death or injury than an incident 2 decades before (Countering, 2000). At the present time, terrorism is becoming more destructive and seeks mass casualties, tremendous loss of property, and financial and economic downfall. The hostage-takers blew the roof off the gym prior to trying to escape to ensure mass child casualties.

### **Suicidal Terrorists**

International terrorist missions have become more suicidal. In the past, terrorist groups did not exclude the possibility of becoming a victim of counter-terrorist security measures. Today, terrorist groups are recruiting young volunteers to carry out violent acts knowing that they will become victims themselves. It is much harder to deal with these kinds of terrorists because they don't value their own lives in the same way that most people do. Some law enforcement tactics in these cases will not work.

### **Impersonating Police and Military**

Terrorists used a stolen police and military truck for transportation to school grounds. A former policeman from Ingushetia, a Russian internal republic bordering Chechnya, took part in the attack on the school. Bashir Pliyev also reportedly helped prepare a series of coordinated attacks on Ingush police and security services in June. Ingushetia's interior minister Bislan Khamkhoyev was quoted as saying that Pliyev had driven Chechen warlord Shamil Basayev and his aide Doku Umarov into Ingushetia where they met Arab terrorist Abu Kuteib. According to Khamkhoyev, "Many employees knew him personally and allowed his car to travel freely" (Newspaper links, 2004).

## **Planting Weapons**

There is reliable information that the hostage-takers had pre-positioned a significant amount of weapons under the school gym floors prior to the attack. They may have used a group of sympathizers involved in renovation work at schools in the area over the summer to hide the weapons and some nonperishable food items. This indicates that the terrorists had been planning the attack for months, had detailed information of the school interiors, and had likely been conducting some type of preoperational surveillance of building operations and staff.

## **Drugs**

Results of forensic tests, released by the local prosecutor, showed what would normally have been deadly doses of heroin and morphine in most of the 32 terrorists (New drugs, 2004). According to Nikolai Shepel, deputy prosecutor general of Russia's southern federal district, the tests "indicate that they were long-term drug addicts and had been using drugs permanently while preparing for the terrorist attack" (New drugs, 2004). Some of the terrorists were also suffering from withdrawal symptoms during the siege, as their supply of hard drugs ran out. Senator Alexander Torshin, who heads the Beslan investigation committee, stated that heroin was not enough to produce that kind of behavior in the hostage-takers and that there must have been other drugs involved (New Drugs, 2004).

## **Hostage-Takers Were Prepared for Escape**

The hostage-takers prepared a corridor to leave Beslan. They told one negotiator that other gangs were ready to help them in case of necessity. Also, several hostage-takers went out of the school building at night and scouted out the land. Some of the rebels escaped by disappearing in the crowd during the final attack. They broke the windows because they were afraid of the gas that was used by Russian troops during the 2002 assault in the Moscow's theater (Beslan hostage-takers, 2004). They exchanged clothes with hostages and tried to flee by mingling with escaping hostages. One actually posed as a wounded hostage and was initially taken out on a gurney by emergency workers.

## **Hostage-Takers Did Not Know the Plan**

Most of the hostage-takers probably did not know what they were involved in. When events started to develop in the most unexpected way for the terrorists, some of them expressed disagreement with the actions of the leader. As a result, several terrorists were shot, and two suicide bombers ("smertnits") were blown up. According to detained terrorist Nur-plough Kulaev, he didn't know the specific intentions of the group and its leader. Some of the hostage-takers didn't have a clear picture of the situation because all negotiations with representatives of the Russian government were conducted by "Colonel" (Lenta RU, September 7, 2004).

## **Killing Guards and Adult Hostages**

Upon arriving at the school, the terrorists were stopped at a gate, but they opened fire, killing two and injuring two. They also killed six parents who rushed to help the guards. To establish a controlled environment for the hostages and terrorists,

“Colonel” publicly shot a man of average years, and his corpse all this time was in the gym. Hostage-takers had killed all male hostages capable of resistance. They killed men just to make the situation more manageable. Aslan Kudzoyev, a captive who managed to escape from the seized school stated that in the initial phase of the attack, the terrorists separated the hostages and herded children into the gymnasium, while adults were held on the ground floor. Then, the terrorists picked the 15 strongest men and shot them. The night of September 2, one of the terrorists forced Mr. Kodzoyev upstairs and ordered him to throw 15 bodies out the window. After the 14th corpse had fallen on the ground, Mr. Kodzoyev realized he would be next and jumped out the window. The terrorist started shooting at him but missed, the rescued man said (Tekushev & Sagmatova, 2004).

### **Separation of the Hostages**

Terrorists separated all hostages into groups, separating parents from children because hostages who knew each other and the geography of the school and surroundings could have consolidated and tried to escape. Pupils were reportedly lined up against the windows to prevent an assault by security services.

### **Blocking by Explosives**

All the halls and classrooms were wired with explosives to stop any quick acting assault team or attempted escape. Terrorists had planted weapons/explosives at the school beforehand by posing as construction workers.

### **Prohibiting Resistance and Stalling**

Terrorists had prohibited any stalling of negotiations by immediately killing hostages at first suspicion of stalling. When children cried, they killed an adult in front of them then held the dead corpse in front of them while threatening to kill more (adults) if they cried out again. When there were outages of electricity and telephone, they killed hostages (News RU, 2004c).

### **Detached**

Most of hostage-takers remained “detached” emotionally from hostages and avoided even looking at females. Another report stated that one boy who asked for a drink was killed by the terrorists.

### **Food and Bathroom Restrictions**

During the first day, there were limited food and water deliveries by team members. Terrorists insisted on a child or elderly deliverer and had weak children or elderly taste the food for safety first. They soon stopped allowing hostages to use the bathroom. They ordered children to drink their own urine. Other reports said that this was the adult hostages’ idea because children were not allowed water. To relieve heat and provide some liquid, adults may have urged the children to drink urine. Some pupils even chewed the flowers that they brought to celebrate the beginning of the school year. Terrorists were not prepared to keep hostages alive.

## Prepared for Assault Team Diversions

Hostage-takers were prepared for diversions during assault team operation. They reacted immediately when assault teams distracted from one direction and assaulted from another.

## Organized Teams

Hostage-takers organized their people into teams: some to provide security to hostage-takers; some to control the perimeter; some to be in charge of hostages; only one to negotiate. Terrorist organizers selected people who were well trained in small arms, "fighting," and explosives and only those capable of handling high stress.

## Incapacitated Hostages

Terrorists had the hostages squatting with their hands on their heads for hours. They placed hostages in front of windows. They shot children attempting to escape in the back because any released hostages would provide intelligence (News RU, 2004b).

## Conclusion

Law enforcement and school administrators' awareness of international terrorism appears to have increased since Beslan. The tragic results of the hostage situation in the school confirms the importance of establishing an adequate response that outlines a clear plan for students' and teachers' safety and specific command responsibilities for law enforcement in the event of a potential terrorist act.

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# Restorative Community Justice

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## In Brief

While the United States has made dramatic strides in reducing the crime rate in recent years, the gains have come at the price of the world's highest rate of incarceration; crime rates are still too high, and communities continue to suffer. This article on building a restorative community justice model offers a vision of an effective alternative to the fragmented criminal and juvenile justice systems of today, as well as a three-phase plan to make this vision a reality:

1. *Develop a Restorative Community Justice Model.* Synthesize the essence of the major criminal and juvenile justice reforms into a comprehensive, system-wide restorative community justice model.
2. *Promote Learning Organizations.* Transform police, prosecutors, courts, and corrections into learning organizations that can apply systems thinking to changing times and new challenges.
3. *Strengthen Communities.* Create capacity within communities so that they become full partners in the process of merging formal and informal social control into a unified, community-based approach.

## Current Trends

### Good News and Bad

The recent history of the criminal justice system in the United States can be characterized as an astounding success—or an abject failure—depending on which yardstick you choose. On the one hand, the past two decades have seen the rise of important reforms—community policing, balanced and restorative justice, the victims' rights movement, community-based prosecution, specialty courts (to deal with problems such as drugs, mental illness, and re-entry), and increased emphasis on dealing with violence against women. On the other hand, we now incarcerate a higher percentage of our people than any nation on earth, with minorities paying the highest price, yet we continue to suffer high rates of violence.

Success is reflected in the dramatic decline in violent crime. Federal Bureau of Investigation Uniform Crime Reporting (UCR) data shows that the overall violent crime rate in 2002 was 26% lower than in 1993. The homicide rate alone dropped to levels that have not been seen since the late 1960s. According to the U.S. Department of Justice's Bureau of Justice Statistics, the homicide rate per 100,000 peaked at 10.2 in 1980, declining to 5.5 by 2000.<sup>1</sup> Equally heartening is that the rate of forcible rape, which stood at 64.8 per 100,000 females in 2002, has fallen roughly 20% below the 1993 rate.<sup>2</sup>

Great strides were also made in reducing property crime. According to FBI UCR data, there were 10,450,325 property crimes in the United States in 2002, down 400,000 from 1983, when there were roughly 55 million fewer people.<sup>3</sup> While expert opinions differ, these impressive gains are arguably attributable, at least in part, to improvements in the economy, resulting in low unemployment; new reforms such as community policing; stabilization of drug markets; and higher rates of incarceration.

## Too Many Victims

While recent declines in the crime rate are laudable, the rates of violent crime in the United States are still significantly higher than in the demonstrably safer era of the 1950s.<sup>4</sup> Troubling as well is the fact that violent crime in the United States today still outstrips rates in other countries like ours, leaving far too many victims in its wake.

According to a study by the Australian Institute of Criminology, international trends in homicide between 1974 and 1998 show that, even with the dramatic declines, the U.S. homicide rate was still at least three to four times greater than in countries such as Australia, Canada, and England/Wales. Even when homicides involving firearms are subtracted, the U.S. murder rate is almost double that of other industrialized, English-speaking countries.<sup>5</sup> These rates are even more disturbing when we remember that only about one out of every three crimes ever comes to the attention of police.

Without diminishing the gains achieved in reducing crime, the impact that this “excess” victimization has on our culture cannot be overstated. As anyone who has returned home to find something stolen can attest, victims of property crime often suffer serious trauma, and the horror inflicted on victims of violent crime and their loved ones can defy measure. Research confirms a correlation between violent victimization and higher rates of Post-Traumatic Stress Disorder (PTSD), depression, and substance abuse.<sup>6</sup> As a therapist friend once said, “People who have suffered trauma are more likely to miss work, experience problems in personal relationships, and require more medical care. Think of all the people we unknowingly encounter every day whose lives have been unalterably changed because they became a crime statistic.”

A 1996 study conducted by the National Institute of Justice attempted to quantify the real costs of victimization. The research report, *The Extent and Costs of Crime Victimization: A New Look*, argues that “The cost of crime has two dimensions: a dollar amount, calculated by adding up property losses, productivity losses, and medical bills, and an amount less easily quantifiable because it takes the forms of pain, emotional trauma, and risk of death from victimization.”<sup>7</sup>

By the researchers’ calculation, each murder costs \$1,030,000 in tangible costs and \$1,910,000 in intangible costs (for a total of \$2,940,000 per incident in 1996 dollars). They calculate that each rape or sexual assault costs \$5,100 in tangible costs and \$81,400 in intangible costs for a total of \$85,500. Other categories studied included the following:

- Robbery or attempted robbery that resulted in injury – \$5,200 tangible; \$13,800 intangible; \$19,000 total

- Assault or attempted assault – \$1,550 tangible; \$7,800 intangible; \$9,350 total
- Burglary or attempted burglary – \$1,100 tangible; \$300 intangible; \$1,400 total<sup>8</sup>

Without arguing whether specific costs are high or low (and the intangible cost of sexual assault seems particularly low in comparison), the study estimated that these crimes cost our country \$105 billion in out-of-pocket tangible costs each year. The intangible costs were far higher, totaling \$345 billion for just one year. While putting a dollar amount on pain and trauma can seem cold and calculating, the researchers said, “. . . the value of the study may be greatest on another level: creating a fuller recognition of the burden that crime victims bear.”<sup>9</sup>

## **Explosive Growth of the Prison Population**

Also of concern is that recent declines in crime rates have occurred against a backdrop of an explosion in the prison population. Data from the Bureau of Justice Statistics confirm that the nation’s prison and jail population broke the 2 million mark for the first time in history in 2002. This rate of 701 inmates for every 100,000 people is the highest in the world, ahead of Russia, now in second place with a rate of 611 people incarcerated per 100,000 people.<sup>10</sup>

The U.S. incarceration rate has more than tripled since 1980.<sup>11</sup> In 1980, the United States had 219,598 people in prison and 183,988 in jail. By 2003, those figures had risen to 753,141 people in prison and 665,475 people in jail.<sup>12</sup> Only 40% of the rise in state prison populations can be attributed to increased arrest and conviction of offenders who committed violent offenses; roughly 60% were for nonviolent and drug offenses.<sup>13</sup> The number of people on probation and parole has also grown dramatically, to the point that there are now 6.7 million Americans behind bars or under some form of correctional supervision, an increase of more than 265% since 1980.<sup>14</sup>

Noteworthy also is that roughly 15% of all arrests for violent crimes and 30% of arrests for nonviolent crimes involve juveniles under 18 years old.<sup>15</sup> In 1997, nearly 106,000 juvenile offenders were held in residential placement facilities, and juveniles today also risk being tried and sentenced as adults.<sup>16</sup>

The undying belief in a punitive quick-fix has resulted in new “zero-tolerance” policies toward a host of problems such as drugs and weapons in schools, part of an ominous trend toward criminalizing youthful misbehavior that was once handled informally within community institutions. The desire to “send a strong message” often means that once kids come to the attention of the formal system, the escalating list of demands placed on them sets these kids up for failure. Instead of “nipping the problem in the bud,” kids labeled as troublemakers soon find themselves adjudicated as delinquents, which is too often the first step down the path to adult prison.

Based on 2001 statistics, 6.6% of all persons born in the United States will end up in state or federal prison sometime during their lives, compared to 1.9% in 1974.<sup>17</sup> By 2001, the 1.2 million nonviolent offenders in prison cost the United States \$24 billion, six times more than the federal government spent on childcare that year.<sup>18</sup>

Worrisome as well is that jails and prisons increasingly substitute for mental institutions. Approximately 16% of people behind bars today suffer from mental

illness. According to the Criminal Justice/Mental Health Consensus project, on any given day, just three jails—the Los Angeles County Jail, the Cook County Jail (Chicago), and Riker’s Island (New York City)—house more people with mental illness than any hospital in the United States.<sup>19</sup>

Much of the increase in the jail and prison populations stems from the state and federal mandatory sentencing laws passed as part of the War on Drugs. While the number of nonviolent property crime offenders behind bars tripled from 1978 to 1996, the number of nonviolent drug offenders incarcerated has multiplied sevenfold during the same period. In 1983, one of every 10 jail inmates had committed a drug offense. By 1996, that number was one in four.<sup>20</sup>

Yet the *Monitoring the Future Study*, conducted each year by University of Michigan researchers, shows that the massive increase in drug arrests and convictions has not significantly reduced availability of drugs. Roughly 9 out of 10 high school students in 2002 reported that they could obtain marijuana fairly easily or very easily. Concerning other drugs, a significant percentage of high-school students said they could easily obtain amphetamines; cocaine, 44.6%; LSD, 39.6%; crack, 38.5%; barbiturates, 36.6%; tranquilizers, 32.9%; heroin, 29.0%; crystal meth, 28.3%; PCP, 25.8%; and amyl/butyl nitrites, 22.3%.<sup>21</sup>

### **The Price Exacted on Offenders and Those Around Them**

Offenders pay a price in time behind bars, diminished prospects upon release, and, in many cases, permanent loss of the right to vote. Racism, as reflected in disparities in drug sentencing laws between crack and powder cocaine, means that these burdens often fall disproportionately on minorities. According to the most recent statistics from the Bureau of Justice Statistics, a black male in the United States currently has a one in three chance of going to prison sometime during his lifetime, compared to one in six Hispanic males and one in 17 white males.<sup>22</sup> There are 12 states in the United States where 10% to 15% of all black males currently live behind bars.<sup>23</sup> As Michigan State University professor Dr. Carl S. Taylor says, in his online *Journal of Urban Youth Culture*, “Diverse young people in the broad spectrum of urban environments face a rapidly changing world, one with increasingly fewer positive alternatives for those without the skills to compete in the Information Age.”

Troubling as well is that the number of women in state and federal prison has risen from 12,300 in 1980 to 96,000 in 2002, an increase nearly double the escalating rate for men. Moreover, while half of the men in state prisons are there for a violent crime, only about one-third of women are incarcerated in state prisons for a violent offense. Again, we see minority women at increased risk of incarceration; 43% of female prisoners are African American and 12% Latinas.<sup>24</sup>

Undeniably, children are the innocent victims who pay the ultimate price for their parents’ incarceration. Estimates suggest that 2 million children today have parents behind bars, with an additional 4 million with parents under some form of correctional supervision. An additional 10 million children have parents who were incarcerated at some time during their lives.<sup>25</sup>

Women currently in prison or jail are mothers to more than 250,000 children, most of whom are less than 18 years old. The majority of these children end up being

care for by their maternal grandmothers, 17% by their fathers, and the balance by friends and foster parents (at an average cost of \$20,000 per year for the latter). Sixty percent of incarcerated mothers reside more than 100 miles from their children, which makes visiting difficult. Research by the National Institute of Justice suggests that the children of incarcerated parents are at increased risk of anxiety, depression, aggression, truancy, attention disorders, and poor scholastic performance.<sup>26</sup>

Many would argue that the prison building boom, combined with declining tax revenues and tax-cut fervor, has transformed us into a society of crumbling schools and new prisons. The rule of thumb is that \$1 spent on prevention can save \$2 dealing with the problem later; however, the rising fixed costs for prisons risk robbing us of the money we need to invest in early intervention, resulting in a future where we will pay more and more to be less and less safe.

### **A More Dangerous Future Ahead?**

A citizenry frustrated by crime understandably wants to believe in a quick fix—just lock ‘em up and throw away the key. In reality, the vast majority of people sent to prison today will eventually return to our communities. Roughly 1,600 people are released from prison each day, and studies suggest that two-thirds will be re-arrested within 3 years.<sup>27</sup> There are also realistic concerns that many will emerge from our jails and prisons more violent than when they went in.

Research confirms that rehabilitation programs in jails and prisons and community supervision during re-entry significantly reduce recidivism, but such efforts are often short-changed, particularly now as state budgets are being slashed. Fewer than 18% of offenders with drug problems receive any treatment behind bars. In 1996, only 6% of state prison budgets were allocated to vocational, educational, and treatment programs, and more than 100,000 prisoners are released each year with no community follow-up.<sup>28</sup>

Education is potent inoculation against future offending, but, in this era, such efforts are all too often portrayed as “coddling criminals,” rather than as wise investments that help protect us all. For example, the most recent federal Crime Bill got “tough” on the bad guys by short-sightedly eliminating Pell grants that allowed prisoners to earn college credits. According to the *Christian Science Monitor*, 4 million ex-cons are also prevented from voting, and many will be permanently disenfranchised, which gives politicians little or no incentive to respond to their needs.<sup>29</sup>

Many offenders find it impossible to overcome the stigma that results from doing time, creating a permanent class of repeat offenders. “First-time prison-goers simply add to the permanent class of prisoners who leave new victims in their wake,” says juvenile justice specialist Marlyce Nuzum of the Michigan Bureau of Juvenile Justice.

### **Means, Not Just Ends**

The fundamental question is how our society will deal with critical issues of crime and violence within a democratic framework that values justice. The history of the world is littered with societies that kept crime rates low through brutal repression. The United States was instead founded on the radical notion that people could live

together in freedom, enjoying life, liberty, and the pursuit of happiness without the heavy boot of authority on our necks.

Indeed the role of civilized society is to remove vengeance from the hands of the individual. We understand that victims cannot be dispassionate. Harm my child, and my first impulse is to lash out at anyone I suspect. As a group, in our collective fury at a society perceived to be awash in crime and drugs, we can also be tempted to pass laws that go too far or to wink at those who dispense rough justice in our name.

However, the bargain that all of us must keep in order to continue to live in a civilized society is this: We will restrain our vengeful impulses in exchange for a fair and just system that keeps us safe, one that will also guarantee our rights if we ever fall under suspicion. The discussion about building an ethical framework of just laws and reasonable standards for police, prosecutors, courts, and corrections officials is therefore central to our national identity.

Living up to our stated values will always be a struggle. Looking backward, there are obvious regrets. *The lynching of more than 5,000 African Americans in the South with the complicity of local officials in years following the Civil War. Historic clashes between police and striking autoworkers and coal miners. The trial and execution of Sacco and Vanzetti. The internment of Japanese-Americans during World War II. The firehoses and dogs unleashed by the local sheriff on civil rights marchers on the Edmund Pettus Bridge. Chicago police clubbing protesters during the 1968 Democratic convention. Rodney King.*

It is important to remember the past when looking forward. Especially during these stressful times, as we create new Homeland Security initiatives to keep ourselves safe in the wake of 9/11, we must acknowledge the danger of unleashing darker impulses born out of bigotry and fear.

## **An Opportunity to Do Better**

### **The Outlines Are Clear**

The past two decades of innovation and experimentation throughout the criminal and juvenile justice systems have helped identify what works and what doesn't. Though investment in relevant research remains scanty, especially compared to the need,<sup>30</sup> there is a growing body of study that provides a foundation for creating a comprehensive and effective response to reducing crime and violence. A quick review of major contributions includes the following:

- *Community Policing* – By embracing strategies that decentralize and personalize police service, police departments that have adopted the community policing philosophy have been able to engage communities in comprehensive, collaborative, community-based problem-solving aimed at crime, fear of crime, and disorder. Many efforts involve assigning individual officers or teams to specific beat areas to foster a sense of ownership and responsibility. The marriage of police and community brings together the power of the formal criminal justice system with the informal social control that communities can exert. Police departments have also been a catalyst in forging new partnerships with other professional and civic institutions (e.g., municipal agencies, nonprofit groups, the

business community, schools, and the faith community). These new professional and community relationships allow for the development of long-term, broad-based interventions that address the conditions that allow chronic problems to persist. By promoting positive interaction with youth, particularly in crime-riddled, “hotspot” neighborhoods, community policing offers hope of helping more young people grow up to become productive, law-abiding citizens.

One of the most powerful innovations of the past two decades, community policing has been cited as one reason for the recent decline in crime rates. It also serves as the model for other crucial reforms, including Community-Oriented Government; however, proponents worry that this powerful new reform is still being implemented as a limited program rather than as a department-wide philosophy. Average citizens often misperceive community policing as having an officer walk a beat as a visible deterrent to crime and not as an approach that requires them to shoulder their fair share of the responsibility for developing and sustaining solutions.

Troubling as well is that community policing may well have inadvertently contributed to the dramatic rise in prison populations. As we shall see, focusing attention on high-crime neighborhoods has likely contributed to disproportionate arrest of minorities as the community policing philosophy has been distorted to promote narrow pro-arrest policies, especially during the era of near-hysteria at the height of War on Drugs.

Of concern as well is that some agencies have stretched the definition to embrace actions and activities that border on community harassment.

- *Balanced and Restorative Justice (BARJ)* – In addition to restorative efforts aimed at adults, a growing number of states have made a commitment to BARJ as the underlying philosophy for their juvenile justice systems. The three sides of the BARJ “triangle” are (1) accountability (holding youth, families, communities, and “the system” accountable), (2) public safety (ensuring that interventions focus on making the community safe), and (3) competency development (supporting efforts to instill educational and career skills, as well as social and inter-personal skills). BARJ also involves victims and attempts to do a better job of meeting their needs. Strategies include conflict resolution, victim/offender dialogue, family and neighborhood conferencing, and assessing restitution within a framework that encourages young people to understand and accept the consequences of their actions.

Instead of focusing on *Who did it?* and *How should we punish the offender?*, BARJ shifts the questions to *Who was harmed?*, *What will it take to heal the harm?*, and *How can we prevent this from happening in the future?* Dennis Maloney, former director of the Deschutes County Community Justice Center, says that BARJ requires a focus on efforts to repair harm, reduce risk, and build community.<sup>31</sup> Maloney also promotes the concept of “graceful re-entry,” designed to give kids who get into trouble an opportunity to re-gain the trust of the community and thereby improve the odds of their redemption.

Like community policing, the movement has suffered from piecemeal implementation as a program rather than a philosophy. Again, fidelity to the



philosophy is also a problem when jurisdictions include retributive elements that defy the spirit of this holistic and healing approach. BARJ pioneer Howard Zehr also questions whether BARJ contributes to “net widening” that ensnares young people in the formal juvenile justice system.<sup>32</sup> Few people outside the field have even heard of BARJ, so it has not built a strong public constituency at the community level.

- *Victims’ Rights Movement* – The rise of the victims’ rights movement, which culminated in passage of the Victims of Crime Act (VOCA) in 1984, initially focused on three areas: (1) providing compensation to victims of criminal violence, (2) ensuring victim notification of court dates and the current status of the offenders who have harmed them, and (3) guaranteeing the opportunity for victims to be heard, including the right to voice impact statements at sentencing. The federal funding available to states through VOCA has allowed for the growth in professional victim service providers in police agencies, prosecutors’ offices, courts, and communities. As the movement matures, victims increasingly invest their moral authority in efforts to make the criminal and juvenile justice systems more effective in reducing crime so that others are spared victimization. Though many victim advocates continue to push for a federal Victims Rights Amendment to the U.S. Constitution, it is becoming increasingly apparent that just passing laws is not enough. Many states that have victims rights amendments to their state constitutions fail to monitor and enforce their provisions.
- *Violence Against Women* – Passage of the Violence Against Women Act in 1994 brought both public attention and federal resources to bear on the problems of domestic violence, sexual assault, and stalking, crimes that disproportionately victimize women and girls. The Violence Against Women Office (VAWO) within the U.S. Department of Justice provides police, prosecutors, and courts information about how to deal with these problems more effectively, and it also invests in regional resources and local programs. Additional support ranges from funding research on areas of crucial concern, such as identifying effective treatment programs for batterers to training police on how to respond to domestic violence calls to developing model legislation on the relatively new crime of stalking. At the same time, there is growing interest in female responsive programming for at-risk girls and young women. Such efforts recognize not only that males and females can differ in their needs, but that many at-risk girls and young women have also been victims of physical, sexual, and emotional violence themselves.
- *The Role of Social and Physical Disorder* – The publication of James Q. Wilson and George Kelling’s “Broken Windows” in *The Atlantic Monthly* in 1982<sup>33</sup> introduced a broad audience to the growing body of research on how low-level chaos in communities ultimately allows serious problems to grow. The criminal and juvenile justice systems have traditionally focused the bulk of their attention on the most serious offenders, since they pose such an immediate and obvious threat. Research on disorder showed that neglecting so-called petty-crime and neighborhood decay not only made certain communities a magnet for more serious problems, but those minor crimes often served as a training ground for young people to become career criminals. Ignoring street-level prostitution or aggressive panhandling sends the message that the system either doesn’t care or has no answers. The downside of targeting disorder, however, is that solutions

that rely heavily on arrest can clog the system without resolving the underlying issues, such as substance abuse, that allow problems to persist.

- *Decentralized and Personalized Services* – Community policing was the first of many innovative reforms to recognize the importance of giving civil servants ownership of a geographic area. Making an officer responsible for a particular place not only enhances his or her sense of responsibility for what happens there, but it also provides opportunities to build relationships, fostering mutual trust and accountability. With community policing as the example, some communities have begun to experiment with decentralizing prosecutors in order to connect them with the community and their priorities. In some jurisdictions, prosecutors functioned as generalists, handling every case in their “beat,” from misdemeanors to homicides, just as community policing officers handle the spectrum of crimes in their beat areas. Though interest is growing and experiments abound, this is not yet the way that the majority of prosecutors deliver service to their communities.<sup>34</sup> Some communities are also experimenting with decentralized courts, including neighborhood courts and the specialty courts discussed below.

Communities such as Lansing, Michigan, have also experimented with what the late Dr. Robert Trojanowicz called Neighborhood Network Centers, in which other public agencies and nonprofit organizations would join police in community-based facilities.<sup>35</sup> The idea was that police officers, social workers, public health officials, drug treatment counselors, mental health therapists, and others who could make an impact would have the chance to work together as part of a flexible and responsive team of community-based professionals. The roster of people working on specific problems might change, depending on the specific concerns in different locations, but the goal was to colocate relevant services in storefronts at the neighborhood level. There is also growing interest within juvenile justice circles in building Community Justice Centers, which typically include mediation services, opportunities for victim-offender dialogue, and sometimes a community court.

- *Specialty Courts* – In addition to providing a singular focus (e.g., drugs, mental health, re-entry), specialty courts typically support diversion, through which offenders can often avoid additional sanctions such as incarceration if they adhere to plans that deal with their underlying problems. The goal is not to punish offenders but to invest in highly structured and supervised efforts that can keep them from re-offending. While there has been an explosion of funding for these new courts, there is concern about standards and whether investing so much on interventions with low-risk offenders could fragment the system and reduce resources for dealing with the most serious offenders. Issues of equity have also arisen concerning whether these courts offer rehabilitation to middle-class, white offenders, while more punitive approaches are inflicted on minorities and the poor.
- *Strategic Planning* – Borrowing from business, entities within the criminal and juvenile justice systems have begun to invest in comprehensive, long-term planning. In addition to developing vision, values, and mission statements, as well as codes of ethics, the process typically includes forging consensus on a few broad goals that can be achieved during the next 3 to 5 years. The best plans include specific action planning steps that are broken down into milestones

assigned to specific people to ensure accountability. The best plans also integrate a strong evaluation component so that plans can be revised based on feedback and assessment. When done well, strategic planning provides a break from day-to-day pressures so that people can assemble and analyze the data about current efforts to see how they can work smarter. The danger, however, is that the process itself can become so seductive (or burdensome) that it becomes an end in itself. Sustaining momentum throughout implementation is often a daunting challenge.

- *Evidence-Based Practices and Programs* – Decisions about how to deal with crime and violence in our communities are not always made for the right reasons. *It's the way we've always done things. We don't see any other good options. It's what the community wants. It's just common sense. Why change? What's the crisis?* The good news is that government and foundation pressure to evaluate has produced a growing body of research on what works and what doesn't. [Note: Development Services Group (DSG) offers a searchable database as well as links to sites offering information about other evidence-based programs at [www.dsgonline.com](http://www.dsgonline.com).] On the downside, smaller communities in particular complain that many programs certified as effective are too expensive for them to afford.

Perhaps the bigger challenge is to stop doing things that don't work or that actually cause harm. Drug Abuse Resistance Education (DARE), for example, may improve relations between kids and police, but it has no demonstrable impact on future drug use. "Scared Straight" programs may make inmates feel good, but they can actually be counter-productive in deterring young people from illegal activity, by making illicit activity look exciting. Boot camp/shock incarceration programs for young people were touted as cheap and effective and have proved to be neither. Many such programs, however, have entrenched, organized supporters who lobby against any threats to their survival.

### **Confusion, Resistance, Fragmentation, and Gaps**

As the foregoing attests, the history of the past 20 years in criminal and juvenile justice has been marked by impressive gains in reducing the levels of crime and violence in our society, at least in part because of the explosion of creative new thinking in the field. Yet a closer look also shows that problems in implementing and sustaining promising approaches still persist, and there is also a sense that progress has often been piecemeal and not part of a comprehensive new design.

There is well-founded concern, for example, that major innovations such as community policing and BARJ, potentially the most far-reaching and fundamental reforms, are still widely misunderstood and often poorly or narrowly implemented. In too many places, these profound new philosophies are treated instead as limited programs—give an officer a beat in a hotspot neighborhood or adopt a policy by which juveniles are required to pay monetary restitution and then claim success.

There are also disagreements about how these new reforms should be defined, and, again, community policing and BARJ serve as object lessons. For example, debate persists about whether stationing officers permanently in beats is—or is not—an essential ingredient of community policing. There is also division within the field about whether the BARJ principles of accountability can be stretched to support get-tough/zero-tolerance strategies.

Indeed, there is an ongoing battle for the heart and soul of the juvenile and criminal justice systems. On one side is the image of the system as crime fighter, with zero tolerance in schools, police in ninja garb, punk prisons, three strikes and mandatory minimums, and the extension of antiterror laws to domestic drug crimes. On the other is the image of the system as peacekeeper and problem solver, with a focus on prevention and community-based efforts to engage the community in keeping their own neighborhoods safer.

Mirroring political divisions within the culture, reforms such as community policing and BARJ, which are, rightly or wrongly, perceived as progressive, can become targets of conservative backlash. Early pioneers of the community policing movement, for example, clearly viewed arrest as only one tool for solving community problems, yet in an (often vain) effort to gain support from conservatives, arrest often ended up touted as the first and best solution to all problems. We also see cases in which the BARJ principle of accountability stretched to justify efforts that violate the approach's holistic and healing approach. Pandering for support by violating what these philosophies stand for risks compromising the integrity of the model. These reforms will never appeal to everyone, and forcing a false consensus by blurring what these reforms stand for risks diluting their effectiveness.

Perhaps the biggest concern, however, is that the threads of these promising innovations have not been woven together into a unified, comprehensive, and coherent national vision, supported by agreed-upon protocols and standards. Communities a few miles apart can have vastly different approaches and glaring gaps, yet many citizens know little about the options available and the quality of the local service for which their tax dollars pay. This sad reality is often complicated by the fact that these sophisticated reforms do not translate well into 10-second sound bites, so local media tend to dumb down these new approaches if they cover them at all. As a result, communities often do not know the right questions to ask.

### **A Three-Phase Approach**

This is not to suggest any malicious intent on anyone's part to slow or derail these powerful reforms. The past and the future always live with us in the present. Indeed, it is heartening that so much innovation has flourished in so short a time in so many places.

In order for these groundbreaking innovations to achieve their full potential, however, it is time to move to the next level. We propose that it is time to explore a three-phase approach to developing, refining, and replicating a new restorative community justice model:

1. *Develop a Restorative Community Justice Model.* Synthesize the essence of the major criminal and juvenile justice reforms into a comprehensive, system-wide restorative community justice model.
2. *Promote Learning Organizations.* Transform police, prosecutors, courts, and corrections into learning organizations that can apply systems thinking to changing times and new challenges.

3. *Strengthen Communities.* Create capacity within communities so that they become full partners in the process of merging formal and informal social control into a unified, community-based approach.

## **A Restorative Community Justice Model**

### **Extracting the Essence**

The challenge in crafting a restorative community justice model rests on identifying the essential elements of proven value and then merging them into a coherent philosophy of policies, practices, and procedures that can inform all elements of the criminal and juvenile justice systems. The word *restorative* comes from “Balanced and Restorative Justice,” which reinforces the importance of requiring that offenders attempt to repair the harm to victims, to the community, and also to their own relationships with family and friends. *Community* reminds us that community policing led the way in demonstrating that the real power for change lies within the people in neighborhoods. Citizens, in partnership with paid professionals, can combine their unique knowledge of the dynamics in their communities with the power of informal social control and moral force and apply this potent mix to the task of making their neighborhoods better and safer places to live, work, and raise families. *Justice* intentionally echoes the calls for justice throughout the history of the United States, from the democratic ideals of the founding fathers to the abolition and civil rights movements to today’s concerns that fear of terrorism threatens to erode our hard-won progress toward equality and fairness.

The following attempts to codify the basic tenets of a new restorative community justice model:

### **The 12 Keys to Restorative Community Justice**

1. *Build Relationships.* At the core of restorative community justice is the commitment to strengthening relationships—within systems, with other professionals, and with the community. This means opening up communication inside police agencies, prosecutors’ offices, courts, and corrections so that individuals are empowered to work together as part of a team. It also means collaboration among elements of the criminal justice and juvenile justice systems and other public and professional agencies; victims and victim advocates; the business community; and civic institutions, such as schools, hospitals, and the faith community. It is also essential that professionals find ways to engage community residents directly and bring them into the process as full partners.
2. *Revitalize Community.* When communities wield informal social control in support of encouraging law-abiding behavior and helping young people grow up within the law, neighborhoods become better and safer places for people to work and raise families. Many high-crime, low-income neighborhoods, however, lack sufficient structure and support to make full use of this inexpensive and potent power. The goal is for the formal criminal and juvenile justice systems to work with communities to build the capacity to use informal social control effectively.

3. *Solve Problems Collaboratively.* No one individual or group can ever have all the answers. Creative, collaborative, community-based problem solving is the key to making neighborhoods safer. The restorative community justice model will benefit from recruiting police, prosecutors, courts, and corrections in decentralized and personalized problem-solving efforts as partners with the community and other paid professionals.
4. *Become Learning Organizations.* To keep pace with an ever-changing world, police, prosecutors, courts, and corrections must transform themselves into learning organizations, with open communication, support for risk-taking, and systems thinking that reminds people of the vision they are trying to achieve. The challenge includes changing the culture within agencies from an expert, command-and-control model to participatory management in which managers act as coaches who nurture a climate that promotes innovation.
5. *Value Diversity.* Collaborative problem solving within agencies and in the community benefits from bringing together people with different perspectives, including those closest to the problem being addressed. Involving men and women of different races, ethnic backgrounds, sexual orientations, and religious beliefs is an important first step. Solutions will also benefit from honoring inclusion as a way to engage people with a wide variety of skills and experiences within those categories. Special efforts must also be made to address racially biased policing and disproportionate minority confinement, as well as the need to develop programming that addresses the different needs of males and females.
6. *Support Victims.* Victims deserve to be treated with compassion, sensitivity, dignity, and respect. They have paid the highest price to earn their place at the table when planning, policy, and problem-solving decisions are made. Victims deserve voluntary and structured opportunities to talk with offenders, to ask questions, and to let offenders know firsthand the harm that they have caused. States must also ensure that mandates for victim compensation, notification, and restitution are monitored and enforced. Additional efforts should be made to reduce bureaucratic burdens and delays in providing victims the help to which they are entitled.
7. *Repair Harm.* The restorative community justice model must embrace efforts to require offenders to repair the harm that they have caused, to victims, to their families and friends, and to the community. This philosophy must pervade the entire system, with special emphasis on interactions with juveniles, since a restorative approach offers the best hope of instilling a sense of personal responsibility and individual conscience.
8. *Promote Prevention.* Balancing reactive efforts to function effectively when crime and violence erupts with proactive efforts to prevent problems saves future victims from trauma and loss, and it also saves money in the long run. This also means resisting the impulse to criminalize youthful behavior we don't like and instead find community-based proactive approaches that handle such problems informally. Prevention also means developing graduated sanctions and effective re-entry efforts that offer hope of breaking the cycle of re-offending.

9. *Reduce Risk.* No reform can succeed if people do not understand how it will make their communities safer. In addition to investing in prevention, this means restoring sanity to sentencing so that low-level drug dealers no longer serve mandatory sentences, while offenders who commit serious violent crimes are set free. Representatives of the criminal and juvenile justice systems must educate their communities about why a reactive and retributive approach not only puts people at greater risk but also costs more, today and tomorrow. Only then will politicians have an incentive not to pander for votes by promising to implement inexpensive, quick-fix, get-tough solutions that simply do not work.
10. *Invest in Planning.* Long-term strategic planning allows agencies and organizations to focus on a shared vision and build flexible strategies to achieve them, with an assessment process woven throughout so that corrections can be made along the way and so that effectiveness can be measured. Even “happy accidents” require structured time and opportunity for interaction and open communication.
11. *Restore Trust.* Trust is an essential element of collaboration. The first place to promote trusting relationships is within our agencies and institutions, creating a climate in which people feel safe in speaking out and taking well-intentioned risks. Trust is essential among professionals in different agencies and with people in the community.
12. *Fund What Works.* There is a growing body of solid research that identifies programs and practices that work, and those findings should drive funding decisions. According to Susan Yeres of the National Council on Crime and Delinquency, “We need to do a better job of educating people inside and outside the system about why investing in evidence-based, data-driven initiatives that are outcome-focused makes good sense.”<sup>36</sup> An equal challenge is to stop perpetuating efforts that are ineffective or downright harmful, so that the resources can be re-positioned into initiatives that have proven they can make a positive difference.

### **What Would Success Look Like?**

Moving from the abstract to the concrete, let’s explore what the restorative community justice philosophy would look like in action. Beginning with the all-too-common situation in which a teenager begins to skip school, experiment with drugs, and hang out with the wrong crowd, one sign of success would be that young people headed down the wrong path would not need to do something illegal to be eligible for help.

Once a parent reaches out for help or the young person’s problems come to the attention of a teacher, police officer, or concerned citizen, a restorative community justice approach would focus on whether there are underlying questions that must be part of any solution. Questions would include the following: Can the youth read well enough to find school fulfilling? Are other academic skills lacking? Is the child being bullied? Does the youth have a substance abuse problem? Is the youth self-medicating because of underlying mental health issues such as depression or ADHD? Is there a comprehensive and affordable program that checks for other

health issues such as eyesight or hearing problems? Is the youth struggling with sexual preference issues and fearful of rejection from family and peers?

Is the home situation conducive to success in school? Is there a place for the youth to do homework and supervised time set aside for that task each night? Does the youth have a curfew, and is it enforced? Do parents model respect for education? Do they have the skills to help the youth with homework, or is a tutor required? Do the parents have substance abuse, mental health, or physical problems that need attention? Is the home free of violence?

Is the school doing its part? Is learning made fun and exciting? Does the school have up-to-date equipment and textbooks? Does the school exhibit a commitment to excellence? Is there a system in place to identify and intervene when students begin to stray? Are there after-school enrichment opportunities? Is there a roster of community volunteers available for free tutoring? Are teachers provided specialized training in dealing with at-risk kids? Does the school provide a safe haven for kids after dark? Are there efforts in place to mediate conflict and prevent bullying? Is the school a partner with parents and the community in efforts to help students achieve?

Does the community support success in school? Do other parents feel safe intervening when they see truant students on the street? Do parents meet regularly to explore ways to provide mutual support? Are there recreational and educational opportunities available for kids? Do area malls have rules so that students are not allowed to roam during school hours? Do local convenience stores sell cigarettes and alcohol to minors? Are drugs widely and easily available? Do area churches, synagogues, and mosques have programs to help young people succeed?

As these questions suggest, systemic problems require systemic answers. All too often instead, the juvenile justice system alone and in isolation from the rest of the young person's life applies one-size-fits-all punitive sanctions. We see communities passing new laws to fine parents when their children skip school, even though poverty or child abuse may well be part of the dynamic. We put young people on a regimen of drug testing without adequate treatment but with harsh consequences if they relapse. We write one-sided contracts that contain so many petty rules and requirements that even Honor Society students would fail. Too often, the system seems to taunt rebellious teenagers into further defiance, thereby fulfilling our worst prophecies.

Clearly, what we need instead are responses tailored to the local community and the specific needs of each child. A community-based assessment team, triggered by concerns from school officials, police officers, parents, or neighbors, would be empowered to work with youth and families to find the prescription that works for them. This could include family or neighborhood conferencing, treatment of underlying disorders and addictions, and opportunities for tutoring, as well as creative solutions undreamed of today.

There is clearly a crucial role for the broader community, including schools, nonprofit agencies, service clubs, community groups, the business community, and the faith community. We need a restorative community justice system in which there are incentives for groups to work together on both prevention and response. The



professionals and the community need training to engage in gathering relevant information, assessing the dynamics that allow problems to persist, and coaching on how to adopt or invent programs and practices that work. Agencies and organizations also need to embrace the model of collaboration, open communication, and participatory management that they want communities to mirror.

The sad reality today is that contact with the formal system typically does not help young people find their way. In fact, the reverse is true; contact with the formal system is often a strong indicator of adult offending. With a restorative community justice approach, the first difference would be that parents could reach out for help, knowing that they would be offered positive options coupled with accountability instead of the threat of punitive sanctions.

Applying the same restorative community justice approach to dealing with offenders in the adult system makes sense, but it can be a harder sell. Just as many people love kittens but hate cats, it is easier to generate enthusiasm for restorative, community-based solutions aimed at young people, who are perceived as more likely to be able to turn their lives around, rather than adults, more often viewed as hardened, career criminals beyond redemption.

Yet much could and should be done at the macro level to ensure that we reserve expensive and precious prison space for the people who commit violence, rather than wasting it on mandatory minimums to express our collective outrage about drugs, while repeat rapists and child molesters are set free. We need a system that is smarter about using resources wisely, with more substitution of intensive community supervision for incarceration of nonviolent offenders. Recent counter-trends toward charging people for their own imprisonment or the detention of their children instead often ends up adding an economic burden to people for whom poverty was already a precipitating risk factor.

A restorative community justice approach would also mean crafting community-based, micro-solutions to chronic problems, such as low-level drug dealing, that employ arrest as only one of the tools that can be used. Communities have achieved success by implementing strategies that include environmental design (e.g., improved street-lighting and changing traffic patterns), community patrols, and efforts to create community-based GED and job programs, as stepping stones to lawful employment. Moreover, while traditional efforts focus on climbing the drug pyramid to arrest Mr. Big, meanwhile shooing away the young people who act as lookouts, these community-based efforts often included identifying and intervening positively with young wannabes.

The foregoing no longer sounds revolutionary as it once would have, but translating this philosophy into a comprehensive and coherent reality will not be easy or quick. The first caveat is that these principles are not like items on a restaurant menu—you cannot just pick one from Column A and one from Column B and expect restorative community justice to spring to life. Ignoring one or two principles could cause the entire foundation to collapse.

The other danger, of course, lies in stretching the principles to the breaking point in an effort to build support and appease critics or redefining them away from core values. Change is always difficult, and some will perceive it as a rejection of

their life's work. It is also time to admit that there are people who will always be philosophically opposed to this model, and it would be a mistake to compromise the integrity of the model in vain attempts to gain their support.

### **Merging Community Policing and BARJ**

Especially intriguing is whether community policing and restorative justice in particular can cross-fertilize and find common ground as a major part of the foundation for a restorative community justice model. By bringing together the two major philosophic reform movements, the merger would benefit police by providing them an ethical and moral framework, particularly for their interactions with young people. On the other hand, restorative justice could benefit from adopting community policing's structured approach to collaborative, community-based problem solving. The SARA model of problem solving (Scanning, Analysis, Response, Assessment), created by Dr. Herman Goldstein and popularized by the Police Executive Research Forum as fundamental to problem-oriented policing, begins by bringing relevant stakeholders together. The brilliance of the model lies in forcing people to look at the problem from all sides before they are allowed to brainstorm possible solutions. Without SARA, people, especially action-oriented police, typically jump to identifying responses before fully exploring the underlying dynamics. SARA not only improves decisionmaking, but, by building assessment into the process, the constant feedback loop allows people to tweak, revise, and even replace parts of their plans as circumstances change.

### **Issues Facing a Restorative Community Justice Model**

To move toward a restorative community justice model, municipal agencies ranging from police to planning must work with county- and state-based entities, and they must find ways to engage the community. Where are the incentives, and how can communities find the funding to make this a reality? While there are no perfect examples or unmitigated success stories (at least yet), there is no doubt that it will not look the same in all places, and there are promising success stories emerging.

By marrying community policing to community-oriented government and engaging the community directly, the Boston Strategy to Prevent Youth Violence literally reduced their skyrocketing youth homicide rate down to zero. During a 29-month period ending in January 1998, no teenager fell victim to homicide in Boston, virtually unheard of in a major U.S. city during that time.<sup>37</sup>

At the other end of the country, Deschutes, Lane, and Multnomah Counties in Oregon have invested in Community Justice Centers as part of a comprehensive effort to implement balanced and restorative justice to target youth. The Office of Juvenile Justice and Delinquency Prevention has endorsed having these counties serve as hosts for others to visit, so that other communities could see how these county-based centers operate.<sup>38</sup> As noted previously, Michigan experimented with "one-stop shopping" for appropriate social services when the Lansing Police Department launched its Neighborhood Network Center, where schools, nonprofit groups, and other city services colocated in the same facility. What is needed now is an investment in demonstration projects that could light the way.

## Become a Learning Organization

### Preparing Organizations for Change

Advocates of powerful new reforms, such as community policing and restorative justice, often express their frustration that more progress has not been made already. “While I am happy to see more and more communities implement community policing and community-oriented government and do it well, I also find myself frustrated that this is not the way that all communities operate,” said Drew Diamond, deputy director of the Police Executive Research Forum. “Another problem is that some jurisdictions never fully engage the community. My argument is that when someone offers you a powerful new medicine, you would be foolish to cut the pills in half and take only half the recommended dose.”<sup>39</sup>

New victim notification laws are an example in which the goal was not just to keep victims abreast of their rights but also to provide opportunities for communication and new relationships to form between private citizens and the system. Many jurisdictions, however, can afford to do little more than mail a letter or brochure, which is better than nothing but far from what could be achieved.

Another example is restitution, which can help young people understand that their actions damage victims and that society will hold them accountable to repair the harm. On the other hand, if a court implements a new restitution program that simply assesses a monetary fine, which ends up being paid by low-income parents, it has met the “letter of the law” but not its spirit.

Compare this to the case in northern Michigan in which a young man was arrested for breaking into a local tavern at night and stealing beer and money from the till. When the bar owner and the youth were brought together to talk, through the auspices of a local ministry, the bar owner moved beyond anger to concern. The owner wanted to make sure that the young man never got into trouble again, so he made the boy pay \$5 a week in restitution to him personally every Friday. The owner also persuaded a fellow business owner to give the young man a job so that he could pay the restitution with his own money.

When conducting trainings in community policing and balanced and restorative justice, nothing makes me happier than to see people’s faces light up when they hear these real-world stories or participate in experiential exercises that show the power of these new reforms. Energy and enthusiasm build; people get excited; and they leave all charged up about the changes they will make.

But then what happens? Many of us remember attending a fantastic training, and we return excited to share what we learned. We soon find out, however, that we have returned to the same organizational culture that was there when we left, the one in which people are not waiting to embrace new ideas. Often, there are no structured opportunities for us to share what we learned. Even when we do get a few minutes to speak, it is difficult to recapture the enthusiasm and excitement of the workshop. Meanwhile, the cynics in the back of the room roll their eyes, the boss politely says thanks, and then everyone moves on—back to business as usual. A few days later, the workshop binder on the shelf begins to gather dust, and you feel as if the air has been let out of your balloon.

## **Institutionalizing Change**

Why has it been so difficult for good ideas to succeed? The truth is that organizational change is always difficult, sometimes even more so within the public sector. The most successful businesses recognize the importance of addressing the culture within their companies to ensure that new ideas can take root and grow. The best corporations know that you have to prepare the seedbed, work in the proper fertilizer, and then keep watering, weeding, and tending the vulnerable new shoots until they can stand on their own. In contrast in the criminal and juvenile justice systems, there are rarely many opportunities for managers to participate in management training sessions on how to foster and sustain organizational change.

Private sector businesses often enjoy greater flexibility in setting work rules than their public sector counterparts. It is also easier to measure success in business, since the yardstick is just about money—did sales increase or did the stock price go up? In contrast, how do we measure whether restorative courts are better? Are increasing arrests an indicator of success or failure? How do we know whether communities are truly safer?

“Police, for example, spend lots of money on teaching skills, but relatively little in helping police managers handle organizational change,” says Robert Lunney, the retired police chief from Edmonton who is often called the “father” of community policing in Canada. “We need leaders who can provide the vision, architects who can create blueprints that outline our goals, and builders who can put together the organizational infrastructure to implement and sustain the plan.”<sup>40</sup>

Overcoming inertia isn’t easy. Overcoming a sustained and ferocious backlash is even more daunting, and reforms such as community policing and BARJ can generate ferocious resistance. Even in places where change has come, opponents look for openings to go back to business as usual. Critics of reform often pounce on such instances to argue that these new ideas are just the latest in a long list of “flavors-of-the-month” that will eventually disappear, if the naysayers just wait long enough.

NASA serves as an object lesson that illustrates how difficult it can be for public-sector organizations to change, no matter how urgent the pressure to do so. After the Challenger disaster, NASA was challenged to find ways to open up two-way communication, to ensure that people at the bottom of the organization could speak openly about safety concerns with the assurance that the people at the top would listen. Yet years later, following the Columbia tragedy, a government report blamed this latest failure on NASA’s inability to learn from past mistakes, that it had not become a “learning organization.”

## **What Is a Learning Organization?**

The concept of a learning organization offers an appealing new way to think about changing the culture within the criminal and juvenile justice systems so that they develop a never-ending appetite for finding ways to implement new ideas. Conceptualized in large part by Peter Senge, author of *The Fifth Discipline* and founder of the Society for Organizational Learning at Massachusetts Institute of Technology, a learning organization is a place where people confront learning

opportunities with “wonder rather than fear.”<sup>41</sup> Among the questions that Senge poses about existing organizations, “Why do we derive our self-esteem from knowing as opposed to learning? Why do we create controlling bureaucracies when we attempt to form visionary enterprises? And why do we persist in fragmentation and piecemeal analysis as the world becomes more and more interconnected?”<sup>42</sup>

To make the most of existing reforms and to light the path toward building a restorative community justice model, elements of the criminal and juvenile justice systems must transform themselves into learning organizations that embrace Senge’s “culture of commitment” to constant learning and experimentation. Senge, an ardent advocate of systems thinking, proposes the learning organization model as a vehicle to help people make the day-to-day changes that bring the organization closer to achieving the new vision.

Even outsiders know that the culture within the police department can be vastly different from a prosecutor’s office, a court, a jail, or a prison. Are all of these entities willing and able to become learning organizations—and should they?

In today’s fast-paced world, any agency that fails to grow and change risks being left behind. At the same time, the police may well have the greatest reason to lead the way. Not only are police the first agency likely to have direct contact with the community, which offers hope of harnessing informal social control, but police discretion also means that line-level officers have enormous power to exercise formal and informal diversion—they often choose who goes deeper into the system and who doesn’t. This, of course, has enormous implications for young people, since the juvenile justice system all too often serves as a “farm club” for adult prison. If we can transform police and sheriffs’ departments into learning organizations, they can provide a model for other elements within the system to follow.

### **Creating a Learning Organization**

As with any new concept, it is important to strip away the chaff to find the kernel inside. In their book, *Ten Steps to a Learning Organization*, Peter Kline and Bernard Saunders provide a practical outline. Creating a “culture of positive thinking” within police agencies and other elements of the criminal and juvenile justice systems means fostering an atmosphere in which people celebrate success instead of glorying in other people’s failures.

According to Kline and Saunders, the *Three Requirements for a Learning Organization* are (1) structure, (2) nurturing, and (3) problem solving.<sup>43</sup> In terms of the criminal and juvenile justice systems this would mean the following:

- *Structure* – Leadership within the criminal and juvenile justice systems must put in place the pathways for open communication, as well as the opportunities for people to work together collaboratively. It also means creating a learning team or learning library that searches out good ideas from elsewhere and makes them available to all. The structure can and should look different in different places, but the challenge is to make the transition from the traditional command-and-control model to the open model of the learning organization.

- *Nurturing* – The role of the manager is no longer to control, demand, criticize, and critique but to facilitate, coach, and support. In “Generative Coaching,” business consultant Kendall Murphy says that the long-term and sustainable goal is excellent performance that is both self-correcting and self-generating.<sup>44</sup> Managers must reward open communication and risk-taking. As Charles Handy, visiting professor at the London School of Economics, says in “Managing the Dream,” you start with the “assumption of competence,” so that the manager’s job is no longer to crack the whip but to allow people to blossom. That means recruiting and hiring should focus on attracting and retaining people who are self-directed.<sup>45</sup>
- *Problem Solving* – Kline and Saunders say that every person in the organization must wear their “problem-solving hat(s) all the time” and “make the workplace safe for thinking.”<sup>46</sup> Elements within the criminal and juvenile justice systems simply cannot afford to hire people who just want to follow orders. Formal and informal rewards must support people who understand that the job is to solve problems and make positive change. Another key concept is that when efforts succeed, that success is shared.<sup>47</sup>

Handy notes that one of the hallmarks of a learning organization is endless curiosity, as well as a climate of trust and togetherness.<sup>48</sup> International business consultant John W. Thompson writes that senior management also needs to understand that making the transition requires a significant investment in time and resources and the recognition that change will not be quick.<sup>49</sup>

## **A Focus on Communication**

Learning organizations take communication seriously. Unfortunately, in most organizations, meetings are often places in which many people speak, but few listen—most are too busy preparing what they plan to say when they get the chance. The role of the chair in this model is to play communication traffic cop.

A healthy alternative to this competitive communication model is the restorative justice strategy of “circles.” By placing chairs in a circle, everyone is equal and they must look at each other. Ground rules emphasize that it is as important to listen as to speak, and people are assured that they will have a chance to be heard. Some circles employ a stone, sculpture, or “talking piece” that is passed from person to person to make sure that each individual can speak his or her mind without fear of interruption.

For many organizations, the greatest challenge lies in adapting and applying collaborative strategies like these that are successful in the community to the way we treat each other within our organizations. As Thompson writes, becoming a learning organization requires “committed leadership willing to model desired changes and drive fear out of the organization.”<sup>50</sup>

Management consultant Dr. Jayme Rolls says that learning organizations foster team learning.<sup>51</sup> The goal is not to have one person or a handful of people with all the critical information but to share knowledge broadly. She also notes the instructional value of “stories,”<sup>52</sup> which are all too often dismissed as “war stories” in criminal

justice circles. Stories help make abstract concepts concrete and enhance credibility by showing how things work in the real world.

## **Creating a Climate for Risk-Taking**

The learning organization model explains that intelligent, “scientific” risk-taking isn’t really very risky. A risk is not a whim but the end result of developing flexible plans based on the best possible information gathering, analysis, and collaborative brainstorming of possibilities and consequences.

Inclusion is essential, since decisions ultimately benefit from having key stakeholders and people of varying perspectives involved, particularly those at ground level closest to the problem. In reality, this approach is far less risky than many contemporary efforts in which the boss tells people what to do and no one dares point out the emperor’s nakedness.

All of us have what Peter Senge calls *mental models*, “deeply ingrained assumptions, generalizations, or even pictures or images that influence how we understand the world and how we take action.”<sup>53</sup> Breaking free of models that no longer work to embrace new ideas requires making a commitment to learning and change.

Kline and Saunders identify three strategies that build a culture to support risk-taking: (1) protection, (2) capability, and (3) permission.<sup>54</sup> *Protection* means that people who take risks are insulated from cynics and supported if plans fail. *Capability* means investing in effective training over time so that people know how to develop plans and solutions that work. *Permission* requires that managers clearly and repeatedly state their commitment to risk-taking and back up their statements with their actions.

Part of the challenge in this section has been to identify the crucial elements required to transform elements of the criminal and juvenile justice systems into learning organizations without doing an injustice to this complex and sophisticated new approach. The next step in exploring how this new paradigm can benefit developing a restorative community justice model requires helping demonstration sites adapt the model to their organizations. It will be a challenge to make this new approach appealing to groups as different as police, prosecutors, court officials, and corrections personnel. It will also be important to capture and share what works and what doesn’t.

## **Strengthening Communities**

### **Becoming Full Partners**

Perhaps the biggest difficulty in making the most of community-based approaches lies in ensuring that the community functions as a full partner. While we invest time, talent, and money in training professionals in how to implement these new reforms, there are relatively few efforts that include community residents with professionals and virtually none for community people by themselves. Unfortunately, by their very nature, communities are rarely able to lobby effectively for the help they need.

And where is the incentive for busy professionals to move outside their comfort zone, to engage people who might tell them why their ideas won't work—and to say it so bluntly? Sadly as well, some professionals devalue the contributions of people who do not always look and sound like them. Community activists and critics may be viewed as disruptive and can find themselves marginalized or excluded.

This author was part of one of the few national training efforts that included community residents as part of the training team. Roughly a decade ago, the U.S. Department of Justice's Bureau of Justice Administration and the U.S. Department of Housing and Urban Development's Office of Resident Initiatives funded experiential training for more than 60 public housing developments nationwide, as part of "Community Policing in Public Housing."

Each site was urged to field a 10-person team of key stakeholders that had to include at least two police officers and at least two community residents. Almost immediately, it became clear what a tough assignment it would be to find residents who could attend, a situation that has likely grown worse as welfare reform has moved the working poor into holding down one or more jobs. It also quickly became evident that the federal system is set up to reimburse professionals to attend meetings and not to transport, feed, and house community residents who may not have a credit card.

The biggest obstacles often stem from disparities. Even when community residents are included, they often have relatively little knowledge of how the system works and little experience in participating in meetings as decision-makers. Some community members can feel at a disadvantage because they may not have as much income or education as the professionals at the table. Professionals also tend to use jargon that community residents may not understand. Without specific training and support, community residents can find it too difficult to speak up and, unfortunately, many professionals consciously or unconsciously seem to like it that way.

The integrity of the decision-making process is seriously compromised when professionals who engage the community seek out cheerleaders, not partners, often limiting their participation to serving as unpaid volunteers. Manipulating the community into rubber-stamping decisions made by others serves no one well.

### **Developing an Educational Outreach**

Rectifying this situation will not be easy. There is no government agency whose mandate is to help community residents gain the skills and confidence they need to function as full-fledged partners in community-based problem solving. The agencies and organizations that provide training for police, prosecutors, courts, and corrections face undeniable obstacles in including community residents, and finding both the will and the way to include them will require sustained trial and error. Logical first steps include the following:

- *Focus Groups and Needs Assessment* – While we can surmise some of the things that community members need to feel confident that they can function as partners, these are only our best guesses. The first steps should include meeting with community residents to find out their concerns and what they would like to see in an educational outreach.



- *An Experiential Learning Curriculum* – Adult learning theory reminds us that people need training that connects to real-world experience. Community training initiatives should employ role playing and other interactive skill-building techniques to help participants practice the techniques they will need to function as full partners.
- *Strategies to Include Young People* – Many community-based initiatives target youth without involving them in the decision-making process. Not only is this patronizing, it flies in the face of what we know about crafting intelligent solutions through collaborative problem solving. Admittedly, there are great challenges in including teenagers in meaningful ways, but their perspective is crucial.
- *Demonstration Workshops* – Pilot testing the curriculum in different communities is imperative, and success is best measured by whether community residents function well in this new role over time. As this implies, test sites should be located in places where the criminal and juvenile justice systems want the community to be full-fledged partners.
- *Sharing What We Learn* – Efforts to train communities will probably never keep pace with training for professionals. One way to share information with communities is through the World Wide Web. This author has been part of building online courses that include community residents, including a 3-week course on balanced and restorative justice. Face-to-face training has undeniable advantages, but online education allows people who might otherwise be unable to participate the chance to learn and share ideas with others. The so-called Digital Divide raises concerns about including low-income and minority community members who may not have easy access to computers; however, libraries, schools, and computers in public housing developments can help fill the gap. One thing that is certain is that the need is great, and technology can provide new answers.

## **A Reality Check**

The importance of involving the community in all phases of decisionmaking cannot be overstated. I well remember the time a community resident (let's call her "Mary") stopped a meeting with local police dead in its tracks. "I have been coming to these meetings for months now. And I appreciate all your hard work. But I still see the same problem outside my window each day at noon." What Mary saw each day during the summer was a 12-year-old prostitute plying her trade.

The young girl would ride her bike in a circle in the intersection of the quiet residential neighborhood where Mary had lived for many decades. The girl's adult male pimp would sit on the curb, waiting to negotiate with customers. Mary would watch businessmen come by during their lunch hour. They would pay the girl's pimp, the girl would climb into the men's cars, from which she would emerge a few minutes later. Mary often called police, but even when patrol cars arrived quickly, the girl and her pimp would always spot them coming and disappear.

Not only does Mary's story underscore the importance of dealing with the community's priorities, it also reminds us that the system alone can never have all the answers.

Police, prosecutors, and courts can play a role in arresting and prosecuting the girl's pimp. Clearly, she and her family also need professional interventions and services. There are also important roles that the community can play in saving at-risk kids. This can mean recruiting neighborhood residents into a community patrol that can intervene when the girl and her pimp show up, with the police as protector. Saving kids one by one could also mean finding new ways for women in the community to play the role of formal and informal advisors and mentors, again with the system playing a role in setting up opportunities for old and young to form supportive relationships.

Engaging the community is not just a nice thing to do; it is the most effective way of addressing the underlying conditions that allow problems like child prostitution to persist. Given sufficient structure, support, and funding, our communities can function as learning labs, places where professionals and community residents can work together to make the most of collaborative strategies.

## **In Conclusion**

### **Change Is the Only Constant**

The goal in producing this article is to generate discussion, debate, and experimentation. Those of us who have been involved with the historic reform movements in criminal and juvenile justice of the past 2 decades have been fortunate to witness remarkable change for the better, but there is concern about increasing pressures to scale back, lower expectations, and re-focus on achieving narrow, targeted goals rather than to invest in reaching the next conceptual level.

Yet the breather we currently enjoy with lower crime rates must not be squandered. If we are to make progress in the face of an uncertain economic future, we need to invest now in developing a restorative community justice model for the future. For that model to succeed, we must also explore ways to help criminal and juvenile justice agencies become learning organizations and strengthen communities.

The reality is that if we do not go forward, we will inevitably end up going backward and, as the late community policing pioneer Dr. Robert Trojanowicz always said, "Until we are all safe, no one is truly safe."

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Since 1995, Bucqueroux has been building informational websites and developing online training and cyber-institutes for police, juvenile justice professionals, and victim advocates. Please visit some of her latest efforts:

- The Michigan Balanced and Restorative Justice Website ([www.mibarj.org](http://www.mibarj.org))
- Building Restorative Communities ([www.mibrc.org](http://www.mibrc.org))
- Victims and the Media Program ([www.victims.jrn.msu.edu](http://www.victims.jrn.msu.edu))
- *The Online Journal of Urban Youth Culture* ([www.juyc.org](http://www.juyc.org)) edited by Dr. Carl Taylor

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As the sole holder of the copyright to the article "Restorative Community Justice," I hereby grant permission to the *Law Enforcement Executive Forum* to reprint any or all of the article, with no restrictions. – Bonnie Bucqueroux



# A Content Analysis of the Emerging Trends in the Use of Non-Lethal Force Research in Policing

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## Introduction

The police in the United States virtually possess a monopoly to the legitimate use of force over citizens (Reiss, 1971). Maintaining the legitimacy of appropriate use of force by the police in citizen encounters has initiated a national concern regarding the measures and types of force officers use to effect an arrest and enforce the law. This concern is not new. Lane (1967) reported that the concern regarding the police carrying and using firearms dates back to the 1850s. Such concern provided an important impetus for attempting to reform the police in the 1920s and 1930s (Walker, 1977).

The concern initiated scholarly inquiry and practitioner interest, and early research analyzed trends in the use of deadly force (Brooks, 1964; Chevigny, 1969; Goldkamp, 1976; Kobler, 1975; Kuykendall, 1981; Reiss, 1971), legal and policy issues (Fyfe, 1979; Gremel, 1954; Hawkins & Word, 1970; Sherman, 1978), and appropriate use of force and racial considerations (Brenner & Kravitz, 1979; Jacob & Britt, 1979; Kobler, 1975; Robins, 1963). This concern has also centered on accusations that police use of force has become commonplace and abuses of force are more frequent (Nelson, 2000). Allegations of police abuse of force and misconduct are underscored by atypical incidents, such as the Rodney King case (1991), Malice Green in Detroit (1992), Ronald Gamage in Breezewood, Pennsylvania (1993), the Randy Weaver shooting in Idaho (1994), the Abner Loumia (1997) and Amadou Diallo shootings (1999) in New York, and police misconduct in the Rampart precinct in Los Angeles (2001), to mention a few. In some communities, these and other well-publicized incidents of police use of force or misconduct have created a degree of polarization between the police and the community.

The dynamics of police and citizen interactions and police use of force have prompted scientific inquiry about the type of force measures used in these encounters and have spawned scholarly research (Bayley, 1986; Binder & Scharf, 1980; Reiss, 1971; Toch, Grant, & Galvin, 1975). Researchers have primarily focused their efforts on deadly force and firearm issues because of their high profile and potential for liability, and because of more complete record keeping, which makes data collection less problematic (Alpert, 1989; Binder & Fridell, 1984; Binder & Scharf, 1980; Bloomberg, 1982; Fridell, 1989; Fyfe, 1978, 1988; Geller, 1982; Horvath, 1987; Jacobs & Britt, 1979; Lester, 1984; Matulia, 1982; Milton, Lardner, & Albrecht, 1997; Pate & Fridell, 1993; Schultz & Service, 1981; Waegel, 1984). In comparison, less research has been conducted on the nature and extent of non-lethal force used by police, although a body of research is emerging. Early empirical research on non-lethal force by police has been based on data collected through the observation of officers on patrol (Bayley & Garofalo, 1989; Friedrich, 1980; Reiss, 1971; Sykes & Brent, 1983).



More recent use-of-force studies have reviewed use-of-force reports filed by police (Croft, 1985; Garner, Buchanan, & Hepburn, 1995; Greenfeld, Langan, Smith, & Kaminski, 1997; Greenleaf & Lanza-Kaduce, 1995; McLaughlin, 1992) and surveys (Engel, Sobel, & Wordon, 2001; Greenfeld et al., 1997; Horvath, 1987; International Association of Chiefs of Police, 2001; Langan, Greenfeld, Smith, Durose, & Levin, 2001; Pate & Fridell, 1993; 1995; Virginia Association of Chiefs of Police, 1993). These studies indicate that police use of force is a complex issue, frequently revolving around the changing situational dynamics of the arrest environment, and it is rare in occurrence, given the number of citizen and police contacts and the number of arrests that are made annually. These reports also recognized that continuing research on the situational dynamics of police-citizen encounters is needed to further improve the understanding of police use of force (Alpert & Dunham, 1999; Mastrofski & Parks, 1990; Ross, 1999).

The purpose of this article is to analyze the current knowledge regarding the use of non-lethal force in policing. Review of the literature reveals that there have been 195 deadly force studies conducted since 1963. Since empirical studies on lethal force have been widely conducted, and the use of non-lethal force is more commonly used by the police and has been under-researched, only non-lethal force studies are analyzed. Since the 1960s, there have been a number of studies on this subject, which can form the base for a content analysis. The study reports on comparisons of outcomes of empirical studies on the topic and presents estimates of the trends and patterns of police use of force as reported in the literature. The study also synthesizes common trends and collective conclusions regarding the outcomes of these studies and presents recommendations for future researchers and police administrators.

## **Study Method**

A content analysis of 43 studies on police use of force in the United States was the sole method used for this study. The examination is longitudinal in design spanning 34 years, ranging from 1969 to 2003. This methodological design was chosen due to the variety of study methods used by previous researchers.

The analysis began by examining the reference list of review articles found in Geller and Toch (1995); McEwen (1996); and Travis, Chaiken, and Kaminski (1999). This was augmented by searching the following computerized bibliographic databases: *Criminal Justice Periodic Index*, *Dissertation Abstracts Online*, *National Criminal Justice Reference Service*, *Social Sciences Abstracts*, and *Sociological Abstracts*. For inclusion in this analysis, the study had to examine incidents of police use of non-deadly force (although some studies may combine lethal force). Furthermore, studies were also included if they focused on police use of force and citizen resistance, measuring excessive force police encounters, assessing violence in police and citizen encounters, and analyzing police use of force and control tactics or equipment used in arrest. The studies included in the analysis were either published in a scholarly journal and/or practitioner publication or were readily available in a dissertation or technical report format.

## **Research Questions**

The purpose of the assessment is to determine what is known about police use of non-lethal force and focuses on the following 13 research questions:

1. Based on study findings, what are the trends in the police use of force?
2. What is the prevalence of the use of force in police-citizen encounters?
3. How commonly do police use physical control measures in citizen encounters?
4. How commonly do police use force equipment in citizen encounters?
5. How has the use of physical control tactics and equipment varied in usage over the years?
6. What are the common types of citizen resistance that police encounter?
7. What are the common types of circumstances in which police encounter citizen resistance warranting the use of force?
8. What are the characteristics of a citizen who resists the police warranting the use of force?
9. What is the likelihood that a citizen would sustain an injury during the use of force?
10. How many citizens does an officer generally encounter during the course of using force?
11. What are the common characteristics of the officers who employ force measures?
12. How frequently do officers encounter a resisting citizen who is suspected to be under the influence of a chemical substance?
13. What force associations emerge from citizen and police interactions?

## **Limitations**

Prior studies on police use of force have limitations that impact the conclusions of this study. Accurately measuring the use of force or the use of excessive force (i.e., exceeding that force that is reasonable under the circumstances) (McEwen, 1996) is problematic as researchers use varying methodologies to study the subject matter. Some studies use qualitative methods, which may include researcher bias. Moreover, quantitative studies may use varying design methods and statistical analysis further complicating the comparative assessment.

Four common types of study design have been used in previous research. Survey research was used in 14 studies. Survey research has been a popular method as it is inexpensive, covers a wide geographic area, generates a large number of respondents, and provides efficiency in analyzing data. In use-of-force studies, survey instruments have been used primarily when questioning citizens about encounters in which the police used force. Few studies were designed to survey officers about the use of force. Hagan (2001) noted the limitations of using surveys including telescoping, non-cooperation, interpretation of the respondent pertaining to item construction, potential for low response rates, lying, problems with recall of the complete incident, and respondents answering the question in terms of how they perceive the researcher wants them to answer the question.

Studies using police use-of-force incident reports are another popular method used by researchers. Most police departments require their officers to submit a use-of-force report when using a level of force during a citizen confrontation or arrest (Pate & Fridell, 1995). This analysis identified 15 studies that covered official police reports. Studying police reports can be a useful method for studying police use of force (Adams, 1999; Alpert & Smith, 1999). Reporting officers are more likely to fully report their use of force in compliance with their departmental policy or face disciplinary sanctions for failing to disclose such information. This, however, does

not imply that “all” officers accurately report their use of force in “every” incident all of the time, and data may suffer from reporting bias (Hagan, 2001). Officers may write their reports in such a way as to justify their use of force when there may be questions of improper force usage. Data in reports may be missing, and reporting requirements may change over time in a department, making it problematic for a researcher to conduct meaningful longitudinal research. For example, a department may change reporting formats to include more information than in the past and may require all officers to submit a report when any type of force is used. Another department may only require officers to submit a report when higher forms of force are used or when handcuffs are used. Finally, a department may allow a researcher access to some of the official reports and omit those incident reports that may cast a negative image on the officer and/or the department.

Qualitative research through direct field observations is a third method for studying police use of force. Field research studies account for 11 of the studies analyzed. Many of the studies involved researchers riding along with officers during the course of their shifts and observing their interactions with citizens. Field research provides the researcher with first-hand observation of the behaviors exhibited during a police and citizen encounter, which cannot be accessed from a questionnaire. It is an excellent method for studying the sequence of events of human behaviors and systematically observing the characteristics of citizens and officers involved in an incident. Field observations eliminate the potential for bias from the officer’s and the citizen’s perspectives, which can be problematic with both official police reports and surveys.

Field research, however, has limitations. While field observations may eliminate bias on the part of the reporting officer and citizen, it has the potential for creating the “Hawthorne Effect.” Because the researcher is present and “observing” the officer and citizen confrontation, the officer may act in a different manner than he or she normally would. Field research is time-consuming and expensive; hence the number of observations that can be made is limited. Furthermore, there is the problem of researcher bias in the interpretation or misinterpretation of the events of the incident. If the researcher is looking for one type or set of behaviors, there can be a tendency to only report those findings at the exclusion of other behaviors. Moreover, the concept of “going native” can occur over time when the researcher gets too close to the population being studied. Both issues can create questions of validity of the observations. Finally, field research has been criticized for lacking statistical analysis of the data and being fraught with error. Researcher bias plagues all observations, and therefore, the findings lack the true validity that is incorporated in quantitative research.

The fourth type of research performed in police use-of-force studies is citizen complaint reports. Analysis revealed three studies that used citizen complaint data. Most contemporary police departments provide citizens the opportunity to formally complain about an officer’s behavior during the encounter. It provides a ready-made data source. Citizen complaints have obvious limitations, which normally involve a bias opposite of what is contained within the official police report. Since the complaint is one-sided, the citizen may be seeking revenge or retribution when he or she alleges the officer used, in his or her perception, excessive force. Citizen complaints may, therefore, contain charges that are fabricated or may imply that the force used was improper and in violation of the department’s policy, as the citizen is generally uninformed of proper police practices. Citizen complaints do not always provide a “true” picture of the actual incident and officer behavior, and

they are of little value in accurately measuring excessive force (Alpert & Smith, 1999; Walker & Bumpus, 1992; Worden, 1995). They may be more of a reflection of the administrative procedures than police performance.

A further methodological problem involved an inconsistency in the assessment of all forms of force that police have at their disposal. Some studies may have concentrated exclusively on lethal force; other studies focused on verbal persuasion; and yet others examined physical control measures and/or race and excessive force issues. Changes in use-of-force measures and technology, since the 1960s, have affected use-of-force studies. For example, stun guns, pepper spray, and electrical devices were not part of many police departments' arsenals until the mid- to late 1980s. Hence, earlier studies would not have included them.

## Definitions

Defining *use of force* is problematic, as it can be described in a variety of ways. Deadly force, or more commonly referred to as lethal force, refers to situations in which the police are likely to use a firearm thereby causing death or serious bodily injury to another (Adams, 1995). Other considerations beyond firearm usage exist (e.g., baton strikes to the head of an individual, the use of a police vehicle and/or other equipment). Conversely, less-than-lethal force involves force measures not likely to cause death and can include officer presence, verbal force, physical control tactics, restraints, and equipment (e.g., batons, pepper spray, tasers, stun guns, capture nets, water cannons, etc.).

*Police brutality* is a term with a wide variety of meanings; it is generally used to describe incidents in which serious psychological and physical harm or cruelty has been inflicted by the police against a person. *Excessive force* has been used to describe incidents in which disproportionate force beyond that which is reasonable under the circumstances is allowed. This force is normally judged by professional, legal, and administrative standards of review. Excessive force can also mean a high rate of use of force, suggesting that the police are using an inordinate amount. Fyfe (1995) defined *unnecessary force* as the result of ineptitude or carelessness; it occurs when well-meaning officers prove incapable of dealing with the situations they encounter. He further distinguishes unnecessary force from *extralegal force* or brutality, by describing it as the willful and wrongful use of force by officers who knowingly exceed the bounds of their office.

Depending on the context and nature of a particular study, these definitions have been used to define varying dimensions of police use of force. This assessment addresses past research that has examined the prevalence of non-lethal use of force employed by police in citizen interactions.

Despite the above limitations, use-of-force studies have been conducted, forming a base of information and heightening our knowledge regarding the use of force in policing. These studies can provide useful information with which to make estimates and general conclusions about police use of force and direct researchers toward further research inquiry. Collectively, they can provide police administrators, trainers, and officers with pertinent information on which to focus organizational policy, training, and field practices. Based on these expressed limitations, this analysis is limited to the compatibility of the studies in terms of comparing the study findings and presenting recommendations.

# An Overview of the Findings of the Studies

## Field Observational Research

**Table 1**  
**Study Methodology and Focus of the Research**

Researcher (s)/Year	Field Observation Studies	
	Study Method	Focus of the Research
Reiss (1971)	Descriptive	Measured police use of force
Sykes & Clark (1975)	Chi-Square	Test use of force/deference decision-making
Cruse & Reuben (1978)	Descriptive	Observe force in violent citizen encounters
Friedrich (1980)	Secondary Analysis Multiple Regression	Situational encounters of police use of force
Ostrum, Parks, & Whitaker (1981)	Multiple Regression	Prevalence of police use of force
Smith (1986)	Multiple Regression	Use of police force in neighborhoods
Bayley & Garofalo (1989)	Ordinary Least Square/ T-Test	Dynamics of violent citizen encounters
Fyfe (1989)	Descriptive	Force used during traffic stops
Worden (1995)	Multinomial Logistic	Measured police use of force
Klinger (1995)	Descriptive	Measured police use of force
Terrill & Mastrofski (2002)	Ordered Probit	Situational factors and police use of force
<b>Incident Report Studies</b>		
Renner & Gierach (1975)	Chi-Square/ Spearman's Coefficient	Measured officer use of excessive force
Croft (1985)	Descriptive	Measured situational factors and force used
Croft & Austin (1986)	T-Test, Pearson's Product Correlation	Measured police use of force
Lundstrom & Mullan (1987)	Descriptive	Measured police use of force
Christopher Commission (1991)	Descriptive	Prevalence of officer use of force
McLaughlin (1992)	Descriptive	Prevalence of officer use of force
Garner et al. (1995)	Logistic	Measures of police use of force
Greenleaf & Lanza-Kaduce (1995)	Descriptive/ Multivariate	Subject resistance and police use of force
Garner & Maxwell (1996)	Logistic	Measured police use of force
Ross (1999)	Pearson's Product Correlation	Correlates of citizen resistance
Kavanagh (1997)	Logit Analysis	Situational factors and officer force
Alpert & Dunham (1999)	Descriptive	Subject resistance and officer use of force
IACP (2001)	Descriptive	Measured prevalence of use of force
Williams & Hester (2003)	Chi-Square	Officer characteristics and use of force
Hickey & Garner (2002)	Descriptive	Measured rates of officer use of force
<b>Survey Studies</b>		
Campbell & Schuman (1969)	Descriptive	Examined citizen perception of police force
Bayley & Mendelson (1969)	Descriptive	Examined citizen perception of police force
Whitaker (1982)	Descriptive	Examined citizen perception of police force
Winick (1987)	Descriptive	Examined citizen perception of police force
Gallup (1991)	Descriptive	Examined citizen perception of police force
Pate & Fridell (1993)	Descriptive	Examined types of force police use
Pate & Fridell (1995)	Descriptive	Examined use of force reporting
VACOP (1994)	Descriptive	Examined officers' use of force
Langan et al. (1997)	Descriptive	Examined force and police/citizen contacts
McEwen (1997)	Descriptive	Examined use-of-force policies
Walker & Graham (1998)	Chi-Square	Examined citizen perception of police force
Greenfeld et al. (2001)	Descriptive	Examined force and police/citizen contacts
Garner & Maxwell (1999)	Descriptive	Measured force used by police

**Table 1 (cont.)**

<b>Survey Studies (cont.)</b>		
Weisburd & Greenspan (2000)	Descriptive	Measured abuse of authority and officer abuse of force
<b>Citizen Complaint Studies</b>		
Chevigny (1969)	Descriptive	Prevalence of excessive force
NYPD (1984)	Descriptive	Prevalence of excessive force
Kerstetter, Rasinski, & Cami (1996)	Descriptive	Prevalence of excessive force

Table 1 shows each study analyzed and identifies its research design and research methodology. A majority of the studies have employed a quantitative model and used a combination of descriptive and statistical analysis. Many of these studies have been designed to measure the prevalence of police use of force and the situational dynamics of the nature of police/citizen encounters.

The first study to systematically observe police officers at work was conducted by Black and Reiss (1967) when they collected information on 3,826 police citizen encounters in Washington, DC; Chicago; and Boston during the summer of 1966. Using 36 trained graduate students as observers, who rode along with 600 patrol officers for 7 weeks, Reiss (1971) reported a total of 5,360 police and citizen contacts. Police used force in 5% of the approximately 1,600 incidents in which they regarded the citizens as actual or potential offenders.

Observers noted that in 9% of the cases involving citizen resistance, offenders were handled with gross force involving some physical coercion or threat (e.g., physical assault, handcuffs, etc.), though not necessarily an undue use of such force. An additional 42% were treated with firm handling; police generally moved the offender about by holding the arm, prodding with a night stick, or surrounding him or her with several officers. The findings also showed that officers assigned to higher crime neighborhoods were more likely to use force. Observations revealed that the police used improper force in no more than 2.5% of their encounters with resisting citizens.

Observations of police-citizen encounters by Sykes and Clark (1975) found that as the citizen's level of impoliteness increased, the chances of arrest significantly increased. The lower the status of the citizen, the lower the level of deference to the officer. Arrest rates and use of force are higher when the citizen is angry or when both the citizen and officer are angry, than in situations in which neither is angry or only the officer is angry. Officers and non-white citizens are more likely to engage in mutually insulting behaviors than are officers and whites. Sykes and Clark suggest that the officer is thus more likely to use arrest as a means of punishment or authority maintenance.

Ostrom, Parks, and Whitaker (1977) conducted field observations for the Police Service Study (PSS) of 5,688 police-citizen encounters in three cities (Rochester, New York; St. Louis, Missouri; and Tampa-St. Petersburg, Florida). Observers accompanied officers on 900 patrol shifts in 60 neighborhoods. Using multiple regression analysis, they found that the use of force was rare. Improper force was

used in less than .5% of situations. Over 57% of the force incidents occurred in a public location; 62% involved one officer and one suspect. The use of force was more likely to involve a male African-American (64%) suspect over 18. Force was more likely to be used when an officer was responding to a hostile, antagonistic suspect, who exhibited signs of intoxication or mental impairment. In over 50% of the incidents, the suspect fought with the police, and one-fifth used a weapon. Race was a significant issue when an officer was observed to use improper force. Black officers and officers with college degrees were more likely to use force but less likely to use improper force. Improper force was impacted when several officers were on scene. The use of force, reasonable or excessive, is more likely to involve violent crimes and a vehicle pursuit. Improper force was more likely to occur if the encounter involved a car pursuit.

Cruse and Reuben (1978) observed 12 patrol officers in Miami. Observations involved 1,059 violent police and citizen encounters. They concluded that 4% of the encounters involved a moderate to high threatening behavior on the part of the citizen and that 13% of the incidents resulted in physical contact considered as aggressive on the part of the police.

Friedrich (1980) performed a secondary analysis of the Reiss data using multiple regression. He concluded that police use of force depended primarily on how the offender behaved and whether or not other citizens or police officers were present. The most significant coefficient related to the number of police officers on the scene was that the more officers there were, the more likely that the use of force was to be used. Force was also influenced by the level of intoxication of the citizen. Citizens were found to either be drinking or intoxicated at the time in 70% of the encounters. Resisting citizens were more likely to be young, as 88% were under the age of 45. Force was used in 5% of the encounters; in 65% of the cases, reasonable force was used; and force was determined to be excessive in 35%. Friedrich found no relationship between the use of force and seniority of the officer; job satisfaction; and race, gender, or age of the citizen. These factors did not make any difference in the utilization of force by the officers.

Smith (1986) reassessed the PSS data and examined 11 neighborhoods. He found that higher rates of force were associated with a higher population of racial minorities, and incidents of force involved a male suspect who was antagonistic. The analysis revealed that incidents involving African American subjects were associated with increased prevalence or severity of force. Smith did not include a measure of suspect resistance.

Bayley and Garofalo (1989) used six field observers in their observational research when they studied the use of force by patrol officers in New York City during the summer of 1986. They reported 467 police-citizen encounters during 350 eight-hour shifts. They found that one out of six encounters with potential suspects ends in an arrest. Analysis of these incidents revealed that police used force against citizens in only 8% of the arrests and that officers used lower forms of force control measures, such as grabbing and restraining. Finding weapons at the scene upon arrival accounted for 2% of the calls. In 90% of the cases, citizens were observed to be verbally resisting the police. Citizens sustaining injuries resulting from these encounters were extremely rare; 12 citizens received minor injuries, including bruises and cuts, while two incurred broken bones. Three officers incurred minor injuries.

Circumstances in which force was used included the following: traffic enforcement (33%), intervention in interpersonal disputes (30%), and minor disturbances (8%).

Types of force used included the following: 86% ended in the use of handcuffs; 78% included physical control measures; 2% used a chemical agent; and 20% used a baton. The average age of the suspect was 24 years old while the officers' average age was 27. Officers using force averaged 3 years of work experience. They concluded that the use of force by police is rare, that resistance can be expected during traffic enforcement and handling disputes (63%), that verbal resistance was prevalent, that no force was used in 85% of the incidents, and that officer/citizen injuries resulting from a use-of-force encounter are rare.

Fyfe (1988) used trained observers to report on police-citizen encounters during traffic stops and crimes in progress as responded to by patrol officers of the Metro-Dade Police Department during 1986 and 1987. Over 2,000 incidents were observed. Of the 1,051 traffic stops observed, officers encountered motorists who were annoyed, demeaning, hostile, or disrespectful. He found only 1 in 2,051 motorists physically attacked an officer during a traffic stop. In only 12% of the incidents, police used force greater than a firm voice, and no officer fired any shots during the 877-day observation period. He found that in 10% of the stops, officers used a level of force to arrest the citizen.

Worden (1995) conducted a secondary analysis of the PSS data. He found that the police used force in 1.05% of the encounters and that improper force was used in 1.3% of the encounters. Klinger (1995) also observed 900 patrol shifts in 1985 and 1986 in the Metro-Dade Police Department. He revealed that in one sample, police used physical force in 17% of the incidents, and in almost 60% of those, the only force used was a "firm grip."

Using data obtained from observations of 222 patrol officers during 996 shifts, Terrill and Mastrofiski (2002) analyzed 3,116 police encounters with suspects in St. Petersburg, Florida (1996) and Indianapolis, Indiana (1997). They found that the police used more force against non-white, young, poor, or intoxicated suspects who resisted their authority. It was determined that the police did not use more force against disrespectful, angry, or psychologically impaired individuals but found an association between higher forms of force used by officers when the suspect increased resistance. They found that officers with more education and/or experience used less force. They further reported that suspect race is associated with increased likelihood of the severity of police use of force. Higher rates of force were used by Indianapolis police, which is attributed to more aggressive policies than in St. Petersburg.

## **Studies Using Incident Reports**

Because most police agencies require a report to be filed after a level of force is used, these reports provide a major source for researching use of force. Using official police reports, Bennett and Greenstein (1975) examined resisting arrests and assault charges in a Midwestern city of 60,000 residents from 1970 to 1973, employing 95 sworn officers. The rate of use of force was examined in terms of an officer's length of employment at the department. They reported that a small number of veteran officers (> 4 years ) had higher rates of use of force than officers with less



employment time. It was determined that a small number of veteran officers had more citizen contacts but used force disproportionately and accounted for more than five force altercations.

Croft (1985) examined 2,397 use-of-force reports from the Rochester, New York, Police Department. These reports were compiled by 757 police officers during the years of 1973 to 1979 and included 123,491 arrests. She reported that "agitated" citizens were more likely to offer resistance during arrest. Verbal control by the police was ineffective in a majority of the incidents. Citizens were shown to be under the influence of alcohol in 80% of the incidents in which the citizen fought with the police; 70% included resisting after the first handcuff was applied by the officer. Analysis revealed that 40% of the citizens resisted hand holds; 29% wrestled with the officer; 14% fought with a club; 5% attempted or actually struck the officer with a vehicle, and 5% used an edge weapon against the officer. In a majority of incidents, the officer faced verbal resistance, followed by eluding behaviors, and physical assaults, including lethal assaults, during felony arrests (36%), disturbance calls (18%), and domestic violence encounters (20%). Officers were injured in 6% of the encounters while subjects were injured in 19%. The average age of the officer was 25 compared to 28 for the subject. The average work experience of the officer using force was 9 years. When encountering resistance, officers used physical force (86%), handcuffs (84%), baton or electrical devices (12%), and a firearm (2%). A key finding was that in 173 incidents, officers would have been justified in using lethal force but did not. Croft determined that in lethal force encounters, the danger experienced by the officer was neither due to the officer's response nor tactical positioning, but rather, the danger was created by the resisting nature of the suspect. She concluded that an average of 2% of arrests involved force and that excessive force was rare.

Croft and Austin (1987) examined use-of-force reports from the Syracuse and Rochester, New York, Police Departments. They examined 10,169 arrests in which 1,762 resulted in the use of force, or approximately 5% of the arrests. They determined that in a majority of incidents (93%), two or fewer officers faced an encounter with one suspect who was white or black. The suspect's average age was 25, and alcohol was an influence in 63% of the incidents as the subject had either been drinking (24%) or was intoxicated (38%) at the time of arrest. Suspects were encountered during a misdemeanor arrest in 32% and a violent crime in 23% of the cases. An officer's use of force involved subduing a suspect (28%), self-defense (20%), suspect refusing handcuffing (14%), preventing an escape (10%), and making an arrest (10%). Physical control measures were used in 80% of the incidents, and deadly force was not used. A suspect did not sustain an injury in 68% of the incidents and incurred a superficial injury in 27% of the cases. Officers sustained an injury in 10% of the incidents. Characteristics of the officers revealed that they were male and white (90%), with an average age of 35, and had on average 10 years of work experience.

Using departmental use-of-force forms, Lundstrom and Mullan (1987) measured the amount of force used by the St. Paul, Minnesota, Police Department for 12 months. They studied 11,989 custodial situations, and 15% involved officer use of force. Common types of circumstances in which force occurred were disorderly conduct, petty assault, and aggravated assault. They did not attempt to distinguish between reasonable and excessive force.

After the Rodney King incident, the Independent Commission on the Los Angeles Police Department (1991) led by Warren Christopher examined use-of-force incident reports and other data to investigate the use of force. The commission studied 8,274 use-of-force reports from 1986 to 1990 and estimated that force was used in 1% of arrests, and 25% involved excessive force. The commission estimated that approximately 6.5 per 100 officers annually were involved in excessive use-of-force incidents. Of the reports studied, 2% of excessive force claims filed by citizens were sustained, and about 5% claiming improper practice were sustained. The commission found that a small amount of officers were disproportionately involved in use-of-force incidents alleging the misuse of force.

McLaughlin (1992) examined 133 use-of-force reports at the Savannah, Georgia, Police Department in 1989. In four incidents, officers fired their weapons, and in one incident, an officer was killed. He found that in less than 1% of all arrests, officers used a level of force, and .11% were observed as excessive. Officers used force to make an arrest (30%), on a disturbance call (31%), during a traffic stop (20%), and during a domestic violence call (19%). Citizens were intoxicated in 36% of the incidents. He found that on average, 2 officers were involved in the confrontation; 90% involved a male officer, with an average age of 24, with 3 years of work experience. Officers used handcuffs in 100% of the arrests, physical force in 78%, chemicals in 2%, baton or electrical devices in 15%, and a firearm in 15% of the cases. Types of resistance encountered included verbal, defensive (pulling away or escaping), physical assaults, and lethal force attacks. McLaughlin, like Croft, found that suspects' actions in lethal force incidents created the danger for the officer; it was not created as a result of an officer failing to respond properly or taking up a bad/dangerous tactical position.

Garner, Buchanan, Schade, and Hepburn (1996) studied police use-of-force measures for 2 weeks in the Phoenix, Arizona, Police Department in June to determine the correlates of force. Officers made 1,585 adult arrests. Results showed that officers used threats or shouts less than 4% of the time; placed handcuffs or restraints on 77% of the suspects; used an empty-hand control tactic in 22% of the arrests; used a weapon 3.7% of the time; threatened to, but did not, use a weapon in 17% of the arrests; and used a canine in 3% of the arrests. In 20% of the arrests, no restraints were used. They revealed that a flashlight was used most frequently by officers against a resisting subject (45 arrests). When force was used, officers used handcuffs (85%), physical force (84%), chemicals (2%), batons or electrical devices (11%), and firearms (3%). The subject physically resisted the officer in 15% of the arrests. Predictors of resistance included intoxication, gang membership, and a history of prior resistance during arrest. The researchers concluded that officer use of force is infrequent and that officers were more likely to use lower forms of force.

Researchers have studied citizen resistance and police use of force. Greenleaf and Lanza-Kaduce (1995) studied 80 incident reports stemming from domestic violence arrests from 1988 through 1991 at the Charleston, South Carolina, Police Department. They found that 50% of the resistance was verbal, 36% was violent (e.g., physical assault or threatened with a weapon), and 25% was without violence (e.g., struggled with an officer to avoid handcuffing). Arrests were drawn from high crime areas of the city (70%); 95% of the resisting citizens were male; 73% were non-white, and nearly 33% were under the influence of alcohol or drugs. The officers were also male (86%), white (52%), and had more than 2 years of experience (60%).

Kavanagh (1997) studied police incident reports and surveys of 1,108 arrests made by the Port Authority Bus Terminal Police in Manhattan during 1990 and 1991. He found that arrestee disrespect, seriousness of crime, other arrestee violence (besides resisting arrest), and arrestee intoxication were significantly related to arrest. Arrestee characteristics were not significantly associated with resisting arrest. He concluded that police officers may play a smaller role in the occurrences of resisting arrest than had been thought.

In order to assess the status of non-lethal force policies, McEwen (1997) examined such policies from 96 law enforcement agencies (79 city police departments; 10 sheriffs' departments; 6 state patrols; 1 transit police authority) from 32 states. He used a convenience sample to access the policies. He found that 91% included a policy purpose statement; 48% defined less-than-lethal force; 97% identified appropriate authorized weapons; 46% identified unauthorized weapons; 63% listed the training requirements; 51% outlined how to avoid excessive force; 33% required medical aid; and 73% required by policy that officers report the use of force. He recommended that administrators revise their policies in line with the overall findings.

Ross (1999) studied the correlations of citizen resistance, arrest circumstances, and the influence of alcohol on resistance in 17 police departments. He analyzed 604 police reports of resisting arrest over a 6-month period. The most common form of resistance was defensive (pulling away from the officer), followed by verbal aggression, and active aggression (i.e., physical actions of assault). He found that 80% of the citizen resistance occurred during a misdemeanor arrest (27%), disturbance call (24%), performing a traffic stop (15%), or felony arrest (14%). Chemical substances influenced resistance in 89% of the incidents. The key finding was that the use of force is predicated on the level of citizen resistance, and subsequently, associations of patterns of resistance and arrest circumstances exist. For example, officers responding to a disturbance call are likely to encounter verbal and defensive resistance and active aggression associated with a strong influence of alcohol or other drugs, resulting in the use of higher forms of force.

Ross reported that citizen characteristics included the following: male (91%), with an average age of 22, white (51%), non-white (49%), and less than one-third injured during arrest. Officer characteristics included the following: white male (76%), non-white male (24%), 8 years of job experience, average age of 33. In 68% of the incidents, one officer encountered one citizen.

Using official police reports, Alpert and Dunham (1999) compared the police use of force in Metro-Dade, Florida, Police Department and the Eugene and Springfield, Oregon, Police Departments. Based on a four-point scale, they measured the suspects' levels of resistance and the force used by the police. Suspect resistance included the following: no resistance, passive resistance, active resistance, and assaultive resistance. Officers' use of force included the following: no force, minimal force, forcibly controlled with hands, and forcibly controlled with other methods. The "force factor" was developed by examining the level of subject resistance and the type of force the officer used. Officers encountered resistance infrequently in the forms of pushing, pulling, or escape resistance, and they commonly responded by using verbal control (8%), wrist/arm locks (27%), and handcuffing (65%). Canines were deployed in 7% of the incidents. Alcohol intoxication influenced resistance

overall. Officers' average age was 35, and on average, officers had accumulated 12 years of work experience. The subjects' average age was 28. Officers' use of force generally followed a force continuum, matched the subject's degree of resistance, and followed departmental training.

IACP (2001) received use-of-force data voluntarily submitted by 564 law enforcement agencies since 1991. A majority of the data was submitted by municipal agencies followed by county, state, and federal agencies. The data consisted of 45,913,161 calls for service; 177,215 use-of-force incidents; and 8,082 use-of-force-related citizen complaints. A baseline figure of the police use of force is 3.61 for every 10,000 dispatched calls for service. This resulted in a rate of police use of force of less than 1%.

IACP reported that physical force is the most common form of force used by officers followed by chemicals and impact devices. Pepper spray is the primary chemical force used by officers and was used with greater frequency than the combined totals for impact and electronic devices. The ratio of physical force to chemical was 2 to 1, while the ratio of physical force to firearm usage was about 22 to 1. Chemical agents are used more frequently than firearms. Arrests (39%) were the most frequent circumstance in which force was employed, followed by disturbance calls (21%), traffic stops (14%), domestic incidents (11%), drunk/disorderly calls (9%), and investigations (6%).

The prevalence of excessive force was estimated by examining force incident complaints and the number sustained, equaling .42% of the time. Expressed differently, excessive force was not used in over 99% of the incidents. Intoxication significantly influenced the use of force during traffic stops as they reflect 46% of those force incidents. Male drivers were almost 10 times more likely to use multiple types of force against officers in traffic stops, requiring officers to use physical and chemical force (52%).

The study showed that physical resistance/force is commonly used against officers. Findings do indicate, however, that the subject's use of firearms is slightly increasing along with the use of edged weapons. This increase was noted in cases in which there were multiple officers on scene.

Subjects did not incur an injury in 60% of the incidents; minor injuries accounted for 38%; major reported injuries accounted for less than 1%; and 5 subject deaths occurred. In 87% of the incidents, officers did not sustain an injury; minor injuries were sustained in 12%; and less than 1% of the officers incurred a major injury. Citizen complaints for the use of physical force generated the majority of complaints, followed by impact weapons, pepper spray, and firearms.

Williams and Hester (2003) analyzed use-of-force incidents of the Polk County Sheriff's Office in Florida for 1999. The agency logged 226,911 police-citizen encounters and made 13,307 arrests, of which 116 resulted in the use of physical force. They reported that deputies used force in 1% of the arrests. The analysis revealed that the use of chemical agents accounted for 42% of all types of force used, followed by the use of canines (32%). The use of empty hands, restraint devices, and impact weapons accounted for 26%. They further reported that white male patrol deputies, younger than 36, with 6 years or less of seniority, were more likely

to use force. The department employed 499 sworn deputies. Males made up 86%, and white deputies accounted for 79% of all deputies. No non-white deputy used force in 1999. Moreover, 12 deputies accounted for 43% of all of the use-of-force incidents, employing force measures in three or more incidents.

Analyzing use-of-force incident report forms from the Montgomery County, Maryland, Police Department, Hickey and Garner (2002) studied 30,209 arrests during the years of 1993 to 1999 in order to determine the rate of force used. Their study design incorporated six measures: (1) frequency of force and reporting force, (2) suspect injury sustained, (3) suspect race, (4) type of force used, (5) type of force used by suspect, and (6) officer injuries. They also examined the temporal factors in which force was employed. They found that the police used force in 8% of the arrests. The highest rates of the types of force measures used by the police included physical control tactics (48%), oleoresin capsicum (26%), canines (9%), and flashlight (4.5%). The lowest rate of force measures used included firearms, neck restraint, baton, and vehicle. Suspects were more likely to use physical force against an officer (90%), followed by a weapon (e.g., bat, pipe, vehicle, knife, or firearm). Higher rates of force were used against older (26-41 v. 18-21 years old) white male suspects. Middle-aged officers (36 to 40) had higher rates of force than younger officers; white officers had slightly higher rates of force than non-white officers; and male officers tended to use more force and had higher rates of suspect injury. In general, when the officer and the suspect were of different genders, all rates of force were lower than when the officer and suspect were of the same gender.

They also reported that officers were more likely to use force when the suspect was engaged in disorderly conduct, followed by a violent crime. Female officers were injured at a higher rate than male officers. Any officer sustaining an injury occurred in 24% of the arrests and were minor in severity (e.g., bruise, laceration, sprain, scratch, etc.). White suspects incurred higher rates of injury than non-white suspects, and those injuries were minor in severity (e.g., laceration, bruise, dog bite, etc.).

## **Officer and Citizen Survey Research**

Survey research is the second common method for studying police use of non-deadly force. Surveys have been used to solicit information from citizens and officers concerning police use of force. Many of these studies relied upon the citizen respondent's perception of what occurred during the police contact. Campbell and Schuman (1969) conducted a survey for the National Advisory Commission on Civil Disorders in 15 cities. When asked about a negative contact with police, 7% of African-Americans and 2% of whites responded that the police had been "abusive" or "roughed them up."

Surveying 806 citizens in Denver, Colorado, Bayley and Mendelson (1969) found that 4% of non-Hispanic whites, 9% of African-Americans, and 15% of persons with Spanish surnames claimed police abused force. Of the African-American respondents, 30% indicated that they have heard of charges of police brutality from either their friends or neighbors, compared to 4% of the non-Hispanic whites and 12% of those with Spanish surnames. They also surveyed 100 officers of the Denver Police Department. They reported that 53% of the officers had witnessed an incident that could be considered police "brutality." They also found that 27%

of the officers had observed incidents that would be considered harassment or the use of excessive force.

Whitaker (1982) found in a survey of citizens that 13.6% of the respondents believed that they had been the victim of police misconduct within the last 12 months. One-third of the respondents reported that they had filed a formal complaint with the police department.

Winick (1987) found that one out of every three respondents who claimed to have been a victim of excessive force indicated that he or she filed a complaint regarding the arrest in New York City. He also indicated that 5% of the respondents reported that they had been mistreated by the police in the last 5 years; 4% experienced verbal abuse; 1% experienced physical abuse; and 17% knew someone who had been physically abused. A survey conducted by Gallup (1991) revealed that 5% of the responding citizens and 9% of the non-white respondents had reported being physically abused or mistreated by police during an arrest. Gallup also found that 20% of the respondents and 30% of the non-white respondents reported that they knew someone who had been physically abused by the police.

The Virginia Association of Chiefs of Police (VACOP) (1994) sent use-of-force surveys to 360 police agencies in Virginia. They received a response rate of 58 surveys for 1992 and 83 for incidents in 1993, amounting to a 16.1% and 23.1% response rate respectively.

Of the 1,101,877 arrests made, .015 involved the use of force. Results from previous years indicated that .03% of arrests involved force. A total of 897 officers were assaulted, and 78 of the 83 responding agencies required written reports on all instances of use of force.

In order to obtain a national picture of police use of force, Pate and Fridell (1993) received a response rate of 66% of the mailed surveys sent to 1,697 police departments. In reviewing the data, they weighted the responses to reported incidents of use of force per 1,000 officers and found that the majority of officers used handcuffs/restraints, physical force measures, moderately used chemicals, batons, and tasers. Canines were used slightly more often than chemicals, batons, and tasers. In a use-of-force incident, the use of firearms, neck restraint holds, and vehicle rammings occurred infrequently. They also reported that male citizens are more likely to submit a complaint regarding excessive force (73%) and that the claim is sustained 83% of the time.

They estimated that among municipal police departments, the use of handcuffs and leg restraints were used at a rate of 490 per 1,000 sworn officers; bodily force and come-along-holds were used at rates of 272 and 227 per 1,000 officers, respectively. Rates were even lower in sheriffs' departments and county and state police agencies. The use of deadly force was quite rare.

For all incidents in which civilians were shot at (and missed, wounded, or killed), deadly force was used in municipal police departments at a rate no greater than 4 per 1,000 sworn officers, and at lower rates in other types of agencies.

Since the passage of the Violent Crime Control Bill (1994), the Bureau of Justice Statistics has twice conducted the largest national use of force survey (Greenfeld et al., 2001; Langham et al., 1997). Surveys were received from persons over the age of 12 who had a police contact during the preceding 12 months. In 1996, 45 million people had a face-to-face contact with the police, while 44 million people encountered police in 1999. Survey findings estimate that in 1% of the contacts, police used or threatened to use force. About 76% of the respondents indicated that the force used or threatened was "excessive"; 87% were male, 59% were white, and 38% were non-white. Comparisons of the two study periods (1997/2001) revealed that the types of force used included the use of handcuffs (86%/91%), physical control tactics (85%/84%), pepper spray (5%/12%), batons and electrical devices (6%/2%), and firearms (5%/5%). About 15% reported a minor injury (e.g., bruises or cuts), and alcohol or drugs were influential in about 30% of the contacts. About 25% stated that they had provoked the officer into using force; about 8% were charged with resisting arrest; 6% were charged with drunk driving; and 3% were charged with assaulting the officer. A majority of the police force comprised four circumstances: (1) traffic stops, (2) disturbance calls, (3) felony arrests, and (4) domestic calls. Officers encountered verbal resistance, resistance during searches and handcuffing, subjects running from the officer, physical assaults, and assaults threatening to use a weapon. Respondents stated that at least two officers were present; only 20% involved one officer, and the officer was predominately a white male (85%).

Expanding on their original mail survey research, Pate and Fridell (1995) examined whether police departments required officers to report an incident of use of force. Overall, sheriffs' departments had the highest level of mandatory reporting for incidents of neck restraints, baton usage, bodily force, vehicle rammings, electrical devices, control holds/wristlocks, swarming, and firm grips. City police departments had the highest percentage of mandatory reporting for the use of flashlights, unholstered weapons, handcuffs or leg restraints, and come-along holds; city police also had the second highest percentage in an additional 11 categories. There were no meaningful overall differences in the levels of reporting between the county police departments and the state agencies. They further reported that proportionately more of the largest sheriff's departments and city police departments (1,000 or more sworn personnel) mandated the reporting of the more serious types of force usage, including firearms, electrical devices, chemical agents, batons, other impact weapons, flashlights, neck restraints, vehicle rammings, and dog bites. Conversely, smaller departments were more likely to require reporting of some of the more common and less serious types of force, such as use of twist locks or wrist locks, unholstered weapons, swarms, and firm-grip techniques. Based on the conclusions of the study, they suggested that a national force reporting system be implemented.

Using data from the Police Services Study (1977), Walker and Graham (1998) studied citizen victimization surveys complaining of police misconduct. The objective was to explore the perceived experience of police misconduct, decision to file a complaint, and reasons for not filing a complaint. Relative to police use of force, they found that such force was extremely rare. Respondents reported a total of 21 incidents of police use of force (n=754 reports), representing 2.5% of reported incidents. While low, African-American (4.9%) respondents were more likely to report a complaint about the use of police force than whites (1.6%).

Garner and Maxwell (1999) replicated their 1996 study by examining surveys of police use of force in six law enforcement agencies: (1) Charlotte, North Carolina, (2) Colorado Springs, Colorado, (3) Dallas, Texas, (4) St. Petersburg, Florida, (5) San Diego, California, and (6) San Diego, California, Sheriff's Department. The data was collected over a 2- to 7-week period during 1996 and 1997, obtaining 7,512 surveys. Verbal control accounted for 32% of the force used. Restraints were used by police in 82% of the incidents. Physical control measures, such as grabbing, control hold, pushing/shoving, and arm/wristlocks, were commonly used (77%). Pepper spray was used in 1.2% of the arrests. Batons, flashlights, firearms, motor vehicles, and/or canines were used in 22% of the incidents. Suspects infrequently used physical force against the officer (6%). Suspect wrestling with an officer accounted for the most common type of subject resistance (3.5%), followed by pushing or shoving (2.2%). The most frequent weapon used against the officer by a suspect was an edged weapon (0.2%) followed by the use of firearms in 0.3% of the incidents. In a small number of arrests, suspects fled from the officer on foot (4.7%) or in a motor vehicle (1.7%). They found that a majority of the arrests involved no force, and those arrests that did involve force were typically at the low end of severity.

Weisburd and Greenspan (2000) conducted a national telephone survey of police officers regarding their attitudes toward abuse of authority in 1997. Using a stratified cluster sampling of 5,042 police departments, 113 agreed to participate of which 925 officers were randomly selected. In regards to questions pertaining to the use of force, officers stated that officers in their department sometimes, often, or always use more force than necessary to make an arrest (22%); 62% commented that officers seldom use more force than necessary, and 16% stated that officers never use unnecessary force. They further reported that 60.5% of the officers disagreed that the police are not permitted to use as much force as is often necessary in making an arrest, and 24.5% agreed that it is sometimes acceptable to use more force than is legally allowable to control someone who is physically assaulting an officer. When asked whether most police abuse of force could be stopped by more effective methods of supervision, 48% agreed, and 39.5% disagreed.

### **Citizen Complaint Studies**

Studying allegations of excessive force against the police by examining citizen complaints have been limited. Chevigny (1969) performed the first study on citizen complaints and officer use of excessive force. He examined 441 complaints filed by officers of the New York City Police Department during a 16-month period during 1966 and 1967. The assessment yielded 164 alleged assaults, 17 of which were authenticated by corroborating evidence. He found that disrespect or defiance toward police authority strongly related to violence in the arrest situation. In 61% of the encounters with police, citizen defiance involved speech, rather than acts.

The New York City Police Department (1986) performed a national survey of 36 large police departments between 1983 and 1984 regarding citizen complaints. The findings revealed that on average, 10 complaints of excessive force were filed per 100 officers per year. The rate of complaints ranged from 0.3 in Nassau County, New York, to 21.3 in Chicago, Illinois.

Kerstetter, Rasinski, and Heiert (1996) randomly selected 167 citizen complaints filed against officers of the Chicago Police Department. Incidents were predominately



filed by African-American complainants (68%); 73% were 15- to 30-years-old; 80% were male and had at least one prior arrest. In contrast, 68% of the accused officers were white, and 76% were between the ages of 30 and 45. Of the accused officers, 23% had less than 5 years of experience, and 66% had between 5 and 30 years of experience. In 77% of the incidents, the accused officer was on duty. The complaints alleged that 59% of the incidents involved the use of a weapon, a closed fist, or a kick; the other 41% involved hitting of a less extreme nature. The complainant was injured in 59% of the incidents, and the accused officer in 11%.

They found that African-American investigators were more likely to make a disposition that was not sustained. Investigators of both races were more likely to make a disposition that was not sustained when the complainant was of another race. Neither the complainant's race nor the officer's race were significant when operating alone. They reported that 35% of the investigators were African-American females; African-American males made up 26%; and white females made up 16%.

## **What the Studies Tell Us**

As these studies indicate, police use of force is not a simple subject that can be easily researched or measured. While these few studies show that the use of non-deadly force can be measured through a variety of study designs, and although their results are not completely compatible, they do produce rather consistent findings.

The predominant methods for studying police use of force is the examination of incident reports (15) and the use of surveys (14). The least likely method used was citizen complaints (3). All of the studies reported descriptive statistics, while approximately 39% used an inferential statistic, the most common being multiple regression. Friedrich (1981), Smith (1986), and Worden (1995) employed a secondary analysis. Over 60% of the studies analyzed data from multiple agencies. Approximately 46% of the studies examined multi-measures of force; 21% examined situational factors and subject resistance, 12% surveyed citizen and officer perceptions of the prevalence of the use of force; and all citizen complaint studies assessed the citizen's perception of excessive force. Only three studies framed a theoretical strategy in assessing police use of force (Greenleaf & Lanza-Kaduce, 1996; Kerstetter et al., 1996; Sykes & Clark, 1975).

**Table 2**  
**Common Trends/Factors Regarding the Police Use of Force**

<b>Factor</b>	<b>Prevalence of Use</b>
Any force used	3% of arrests
Excessive force used	<1% of arrests using force
Any restraints used	85%
Physical control tactics	85%
Chemicals/OC	15%
Batons/electrical devices	10%
Firearm	3%
Display any weapon (also flashlight)	64%
Use of canine	4%
Officer use more than one type of force	88%
Multiple types of suspect resistance	90% (65% V, D, AA)*
Suspect use of physical force	88%
Suspect use of weapon	4%
Wrestle with officer	6%
Firearm against officer	2%
Violent crime offense	58%
Felony arrest situation	29%
Traffic stop	24%
Disturbance call	12%
Domestic call	12%
Suspect intoxicated	65%
Suspect gender/age	89%, male/26
# of officers/# of suspects	2/1
White officer/white suspect	48%
White officer/African-American suspect	42%
African-American officer/African-American suspect	14%
Suspect injury	68% none/25% minor
# of officers on scene/age/years of work experience	2/32/7
Officer injury	85% none/6% minor/9% hospital treatment
Officer gender	89% male

\*Resistance type: V=verbal; D=defensive (pull/twist away from officer's control) and AA=aggravated active resistance (physical actions of assault)

**Common Trends/Factors in the Police Use of Force**

Table 2 shows the common trends and factors based on the collective findings of the 43 studies. First, a majority of the studies found that the use of non-deadly force is rare, occurring on average in 3% of arrests/contacts. Excessive force is even less frequent, less than 1% of all arrests/contacts. Observational research indicated that the rate of force ranged from 1.5% to 10% of the arrests, with an average of 4% of all arrests. Research based on incident reports showed that on average, 2.5% of all arrests involve force, and 1% involve force in survey-based research. The majority of the research also indicated that excessive force ranged from rare to less than 1% of the arrests/contacts. This, however, must be read with caution. Characterizing the use of force as rare should not suggest that the subject matter be dismissed or unworthy of further consideration. The use of force is an important issue for police and citizens. These studies show estimates of the nature of the use of force and may not readily convince everyone that the use of force occurs in a minimal amount of police-citizen interactions. Conversely, the data does not support the notion that

there is an epidemic of police abuse of force, which would support the idea that the police are out of control.

In addition, a majority of studies indicated that the officers' level of non-lethal force was predicated on the manifested behaviors or resistance type(s) exhibited by the citizen. Suspect resistance generally occurred in a combination of types of resistance (90%). In 65% of the studies, patterns of resistance encountered by officers included verbal, defensive (pulling/twisting away, running away, attempting to break free from a firm grip, etc.), and physical assaults. Suspects routinely use physical attacks against officers and use a weapon against an officer in 6% of the situations, including a firearm. The studies consistently reported (77%) four major circumstances in which citizen resistance was likely: (1) felony arrests, (2) traffic stops, (3) disturbance calls, and (4) domestic violence calls. Chemical substance intoxication of the citizen greatly influenced the level of resistance and was reported in about 65% of the arrests.

The studies also revealed that the degree of subject resistance (and influenced by intoxication) is highly associated with the measure of force officers decide to employ. At least two studies revealed that officers routinely use lower forms of force than what could have been justified (Croft, 1985; Garner et al., 1995). For example, an officer used pepper spray when a baton or a neck restraint could have been used. Officers generally use combinations of force options. Beyond the use of verbal control, the officer generally uses at least two other force options (88%). This would be indicative of most of the officers' training, as many are instructed in the academy and inservice training, and directed by policy through a force continuum, to use a level of force corresponding to the behaviors of the individual.

The studies indicate estimates of common trends of the use of police non-lethal force tactics or equipment, including handcuffs, physical control tactics, chemical agents (primarily OC/pepper spray), batons/electrical devices, canines, and firearms. The Greenfeld et al. study (1997), the Langan et al. study (2001), and the IACP study (2001) reveal estimates that officers use of impact weapons is beginning to decline, while the use of pepper spray is increasing. The actual use of a firearm occurred in approximately 3% of arrest situations. Moreover, at least two studies (Croft, 1985; McLaughlin, 1992), revealed that when officers were confronting a lethal force incident, they were only responding to the deadly force behaviors of the suspect. These studies failed to show that the officer "created" the danger and/or situation in which lethal force was required, nor did the officer take a "poor position" that placed the officer in a situation necessitating the use of lethal force. Furthermore, the studies revealed that officers were justified in using lethal force in many encounters; however, the officer selected to employ a lower form of force.

Another trend involves characteristics of the resisting subject and the arresting officer. In about 45% of the incident cases, one officer encountered one subject. Studies by Greenfeld et al. (1997), Langan et al. (2001), IACP (2001), and McLaughlin (1992), however, reveal that arrest encounters involve one subject and two officers. Greenfeld et al. (1997) and Langan et al. (2001) indicate that in arrests in which a firearm was used, two to three officers were present. The resisting subject is generally male and on average 26 years old. The arresting officer(s) is generally white, male, and 32 years old. Approximately 20 studies indicated that officers with work experience of more than 4 years and an average of 7 years are more likely to use

force. Averages show that white officers use of force on white subjects accounted for 48% of the force cases; white officers using force with African-Americans accounted for 42%, and African-American officers using force with African-American subjects accounted for 14% of the arrests. These figures suggest that the race, gender, or age of the officer and subject are not related to the use of force as indicated by 15 studies examining race as a variable.

Another trend includes estimates of the injury rates for resisting citizens and arresting officers. In 68% of the arrests, the subject did not sustain any injury; in 25%, the subject sustained a minor injury (cut or bruise); and in 7%, the citizen sustained an injury requiring hospital treatment. Officers did not sustain an injury in 85% of the arrests; in 6%, the officer sustained a cut, scratch, or bruise; and in 9%, the officer incurred a hospital-treated injury. Officers were more at risk of sustaining an injury during encounters that involved wrestling, striking, or grounding the offender.

Finally, several studies (Alpert & Dunham, 1999; Bayley & Garofalo, 1989; Croft & Austin, 1986; Friedrich, 1980; Garner et al., 1996; Garner & Maxwell, 1999; McLaughlin, 1992; Ross, 1999) indicated the significance of situational factors, citizen resistance, and police use of force. Alpert and Dunham developed the "force factor" based on an officer's use of force relative to the subject's amount of resistance. Garner and Maxwell (1999) developed a model similar to that of Alpert and Dunham, which factored in subject resistance levels, the threat or use of a weapon, and the officers' use of force. Ross (1999) found combinations of patterns of citizen resistance to be associated with the eight arrest circumstances, intoxication of the subject, and the officers' use of force. Building on these common identified factors, the "Force Index Multiplier" (FIM) can be developed. The FIM can serve as a model with which to identify key associations between the variables of citizen resistance/behaviors, weapons involved, intoxication levels, and arrest circumstances, in order for the officer to respond appropriately with reasonable force. It implies that "reasonable force options" and equipment selection will be gauged on the level on the "Index" (the arrest circumstance) and the "Multiplier" (level of resistance/behavior, intoxication influence, and the presence of potential weapons or weapons). The FIM can assist in providing information to the officer so that he or she can be in a high state of readiness when confronting factors associated with the FIM. When an officer encounters a perceived level of citizen resistance (manifested behaviors) in common types of arrest circumstances (e.g., arrests, traffic stops, domestic violence, and disturbance calls) and the individual appears to be under the influence of a chemical substance that may have a direct bearing on that person's behaviors, the officer can better assess the variables that may affect the arrest situation and respond with reasonable force (less-than-lethal or lethal).

## **Recommendations**

The following recommendations are suggested. First, police administrators need to ensure that a use of non-lethal force policy is operational and applicable to the street level, authorizes control tactics and appropriate departmental equipment and restraints, and indicates when to summon medical assistance. Officers also need to be regularly trained in its requirements. Policy concerns should address the use of handcuffs in all arrest situations. Studies revealed that handcuffs were used in 85% of arrests. Administrators should also continue to require officers to file reports when force is applied and ensure supervisors review the reports. In

addition, police administrators should develop a use-of-force recording mechanism in order to track force incidents (Alpert & Smith, 1999; Ross, 1999). This can assist in monitoring force incidents, deploying officers, developing training, and spotting potential problem officers.

Training in the use of force should be provided on a regular basis. Analysis showed that work experience was associated with using force. This does not, however, imply that these officers used excessive force but may be more related to the assignment of the officer. Still, administrators should ensure that all officers receive regularly scheduled force-related training in order to maintain skill competency. Classroom training should include case law review, policy review, definitions of reasonable and excessive force, reporting procedures, and competency in other force equipment authorized. Dynamic scenario training exercises should be designed around the FIM model in association with felony arrests, traffic stops, disturbances, and domestic violence incidents to enhance decisionmaking and competency. The training should be based on documented agency incidents and include scenarios in which the officer has to select various forms of force and equipment with which to control the resisting person. Such training should be videotaped, critiqued later, and documented by the instructor (Fyfe, 1988, 1995; Ross & Siddle, 2003).

Finally, future research should be designed to examine police incident reports, capture multi-sites, and use multi-measures (Adams, 1999; Garner & Maxwell, 1999). Doing so tends to decrease the study limitations that plague other study designs. Use-of-force reports provide the best mechanism for capturing the interactions between the officer and the citizen. Research should focus on factors that address subject resistance, subject intoxication levels, reaction time of the officer, arrest circumstances, force options used, temporal factors, suspect and officer injuries, work experience and training of officers, and weapons and threat of weapons involved (Garner et al., 1995; Ross, 1999; Terrill et al., 2000). The research should also address the sequential order of how the encounter unfolds with emphasis on attempting to identify the active and reactive aspects of trigger factors constituting the use of force (Alpert & Dunham, 1999). Researchers should also design models that identify the extent of the use of excessive force and whether race may play a role. While it is known that police use of force is infrequently used and that excessive force is rare, it is still unknown with certainty how many of these incidents involve excessive force.

Moreover, as new force technology is used in the field, studies should be designed to assess their usage. For example, while not new, tasers are being used more frequently. Follow-up studies should address the circumstances and the outcome of their use. Research that examines how officers avoid using force through assessing best practices of training, decisionmaking, and supervisory practices is suggested. Such an analysis would be most useful in assisting the police to design training models that may further avert the need to use force.

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# Anywhere County Sheriff's Department Meets the 4th Amendment: Notes on the Constitutionality of Seizing Peace Officers' Bodily Fluids by Administrative Compulsion

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The Anywhere County Sheriff's Department wants to investigate claims that some of its custodial officers engaged prisoners in sexual acts that were "consensual" or "forced" upon the inmates under color of authority or that were "traded" for favors or special treatment.

Anywhere County investigators aided by the Forensic Sciences Division recover "biological evidence" (i.e., bodily fluids) from inside the custodial facility from which they hope to extract DNA.<sup>1</sup> That accomplished, the investigators propose to order, "for administrative investigation purposes only," each targeted custodial officer to submit to blood testing to determine, through DNA typing of the individual specimens, whether any of the custodial officers' DNA matches that in the donors' bodily fluids found in the facility.

The sheriff of Anywhere County has asked for an opinion on this subject, specifically whether the Constitution's 4th Amendment would countenance such an extraordinary investigatory procedure.

Before getting into the specific constitutional issues the sheriff had in mind, we should analyze some foundational assumptions that figure into the constitutional equation.

First, is this Anywhere County investigation appropriate in the first place? Is the conduct alleged, *misconduct*? For if we cannot say that the conduct alleged is clearly *misconduct*, then *why* is it being investigated?

This is always a threshold inquiry that must be answered in the affirmative whenever an investigatory procedure collides with employees' constitutional rights.

In *this* Anywhere investigation, however, the question is a "no-brainer." Any reasonable law enforcement member knows that sexual contact with persons in custody is plainly misconduct regardless of whether it is "consensual," "forced," or "traded." So, at least from the substantive due process standpoint, Anywhere's investigation into whether such activities have occurred and discipline for those found to be culpable will pass muster under the Due Process Clause. This is so because the guilty member had "fair warning" that the conduct is prohibited, even in the absence of a specific departmental rule in the Anywhere Manual forbidding the conduct, not to mention *Penal Code* §289.6, which makes even *consensual* sex acts a crime ("wobbler"), if between an inmate and a custodial officer.

Just like knowingly and willfully lying during an investigation to cover up misconduct as grounds for swift removal from a department, sexual contact with prisoners can be placed under the label “What were you thinking?”

The next factor in the constitutional equation is the question of whether the blood testing will be deemed a “search” within the meaning of the 4th Amendment? This is also an easy one to answer: *yes*. Any seizure of bodily fluids by invasion of the body by needle, swab, or other medical device or by digital insertion or manipulation is a “search,” as is the compelled extraction of bodily fluids (e.g., by urinalysis).

The third factor in our analysis is the question of whether voluntary submission to such a search carries any constitutional consequences for the volunteering member? This is also not difficult to answer: *yes*.

We all know that if a member voluntarily answers investigators’ questions with incriminating statements, it is likely that the statements are admissible against the member in administrative, civil, and criminal proceedings. Well, the same rule applies to the seizure of *physical evidence*. That is, if a member voluntarily permits a search of a constitutionally protected place or thing (here, the body), the member cannot complain when the evidence is introduced against him or her in any proceeding.

In both of these scenarios, the question is whether the member voluntarily *waived* his or her rights under the 4th, 5th, and 14th Amendments. If so, testimonial (admissions) and physical evidence will come in, barring other grounds for exclusion.

Put another way, criminal prosecutors cannot make any beneficial use of physical evidence against a member that was seized under administrative compulsion. [See *Murphy v. Waterfront Commission* 378 U.S.52 (1964)]. And, just as in the case of statements to investigators, members should always insist on being *compelled* to speak or *compelled* to submit to search or seizure. The consequence for not doing so is *waiver*.

Next, we look at the *consequences* for department officials who compel the search of a member by the seizure of bodily fluids if the order is determined by a court to have been unconstitutional (i.e., unlawful) at its inception. We also look at the *consequences* for the member who *refuses* to comply with an order to submit to testing that is constitutional (i.e., lawful).

All alleged violations of federal constitutional rights are addressed in an action at law or in equity under 42 U.S.C. §1983 (the so-called Civil Rights Acts, which were originally passed as part of the Reconstruction-era *Ku Klux Klan Act of 1871*). Criminal violations of civil rights are prosecuted under 18 U.S.C. §242 and related sections.

The plaintiff can obtain the full range of compensatory and punitive damages as well as injunctive relief in an action under §1983. §1983 liability is very broad. The section has only three elements: (1) a person acting under color of law, (2) who deprives a person within the jurisdiction of any State, Territory or the District of Columbia, (3) of the benefit of constitutional rights or of federal laws, is liable to that person (for the harm caused by the violation).

Notice no particular mental state or “intent” is required to be shown. Hence, even an innocent mistake as to the lawfulness of an order can lead to personal liability for the supervisor or investigator, subject to the qualified immunity defense.

Each month, I teach police civil rights in a POST-certified seminar for internal affairs investigators. I tell my students that these orders to submit to various kinds of searches are always “a bit of a gamble.” Investigators are gambling that the order is constitutional, and there will be no liability for them regardless of whether the order is obeyed or not. The member is gambling that the order is unconstitutional if he or she refuses the order (insubordination). If he or she obeys an unconstitutional order, then there is an unconstitutional search (and seizure, if bodily fluids *are* recovered).

But, can a member be disciplined for insubordination, for *refusing* an unconstitutional order? Does the “obey now—grieve later” workplace rule bar the defense of “unlawful order” to insubordination charges? When a member refuses a search order, and is punished for insubordination, can there be a 4th Amendment violation even though there was *no search and no seizure*?

These issues were all examined in a U.S. District Court jury trial, a Ninth Circuit Court of Appeal decision, and a Petition for Writ of Certiorari to the United States Supreme Court, in a case we litigated well over 10 years ago: *Jackson v. Gates*, CV 87-1085 RSWL (C.D. Cal. 1990); 975 F.2d 648 (9<sup>th</sup> Cir. 1992); *sub. nom. City of Los Angeles v. Jackson*, 509 U.S. 905, 113 S. Ct. 2996, cert. den. (1993). In that case, Jackson, a discharged Los Angeles police officer won reinstatement, back-pay, compensatory damages, and attorney’s fees. Jackson was fired by Chief Daryl F. Gates based upon Jackson’s refusal to submit to an order to provide a urine sample to be tested for drugs. Because Jackson violated the insubordination rule of the LAPD (known as the “obey now—grieve later” policy), Chief Gates believed that Jackson should be fired, regardless of whether the order was arguably unconstitutional.

At that time (1986), there was no case in any of the federal circuits or in the U.S. Supreme Court that established the test for determining when such an order can be constitutionally given. Another case in the Ninth Circuit, however, held that an order to an officer to submit to a strip search and body cavity inspection required that there be a “reasonable suspicion” that the search would uncover the evidence sought (in that case, money allegedly taken from an arrestee).<sup>2</sup>

While compelled urinalysis involved, in my opinion at the time, an equal degree of personal invasion as the strip search and body cavity inspection, in one sense it was, I thought, more invasive—and that is because if the order is obeyed, there is always a *seizure* of bodily fluids, which can be analyzed for all of the physiological secrets they hold, not just for drug screening purposes. It seemed logical to me, however, that the “reasonable suspicion” requirement should also be complied with in the case of compelled extraction of bodily fluids by urinalysis or blood-testing. So, we proposed the following jury instruction regarding what is required before a law enforcement employer can lawfully order a member to provide a sample:

(The order must be based on) . . . a *reasonable, individualized, and articulated suspicion* (based on objective facts) *that the test (search) will yield evidence of drug use, impairment, or ingestion.*

U.S. District Judge Ronald S. W. Lew gave this instruction to the jury, despite the City of Los Angeles' objection, and the jury applied it to the facts of Jackson's case to find that the order was unconstitutional and returned a damages verdict in favor of Jackson. On appeal, the City and Gates argued many objections and points of law, but the Ninth Circuit resolved all in favor of Jackson. In addition to upholding the jury instruction above as a correct statement of the law and U.S. Supreme Court precedents, the Circuit judges also set forth new precedent on the following issues:

1. A suspicion-based order like that to Jackson is fundamentally different from random, periodic, or event-triggered drug testing that the Supreme Court had already approved in *N.T.E.U. v. Von Raab*, 489 U.S. 656(1989)<sup>3</sup> and *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)<sup>4</sup>; therefore, suspicion-based testing, being a "search" for 4th Amendment purposes, must be *reasonable*.
2. Even though, as in *Jackson*, the order is not obeyed, the lawfulness of the order is still at issue if the department decides to discipline or remove the officer for refusing the order (insubordination).
3. If an officer exercises his or her *right* to refuse an unconstitutional order, the 4th Amendment is violated when the officer is punished for the refusal, *even though there is no search and/or seizure*.
4. The "obey now-grieve later" policy caused the constitutional violation when it was applied to Jackson by Gates (the policymaker) in determining to fire Jackson. In the Ninth Circuit, such a "policy" need not be unconstitutional on its face; it need only cause a constitutional deprivation [See *McKinley v. City of Eloy*, 705 F.2d 1110, 1117 (9th Cir. 1983)]. Municipal liability follows, despite the immunity of individual defendants.

The City of Los Angeles petitioned the U.S. Supreme Court to grant *certiorari* (to hear the issues raised by the City in its petition), but the Court denied the petition. So, *Jackson* is now firmly set and well-settled law in this Circuit.

Now, if we look at the issues raised by the Anywhere sheriff, and analogize the *Jackson* urinalysis order with the Anywhere County blood test order, we can make some good predictions about the likely outcomes:

- The proposed Anywhere County order to the custodial officers is a *suspicion-based order* because it is neither random, periodic, nor event-triggered. Rather, it is based upon a *suspicion* that the targeted officers were involved in some form of on-duty sexual misconduct.
- Accordingly, the compelled blood tests are a "search" within the meaning of the 4th Amendment.
- The order must, therefore, be *reasonable* under the 4th Amendment.
- The order must be predicated upon a reasonable suspicion that the search (blood test) will produce DNA that will match that recovered from the facility or from someone or something inside.

- “Reasonable suspicion” is a highly (objective) fact-oriented analysis and usually consists of a combination of observations, statements, physical evidence, and so forth, that together would cause the reasonable person to suspect that indeed, *this* search, if done *now*, will *yield the evidence* for which investigators are looking.
- A member cannot be punished or discharged for insubordination for refusing the test if “reasonable suspicion” as defined above *does not exist*.
- Remember that the “reasonable suspicion” analysis must be *individualized* to each member targeted for the order and blood test (search)—“. . . it was somebody who works here . . .” doesn’t get it.
- The “reasonable suspicion” must be articulated or articulable (i.e., the objective facts that constitute the reasonable suspicion must be carefully documented).

So, these are the constitutional requirements for the proposed compelled blood tests of Anywhere County Sheriffs’ Department custodial officers. The same analysis would probably also apply to any other method to obtain “evidence” from within the officers’ bodies by *minimally invasive* means.<sup>5</sup>

## Endnotes

- <sup>1</sup> Deoxyribonucleic acid contains the genetic code and transmits the hereditary pattern, the genetic “fingerprint.”
- <sup>2</sup> See *Kirkpatrick v. City of Los Angeles*, 803 F. 2d. 485 (9<sup>th</sup> Cir. 1986).
- <sup>3</sup> *Von Raab* involved the National Treasury Employees Union challenge to mandatory drug testing for agents who sought positions in drug interdiction.
- <sup>4</sup> *Skinner* involved a challenge by trainmen to the requirement that they submit to testing if they are involved in a train wreck or railroad mishap.
- <sup>5</sup> *More invasive* means (e.g., those that would require the officer to submit to medical intrusions into the body) are beyond the scope of this article and would probably require a search warrant, *if they are to be done at all*.

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# Police Managers' Experience with Civil Liability: The Price You Pay for Promotion

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## Introduction

Civil liability is a great concern to police officers, departments, and their parent municipalities. This concern is founded upon the substantial increase of civil suits—particularly §1983 suits, against the police in recent years (Kappeler, 1993; Kappeler, Kappeler, & del Carmen, 1993; Vaughn & Coomes, 1995). Data indicates a sharp increase in civil suits against the police beginning in the 1960s (Barrineau, 1987). In just two cities, suits against the police rose from 1,741 in 1967 to over 6,000 in 1975 (del Carmen, 1991). Currently, it has been estimated that there are over 30,000 civil suits against the police annually (Silver, 1991).

Civil suits against the police are thought to provide two positive social outcomes. First, suits against the police are said to deter future police actions similar to those found to be in violation of the civil law (McCoy, 1984). Police officers and departments are thought to change both behavior and policy in an effort to avoid actions that appear ripe for litigation. Second, civil suits can act to compensate aggrieved plaintiffs (McCoy, 1984). That is, suits against the police can be used as a mechanism to make citizens injured by the police whole.

Suits against the police are thought to be so ubiquitous that they are considered "a way of life in the United States" and an "occupational hazard" to police officers (del Carmen, 1991, p. ix), yet, there are those who posit that lawsuits are not overwhelming the criminal justice system (Eisenberg & Schwab, 1987). Concerns have arisen that civil suits against the police have created an excessive fear of litigation that can harm police effectiveness (Scogin & Brodsky, 1991). Others have averred that the ability of civil suits to impact officer action or police policy is limited or nonexistent (Eisenberg & Schwab, 1997; Garrison, 1995; Littlejohn, 1981).

While it has been asserted that police win most suits against them, civil actions still represent large amounts of potential liability (Kappeler, 1993; Kappeler, Kappeler, & del Carmen, 1993). The total amount of current exposure for police is difficult to determine. One survey of 215 municipalities, however, found outstanding civil claims in excess of \$4.3 billion (Barrineau, 1987). Reliable data surrounding police liability is difficult to obtain, and estimates of the average jury awards against the police fluctuate greatly (Kappeler et al., 1993).

Substantial verdicts continue to be awarded across the country. In October of 2003, a jury awarded a plaintiff \$9.6 million in damages for use of deadly force by a Chicago police officer (Associated Press, 2003). Similarly, the Cities of Miami and Los Angeles have paid \$2.5 and \$2.8 million respectively to settle lawsuits against police officers for misconduct (Hall, 2004). Jury awards and settlements resulting from police actions have cost Prince George's County close to \$10 million over the last 4 years (Castaneda, 2004). New York City has settled several high-profile legal suits against its police department in the last 5 years. Specifically, the city has paid \$5.8 million to Abner Louima and \$3 million to the family of Amadou Diallo and has agreed to pay up to \$50 million to persons subjected to illegal strip searches (Feuer, 2004; Glaberson, 2003).

There is little on the legal landscape to suggest the proliferation of litigation against the police will soon decrease in frequency (Barrineau, 1987).

## Prior Research

Despite the importance of the topic and a divergence of opinion regarding the impact and effectiveness of civil suits against the police, there appears to be an "absence of meaningful analysis of the scope and impact of legal liabilities on law enforcement" (Archbold & Maguire, 2002; Vaughn, Cooper, & del Carmen, 2001, p. 4). Research regarding police civil liability has tended to focus on the views of police chiefs and executives (Garrison, 1995). Few researchers have explored officer experience and perception of the civil litigation process. Moreover, little is known regarding the reasons police are sued and the dispositions of cases filed against the police. This dearth of knowledge can be attributed to lack of focused data collection efforts regarding civil litigation and the police at either the state or federal level (Vaughn et al., 2001).

While research in this area is scant, some areas concerning police civil liability have been explored. Novak, Smith, and Frank (2003) found that officers with prior experience with civil litigation were slightly more aggressive than officers who had not been sued. The authors also found that officers with vicarious experience with civil suits were no more or less aggressive on the street than those without vicarious experience. Novak et al. conclude that officer-initiated actions were not "deterred to any substantial extent by concerns about liability" (p. 363). Similarly, the effectiveness of the civil justice system to make plaintiffs whole has been questioned. Recent anecdotal evidence suggests that payments to plaintiffs in police misconduct cases address financial but not emotional damage (Castaneda, 2004).

In an examination of §1983 and *Bivens* claims in two federal districts in New York State, Chiabi (1996) found that (at the time of the study) 21% of the civil cases were open or still pending and that 23% of the cases were dismissed. He also found that only 11% of cases against law enforcement went to trial.

Hughes (2001) sampled community and beat officers and found that only 18.5% of officers had been involved in civil litigation stemming from their job; 74.8% knew another officer who had been sued for a job-related matter. Moreover, the data implied that the longer an officer served on the force, the more likely he or she had been sued. Lastly, Hughes found that 86.4% of respondents believed officers were sued even when they acted properly.

The practice of settling cases angers officers and has been attacked on public policy grounds (Vaughn et al., 2001). Specific data on the practice of settlement by police departments is rare; however, Worrall and Gutierrez (1999) found that of the cases achieving a final disposition, 41% were settled.

Vaughn et al. (2001) explored a wide range of liability issues from the perspective of police executives in Texas. They found that 61% of “police chiefs said that the possibility of lawsuits only mildly affected or had no effect at all on their department” (Vaughn et al., 2001, p. 6). Concerning the frequency and outcome of litigation, Texas police chiefs indicated that only 36% of respondents had a lawsuit filed against them within a 3-year period. Of these suits, responding chiefs indicated that they won 78% of the cases filed against them (Vaughn et al. 2001). This finding is substantially lower than the 48% loss rate reported by Kappeler (1997). In the study by Vaughn et al. (2001), cases that involved monetary payment were overwhelmingly settlements. Specifically, respondents indicated that 82% of cases involving payout costs were settled while 18% of such cases were from verdicts. Vaughn et al. (2001) also examined the reasons for litigation against the police. Regarding the causes of action upon which suits were based, respondents indicated false arrest/imprisonment (19%), excessive force (22%), unlawful search and seizure (10%), infliction of emotional distress (7%), pursuits (7%), failure to protect (7%), training issues (5%), 1st Amendment violations (4%), supervision concerns (3%), malicious prosecution (3%), and perjury (1%). The authors’ note that use of force, false arrest, and unlawful searches and seizures represent approximately half of the cases filed against the police and that this finding is consistent with other research (Vaughn et al., 2001). This research also examined suits filed by police officers against Texas police chiefs. Respondents indicated the following breakdown of internal suits: sexual harassment/sex discrimination (25%); disciplinary action (24%); discrimination in hiring, promotion, and termination (13%); overtime/pay issues (10%); 1st Amendment concerns (8%); racial discrimination (7%); other violations (5%); disability discrimination (4%); employee 4th Amendment concerns (3%); and employee interrogation concerns (3%).

This article extends the exploration of this area by focusing on an untapped police constituency—the police mid-level manager. We seek to understand the frequency and outcome of suits filed against mid-level police managers as well as the impact of lawsuits on future officer behavior and departmental policy.

## Methods

Archbold and Maguire (2002) note substantial difficulties in exploring police civil liability. First, the nature of lawsuit record keeping varies by institution, and often departments are recalcitrant about sharing records. In addition, many suits will drop out of the court system prior to adjudication; thus, court recording systems may not reflect all suits that are filed. These realities lead to a deficit in empirical research concerning police civil liability and a resulting lack of knowledge concerning the topic. This article seeks to extend the exploration of this area by focusing on an untapped police constituency—the police mid-level manager. Moreover, this research solicits data directly from officers avoiding some of the issues raised regarding civil liability data. Officers will likely know the disposition of suits in which they were named defendants even though obtaining an organizational record may be difficult or impossible. As explained below, the officers surveyed were

away from their parent agencies and, thus, may well have felt more free to share information regarding this delicate topic.

To help further explore the area of civil litigation against the police, a survey was constructed and administered to a convenience sample of mid-level police managers enrolled in the Administrative Officer Course (AOC) at the Southern Police Institute. The Southern Police Institute is an organization designed and dedicated to the academic training of police managers from around the United States. The institute accepts two classes, each of approximately 60 students, per academic year. Students receive a rigorous 16-week training course in legal matters, leadership, management, and organizational theory. The AOC is designed to prepare police mid-level managers for greater management responsibilities within their organizations. These officers were selected for sampling due to their unique place in policing. As mid-level managers, these officers have had both the experience of "being on the street" as well as supervising others. This position allows them a unique perspective on a number of police issues.

The data was collected from entering classes over a period of 2 years (2002-2004). Specifically, the 107th AOC class to the 110th class were surveyed. The four-page survey consisted of three sections with both closed and open-ended questions (see Appendix). First, respondents were asked demographic questions about themselves and their departments. The survey then solicited opinions regarding the current important operational and personnel issues faced by the officer's department. Lastly, the officers were asked about their past experience with civil litigation—specifically, the number of times the officer has been sued, the cause of action upon which the suit was based, the outcome of the suit, and whether the suit impacted officer's future behavior. The responses were entered into a database and analyzed using *SPSS 12.0*.

### **Nature of Sample**

The total number of responses was 172. The total enrollment of possible respondents was 233. Thus, the survey administration yielded a response rate of 73.8% (172/233). The racial breakdown of the sample is as follows: 88.4% white, 7% African American, 4.1% Latino, and 0.6% other race. The sample was 89.5% male and 10.5% female. Officer rank varied from sergeant to chief. A total of 19 ranks were represented by the respondents. Three ranks accounted for 86.6% of the respondents—captain (12.2%), lieutenant (31.4%), and sergeant (43.0%). The size of departments for which officers worked ranged from 12 to 36,000 officers.\* The average size of departments for which the respondents worked was 996 officers with a median of 258 officers. Most officers worked for municipal departments (54.1%). State police departments (12.2%), sheriffs' departments (26.7%), county departments (4.1%), and other types of departments (2.9%) were also represented in the sample. Respondents' educational background ranged from high school graduate to advanced degree (MS, JD, PhD). Specifically, the educational breakdown of the sample was as follows: 5.8% high school graduates, 37.8% with some college, 30.2% college graduates (BS or BA), 14.5% with some graduate school, 11.6% with an advanced degree. Respondents had an average length of service of 16.87 years as police officers with a median of 16.0. Eighty four percent of the respondents indicated that they were indemnified by the agency for whom they work.

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\* A department with 35,000 officers is an outlier in the sample distribution. The next closest department in the sample had 4,200 officers.

## Findings

This portion of the article describes the findings of this research. The following tables explore the general experience of police mid-level managers with civil litigation.

**Table 1.0**  
**Percentage of Respondents Named as a Defendant**

Yes/No	Percentage
Named Defendant	47.1%
Not Named Defendant	52.9%

(n=172)

Table 1.0 shows the number of officers who report being named as a defendant in a lawsuit. The data shows that almost half of officers (47.1%) at the mid-level management position have been sued at some point in their lives. Thus, a substantial minority of respondents have some experience with the civil justice system. Experience with civil justice does not necessarily mean, however, that the suit in which they were involved was related to the experience of being a police officer.

**Table 1.1**  
**Respondents Know an Officer Who Has Been Sued**

Yes/No	Percentage
Yes	94.2%
No	5.8%

(n=172)

Table 1.1 indicates that an overwhelming majority of respondents know an officer who has been sued in civil court. This percentage is greater than that found by Hughes (2001) (74.8%). Hughes sampled line-level officers with an average tenure of 5.9 years. This sample had an average length of service of almost 17 years of service. It may be that over time and/or with a supervisory position, police mid-level managers are more likely to learn of another officer's experience with civil litigation. Garrison (1995) has averred that officers experience stress when learning of another officer's involvement in a civil action. If knowledge of suits against fellow officers is a police stressor, the data indicates that the vast majority of police mid-level managers will experience this vicarious stressor during their careers.

**Table 1.2**  
**Percent Sued as Patrol Officers and as Supervisor**

Position	Percent Yes	Percent No
Patrol Officer	34.7%	62.6%
Supervisor	14.0%	86.0%

(n=171)

Table 1.2 indicates that approximately one-third of respondents had been sued while acting as patrol officers. This percentage is greater than that found by Hughes (2001) (18.5%). Hughes sampled line-level officers with an average tenure of 5.9 years. This sample had an average length of service of almost 17 years. It may be that over time police are more likely to be sued. This number is much closer to the 36% of police chiefs found by Vaughn et al. (2001) who indicated that they had a lawsuit filed against them within a 3-year period. Interestingly, most respondents to this survey indicated that they had not been sued as police supervisors.

**Table 2.0**  
**Percent of Officers Reporting Number of Times Sued as a Police Officer**

Number of Times a Defendant	Percentage
Zero	54.1%
Once	26.7%
Twice	8.1%
Three	5.2%
Four	3.5%
Five or more	2.4%

Based upon the total number of officers reporting being named a defendant one through five or more times (n=172).

Table 2.0 shows the number of times mid-level managers report being sued during their police careers (both as line officers and supervisors). A majority of officers responding to the survey indicate that they have never been sued, yet a substantial minority (45.9%) has been subject to civil litigation. For those respondents who reported being sued as police officers (n=79), 58.2% (46/79) reported that they were sued once. Thus, most respondents had not been sued as police officers or if they had been sued, most had only been sued once in their police career.

Moreover, as the number of times sued as a police officer increased, the percentage of officers reporting multiple suits substantially decreased; however, it does appear that a small minority of officers will be sued multiple times over their police careers. That is, a small cadre of officers may be involved in multiple suits over the lifespan of their careers. There is precedent for such a finding in other areas of criminal justice research. For example, Wolfgang, Figlio, and Sellin's (1972) finding that a small number of youth disproportionately offend or Sherman, Gartin, and Buerger's (1989) finding that a relatively small number of geographic areas, so called "hot spots," account for a substantial portion of calls for service. Whether the officer or the nature of his or her environment accounts for such a possibility warrants future study.

In general, the table indicates that mid-level police managers have a substantial risk of experiencing civil suits over their career span but that most will likely not be sued repeatedly.

**Table 3.0**  
**Reported Outcomes – Most Recent Suit**

<b>Outcome</b>	<b>Percentage</b>
Suit still pending at time of survey	15.2%
Dismissed	34.2%
Settled	38.0%
Trial	12.7%

Percentages based on officers who reported an outcome from suit (n=170, 2 missing).

Table 3.0 concerns the outcome of the most recent suits filed against respondents. The table indicates that just over 15% of officers were still involved in the litigation process when surveyed. Thus, it appears that a small minority of mid-level police managers may be involved in litigation at any specific time.

The table also shows that approximately one-third of respondents who had been sued had their suits dismissed. This finding is higher than the 23% dismissal rate found by Chiabi (1996) in the federal district courts examined. This data also indicates a slightly lower settlement rate (37%) than reported by Worrall and Gutierrez (1999) (41% of cases that achieved a final disposition were settled). Respondents indicated that a small percentage of their most recent experiences with the civil justice system, nearly 13%, proceeded to trial. This percentage is close to the 11% trial rate found by Chiabi (1996).

Generally, Table 3.0 seems to indicate that the vast majority of cases filed against mid-level police managers during the course of their career will not proceed to trial. In this sample, dismissal or settlement categories account for a majority (72.2%) of the outcomes for most recent suits filed. Thus, while Table 2.0 indicates that about half of mid-level police managers will be sued in their career, most officers who are sued will likely have their cases dismissed or settled. It appears that a relatively small number of officers will experience the financial and emotional costs associated with trial.

**Table 3.1**  
**Case Outcomes – Settled Cases**

<b>Type of Settlement</b>	<b>Percentage</b>
Settled	21.5% (n=17)
Personal Liability	0.0% (n=0)
Agency Liability	16.5% (n=13)
Personal and Agency Liability	0.0% (n=0)

(n=170; 30 of most recent cases settled)



Table 3.1 focuses on settlement outcomes of the most recent suit to which the respondent was a party. As noted in Table 3.0, 38% of respondents' most recent lawsuits were settled. The survey instrument did seek to understand the nature of any settlements with regard to assumed liability. The table indicates that 21.5% of the suits were settled without a specific finding regarding liability. Such settlements were simply payouts to plaintiffs with no acknowledgement of responsibility by either the officer or the organization. Respondents indicated no settlements in which personal liability of the officer was acknowledged, but 16.5% of suits were ended with a settlement in which the agency acknowledged responsibility in the case. The fact that most officers are indemnified by their departments may have substantial impact on this finding. Departments may assume responsibility in settlements due to this indemnification rather than the directed responsibility for the civil wrong experience by the plaintiff. There were no reports of settlements in which both the officer and agency accepted liability. It appears that when a settlement did ascribe liability to a defendant, that defendant was most likely the police department and not the named officers.

**Table 3.2**  
**Most Recent Case Outcomes – Trial**

<b>Trial Outcome</b>	<b>Percentage</b>
No Liability	11.4% (n=9)
Personal Liability	0.0% (n=0)
Agency Liability	0.0% (n=0)
Personal and Agency Liability	1.3% (n=1)

(n=170; 10 of most recent cases went to trial)

Table 3.2 concerns the outcome of the small number of cases that did proceed to trial. As noted above, most cases (85.1%) were either still pending (15.2%), dismissed (34.2%), or settled (38.0%). Of the 12.7% of the most recent cases filed against the respondents that did proceed to trial, 11.4% resulted in a trial finding of no liability for the department or the officer. The data indicated no instances of a trial finding for only personal liability for the defendant officer or a trial finding for only agency liability. There was, however, one case in which the trial verdict found liability for both the respondent officer and the agency. This one case accounted for a mere 1.3% of all most recent civil case outcomes. Thus, it appears that mid-level police managers have a small chance of having civil suits against them proceed to trial and a substantially smaller likelihood of these suits resulting in personal or agency liability.

**Table 4.0**  
**Gender of Officer and Experience with Civil Suits**

<b>Subject to Suit</b>	<b>Male</b>	<b>Female</b>
Never Sued	52.6%	66.7%
Count	(81)	(12)
Sued Once or More	47.4%	33.3%
Count	(73)	(6)

(n=172)

With regard to gender, approximately one-third of female respondents stated that they had been sued once or more. Close to half of the male respondents indicated that they had been sued once or more as police officers. Thus, male mid-level managers were more likely to have been sued across their careers than were female mid-level managers. Chi-Square did not, however, reveal significant difference between expected and observed frequencies (Pearson's Chi-Square 1.285, df = 1, Asymp. Sig. 0.257).

**Table 4.1**  
**Race and Experience with Civil Suits**

Subject to Suit	White	Non-White
Never Sued	51.3%	75.0%
Count	(78)	(15)
Sued Once or More	48.7%	25.0%
Count	(74)	(5)

(n=172)

The race category was collapsed for the analysis in Table 4.1. The resulting categories were White and Non-White (African-American, Latino, and Other). The results indicate that just over half of the White respondents had never been sued while acting as police officers; 75% of Non-White officers indicated that they had never been sued while acting as either a patrol officer or supervisor. Chi-Square did reveal a significant difference between expected and observed frequencies (Pearson's Chi-Square 3.992, df = 1, Asymp. Sig. 0.46). Adequate cell size is a concern, however, as one cell only contained five cases.

**Table 4.2**  
**Education and Experience with Civil Suits**

Subject to Suit	High School Some College	College Grad – Grad School Grad
Never Sued	49.3%	62.3%
Count	(37)	(48)
Sued Once or More	50.7%	37.7%
Count	(38)	(29)

(n=152)

The education categories were collapsed for the analysis in Table 4.2. The organizing principle was the holding of a degree. Thus, High School and Some College were merged to form one group while College Graduate, Some Graduate School, and Advanced Degree were merged into the other. The table indicated that almost half of the non-degree holders were sued across their careers. A higher percentage (62.3%) of responding mid-level managers with degrees had not been sued. The Chi-Square statistic did not reveal a significant difference between expected and observed frequencies (Pearson's Chi-Square 2.607, df = 1, Asymp. Sig. 0.106).

**Table 5.0**  
**Behavior Change as Result of Most Recent Suit**

<b>Impact of Suit on Officer Behavior</b>	<b>Percentage</b>
Change behavior	24.1%
Did not change behavior	75.9%

(n= 172)

Table 5.0 examines the impact of civil litigation on the respondent officer’s future behavior. Just under 25% of officers indicated that being sued has impacted their behavior. This may somewhat support Hughes (2001), who found that a majority of officers do not consider the potential for suits when stopping a citizen. For a substantial majority of respondents in this survey, experience with civil litigation did not impact their actions. This result may be due to the relatively low percentage of suits that go to trial or have a payout cost. Officers may only change their work patterns in those cases in which a civil case has moved to trial or resulted in some cost to the department. Further research is warranted to understand when, how, and why officers change their actions as a result of civil suits. Regardless of the cause, this result would appear to support prior research that posits little deterrent impact of civil litigation on future behavior of defendant officers (Eisenberg & Schwab, 1997; Garrison, 1995; Littlejohn, 1981; Novak, Smith, & Frank, 2003).

**Table 6.0**  
**Policy Change as Result of Most Recent Suit**

<b>Suit Resulted in Change in Departmental Policy</b>	<b>Percentage</b>
Change policy	8.9%
Did not change policy	91.1%

(n= 172)

Table 6.0 concerns the impact of a mid-level managers’ most recent civil cases upon department policy. The vast majority of respondents (91.1%) report that their department did not change policy as a result of their litigation. As with the information in Table 5.0, policy change may only result from the relatively small number of cases that substantially cost the law enforcement agency. It, therefore, appears that civil suits do not foster proactive deterrent policy change in police departments. Further research is needed to help understand when, how, and why departments do change policy as a result of lawsuits.

## **Conclusions**

The results of this research effort support some aspects of prior research in the area of civil litigation against the police. In general, the research indicates that a slight majority of responding mid-level managers have not been sued in their police careers, but an overwhelming majority do know a fellow officer who has been sued. It appears that officers are generally not sued repeatedly and that most respondents who have been sued were sued while acting as patrol officers and not as supervisors. The data also indicates that most civil cases that are filed will be either

dismissed or settled and that a small percentage of cases actually proceed to trial. In general, it appears that police officials who attain management-level positions have a substantial chance of experiencing the stress associated with being named a defendant in a lawsuit. Moreover, mid-level police managers have a much greater chance of experiencing the vicarious stress of seeing another officer sued.

Experience with civil suits did not appear to be related to gender or education; however, the data did indicate that non-white officers had less experience with litigation than white officers. These findings, however, were based on small cell sizes and should be explored in greater detail with a larger sample. Respondents indicated that civil suits did not substantially alter their future actions or departmental policy. The data thus indicates that civil suits have little adaptive or avoidant impact on police behavior or policy. While further study is warranted, those who seek to use lawsuits to control police conduct may wish to examine other methods.

The limitation of this research must be remembered when drawing conclusions about lawsuits and the police across the country. The sample was not randomly selected. Moreover, the sample consisted of mid-level police managers who were participating in higher order management training. As such, these participants may be from progressive well-funded departments that have different rates and experiences with civil filings; therefore, while the research does provide insight and thought-provoking findings, the results may be representative of all mid-level police managers across the United States.

Future research should also seek to explore whether there is a connection between what issues officers believe lead to suits and what issues actually do result in civil litigation. That is, researchers should seek to understand whether officers are correct in their understanding of which administrative and procedural duties actually do lead to civil litigation. Researchers should also explore whether case outcomes are related to changes in officer action or departmental policy. Lastly, the issues of "high rate" officer involvement in civil litigation should be examined. Specifically, is there a small group of officers who represent a substantial portion of civil suits filed against their department?

Civil litigation currently generates a number of monetary and non-monetary costs to law enforcement. The police mandate in the United States is difficult due to the complex, heterogeneous nature of our country. Thus, the current legal and social milieu in which the police operate appear to support the potential for continued litigation against the police. New issues involving liberty and security, economic changes, and technological developments may well enhance the opportunities or incidences of suits against the police. With the acknowledgement that civil suits are "here to stay" for the police, an understanding of their cost, frequency, and impact upon police practice is crucial.

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# Appendix

## Survey Instrument

Dear Officer:

The following anonymous and voluntary survey seeks to understand your past experience with the civil litigation and what issues in the operational and personnel arenas that have great legal importance to your department. Your opinions are very important to us, and your participation is greatly appreciated. All responses will be kept strictly confidential, and no attempts will be made to link any responses with any individuals. Thank You!

### I. Demographic Data

This section focuses upon demographic information. Please circle or fill in the blank to each of the following questions.

1. Length of service as a police officer (in years) \_\_\_\_\_.
2. Race:  
White      African American      Latino      Other
3. Gender:  
Male      Female
4. Current Rank: \_\_\_\_\_.
5. Size of department (# of sworn officers) \_\_\_\_\_.
6. Education:  
High School      Some College      College Degree  
Some Graduate School      Advanced Degree (MS, JD, PhD)
7. I am indemnified by the city or state for whom I work.  
Yes      No
8. My department is best classified as a . . .  
Municipal Department      State Police Department  
Sheriff's Office      Federal Agency  
County Department      Other \_\_\_\_\_

## II. Current Legal Concerns

This section focuses upon the legal concerns you may have for your department. Specifically, we seek to understand what operational and personnel issues are most important to your department.

Please list the operational issues that you believe are the most important legal concerns for your department (#1 being the most important).

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Please list the personnel issues that you believe are the most important legal concerns for your department (#1 being most important).

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

## III. Past Experience with Civil Suits

This section concerns your past experience with civil suits during your police career. Please circle or fill in the blank where appropriate. Please ignore any questions that are inapplicable to you.

1. Have you ever been named as a defendant in a lawsuit?  
Yes      No
2. Do you know any other officer(s) who has been sued in your department?  
Yes      No
3. How many times have you been sued as a police officer?  
\_\_\_\_\_ times
4. How many times were you sued as a patrol officer?  
\_\_\_\_\_ times
5. How many times have you been sued as a supervisor?  
\_\_\_\_\_ times



The following questions refer to any lawsuits in which you were a defendant as a police officer. Please start with the most recent suit and work backwards (if necessary). Circle the appropriate response.

	<b>Most Recent Lawsuit</b>	<b>Second Most Recent</b>
<b>Outcome</b>	Still pending Dismissed Settled Settled (Personal liability only) Settled (Agency liability only) Settled (Both personal and agency liability) Trial (No liability) Trial (Personal liability only) Trial (Agency liability only) Trial (Both personal and agency liability)	Still pending Dismissed Settled Settled (Personal liability only) Settled (Agency liability only) Settled (Both personal and agency liability) Trial (No liability) Trial (Personal liability only) Trial (Agency liability only) Trial (Both personal and agency liability)
<b>Cause of suit</b>		
<b>Were you sued in a supervisory capacity?</b>	No Yes	No Yes
<b>Did your department change policy?</b>	No Yes	No Yes
<b>Did this cause you to change your behavior?</b>	No Yes	No Yes
<b>How was your behavior changed?</b>		

The following questions refer to any lawsuits in which you were a defendant as a police officer. Please start with the most recent suit and work backwards (if necessary). Circle the appropriate response.

	<b>Third Most Recent</b>	<b>Fourth Most Recent</b>
<b>Outcome</b>	Still pending Dismissed Settled Settled (Personal liability only) Settled (Agency liability only) Settled (Both personal and agency liability) Trial (No liability) Trial (Personal liability only) Trial (Agency liability only) Trial (Both personal and agency liability)	Still pending Dismissed Settled Settled (Personal liability only) Settled (Agency liability only) Settled (Both personal and agency liability) Trial (No liability) Trial (Personal liability only) Trial (Agency liability only) Trial (Both personal and agency liability)
<b>Cause of suit</b>		
<b>Were you sued in a supervisory capacity?</b>	No Yes	No Yes
<b>Did your department change policy?</b>	No Yes	No Yes
<b>Did this cause you to change your behavior?</b>	No Yes	No Yes
<b>How was your behavior changed?</b>		



# Online Investigative Practices in Child Exploitation Cases: Utilization of Exit Opportunities

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Law enforcement now finds itself entering its second decade of conducting online, Internet-based investigations to combat the sexual exploitation of children. Local and federal agencies, through federal funding opportunities, have joined forces to enhance the effort. Although it is safe to say that several laws have now been passed that directly address technology-related investigations specific to the exploitation of children, the law enforcement response remains limited and sporadic.

In 1994, legislation lagged behind the proliferation of technology, posing serious problems for both the investigator and the prosecution. Fortunately, since then, several state and federal laws have been enacted that address the cyber-environment directly, assisting the prosecutorial efforts. "Electronic evidence is one of the fastest developing legal frontiers. The Federal Rule of Evidence provides enough latitude to allow admissibility of electronic evidence in nearly every form for every possible document. A sound document retention policy, consistently applied, can be a party's best defense to an assertion of spoliation" (Kridel, 2001, p. 1).

As was discussed in a previous article titled "A Triad of Collaboration: Internet-Related Investigative Considerations Prior to the Computer Forensic Application," this author noted the need for standardization in the investigative stages of Internet-related crimes in the effort to successfully prosecute offenders. Another important investigative element to add to the tactical toolbox of investigative techniques is the topic of this article: exit opportunities.

Experience in my previous and current role as an investigator, computer forensic examiner, and expert witness substantiates that the success of online investigations is generally determined during the initial investigative stages. Failing to properly document all aspects of the actual investigation significantly diminishes the prosecutorial effort. Anything less is a recipe for impending failure. Additionally, consistency and standardization of techniques help to establish case precedence that will ultimately strengthen future efforts to prosecute those who use technology to gain access to children.

"Carefully managed undercover operations conducted by well-trained officers are among the most effective techniques available to law enforcement for addressing Internet Crimes Against Children (ICAC) offenses. Undercover operations, when executed and documented properly, collect virtually unassailable evidence regarding a suspect's predilection to sexually exploit children" (OJJDP/USDOJ, 2000, p. D-1).

## Exit Opportunities

Exit opportunities are operationally defined as providing an identifiable avenue for the offender to retract their effort to entice, lure, solicit, or travel. The mere fact that an offender identifies the moral, legal, or ethical implications of their impending behavior provides a window of opportunity by which an investigator can develop and strengthen the predilection and intent of the offender to sexually exploit children.

The offender, in the course of online chat or electronic mail messaging, typically opens the window of opportunity. This is not to suggest that the investigator themselves cannot generate an exit opportunity, but it is preferred that the offender set the pace and tone during the online contacts. It is critical that investigators identify and utilize the windows of opportunity that become available to establish intent or predilection.

Exit opportunities present themselves in a manner that is often so obvious it cannot be missed, yet other exit opportunities are subtle and sometimes overlooked, therefore becoming a missed opportunity. It would be helpful at this point to examine specific examples of exit opportunities utilized by the author in an online investigation that took place in 1997. The investigation involved a 10-week investigation resulting in a search warrant, arrest, and conviction. The duration of the investigation allowed for sufficient time and exit opportunities to establish predisposition that a hurried investigation would fail to provide.

The generation of evidence compels the officer to conduct a thorough investigation, one that is compelling to a jury. A single online conversation or e-mail message is, by definition, probably sufficient to develop probable cause. Consider the implications of several, or many, or a multitude of conversations or e-mails that portray a predisposition or portray an unquestionable intent. I am not suggesting that investigations must be never-ending, but too many potentially strong investigations are cut short before sufficient evidence to prosecute is gathered. The generation of evidence includes any and all electronic exchanges that occur between the law enforcement officer and the offender(s). This generation of evidence is the substance of the Triad of Collaboration. (DeYoung, 2004, p. 185)

The basis of the investigation to be examined factually established that the offender (using the screen name GDada13552) was attempting to entice, lure, or solicit the undercover operative (using the screen name Marc13FL while posing as a 14-year-old boy) into a sexually exploitive relationship. The offender was willing to travel from Massachusetts to Florida to fulfill his need despite his clear understanding that the behavior was illegal and unacceptable by societal standards of conduct.

The first example presented for examination took place early in the investigation. The offender admitted to being fearful of being arrested, acknowledged that sex with a 14-year-old boy is against the law and that society does not accept his predilection toward sex with minors (see Figure 1).

First, let's state the obvious: When an adult goes online to seek sexual contacts and becomes aware that the person they are conversing with is 14 years of age, that is

an exit opportunity. The investigator should use this technique often by restating and reinforcing that they are a minor.

**Figure 1**  
**Online Chat with Offender Noting Exit Opportunity**

---

<b>GDada13552</b>	But you know most people would say im a pervert for talking with you about sex .. what do you think about that
<b>Marc13FL</b>	Not 2 many people would even talk with someone 14, I'm always having people tell me to go somewhere elase on AOL
<b>Marc13FL</b>	ur not a pervert, why would u thionk that
<b>GDada13552</b>	IDON'T THINK that .. but society would .. anyway .. im fine with it .. I like you .. thats all that counts .. but you have to understand how people look at this
<b>Gdada13552</b>	As a 14 year old you are considered a minor .. there is nothing wrong with talking to you .. but tohave sex with you is against the law .. I know that .. and I am sorry .. but therea re some boys who are mature enough to be with a man .. you have to decide where you are ..
<b>Marc13FL</b>	Can I get in trouble if something happens, I don't want 2 get u in trouble either, I like u 2 much to do that, u r my friend
<b>GDada13522</b>	U cant get in any real trouble .. I could that is why I must trust you too
<b>GDada13552</b>	I don't mind if you speak of me as a friend .. but don't talk about meeting .. someone would arrest me
<b>Marc13FL</b>	I don't want u to get arrested ever, it doesn't seem right
<b>GDada13552</b>	It isn't right .. but that's the way it is .. so listen.. just be discreet .. ill trust you .. you trust me .. we will be fine

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(Edited for continuity; typographical errors represent actual chat).

When an offender expresses fear of arrest and knowledge of illicit behavior, the investigator should immediately implement the exit opportunity tactic. In Figure 1, the window of opportunity presented itself in a fashion that allowed the investigator to convey concern for the offender. When the undercover officer expressed concern that a meeting could lead to the offender being arrested, this created an exit opportunity, allowing the offender an opportunity to retract his effort to entice, lure, solicit, or travel. Note in Figure 1 that the offender, despite the concern and knowledge, abandoned the opportunity to withdraw by assuring

the undercover that they must be discreet and trust each other, closing with the assurance, “we will be fine.”

The conversation in Figure 2 opens the window to our second exit opportunity. Once again, the offender sought confidentiality but remained focused on maintaining the relationship despite his knowledge that acting on his need could, in fact, lead to his arrest.

**Figure 2**  
**Online Chat with Offender Noting Exit Opportunity**

---

<b>Marc13FL</b>	i don't understand something u said in your letter about u love ur family and don't want to hurt them
<b>GDada13522</b>	i mean that what is between us is private and confidential .. that's all ..
<b>Marc13FL</b>	u said I shouldn't tell anybody right?
<b>GDada13552</b>	i don't want you to think i am ashamed because im not .. but this is between us .. remember u are a minor .. the reason i talk so freely
<b>GDada13552</b>	when you are a minor .. it is a crime .. i could be arrested .. i am being totally honest here .. i wont bullshit you .. that's what i mean about hurting me or my family .. don't be careless with my email or pics
<b>Marc13FL</b>	i like u 2 much. maybe we should just forget about this. i don't want u 2 get arresteed or anything
<b>GDada13522</b>	no .. its okay .. we just nneed to be discreet .. this needs to be between us .. don't worry .. as long as we careful we'll be fine

---

(Edited for continuity; typographical errors represent actual chat).

Figure 2 revealed the author making a clear attempt to sever the developing relationship by suggesting that “maybe we should just forget about this .. i don't want u 2 get arresteed or anything.” Yet again the offender failed to retract his effort to entice, lure, solicit, or travel, offering assurances that all will be fine as long as they are discreet.

The compelling effect of employing even a single exit opportunity in the investigative process cannot be underestimated. Those tasked with the duty to stand in judgment will place significant responsibility on those offenders who fail to retract their effort to entice, lure, solicit, or travel to sexually exploit a child when the opportunity is so clearly presented and documented. The effect of utilizing many exit opportunities in a well-structured, carefully documented investigation can further enhance the prosecutorial effort.

## Conclusion

The proliferation of offenders of crimes against children continues to grow. The use of technology has enabled the offender to reach more children through proprietary and commercial chat rooms and electronic mail messaging than they ever had access to prior to the creation of the Internet. The standardization and utilization of online techniques that clearly enhance the prosecutorial effort should be employed by investigators who have received specialized training specific to the online environment.

The application of exit opportunities in Internet-related crimes against children provides a strong foundation that an individual is knowingly and purposefully entering into a behavior that he or she knows is illegal. Adding this investigative technique to one's online tactical toolbox will greatly enhance the effort to bring to justice those offenders who choose to sexually exploit children.

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# Physician Addicts: Drugs of Choice, Specialties and Epidemiology and Why Are They So Treatable?

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## Introduction

Physician addicts are experts at concealing their addictions, and when that fails, their families and colleagues often help them to cover their problems. Physicians prescribe controlled substances, can over-prescribe controlled substances, and can also use controlled substances. Physicians who are identified as substance dependent and coerced into treatment have remarkable 5-year addiction treatment and return to work outcomes. This has led to theories about effective treatments and the role of intervention in successful outcomes. Addiction is often defined in part by continued use despite adverse consequences. Physicians lose their health and families before they lose their jobs as physicians. Substance abuse and dependence can cause problems in their personal, family, and professional life. Consequences often involve the legal system. Often the physician addict will be involved in a number of criminal activities, such as taking patients' medications themselves, diverting medications and samples intended for patients, writing prescriptions for themselves, and negligence through impairment. Addictions may lead to a number of other interactions with the legal system, such as DUIs and DWIs, domestic violence, buying illegal drugs, etc. Physicians' overall drug use is higher than matched controls. Untreated addiction often results in untimely death. Legal intervention for the addicted physician may lead to treatment and later recovery. As one patient in recovery said, "the luckiest day of my life was the day I got arrested."

Physicians tend to use their intellect and training to rationalize mood and addictive disorders. Physician addicts are quick to point out that they can handle drug taking. While rates of alcohol abuse and dependence appear to be equal to age, sex, and socioeconomic matched controls, rates of opiate abuse and dependence among physicians appears to be significantly higher. Physicians are over-represented among professionals in treatment for substance abuse disorders and over-represented among opiate addicts. Physicians are, after all, human beings like anyone else. Achieving a degree in medicine does not make them immune to the problems and illnesses of society as a whole.

Numerous early studies have documented that the prevalence of drug dependence and alcohol abuse by physicians is similar to the population at large (Hughes et al.,

1992). Physician prescription opiate abuse and dependence, however, has been reported to be greater than for other professionals (Aach et al, 1992). Physicians do have much greater access to drugs than the general population (McAuliffe et al., 1987). In addition to access, physicians have immense stress related to long hours, patient care, unusual sleep patterns, and chronic tiredness. In recent years, there has been an increased awareness of the need for services for addicted physicians. Several state boards of medicine and their respective legislatures support rehabilitative services for addicted physicians. The confidential reporting system at work in Florida has been successful.

## **Involuntary vs. Voluntary Treatment: Is There a Difference?**

The *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)* provides a psychiatric diagnostic scheme that is prognostically significant for most psychiatric disorders (APA, 1994). The *DSM-IV* diagnosis for dependence includes three or more of the following symptoms in one year: drug is taken in larger amount or longer than intended; desire or unsuccessful attempts to cut down/control use; a lot of time is spent pursuing, using, or recovering from use; important activities are reduced or given up because of use; tolerance; withdrawal; and continued use despite adverse consequences. We examined 5-year outcomes data for 24 randomly selected Florida physicians who were monitored by the Physician Recovery Network for substance abuse and dependence in 1995 (Gold, Pomm, Kennedy, Jacobs, & Frost-Pineda, 2001). The sample consisted of 23 males and 1 female, ages 30 to 63, from 10 medical subspecialties; 37.5% had a history of intravenous drug use. Five-year recovery was documented by counselor reports, physician/psychiatrist evaluations, Alcoholics Anonymous or other 12-step attendance, return to work, and regular/random urinalysis. Physician recovery far exceeds rates reported for other groups. There was no statistically significant difference in outcome for opioid addicts compared to crack/cocaine addicts or alcoholics. All had their urine testing and progress monitored and reported to the state, but treatment setting varied widely. None were treated with methadone or other maintenance. Five-year recovery among physicians is remarkable, with 92% drug free and returned to work. Dependence may be less of a relevant diagnosis than age first used, dose and duration, psychosocial skills, job coercion, urine drug monitoring, motivation, mandatory facilitated aftercare, or co-morbid disease. There was no difference in outcomes between involuntary and voluntary treatment.

## **Crack and IV Drug Use**

Recent clinical trials and anecdotal reports have suggested that prognosis is determined in large part by route of administration. Psychiatrists have discussed the "needle barrier" and suggested that intravenous addicts have the worst, abysmal outcomes. Reported crack and intravenous addicts' outcomes may have to do with other factors. Our longitudinal data suggests that crack and IV drug use may not have prognostic significance in physician addicts. We have followed and reported 5-year outcomes of all physicians who were monitored by PRN for substance abuse and dependence in 1995 and 1996 in the State of Florida's impaired physician program (Frost-Pineda, Gold, Pomm, & Kennedy, 2003). Each physician was required to attend a specialized monitoring group, call a toll-free number for at least weekly random urine monitoring, and regularly attend a recovery support group program. Five-year outcomes were assessed by written counselor reports,

physician/psychiatrist evaluations, AA/NA attendance, return to work, and the quantitative result of the regular supervised urine testing. The sample consisted of 59 males and 9 females, ages 25 to 63 (mean 40.16 years +/- 7.02). Of the sample, 32.4% had a history of IV drug use, 11.8% had used crack, and 7.4% had used both. Outcomes were independent of type of drug or route of administration. More than 88% of physicians who had used crack, injected drugs, or both had negative drug tests and positive physician assessment for 5 years and returned to work. Prognosis is not dependent on whether cocaine or other drugs are smoked, inhaled, or injected. Other factors, such as age of illicit drug onset, may have greater prognostic significance and account for the anecdotal "needle barrier."

## **Drug Testing as Addiction Treatment**

Addiction treatments have been developed that purport to be safe and effective; however, no consensus exists as to what is a successful treatment or outcome. We have proposed return to work and 5 years of negative, randomized urine drug testing. While treatment outcomes are debated, diagnosis is more clear with the *DSM-IV*; however, *DSM-IV* diagnosis does not have any independent, external validation such as a blood alcohol or breath test for alcohol intoxication. We have been interested in whether addictions are treatable and if so, the optimal measure of outcome. In our 1995 and 1996 State of Florida physicians, we examined 5-year outcomes data (Frost-Pineda, Gold, Pomm, & Jacobs, 2003). The sample consisted of 59 males and 9 females, ages 25 to 63 (mean 40.16 years +/- 7.02). During the monitoring phase (aftercare), each individual was required to call a toll free number each day to ascertain whether they were immediately subject to randomized urine testing. Most addiction treatment outcome studies report 6-month success rates ranging from 30% to 60% for various substance dependencies. Five-year recovery and outcome studies are preferable and can be completed with physician addicts. We found that independent of location or type of treatment, >90% of physicians had negative drug tests for 5 years. It appears that randomized urine testing is the most under-utilized safe and effective intervention in psychiatry and addiction treatment and research. There is a strong case for urine testing as a tool to evaluate and monitor patients and those with legal problems for whom the classic signs and symptoms of drug addiction are insufficient.

Physician opiate abuse and dependence appears to exceed what would be expected from other people matched for age and income by a large margin. Physicians who are opiate abusers are generally found in anesthesiology, emergency medicine, and surgery. Sometimes there is early drug use or a family history. Physicians, unlike college athletes, are not tested during the admission process or before license. While they study very hard, in between tests, physicians-to-be may use illicit drugs at a rate that would be quite alarming to administrators. We have surveyed medical students and generally found that they use cigarettes at a very, very low rate; however, they smoke marijuana and take prescription medication without a prescription. Where there is no early drug use or family history, there is often occupational exposure to second-hand drugs in the operating room. We have been concerned that some physician opiate addicts are more like children of cigarette smoking parents. Exposing their brains to drugs of abuse in the workplace could easily provoke an abuse or addiction problem where none would have occurred if they had become psychiatrists or radiologists.

Drug testing has been used to diagnose current use and prevent use after treatment. Drug testing has not been applied to anesthesiologists, even though they are over-represented among physicians and have drug problems. Treatment of physician addicts is associated with such a high and remarkable recovery rate. Why? First, you might think that it is because of the treatment programs they enter. No. Physicians often enter treatment after an arrest, overdose, or some emergency that provokes an intervention and coercive treatment. Usually, they are financially at the end of the line. We have seen physicians who are selling used cars, doing landscaping, or just going to their old practice. In most cases, they are not able to pay for Betty Ford or Talbott treatment. In the State of Florida, PRN gives physicians choices of treatment programs, and when we compare, we find that recovery rates are the same. We have concluded that late-onset addiction (MDs use drugs late and enter treatment in their 30s or 40s, not teens), long- rather than short-term treatment (as long as possible inpatient or residential and 5 years outpatient), job jeopardy, urine testing, calling an 800 number for randomization to testing or no testing, and 12-step recovery groups are the reasons for high recovery rates. Drug testing for physicians is as much of a treatment as psychoanalysis was for people with conversion disorders. Every day, the recovering addict is confronted with the possibility of a relapse and the choice, pain or gain to use or not. They are certain that use will be detected and will be associated with consequences. They also see in 12-step meetings that MDs recover. Urge for drugs and drive for relapse may continue, but they can choose to not use drugs.

Physician addiction treatment and outcomes have also helped us understand that how you get to treatment does not affect outcomes. MDs who are forced or coerced to enter treatment do just as well as MDs who see the light and enter on their own. No difference. Many MDs suggest that they could have or might have died if a spouse or other MD had not turned them in. Interventions by professionals can take the sting out of coercion and allow everyone to feel that treatment was a choice. It was not a choice in most instances. Still, this is a good lesson. While it is logical to think that outcomes would be better if the person volunteered for treatment, the data just does not support it as an important factor. Physicians experiment with drugs late, usually much later, than other addicts. So, when we first found MD crack addicts, we assumed that they would have a tough time recovering. Wrong again. MDs have the same outcome whether they are opioid, crack, or alcohol addicts. Late onset, after the brain is fully developed, may explain their recovery rates and their ability to recover from what would otherwise be considered very, very serious drug problems. Five-year outcomes in excess of 80% suggest that early detection, prompt treatment, recovery, and return to work are all possible for MD addicts.

## **Conclusion**

Physician addicts are experts at concealing their addictions. An impaired physician may not want to be diagnosed or detected and in all likelihood will make diagnosis difficult, if not impossible. When it is obvious that they have a problem, intervention, coercive, or voluntary long-term inpatient treatment and aftercare are important components of recovery. Legal professionals have an important role in detecting, arresting, and referring impaired professionals. Physician addiction and treatment have emphasized that full recovery is possible, even from crack addictions. They have also helped us understand that drug testing is a treatment for addiction and prevents relapse. Physicians appear to have more prescription drug abuse than other

similar groups of professionals. If you know that a physician is abusing or dependent on an opiate drug, it is most likely that they are an anesthesiologist or work in the operating or emergency room. Fentanyl and derivatives are increasingly the drug of choice for physician opiate addicts. Addiction cause numerous problems and leads to early death. Legal intervention for the addicted physician may promote treatment and later recovery.

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