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## Editorial

The goal of professionalizing American police has been a predominant theme, dating back to the establishment of the first full-time law enforcement agencies in the mid-1980s. Throughout the history of policing, corruption, brutality and other abuses of authority, including the pervasive violation of individual rights, have led to the establishment of numerous National Study Commissions focused on police reform. Likewise, the Professional Era of Policing, led by August Vollmer and other progressive police administrators, brought many innovative and lasting reforms (e.g., attempts to distance police from politics, the application of technology, the application of management principles, and raising the educational, training, and selection standards of police). Similarly, the introduction of University Programs in Criminal Justice and Police Science throughout the 1900s was a major initiative to provide incumbent police and students with a broad-based understanding of the complex issues of policing in an ever-changing, modern society.

In reviewing the published literature on police professionalism initiatives in the 1990s, I am stuck by the fact that one movement has received very little attention, review, and analysis—an initiative that I believe contributed profoundly to the professionalization of American police. I am referring to the establishment of state agencies on Police Officer Standards and Training (commonly referred to as POST Boards or Commissions).

POST Commissions are state-level agencies, most often created by statute, charged with establishing and regulating statewide training and selection standards for local police agencies. Taking into account the jurisdictional and organizational fragmentation of the law enforcement service delivery system in the United States, Post Commissions were designed to ensure a baseline, minimum standard applied to police selection and training.

The first POST Commission was established in California in 1959, and within a 30-year time span thereafter, all states followed suit with the implementation of some form of state oversight and regulation of local police agencies, particularly as related to standards and training.

The U.S. Law Enforcement Assistance Administration (1981) found that the adoption of minimum standards and training laws by states and the creation of standards and training commissions were among the most progressive developments in the law enforcement field (pp. 167-168). Notwithstanding this finding, there has been little follow-up research, analysis, or evaluation of the impact of POST Commissions in the intervening years.

The objective of this editorial is to encourage government-sponsored evaluative research, as well as independent investigations, by academics, practitioners, and students focused on POST activities and program effectiveness. Have POST Commissions contributed in a meaningful way to the professionalization of American police, and if so, how and to what extent?

As Senior Editor of the *Forum*, I offer a challenge to contributors to consider future research endeavors focused on POST Commissions. It is my hope that in the near future, the *Forum* will be in a position to publish a special topic issue on this important topic.

Thomas J. Jurkanin, PhD  
Senior Editor

U.S. Law Enforcement Assistance Administration. (1981). *Criminal justice manpower planning: An overview*. Washington, DC: Author.



# A Law Enforcement Manager's Investigative Guide to Understanding Ideology in the Use of Weapons of Mass Destruction

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## Introduction

During the 1990s, Osama Bin Laden proclaimed that weapons of mass destruction (WMD) would only be deployed in a defensive manner and according to the laws of Islam (Williams, 2005). He stated in an interview, "I wish to declare that if America used chemical or nuclear weapons against us, then we may retort with chemical and nuclear weapons." Bin Laden went on to say, "We have the weapons as a deterrent" (p. 95). There is no effective means to determine his true intent, which makes him a qualified insurgent with narcissistic and sociopathic tendencies. Few law enforcement officials are privy to the qualified research data on this behavioral tendency as it relates to insurgents.

Regardless of his intent, this statement made by Bin Laden seemed to garner the attention of leaders in law enforcement from around the world. Each knew very little about the potential risk of an organized WMD insurgency attack on their communities and that it had the potential to cripple any society. These same leaders could only imagine the various physical infrastructure targets and human lives that were vulnerable, presenting grave danger to innocent citizens.

Moreover, if the potential for mass casualties were present, the level of negative stress would increase beyond the capability to respond to calls for service. Those same officials within law enforcement were not equipped to handle any of these potentially tragic events, and the Al Qaeda leaders knew it as well. Meanwhile, a gap existed in the dissemination of actionable intelligence information from federal law enforcement counterparts to local agencies. Some argue that federal officers were in a similar area of uncharted knowledge and experience. Both sat idle, trying to define operational mission, goals, and objectives as well as constitutional and legal guarantees. Needless to say, the enterprise was a massive challenge devoid of a schematic.

## The Role of Weapons of Mass Destruction in the Jihad

As we learn more about the inner workings of a terrorist like Bin Laden, we find that he proclaimed that Al Qaeda would not intentionally kill other Muslims and would not, under any circumstances, deploy WMD against Muslim countries. Furthermore, Bin Laden claimed that Al Qaeda would not intentionally use WMD for the mass killing of noncombatants (Salama & Hansell, 2005, pp. 626-627). Most experts in the field knew his credibility was of no value, and law enforcement



suspected Bin Laden was lying and was using these clever edicts to keep everyone in suspense. However, they still were at a disadvantage not having much information or guidance as to how to proceed with keeping their communities and personnel safe from a pending WMD attack.

As a result of various mismatched priorities and interpersonal differences along with law enforcement not really knowing what to do, there was even more confusion. Little was known or shared about Bin Laden from a domestic law enforcement perspective, yet more potential threats were suspected.

This article seeks to balance out portions of the information on WMD by disseminating it to potential first responders who are actually some of the most valuable assets that we have. We do this by discussing the ideology and operational side of Al Qaeda's leadership and probable intent by applying reasonable man standards, which are better known in the law enforcement profession as trying to establish probable cause to take enforcement action in suspected cases of potential insurgency against the United States.

We begin by examining the historical landscape that led us to our theatre of current events. Prior to the war in Afghanistan, Bin Laden viewed Al Qaeda's WMD program as a counterbalance to the WMD arsenals of the United States and Israel (Salama & Hansell, 2005, pp. 626-627). Simply stated, he developed a disdain for the United States and felt an overwhelming need to figure out a way to injure innocent people and set an example of his own ideology as a protest to democracy.

Therefore, we find the policy position of Al Qaeda regarding the use of WMD changed dramatically after the military invasion of Afghanistan. Once again, we examine the record and find public statements by Bin Laden and other Al Qaeda leaders that advocated the offensive use of WMD against innocent civilian targets and Muslim countries.

As such, it may be concluded that it is unwise to trust Bin Laden. Nonetheless, understanding the organizational culture and ideology of Al Qaeda and its cartel terrorist partnerships remained an emerging and misunderstood theory and threat that required clarification. Terrorism experts will agree that it is a widely held belief that Bin Laden has an advantage over the United States as he has access to open source information and to various television networks where he can learn about law enforcement ideologies.

The authors should explain that in developing actionable probable cause and enforcement activities, law enforcement managers routinely use most any type of information that is sourced regardless of its origin so long as it is truthful. Probable cause may come from circumstantial evidence sourced from open media sources, peer reviewed journals and research data, personal knowledge, evidence, international news reports, training, citizens, and a wide variety of reputable sources. This foundation can be used as the means to advance or develop investigative methods to enforce the administrative, criminal, and local community ordinances and regulatory laws of any state or territory of the U.S., including Puerto Rico and the U.S. Virgin Islands.

Law enforcement managers should be mindful of the premise offered by Salama and Hansell (2005) who maintain, "Al Qaeda's assessment of the utility of a WMD

capability has evolved from the notion of a defensive tool designed to deter an American attack on Afghanistan and other Muslim areas, to a first-strike weapon that should be deployed against the United States in retribution for past and present killings of Muslims” (p. 627).

It is suggested that a more reasonable approach for law enforcement is to develop a sense of the various conceptual constructs that could be converted to use by Al Qaeda to invoke fear in the lives of innocent citizens.

These statements are important because by turning them around and focusing upon Bin Laden’s methodology, law enforcement is able to chart out that ideology and develop a similar investigative strategy in developing probable cause to use against potential attacks.

A more intensive and applied critical thinking approach for domestic law enforcement officers is to develop an actual generic draft probable cause statement underscoring Bin Laden’s statements and co-conspirators’ statements with the goal of utilizing that standardized probable cause statement in cases for which they suspect potential acts of insurgency. By adding the dynamic of training agency sworn personnel on the use of the standardized affidavit in support of probable cause, the authors assert that a law enforcement agency has an added investigative tool—one that demystifies the complexities of terrorism and places the actual conduct in a more understandable perspective easily applied to a wide range of conduct.

So, we begin by reviewing some widely held constructs. The underlying goal of Al Qaeda’s first-strike strategy is to provoke the United States into a massive retaliatory nuclear attack on a Muslim country or countries in order to generate support among moderate Muslims for Al Qaeda’s global jihad against the U.S. and its allies (Salama & Hansell, 2005).

After extensive analysis of these data, terrorism experts believe that a retaliatory WMD attack by the United States would exponentially increase the number of new recruits in Al Qaeda and other radical terrorist organizations. Therefore, we submit it is important for law enforcement officials to capture this type of information to help establish the theory of conspiracy and communications among suspected terrorists.

Now, considering the use of intimidation and fear we find in most jurisdictions, these types of actions are all illegal. Threatening people and infrastructures are equal criminal violations of the law.

Inciting a riot or mass chaos is also a crime in most jurisdictions. Therefore, the methods used to promote this enterprise are illegal in most jurisdictions. In a riot, law enforcement officers identify the top level or tier managers and/or organizers or its leadership and take appropriate steps to eradicate that infrastructure. The same holds true in the investigation of suspected terrorists.

Let’s continue. In 2003, at the direction of Bin Laden, noted Muslim scholar Shaykh Nasir bin Hamid al-fahd issued a religious decree supporting the use of WMD against the “infidels” (Salama & Hansell, 2005). This decree provided Bin Laden and Al Qaeda with the rogue religious foundation to justify the use of WMD for

the mass killing of noncombatants and Muslims if they are in the “path” of the jihad (Salama & Hansell, 2005).

This religious decree stated that under the “Law of Reciprocity,” Muslims are granted the authority to kill in excess of 10 million Americans to reach parity with the number of Muslims killed by the United States and its allies (Salama & Hansell, 2005; Williams, 2005). What is most important about this decree is that it allows Muslims to attack other Muslims “as long as the jihad has been commanded” by God (Salama & Hansell, 2005, p. 628). This religious decree opened the door for Bin Laden and Al Qaeda to use WMD against moderate Muslim countries labeled by the terrorists as “apostate” Muslim regimes (Williams, 2005).

Drawing from this bogus manifesto, it is no more valid than a local street thug who declares their gang has developed their own laws. It is, however, similar as a cowardly act undertaken by insurgency, a criminal offense in most states and in all federal jurisdictions. Regardless how we perceive these threats, each is valuable evidence to use in establishing probable cause to search and arrest suspected violators of local, state, and federal laws by explaining the overall intent and the manner and means used to carry out these activities.

## **Current WMD Deployment Capability**

In order to determine the resource and operational capabilities of Al Qaeda, we find open source intelligence that suggests Al Qaeda does not possess the technical expertise to weaponize sufficient quantities of the precursor materials required for the development of chemical and biological weapons (Burke, 2004, p. 24). However, newly developed information may dispel this previously held notion.

Further, Al Qaeda has not developed or purchased the technical infrastructure to manufacture a delivery system capable of supporting a large-scale chemical or biological attack (Burke, 2004, p. 24). This lack of technical skill was evident when Al Qaeda operatives expressed an interest in using agricultural aircraft to spray chemical and biological weapons over a wide target area (Central Intelligence Agency [CIA], 2003). This plan never came to fruition because Al Qaeda did not have the organizational capacity to produce enough chemical and/or biological toxins to support a WMD attack. However, as a cautionary note, these resources are for sale from vendors within the vast global marketplace.

We know Al Qaeda operatives, under the direction of Bin Laden, have not been successful in acquiring weapons-grade fissile material or off-the-shelf tactical nuclear weapon systems from rogue nation states and/or organized crime (Bunn, Wier, & Holdren, 2003). More intelligence data suggests that Al Qaeda has been defrauded on several occasions while attempting to purchase weapons-grade fissile material. We do know that Al Qaeda seeks out these articles from various sources. It is reasonable to conclude that records and documents are created as a result of the intent of securing articles and processes aimed at finding these materials. Any attempt or conspiracy to possess these types of articles is a violation of state and federal law.

On at least two occasions, Bin Laden and his associates purportedly paid millions of dollars to criminal organizations operating in Chechnya for enriched weapons

grade uranium (Albright, 2002; Williams, 2005). On both occasions, Al Qaeda operatives were provided with low-grade nuclear waste and not enriched uranium. Low-grade nuclear waste cannot be used for the development of a nuclear device or a radiological dispersion weapon (Albright, 2002; Williams, 2005).

Meanwhile, a variety of highly placed investigative resources continue to monitor a wide range of activities among various bad actors with a focus on preventing a WMD attack while collecting valuable intelligence information.

Additional intelligence information developed from Al Qaeda's own weapons manual and from seized documents support the theory that Al Qaeda lacks the technical expertise to deploy, weaponize, and manufacture WMD (CIA, 2003; Salama & Hansell, 2005). These findings suggest that Al Qaeda does not have the precursor materials or laboratory infrastructure to stabilize and build munitions or prevent the deterioration of radioactive materials (Salama & Hansell, 2005, p. 636).

Included in this assertion, we state that Al Qaeda literature does not address the technical process required for the stabilization of chemicals or fissile material during the weaponization and deployment processes (CIA, 2003; Salama & Hansell, 2005, p. 636). The weapons literature also does not address the relationship between the deployment of WMD and the atmospheric conditions of the target area. According to terrorism experts, understanding the interplay between the deployment of WMD and the atmosphere is critical to estimating the performance or nonperformance of the weapon in the target area (Salama & Hansell, 2005, pp. 636-637).

It should be noted that intelligence developed from Al Qaeda WMD facilities in Afghanistan suggests that many of the above weaponization and deployment problems would have been solved by Al Qaeda in a couple of years if these facilities had not been seized and destroyed by the United States and its allies (Bunn et al., 2003, p. 10).

## **Organizational Structure: Al Qaeda's WMD Program**

Operation Enduring Freedom forced Al Qaeda to evolve from a "direct command and control" structure to a more flexible modular organizational structure (Hoffman, 2007, p. 45). This modular organizational structure promotes independent thought and action from low-level operatives (p. 45). Furthermore, this organizational structure allows the core leadership structure of Al Qaeda to delegate tactical and strategic assignments to the Al Qaeda cell or affiliated terrorist group best equipped to handle the unique demands of a particular terrorist action (Robbins, 2005). It is commonplace for low-level operatives in all organizations to have some level of miscommunication and to not understand orders.

The religious decree issued by Bin Hamid in 2003 serves as an open invitation for Al Qaeda cells to deploy WMD without the consent of Bin Laden or other Al Qaeda commanders (Salama & Hansell, 2005). From a leadership perspective, the decree is actually a permit to undermine the edict of the organization by allowing individuals to make unqualified decisions in the field. Compartmentalization of these insurgents can lead to a benefit to domestic law enforcement personnel by

knowing their actions could be associated or unconnected to a larger event that is not planned.

This now leads us to review the current global ideology lamented by Bin Laden. A postscript note here finds that he grants permission to cell leaders to deploy a WMD attack as soon as they develop the technical and deployment capabilities to carry out such an attack. As such, this edict now establishes additional probable cause that a global network of Bin Laden co-conspirators is available to advance his ongoing criminal enterprise.

Fortunately, the intent and motivation of Al Qaeda leadership to deploy WMD is outscored by the lack of organizational capacity to successfully execute a WMD terrorist attack (CIA, 2003; Salama & Hansell, 2005).

Following this ideology in more detail, we find the leadership core of Al Qaeda has surrendered the daily command and control management function to a decentralized network of operational cells and Al Qaeda-affiliated terrorist groups (Hoffman, 2007, p. 45).

Katzman (2005) describes the post-September 11 organizational structure of Al Qaeda in the following way: "The core of Al Qaeda has suffered damage to its leadership, organization and capabilities . . . at the same time, and Al Qaeda has spread its anti-United States ideology to other groups and geographical areas. It is therefore no longer Al Qaeda itself but increasingly franchised style groups affiliated with Al Qaeda or independent ones adhering to Al Qaeda's ideology" (p. 7). Terrorism experts believe that Al Qaeda's modular organizational structure makes the tracking of terrorist movements and actions very difficult because the planning and execution of attacks is adapted to the regional and local security system weakness of a particular target area (Hoffman, 2007, p. 7). Moreover, these data are good investigative tools for law enforcement to know in advance so as to ferret out any suspicious local activities from a proactive perspective.

The decentralized modular organizational structure adversely affects the development of Al Qaeda's WMD program as well in that the decentralized cell structure of Al Qaeda restricts the vertical and horizontal dissemination of the specialized technical information required for the development of a WMD. Terrorism suggests that the modular organizational structure enhances organizational security and flexibility; however, at the same time, it prevents any one cell from obtaining the technical expertise to develop and deploy a true WMD (Katzman, 2005; Salama & Hansell, 2005).

Therefore, drawing from these same experts, we assert the current operational environment limits the use of WMD, and the operational forces Al Qaeda uses as "conventional weapons in unconventional ways" have the intent to maximize the impact of terrorist attacks (Salama & Hansell, 2005, p. 616).

It is yet unknown whether domestic terror cells would engage in independent activities using destructive devices other than WMD. One observation made by terrorism experts is that within the United States today, suspicious activity undertaken by any person of Middle Eastern ethnicity will more likely end up under the investigative scrutiny of law enforcement since our nation was attacked.

In most instances, law enforcement officers are searching for any evidence to establish probable cause to affect an arrest and begin the legal process, having a profound fear of any terrorism member. If incarcerated among other inmates, it is not known what type of peer inmate culture these suspects will actually experience. However, it is suggested that they will be subjected to interviews by various local, state, and federal law enforcement officers and by the local judiciary.

In order to maximize the tactical effectiveness of terrorist operations, the leadership structure of Al Qaeda coordinates specialized training, procures arms, and provides funding to operations cells and affiliated terrorist organizations for sanctioned terrorist operations (Hoffman, 2007, p. 46). In addition, affiliated organizations are also authorized by Al Qaeda leadership to make independent operational decisions regarding the execution of terrorist attacks as long as these attacks are directed at the United States and Israel and support the global vision for a pan-Islamic state (Hoffman, 2007).

Most importantly, these affiliated terrorist organizations provide local and regional logistical support to core Al Qaeda operatives during the planning and execution of terrorist actions directly managed by Bin Laden or other high-level Al Qaeda leaders (Hoffman, 2007; Salama & Hansell, 2005). It is easy to spot opportunities for law enforcement investigative intervention strategies following this playbook overview.

## **Al Qaeda's Nuclear Weapon Program**

By developing a better understanding of nuclear weapons, we can better develop investigative processes to determine the existence of these weapons within local communities.

According to Williams (2005), the evidence strongly finds that Al Qaeda has successfully procured a number of tactical nuclear weapon systems and weapons-grade radioactive material suitable for the manufacture of a nuclear bomb or radioactive dispersion device. Williams cites valuable intelligence or statements against their penal interests derived from interviews of captured terrorists and the public statements of government officials from the former Soviet Union to support the hypothesis that Al Qaeda has purchased these WMD from Chechen rebels or the Chechen Mafia (pp. 83-85).

There are more international players. Purportedly, Dzekhar Dudayev, the leader of the Chechen rebels, told the State Department that he was willing to sell Al Qaeda tactical weapons manufactured in the former Soviet Union if the United States did not acknowledge Chechnya independence from Russia (Williams, 2005, p. 86). Williams states, "It is incredible to assume that twenty-two thousand nuclear weapons were moved from strategic sites to arsenals throughout Russia without a single loss" (p. 83).

Our readers should know that uncorroborated intelligence reports suggest that Chechen separatists sold 20 tactical nuclear weapons to Bin Laden for US \$30 million and two tons of heroin (Williams, 2005, pp. 91-92). Williams goes on to assert that Bin Laden has paid US \$60 to 100 million to nuclear scientists to maintain the operation capacity of these weapons (p. 99). In addition, Bin Laden

has established cells in the United States to simultaneously deploy these nuclear devices to create an “American Hiroshima” (p. 111).

A large body of open source intelligence suggests the reports cited by Williams (2005) are highly speculative in describing the current nuclear capabilities of Al Qaeda.

More intelligence developed from multiple sources suggests that Al Qaeda has not successfully secured “off-the-shelf” plutonium tactical weapons from the stockpiles of the former Soviet Union (Salama & Hansell, 2005, p. 621; Smith, 2005). The plethora of intelligence seems to demonstrate that Al Qaeda does not have the infrastructure or technical expertise to prevent the decay and structural breakdown of the plutonium which renders the tactical nuclear weapon useless (Salama & Hansell, 2005, p. 621; Smith, 2005, p. 272).

It is suggested by intelligence officers that Al Qaeda has purchased classified instructions and has consulted with nuclear scientists with the technical knowledge to build a crude “gun-type” nuclear device (Salama & Hansell, 2005, p. 621; Smith, 2005, p. 271). Fortunately, this type of nuclear weapon requires that Al Qaeda obtain a cannon type delivery system such as “a standard piece of military hardware like a Howitzer” (Williams, 2005, p. 102). The delivery system for the gun type nuclear device makes this weapon difficult to conceal and move to a target area. Most importantly, the evidence demonstrates that Al Qaeda and its affiliated terrorist organization do not have the resources or technical ability to produce an implosion type nuclear device (Bunn et al., 2003, p. 10). Most experts in the field agree that the implosion nuclear weapon is better suited for tactical nuclear attacks than the gun nuclear weapon.

As more intelligence data seems to indicate, the primary obstacle facing Al Qaeda is their inability to purchase or produce weapons-grade fissile material (Salama & Hansell, 2005, p. 621; Smith, 2005, p. 272). It is common knowledge among terrorism analysts that Al Qaeda has failed to obtain fissile material from existing nuclear stockpiles in Russia or from other nuclear countries such as Pakistan (Smith, 2005, p. 272).

These findings are corroborated by the CIA and Department of Energy’s nuclear collection program in Afghanistan. This joint search program did not locate or detect the presence of any weapons-grade radioactive material in select Al Qaeda-controlled locations throughout the country (Smith, 2005, p. 272). In addition, no evidence was collected to substantiate prior intelligence reports that Al Qaeda obtained enriched uranium rods from Russian stockpiles (Salama & Hansell, 2005, p. 620).

## **Radioactive Dispersions Devices: The Dirty Bomb**

Moving along, Bin Laden has aggressively pursued the procurement of radioactive materials for the construction of a radioactive dispersion bomb.

Creditable information indicates that two factors prevent Al Qaeda from successfully manufacturing this weapon: (1) Al Qaeda operatives have not been able to purchase or steal weapons-grade radioactive material; and (2) Al Qaeda

does not have the infrastructure or technical expertise to control the decay of isotopes which cause the fissile material to lose its radioactivity (Salama & Hansell, 2005, p. 640). One of the problems with the dirty bomb is that relatively few isotopes have the “short half-life” to produce enough radiation to cause mass civilian casualties (Smith, 2005).

Creditable sources suggest Al Qaeda has actively pursued obtaining nuclear waste from industrial, medical, and agricultural sources for a radioactive dispersion device (Bunn et al., 2003, p. 17). A radioactive dispersion device containing nuclear waste would not cause mass casualties; however, if deployed in a major metropolitan area this weapon would cause “terror and mass disruption” (Smith, 2005, p. 272). Regardless, if fear is the intent, it may be accomplished by these means. Overall, the mass confusion would likely result in public panic along with some types of unintended injuries; however, mass casualties are not likely.

According to Bunn et al. (2003), “A dirty bomb would be more a weapon of mass disruption than a weapon of mass destruction, designed to sow panic and chaos. By forcing the evacuation of many blocks of a city, it could potentially cause billions of dollars in economic disruption and billions more in cleanup costs” (p. 17). Terrorism experts have concluded that there is a much higher probability of a “dirty bomb” attack by Al Qaeda than a terrorist nuclear weapon attack in the United States (Bunn et al., 2003).

## **Biological Weapons**

According to Salama and Hansell (2005), “Biological weapons are considered the least complicated and easiest to manufacture from [sic] all weapons of mass destruction. All the information concerning the production of these weapons is readily available in academic books, scholarly publications and even on the internet” (p. 631).

Information developed after the invasion of Afghanistan documented that Al Qaeda’s biological weapons program was more advanced than pre-war intelligence suggested (Smith, 2005, p. 269). Al Qaeda-controlled laboratory sites contained specialized equipment that indicated that these locations were operated by individuals with advanced training in the production of biological weapons (p. 269).

After reviewing the data, these weapons experts suggest that Al Qaeda successfully produced basic precursor biological cultures which can be used for the production of toxic biological agents. They do have concerns about transporting these articles for transfer because these enterprises require additional resources and some level of competency in understanding the methods by which these items would be utilized.

As an example, investigators found that Al Qaeda successfully produced very small quantities of Botulinum toxin (CIA, 2003). Also, investigators detected trace amount of anthrax bacteria at suspected Al Qaeda-controlled sites in Afghanistan (Salama & Hansell, 2005).

However, Al Qaeda has not been able to weaponize biological agents in amounts suitable for a large-scale WMD type attack (CIA, 2003; Smith, 2005). According to



most reports, Al Qaeda does not have the technical expertise or the infrastructure to deploy biological weapons over a large target area (CIA, 2003; Smith, 2005).

It has been suggested among experts that Al Qaeda's biological weapons program is capable of small-scale poisonings in confined target areas (CIA, 2003; Salama & Hansell, 2005). In this capacity, biological weapons can be used for covert assassination-type attacks.

The international intelligence community asserts that Al Qaeda has not successfully obtained weaponized anthrax bacteria or Ricin from Russian stockpiles (Khalid, 1999; Salama & Hansell, 2005). Further, reports indicating that Al Qaeda has obtained Ebola virus and salmonella bacteria have not been corroborated by intelligence sources (Khalid, 1999; Salama & Hansell, 2005).

## **Chemical Weapons**

It is suggested that Al Qaeda has an interest in chemical weapons. A body of reliable data suggests that Al Qaeda does not have the operational capacity to launch a mass attack using advanced chemical agents (Tucker, 2006). Al Qaeda has not successfully developed the infrastructure or developed the technical expertise to mass produce or stabilize chemical agents for weaponization (CIA, 2003; Tucker, 2006).

We continue to find intelligence, developed during Operation Enduring Freedom, that demonstrates that Al Qaeda had produced very small quantities of "World War I" vintage cyanide compounds (CIA, 2003; Salama & Hansell, 2005; Smith, 2005). However, the cyanide produced by the Al Qaeda operatives was not sufficient for a WMD type attack.

The well-publicized videotapes of the cyanide experiments on dogs were conducted by Al Qaeda to assess the effectiveness of hydrogen cyanide gas in a closed environment. The purpose of these crude experiments was intended to test the cyanide gas for a possible terrorist attack in an enclosed target area such as in government buildings or transportation hubs (Salama & Hansell, 2005).

Investigators uncovered samples of a precursor chemical used in the manufacture of mustard agents (CIA, 2003). The syntheses of mustard agents do not require a high level of technical expertise, and instructions for its manufacture are available in the public domain.

During the same review, investigators discovered evidence suggesting that Al Qaeda was testing toxic industrial chemicals like chlorine and organophosphate pesticides as possible agents for a chemical WMD. These industrial chemicals can affect the human nervous system in much the same manner as mustard gas (CIA, 2003).

## **Al Qaeda, Iran, and Hezbollah: The Strength of the Operational Relationship**

The operational relationship between Al Qaeda, Iran, and Hezbollah is unstable due to the following two factors: (1) the historic conflict between the Sunni and Shia

Muslim communities regarding Sharia law and the succession of leadership in Islam; and (2) the relationship between Al Qaeda and the Taliban regime in Afghanistan (Hastert, 2007; Noakes, 1991). Each of these factors is discussed in more detail below.

### **Sharia Law and Leadership of the Nation of Islam**

Muslim scholars point to the long religious conflict between the Sunni (Al Qaeda) and Shia (Iran and Hezbollah) Muslim communities as preventing long-term operational relationships (Noakes, 1991). Muslim scholars identify the differences between the Sunni and Shia interpretations of Sharia law.

Sharia law governs all aspects of Muslim life such as social behavior, sexuality, economic codes of behavior, and the role of political institutions in Islam (Noakes, 1991). According to Sorli, Gleditsch, and Strand (2005), “Muslims vary in their rigidity of adherence to Islamic teaching, in the same way as Muslim states vary in application of Sharia Law” (p. 147).

The succession of leadership in Islam is another area of historical conflict. This conflict started after the death of the Prophet Muhammad (Noakes, 1991). Shia Muslims believe that the Prophet Muhammad selected the Caliph to be Ali, while the Sunni Muslims believe that the Caliph should be selected by the consensus of the Muslim community (p. 24).

During the decade of the 1990s, Hassan al Turabi, the leader of Sudan, persuaded the Hezbollah and Al Qaeda to temporarily put these difference aside and join together to fight the jihad against the United States and Israel (Hastert, 2007, p. 328). It was during this period of time that Al Qaeda learned advanced bombing techniques from Hezbollah operatives (Hastert, 2007; Williams, 2005). Also, Al Qaeda operatives received additional tactical training in Iran and Lebanon (Hastert, 2007, p. 328).

### **Al Qaeda and the Taliban**

Being able to conceptualize and distinguish the various actors and constellation of characteristics engaged in the business of terrorism is important to any investigator. Al Qaeda aligned itself with the Taliban regime so Bin Laden could use the country of Afghanistan as an operations base for terrorist activities and to coordinate terrorist training camps and drug trafficking activities (Hastert, 2007).

Early on, Iran was aligned against the Taliban and provided support to the Northern Alliance during the civil war in Afghanistan. Further, Al Qaeda provided training to the Mujahedeen-e-Khaq (MEK) in western Afghanistan to enhance their terrorist activities against the Iranian government (Hastert, 2007).

During the invasion of Afghanistan, the Iranian government arrested Al Qaeda operatives as they fled across the border of Western Afghanistan into Iran (Bowers, 2003; Hastert, 2007). The Iranian government has advised the international community that they are holding the Al Qaeda operatives under house arrest (Bowers, 2003). As a result, terrorism experts still believe that the Iranians are holding the Al Qaeda operatives as a “bargaining chip” to prevent the continued support of the United States for the MEK and prevent an invasion of Iran (Hastert, 2007, pp. 333-334).

If a conflict were to be present, Iran may be willing to turn over some high-level Al Qaeda operatives to a friendly country like Saudi Arabia if the U.S. complied with their demands (Bowers, 2003; Hastert, 2007, pp. 333-334). The relationship between Al Qaeda, Iran, and Hezbollah cooled when Al Qaeda relocated its base of operations to Afghanistan.

## Conclusion

As new information is uncovered, we find creative opportunities for law enforcement officials at all levels to gather valuable information and develop more insight and action plans into the shadowy network of these insurgency cartels. The most successful tool we have is our own critical thinking skills and the ability to learn to become proactive and to encourage staff to become lifelong learners, developing strategic enforcement intelligence plans to act swiftly.

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# Community Policing During Times of Sectarian or Ethnic Conflict

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## Introduction

A generally held tenet throughout the world today is that public security is heavily dependent on the community's economical and social stability. Communities with a long history of stability are more likely to have a successful economy and a greater chance for success than in unstable or chaotic environments. Those communities divided by sectarian or ethnic strife invariably have difficulties developing economically, allowing for underground black markets and criminal enterprises, including corrupt officials. The major question here is how to provide public safety within marginal communities so that the private sector can reestablish itself and thrive without the heavy reliance on private security and/or the militias.

It must be noted that military police or foreign occupational forces seldom provide long-term answers or solutions to the economical growth of a community even if they provide an enforced sense of security. Indeed, these interventions may prove to be a detriment to a community's economical growth. Exceptions include communities that host permanent military installations that have become an integral part of the local economy. In these situations, the military police often operated under a special jurisdictional mandate like those established in Hawaii and Okinawa. The challenge to the community's economical growth and stability is to reinvent a viable community police force—one that adheres to the tenets of community policing and is inclusive of all ethnic/religious segments of the overall society. Ideally, multi-ethnic police forces are designed to provide public safety for public and private interests while respecting the rights of all composite groups. Discrimination against segments of the community needs to be curtailed.

## Yugoslavia: A Portrait of Ethnic Conflict and the Challenges of Community Policing

Such multi-ethnic police forces are feasible under certain autocratic regimes such as that which existed under Marshall Tito in the former Yugoslavia. Marshall Tito forged a multi-ethnic police department, one that survived until his death and the disintegration of the former Yugoslavia. Under Tito, Albanians, Serbs, Croats, Bosniaks, Slovenians, and Macedonians all worked together as a unified national police unit. For this system to work, nationalism had to transcend regional ethnicity. Under Marshall Tito, it was more important to be a good Yugoslav than to be a good Serb, Bosniak, Albanian, Orthodox, Muslim, or Catholic (Simonov, personal communication, May 2009). Muslim, Catholic, and Orthodox police officers worked together without any apparent difficulty. The ensuing conflict associated with the breakup of the former Yugoslavia resulted in one of the most devastating human rights violations in the name of *ethnic cleansing* since the end of the Second World War. Slovenia made a clean break, avoiding major military involvement, mainly due

to the fact that the Slovene ethnic group represented a culturally and linguistically advanced people who differed from the Slavonic-speaking populations occupying most of the rest of the former provinces. Trouble began when Croatia and Bosnia & Herzegovina decided to break away as well. These events led to a devastating civil war that was not resolved until the 1995 Dayton Accord.

The ensuing struggle was best illustrated by the nearly three-year siege of Sarajevo that lasted from 1992 until the Dayton Accord agreement in 1995. The attempts to carve out a *Greater Serbia* from the remnants of the former Yugoslavia involved ethnic cleansing and massacres, with atrocities attributed to all parties. This heated confrontation encompassed mainly Croatia, Bosnia & Herzegovina, and Serbia, with Montenegro, Macedonia, and Slovenia spared. A critical outcome of this struggle was the seeming ineptitude of the United Nations peacekeepers in curtailing the extent of the damages. This was the largest UN peacekeeping force since the Korean Conflict of the early 1950s. Unlike Korea, the United Nations Protective Force (UNPROFOR) was mandated to primarily protect the civilian populations of Croatia, Bosnia & Herzegovina, and Serbia. The UNPROFOR was unable to prevent the massive ethnic displacement that occurred during this conflict. Of these breakaway states, Serbia had the largest population with over six million, followed by Bosnia & Herzegovina with nearly two million. Bosnia & Herzegovina became the focus of this ethnic strife due to its complex population distribution, which consisted of about 40% of the population being Muslim (Bosniaks), 31% Bosnian Serb, and 15% Croat Catholics, with Protestants, Jews, and Other (Roma) comprising the remaining subcultures.

Izetbegovic, the leader of the Bosniaks, was pitched against the forces of Karadic, the leader of the Bosnian Serbs, an associate of Milosevic, the leader of Serbia. Milosevic was seen as the architect of the Greater Serbia and the driving force in carving a sizeable nation out of Bosnia & Herzegovina and Serbia as well as Montenegro and Kosovo. Toward this end, the siege of Sarajevo and the role of UNPROFOR became part of Milosevic's ethnic cleansing master plan. While no serious efforts were made to capture and occupy Sarajevo (the airport remained open, albeit with sporadic closures, during the three-year siege), increased bombardment and sniper fire was used as a smoke screen for other actions elsewhere in Bosnia & Herzegovina, helping the Bosnian Serbs ethnically cleanse and consolidate territory ostensibly designed for a Greater Serbia under Milosevic's leadership. The ineptitude of the UN peacekeepers aided in this process until they were finally forced to apply substantial air power and artillery bombardments on the Bosnian Serbs' holdings surrounding Sarajevo in 1995. Karadic's refusal to adhere to UN-sponsored cease fire agreements resulted in greater UN attacks not only on his Bosnian Serb forces but on those of Milosevic in neighboring Serbia as well. This resulted in a split between Karadic and Milosevic, while at the same time, the Croat forces were joining Izetbegovic's Bosniak forces—a combination of forces ultimately leading to all parties agreeing to the terms of the Dayton Accord. Nonetheless, the siege of Sarajevo resulted in the partition of Bosnia & Herzegovina, which was sanctioned by the Dayton Accord. This split continues today, with the Bosnian Serbs holding about half of the country called *Republic Srpska* with its *de facto* capital being Banja Luka. Moreover, the predominantly Albanian/Muslim Kosovo broke away from Serbia, declaring its independence on February 17, 2008. The disintegrated former Yugoslavia continues to have outside peacekeeping forces (i.e., the UN, NATO, and the European Union) to enforce any

sense of stability, but this experiment can hardly be considered *community policing* by any means (Burg & Shoup, 1999; MacKenzie, 1993; Rose, 1998).

The European Union is in hopes that the success once in place under Marshall Tito can again be instituted in the various breakaway states, notably Bosnia & Herzegovina, Serbia, and Kosovo, under representative democratic governments. Indeed, this is a significant condition for eventual membership in the EU. The EU sees multicultural and multireligious stability as a precursor to economic development and social stability. Again, the vehicle for successful multi-ethnic and multireligious security is community policing. A review of the evolution of community policing will be provided below before discussing issues currently facing communities with multi-ethnic and multireligious difficulties.

## **The Evolution of Civilian Community Policing in the United States**

During the 1960s and 1970s, the United States experienced decades of turmoil, violence, and chaos that resulted in changes in the police and society. The police of the 1960s and 1970s were placed under more scrutiny than police in any other decade before or since, and the police officers of later generations have reaped the benefits. America may owe the concept of community policing to these decades of American police being evaluated and analyzed by various governmental commissions that generally found fault with police procedures and behavior. Credit should also be given to police managers who were progressive thinkers, willing to experiment with new strategies of policing. Various experimental strategies of policing instituted prior to community policing may have contributed to the community policing philosophy implemented in the latter part of the 20th century (Palmiotto, 2000).

In the 1960s and 1970s, the police were deeply involved in controlling disturbances and riots not only by minorities, concerned about Civil Rights, but also by university and college students, predominantly white and middle class, who were concerned with the Vietnam War. Civil Rights and Vietnam confrontations also occurred between the police and entertainment celebrities, business leaders, professionals, and average citizens. The police during these decades were severely criticized for their handling of public demonstrations as well as for their poor relations with minority communities (Palmiotto, 2000).

The 1967 President's Commission report, *The Challenge of Crime in a Free Society*, contained numerous recommendations for improving policing. Many of these recommendations were initiated—for example, employing more minorities and women to perform similar tasks as men. In 1972, the National Advisory Commission in their *Report on Police* developed several standards that police managers and community police supporters can incorporate into community policing. These standards, which include the following, encourage a police-community partnership to control crime:

- Local definition of police function
- Accountability to the public
- Communication with the public
- Public understanding of the police role
- Developing community resources
- Crime prevention



- Public-police workshops and seminars
- Responding to personnel complaints (p. 5)

The police did react to the negative publicity and public criticisms they received from politicians, government officials, minorities, and anti-war protestors. Police officials developed the concept of police-community relations as a strategy to open communications between the community and the police. The objective of police-community relations was for the “community and the police to discover common problems, ambitions, and responsibilities and to work together toward the solutions of community problems and positive community programs” (International City Managers’ Association, 1967, p. 3).

During the 1970s, the concept of *team policing* was established in many mid-size and big cities. The goal of team policing was to overcome the isolation of the police from the community under the traditional or reactive policing in use during this time. It was hoped that team policing would facilitate crime control (National Advisory Commission, 1973, pp. 154-156). The concept of team policing would have police generalists and specialists working together who could be permanently assigned to a specific neighborhood and who would have the responsibility for all police services for the area. The Police Foundation found that police departments that had implemented team policing were interested in improving three basic elements: (1) geographical stability of patrol; (2) maximum interaction among team members, including close internal communication among all officers assigned to an area during a 24-hour period, seven days a week; and (3) maximum communication among team members among the community (Sherman, Milton, & Kelly, 1973, pp. 3-5).

The concept of team policing is being incorporated into community policing and it definitely fits into a multicultural and multireligious community police agency. Team policing forces interaction between team members and the community, and with a multicultural and multireligious community, a multicultural force is needed for stability.

Community policing has as its goal to get the police closer with the public. Police departments in large cities like New York City, Chicago, and Philadelphia have divided their city into districts. More recently, many mid-sized cities, like Wichita, Kansas, have established district stations as well. Some cities have gone further and established mini-stations or substations to cover a smaller geographical area than a district such as a mall, public housing complex, or business area (Palmiotto, 2000, p. 139).

In the mid-1970s, the Detroit Police Department established mini-stations under a grant from the Law Enforcement Assistance Administration. The city installed 52 mini-stations, with each police precinct having a minimum of three mini-stations. The Detroit Police Department considered each mini-station to be a neighborhood police station and, thus, it was staffed 24 hours a day. The police officer permanently assigned to the mini-station was not required to respond to service calls or to patrol an assigned beat. Neighborhood mini-stations encouraged walk-in calls for police service and the filing of crime reports (Skolnick & Bayley, 1986, pp. 53-57).

The concept of district stations along with mini-stations with their goal to develop police interaction with the community fits into the community-oriented policing concept. As a concept, community policing wants to integrate police interaction with the various cultures with which they will come in contact. In a multicultural

environment, a mini-station could serve as a tool to develop interaction among the various cultures living together. It would also force the police to come into contact with cultures that differ from their own.

A concept important to community policing is *problem-oriented policing*. It might even be said that problem-oriented policing, often referred to as POP, is the foundation of community policing. Problem-oriented policing encourages all members of the police department to engage in problem solving (Eck & Spelman, 1985, p. 5). The 1970s saw the emergence of problem-oriented policing. It grew out of the dissatisfaction with police under the professional (traditional) model. The professional model was reactive, with police responding to service calls telephoned in by citizens. The characteristics of the professional model were characterized by a centralized police structure, top-down transmissions of orders, a mission of crime fighting, a code of secrecy, adherence to written policies and procedures, close supervision of patrol officers, and separation of the police from citizens. Unlike the professional model of policing, which is reactive in responding to citizens' calls, the goal of problem-oriented policing is to solve the problem. Too often, police respond to the same incident over and over again. Under the problem-oriented policing concept, the police would attempt to solve the problem. The model often used by police to solve problems is referred to as SARA. Eck and Spelman (1988), who coined the acronym SARA, have outlined four stages of problem solving:

1. *Scanning* – Identify the problem.
2. *Analysis* – Learn the problem's causes, scope, and effects.
3. *Response* – Act to alleviate the problem.
4. *Assessment* – Determine whether the response worked. (p. 44)

Police departments that have committed to problem solving are on the road to implanting community policing. A working definition that seems to fit community policing is "Community policing is a management strategy that promotes the joint responsibilities of citizens and police for community safety, through working partnerships and interpersonal contacts (Stipak, Immer, & Clavadetscher, 1994, p. 115). Lee Brown (1989), the former police chief of Houston, Texas, and Atlanta, Georgia, concluded that there are some common elements to all community policing approaches. In "Community Policing: A Practical Guide for Police Officials," Lee outlined these elements:

- A problem-solving, results-oriented approach to law enforcement
- Accountability of the police to each neighborhood
- Decentralization of authority
- Police-community partnership and sharing of power
- Beat boundaries that correspond to neighborhood boundaries
- Permanent assignment of patrol officers
- Empowerment of patrol officers to show initiative
- Coordinating of investigations at both neighborhood and citywide levels
- New roles for supervisors and managers as supporters of patrol rather than evaluators of patrol officers
- Changes in the content of training at all levels
- New systems of performance evaluation, placing much less emphasis on "production" of qualified activities
- New approaches to "demand management," the response of the agency for service (pp. 5-6)

The Bureau of Justice Assistance (1994) in their monograph, *Understanding Community Policing: A Framework for Action*, indicated that community policing has three benefits: (1) effectiveness, (2) efficiency, and (3) equity (pp. 45-51). The monograph claims that effective community policing will reduce neighborhood crime. Also, citizen satisfaction is an important tool to measure effectiveness. Community partnerships are important to police effectiveness. The solving of problems as to type and number along with police-community efforts to reduce crime are important elements to measure the effectiveness of community policing. What community policing is not is as important as what community policing is. Community policing is not a technique, not public relations, not anti-technology, not soft on crime, not flamboyant, not paternalistic, not an independent entity within the department, not cosmetic, not a top-down approach, and not just another name for social work (Trojanowicz & Bucqueroux, 1990, pp. 20-27).

How the police use their resources measures the efficiency of the police. For a police department to be efficient, they must develop community partnerships and collaborative efforts with the community. Problem-solving, decisionmaking, and accountability must be decentralized and spread throughout the police department. Efficiency should be built into each aspect of community policing. Effectiveness and efficiency are yardsticks by which to measure community policing's accomplishments, but equity has the greatest impact on the success of community policing (Bureau of Justice Administration, 1994, pp. 47-49).

Community policing emphasizes integrity, standards of fairness, and equality when working with the community. Equality means all citizens have equal access to police services, equal treatment of all citizens, and equal distribution of police resources (Bureau of Justice Administration, 1994, p. 50).

Throughout the world, community policing is being challenged in ethnically divided regions. The promise that community policing offers has not been fully realized in the United States or throughout most of the world. The economical recession, which has been in effect since 2008, has forced cities with a multicultural population to decrease community policing initiatives. Cities such as Houston, Texas, and New York City with their multi-ethnic communities can ill afford to have a decreased commitment to community policing.

Another issue that counteracts the philosophy of community policing occurs when federal funds for community-oriented policing are used to improve technology, including assault rifles and large caliber pistols for SWAT teams, often under the name of "Homeland Security." It must be recognized that SWAT teams employed in drug arrests create a negative reaction toward community policing, tending to increase alienation by the ethnic cultures of our communities. Generally, the failure of community policing to function successfully can be contributed to one or more of the following: poor planning, mission ambiguity, hazard implementation, lack of viable personnel evaluation, and corruption. For community policing to be successful in any environment, the previous reasons for failure must be addressed. A police department desiring to put in play community policing must plan, have a clear mission, and must not implement community policing without thinking through an implementation strategy. In addition, they must have in place an evaluation plan of personnel and programs. A major issue that must be confronted is corruption. Community policing will never obtain the cooperation or trust of the community if the police are dishonorable.

Any police department that wants to implement community policing and gain the trust and cooperation of the people within their community must show equitable responsiveness to community problems and develop viable interaction protocols relevant to civil disorders as well as to serious crimes and must minimize low-grade offenses often associated with ethnic cultures or minorities. The philosophy of community policing emphasizes that the police cooperate with all ethnic and minority groups within their community. Under the community policing philosophy, the police must identify community concerns, solicit support and cooperation from all segments of the community, and work to solve community problems without antagonizing any segment of the community. In countries where outside police forces may be utilized, such as the United Nations or European Union, a community standard of control needs to be put into place. An example of an outside police force is the U.S. military police.

## The U.S. Military Police Model

Since 1948, the U.S. Military has been integrated, and this mix was reflected in the joint military police forces. Integrated police forces in the United States did not become effective in many parts of America, specifically the South, until the turbulent 1960s and the passage of the Civil Rights laws in 1964 and 1968. Even before then, President Eisenhower federalized the National Guard in the late 1950s to provide protection for blacks integrating into former all-white southern public schools. Interestingly, the main force of opposition and violence toward blacks at this time was from the local law enforcement agencies. Today, this concept of training the National Guard to act in a law enforcement capacity is seen in Iraq and Afghanistan as well as along the U.S./Mexico border in the ongoing *War on Terrorism*.

Following the Second World War and the establishment of permanent international military consortiums such as NATO, the United States had to provide its own police forces in order to maintain law and order among its troops deployed both at home and abroad. These forces have been instrumental in maintaining security in the former Yugoslavia and in Northern Ireland with mixed results (Burg & Shoup, 1999; Weitzer, 1995). However, these are considered to be temporary solutions until local autonomy can be established with protection for all community members. The exception is the establishment of permanent and/or semi-permanent military police forces.

Toward this end, a number of military police forces emerged designed to police military personnel both in bases and in surrounding communities, doing so under the authority of a provost marshal. The U.S. Army has the Military Police Corps, while the U.S. Air Force has its Security Police and the Navy, Marine Corps, and Coast Guard are served by the Shore Patrol. The Shore Patrol was initially designed as an *ad hoc* law enforcement force deployed when ships docked at domestic and foreign ports. Due to this unique circumstance, law and order, including the operation of a brig, is the responsibility of each separate command. The largest of these military police forces is the Army's Military Police Corps; they are the main law enforcement entity for the Department of Defense and manage prisoners of war (POWs) and other confinement facilities during times of conflict, including the current War on Terrorism being conducted in Iraq and Afghanistan. When other military elements are also deployed (e.g., Marines and Air Force), the Military Police Corps holds primary jurisdiction, including jurisdiction over federalized National Guard service personnel serving as "military police." Nonetheless, joint military police forces emerged in communities where there is a large, mixed

military presence such as Hawaii and Okinawa. These combined military law enforcement units include service personnel from all the participating services.

In Hawaii and Okinawa (the largest U.S. military force in Japan), this includes personnel from the Army, Air Force, Navy, and the Marines. Hawaiian Armed Forces Police (HAFP) operates in a multi-ethnic environment compounded by both permanent and transitory military personnel. Sensitivity to various cultural orientations, including military subcultures, has been a crucial part of HAFP training since its inception in 1948. Hawaii has one of the most diverse mixes of cultures in the United States, with representation from many of the Southeast Asian nations as well as from Polynesia. Add to this mix the integrated U.S. military forces from all branches and the multi-ethnic, multicultural mix becomes more complex. Until statehood in 1959, territorial laws and customs provided security to the various ethnic enclaves in Hawaii. The main central police force often was HAFP. In this sense, HAFP trained its forces to become aware of the various subcultures operating within their jurisdiction, including the various military subcultures—Navy, Marines, Army, Air Force, and the Coast Guard. Clearly, HAFP was one of the first to practice community policing in the United States.

The Ryukyu Armed Forces Police (RAFP), on the other hand, began with the U.S. military occupation as an effort to better police the large military contingency on the island. The RAFP was the main police force on Okinawa during the U.S. Administration from 1945 to 1972 when the islands were returned to Japan. Okinawa was administered by a U.S. Army Lieutenant General who held the title of *Governor General* during these 27 years of occupation. The complexities at this time included indigenous islanders who were fighting for a separate nation much like in Vietnam. In order to keep the peace, the main island of Okinawa was partitioned into zones A, B, and C. U.S. service personnel were restricted to the zones surrounding the military bases and the corresponding liberty (bar) zones. Here, the RAFP held sway. Local police operated in the local districts, serving only the indigenous Ryukyuan population. Even then, the RAFP held original jurisdiction and could enter any segment of the partitioned island. Toward this end, the joint U.S. military police had to be cognizant of local cultures and customs—a lesson shared with the HAFP. The RAFP continued to police the numerous military bases following the return of Okinawa to Japan, while the Japanese civilian police took over local community policing. The Japanese now holds original jurisdiction over criminal offenses committed by both locals and U.S. personnel off-base. This is similar to the conditions now existing in Iraq. Military personnel and private contractors, including private security police, are no longer exempt from arrests and adjudication by local authorities.

While HAFP and RAFP were early successes, currently there are challenges, including in regard to U.S. police efforts in Iraq and Afghanistan where law enforcement does not transcend sectarian conflict, Pakistani law enforcement in the Swat Valley, and other tribal areas in the Federally Administered Tribal Areas (FATA). Another current sectarian-ethnic challenge is the joint police efforts in Northern Ireland. Renaming the Royal Ulster Constabulary the “Police Service of Northern Ireland” (PSNI) does not in itself obviate the deep-rooted Protestant-Catholic hostilities in the area. However, the PSNI does make attempts to reduce the prevalence of discrimination by having a 50-50 ethnic-religious equation on their force.

## The Challenge of Community Policing in Tribal Areas

A major challenge to the worldwide War on Terrorism as well as the illicit drug trade is security control over hard-to-govern indigenous tribal regions throughout the world, especially those which transcend international borders. One of the most prominent regions today in the War on Terrorism is the Federally Administered Tribal Area (FATA) in the region of Pakistan that transcends the border region with Afghanistan. The challenge for the dominant society is how to maintain security within these regions while, at the same time, allowing for a degree of ethnic and cultural autonomy. Another mitigating factor is the fact that often these ethnic tribes transcend international boundaries as is the case with the Pashtun tribes. Indeed, this transnational region of Pakistan and Afghanistan is often referred to as *Pashtunistan* with a population of some 41 million. The current multinational war against the Taliban and Al Qaeda in Afghanistan, led by U.S. military forces, has spread into the FATA region of Pakistan as well. Until recently, the porous border region was used by the Pashtun-dominant Taliban forces to escape military retaliation by U.S.-backed forces in Afghanistan. Part of this problem was the Pakistan government's reliance of tribal groups to police themselves according to their traditional religious and ethnic customs. This option backfired in the FATA region, and as soon as the federal security presence left the region, the tribal leaders radicalized the region under their control while attempting to extend their conservative form of Islamic justice to adjacent regions of Pakistan, resulting in the displacement of millions of local residents (Aslam, 2008; De Juan, 2008; Gunaratna & Nielsen, 2008). This process was curtailed only with massive military intervention by the Pakistan military (Harrison, 2009).

Part of this problem extends to the British colonial era of providing local autonomy to indigenous peoples within the Empire. This practice was transferred to the government of the newly created state of Pakistan with its independence in 1947. Ideally, this agreement allowed for local tribes to provide their own form of security based on traditional rites and customs. Under this agreement, the FATA emerged, which was made up of six frontier regions, including Waziristan. Under the original British system, a Raj would be in charge of providing security to the tribal region under the Frontier Crime Regulation. Under Pakistan control, local tribesmen were given the right to vote under the Political Parties Act of 1997. The international War on Terrorism and the U.S. attack on Al Qaeda and the Taliban in Afghanistan effectively ended these autonomous tribal relations, replacing them with a greater federal security presence and a greater adherence to the larger dominant societal norms.

In reformulating their control over volatile tribal regions, Pakistan could learn a lot from the U.S. tribal model. The United States fought its *Indian wars* from the beginning of the Republic until the late 19th century, with occasional flare-ups in the 20th century, notably *Wounded Knee II* in the 1970s. Much can be learned from the process of tribal control in the United States in providing a model for the current tribal unrest in areas such as Pakistan and Afghanistan. The U.S. model stems from the same British colonial model that was developed to administer the tribal regions in Pakistan.

During the European colonial era of the 16th to the 19th centuries, European international agreements dictated that indigenous peoples in conquered lands were entitled to sovereignty and property rights. In the newly emerging United States, the Jay Treaty of 1794 (Treaty of London) articulated the rights of indigenous peoples to freely cross the international U.S./Canadian (British) border by land or water. This right was not

altered during the United States' last conflict with Great Britain—the War of 1812—which ended with the Treaty of Ghent. Later, the U.S. assigned Indian tribes the status of *dependent sovereign nations* under federal supervision and protection. This modified version of the Colonial Era agreement was the result of two significant U.S. Supreme Court decisions: *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832). More problematic was consideration for the Indian tribes transcending the U.S./Mexico border. Both the 1848 *Treaty of Guadalupe Hidalgo* and the 1854 *Gadsden Purchase* left this issue mostly unresolved until the 1880s when the U.S. Congress determined that federal law took precedence over tribal customs (French & Manzanarez, 2004). Federal control within federally recognized tribes (*Indian Country*) came with passage of the *Major Crimes Act* (1885), giving federal courts and law enforcement original jurisdiction for all felony crimes. The major crimes were serious crimes committed on reservations—what later became known as the *FBI's Index Crimes*. The Federal Bureau of Investigation (FBI) has policed these offenses since its creation early in the 20th century.

Prior to the establishment of the FBI, other federal law enforcement officers, notably the U.S. Marshalls and the U.S. Army, policed Indian Country. Tribal police and courts have jurisdictions over misdemeanor and tribal ordinances, while some state and county police agencies have some criminal and civil jurisdiction in what are commonly known as Public Law 280 states (*Tribal Court Clearinghouse*, Public Law 83-280, 1953). During the Eisenhower Administration in the 1950s, certain states were unilaterally awarded the responsibility of policing tribes that resided within their boundaries. This did not obviate the ultimate authority of the FBI or other federal law enforcement agencies within these jurisdictions. This arrangement was not well-received in Indian Country, and no new states were subsequently added to the Public Law 280 list. Part of the problem was that local Indian police personnel needed to be deputized with the on-reservation white police agencies, mainly the country sheriff's department. These arrangements were and continue to be viewed by the indigenous tribal members as counterproductive to effective community policing (French, 2003, 2007).

Nonetheless, federal jurisdiction remains paramount in Indian Country, making policing these areas easier than in many other countries. Canada has a similar model with the Royal Canadian Mounted Police (RCMP), with the exception of totally autonomous native lands that do not provide any threat to Canada. Even rigorous attempts to regulate immigration during the War on Terrorism have not altered the rights of American Indians to cross international borders to visit their counterparts residing in either Canada or Mexico. However, the U.S. military holds the right to conduct military operations in Indian Country whenever it is deemed necessary. Hence, community policing in Indian Country in the U.S. is restricted to minor infractions, but it appears sufficient to maintain a semblance of local autonomy and the protection of local rituals and customs.

## Conclusion

Community policing has been relatively successful in developed countries throughout the world. A policing issue of current concern deals with sectarian and ethnic conflicts. This paper emphasizes that there must be trust and confidence in the police if community policing is to be successful. The use of SCAT units or other strike forces only tears down support and confidence in the police. A strike force drives fear into the community and leads to disdain toward the police. Claiming that these strike forces are being used under the Homeland Security umbrella does not justify the use of strike forces on innocent communities.

In the current decade and historically, there is and has been sectarian and ethnic conflict. Countries that have sectarian and ethnic conflict can be found throughout the world. This paper discusses the sectarian and ethnic conflicts in Serbia, Bosnia & Herzegovina, Kosovo, and in the tribal areas of Pakistan. Successful examples of sectarian and ethnic policing by the U.S. military have been seen in Hawaii and Japan. Marshall Tito also had success in a sectarian and ethnic country, but this was under a dictatorship.

Community policing as a philosophy can provide a fair and just police service in a sectarian and ethnic society. The concept of community policing is challenged when being attempted in a sectarian and ethnic environment. For community policing to be successful, an implementation plan must be developed for the police department to gain community support to build partnerships with the sectarian and ethnic communities.

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# El Al Airline Passenger Profiling Revealed

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## Introduction

During the summer of 1988, I was hired by American Airlines and sent to their headquarters in Dallas, Texas, for about two weeks of training in international security procedures. At the time, American operated a non-stop flight from Raleigh/Durham, North Carolina, to Paris, France, that has since been discontinued. Many of the agents who worked in security for American at the time had no previous formal training in international security. For example, I was hired to speak French fluently. American paid \$5.77 per hour, not much more than minimum wage at the time. I was trained in these procedures by ICTS, the same company that trains El Al, the Israeli airline ([www.icts-int.com](http://www.icts-int.com)).

The Commission on Aviation Security and Terrorism investigated the Pan Am 103 disaster and found “[t]he U.S. civil aviation security system” to be “seriously flawed,” that the FAA is a “reactive agency,” and that Pan Am 103 was preventable (Wallis, 1993, p. 33). In the past 15 years, airport security has changed dramatically, but remains seriously flawed. A 2003 Airport Security Report showed a total of 322 breaches in airport security in the United States (Woodruff, Crowley, Meserve, & Schneider, 2004). According to a survey conducted in Boulder, Colorado, 62% of those responding agreed that “Terrorists still could evade the stepped-up security and hijack a commercial airliner” (Sanko, 2001, p. 5A). As recently as 2006, the Department of Homeland Security and the Government Accountability Office found “screeners at 15 airports missed 90 percent of the explosives and guns agents tried to sneak past checkpoints” (Weaver, 2007). Recent events in Newark Airport with the Rutgers graduate student evading security and the Detroit Christmas day attack highlight these problems.

Post 9/11, Congress has passed legislation that changed security in several ways. First, the new law, *The Aviation and Transportation Security Act (ATSA)*, created the Transportation Security Administration (TSA) (Public Law 107-71) (2002). The TSA has supervised security agents; however, some airports have privatized their security since ATSA was passed. Second, cockpit doors had to be reinforced on all aircraft. Third, air marshals were hired, trained, and placed randomly on flights. These procedures have the potential to be either very effective or entirely ineffective, depending on implementation. For example, Dugan et al. (2005) found that policies that support increased security at airport checkpoints deter nonterrorist hijackings but appear to have no impact on terrorist hijackings.

The goal of this article is to introduce the security measures utilized at American Airlines in the late 1980s, which are the same procedures utilized by El Al Airlines. *These procedures are not openly discussed or available outside of this article. They have never been published before now.* The five basic elements of effective airport security include passenger and baggage screening, passenger to bag matching, aircraft and airport

searching, pre- and post-flight briefings, and continuous training of security personnel. This article discusses each of the five basic elements of effective airport security.

## Passenger Screening

*Passenger screening* (also known as *screening*) is a relative term depending on who is conducting the screening. Most would define it as the process currently utilized by airport security—screening people and/or their baggage by making them pass through metal detectors and x-ray machines. This is not screening, however, in the sense that I propose here. Passenger screening is a process designed to detect any threat to an aircraft whether it is innocent or otherwise. It is a combination of passenger questioning, x-raying passenger bags, and searching passengers and their bags when necessary.

## Passenger Questioning and The Litany

Questioning passengers consists of two components. First, there is a series of questions that every passenger must answer before boarding, which is also known as “The Litany.” Anyone who has flown overseas with American Airlines would have been asked these questions in the late 1980s and early 1990s. El Al continues to utilize similar questioning of all its passengers (O’Brien, 2001). The Litany is very simple and is one tool used by the security agent to determine whether further questioning is needed (see Table 1). It takes less than 30 seconds to administer to the average passenger. A sticker system was used to identify passengers who had been screened so that no one could get on board without going through the process. The stickers were changed randomly every day in order to prohibit anyone being able to copy the stickers and avoid the questioning process.

**Table 1. The Litany**

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I am a security agent with \_\_\_\_\_ airlines. I have to ask you some questions regarding your bags.

- Who owns all of the bags and their contents?
- Who packed the bags?
- Where did you pack the bags?
- When did you pack the bags?
- From the time you packed the bags until now, where have all the bags been?
- Have you agreed to carry anything for anyone?

We ask these questions because it has happened in the past that passengers were asked to carry an item on board that later turned out to be a bomb. We ask that from now until the time that you board the aircraft please do not accept anything from anyone and do not leave your bags out of your sight.

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The Litany can often lead to more in-depth questioning, depending upon the passenger’s responses and/or reactions to the questions. It is important that each passenger is asked these questions each and every time they fly. No one should be exempt from the questioning for any reason. For example, the Chairman of American Airlines back when American utilized this security program, Robert Crandall, would answer the questions each and every time he flew overseas. Once exceptions are allowed for any reason, then loopholes are created within the system.

## Suspicious Signs

In addition to The Litany, additional questions could be asked depending upon whether the passenger exhibited *suspicious signs*. These questions were not set

or pre-prepared. They could be different depending upon the security agent, the passenger, the supervisor in charge at the time, and the situation in general. This unpredictable component of the security program is what makes it most effective. It is impossible to anticipate what a security agent might ask, making it impossible for a terrorist to slip through the questioning process. Keeping security fluid is critical to successful risk management (Ericson, 2006).

Suspicious signs are created based on basic risk assessment or risk management techniques that are not new to law enforcement. These techniques can be applied outside of aviation security, for example, for detecting terrorist financing or border security (Amoore & Goede, 2005). Risk management “is based on prior conventions for recognition, selection, assessment, and evaluation, which, in turn, are grounded in institutions, values, interests, and ways of life” (Ericson, 2006, p. 348). Suspicious signs are based on terrorists’ conventions, institutions, values, interests, and ways of life.

Suspicious and positive signs are a type of “social sorting” commonly used in marketing. As applied to security, personal data is “extracted, combined, and extrapolated in order to create profiles,” which are, in turn, used to identify terrorists as well as safe passengers (Lyon, 2006, p. 404). Suspicious and positive signs are merely a means of classification.

Suspicious signs are numerous. They change over time depending upon current events. This also makes the program somewhat unpredictable. Table 2 lists many suspicious signs that were used at the time that American had international security; however, these signs are over 15 years old at the time of this publication. This list is also not exhaustive as the author has forgotten many over the years. The existing threat to aviation has changed and so, too, should this list. It gives a flavor, however, of what might constitute a suspicious sign.

**Table 2. Suspicious Signs**

Country Signs	Passport Signs	Ticket Signs	Traveling Signs	Behavior Signs
Country of birth*	Does not speak the language of his/her passport	Method of payment for tickets is cash	Few or no bags	Appears nervous
Country of residence*	Passenger does not match passport photograph	Method of payment for ticket in currency from certain countries*	Bags are new or never used	Does not cooperate with security agent
Issuing country of passport*	Physical description in passport does not match passenger	Country where ticket was purchased*	Travels alone	Passenger tries to avoid questioning
Countries traveled to/through*	Name on ticket does not match name on passport	Tickets purchased close to departure	Passenger traveling with large amount of cash	Makes suspicious contact with other passengers
Issuing country of visas*	Passport appears altered	One-way ticket	Traveling with no alternate ID	Makes contradictory statements

\*Suspicious countries are those countries that have either harbored terrorists, trained terrorists, defended terrorism, or supported terrorism. Examples at the time I was a security agent included Iran, Iraq, Kuwait, Afghanistan, United Arab Emirates, and Pakistan.

Passengers who possessed any of these signs in any way would be questioned by security agents. For example, if a passenger's passport was issued in Afghanistan, and this was the only suspicious sign, then the questioning would more than likely be short and not very intense. It might consist of one or two extra questions regarding the nature of the passenger's trip. So long as there are no other suspicious signs, then there may be no cause for further questioning. Passengers possessing multiple suspicious signs, however, would be questioned at length.

There is a misconception that this system of suspicious signs used to profile passengers is discriminatory. It is true that one of the signs is problematic—country of birth. This is only one of many signs that are considered when profiling passengers, however. It is not enough to warrant searching a passenger or detaining that passenger any longer than any other passenger. If all passengers of one race were singled out for that reason alone, then this would be obvious discrimination under the laws of the United States. It would also be a big waste of time as race/ethnicity is not a reliable single indicator of aircraft threats. If this were the only indicator used, then the innocent passenger unknowingly carrying a bomb would be ignored as would those who might be carrying false identification (Wallis, 1993).

Approximately 30 years ago, the U.S. government did adopt security procedures that relied, in part, on profiling passengers. These procedures were challenged in federal district court in New York in *United States v. Lopez* in 1971. Unfortunately, the actual signs were never published in order to protect the security procedures. The court upheld the procedures as nondiscriminatory.

All passengers exhibiting at least one suspicious sign would have to be brought to the attention of the security supervisor on duty. The security agent would complete the questioning, take all passenger documents to the supervisor, and then describe the situation to the supervisor who then would have several options. The supervisor could direct the agent to return to the passenger with further questions, and the responses would then be brought back to the supervisor for further review. Another option is for the supervisor to take over questioning. When a passenger was a problem for any reason, or sometimes if the security agent was just needed somewhere else because of a special language skill they possessed or another job assignment, then the supervisor would take over the passenger being screened. Occasionally, a security agent may be rotated to take over the passenger screening just to see how the passenger might react or for the reasons just mentioned.

### **Positive Signs**

In addition to suspicious signs, there are *positive signs* that can help clear passengers more efficiently. These are signs that indicate the passenger is no threat to the aircraft. They are essentially the opposite of the suspicious signs in most respects. They help security to avoid wasting time on passengers who are not a threat so that more time can be spent on passengers who may pose a threat. Some of the common positive signs are set forth in Table 3.

**Table 3. Positive Signs**

Country Signs	Passport Signs	Ticket Signs	Traveling Signs	Behavior Signs
Country of birth*	Speaks the language of his/her passport	Method of payment for tickets is credit card or check	Appropriate number of bags	Appears calm
Country of residence*	Passenger matches passport photograph	Method of payment for ticket in currency from country where ticket is purchased	Luggage matches socioeconomic level of passenger	Cooperates with security agent
Issuing country of passport*	Physical description in passport matches passenger	Country where ticket was purchased*	Travels with a family or large group	Does not try to avoid questioning
Countries traveled to/through*	Name on ticket matches name on passport	Tickets purchased far in advance of travel date	Passenger traveling with traveler's checks	Does not act suspiciously
Issuing country of visas*	Passport appears unaltered	Round trip ticket	Traveling with alternate ID	Does not make contradictory statements

\*Positive countries are those countries that are our allies and do not harbor terrorists, train terrorists, defend terrorism, or support terrorism. Examples at the time I was a security agent included the U.S., England, France, Spain, Israel, and Canada.

Passengers possessing positive signs could not be ruled out as a threat to the aircraft. There are numerous examples of passengers who have tried to do harm to an aircraft—not because of terrorism but because of domestic violence against a family member or mental illness. These passengers cannot be ignored. From 1987 to 1996, there were 336 attacks against commercial aviation of which 138 attacks could be attributed to terrorists, leaving almost 200 attacks for reasons other than terrorism (Wilkinson & Jenkins, 1999).

## Technology

Reliance on technology is problematic at best. While it is a useful tool, it is not as reliable as we would like to believe. Technology can create more problems than it solves. According to Ericson (2006),

The post-9/11 race to develop surveillance technologies to identify terrorists exemplifies problems of technological failure. One example is the installation of facial recognition technology at Boston's Logan Airport, the origin of two of the flights involved in the 9/11 attacks. This technology produced too many false positives, creating problems not only for those falsely detained but also for the overall efficiency of airport operations. The technology was abandoned, illustrating that a key limit on the use of security technology is interference with the smooth flow of economic relations. (p. 349)

Not only can these technologies fail as in the above example, they can create legal privacy dilemmas through the creation of a "surveillance society" (Lyon, 2001, 2006).



## **X-Ray Machines**

This device is a useful tool for aircraft security agents; however, it is not as useful as most might think. X-ray machines do not detect bombs. This is not what they are designed to do. Even with all the training in the world and paying the security agents six figures, x-ray machines still do not detect bombs (Sweet, 2008). When x-ray machines were originally installed in airports with metal detectors, they were designed to prevent hijackings. While they were initially successful as a deterrent to hijackings, terrorists have obviously become more sophisticated in their techniques as September 11 has shown (Dugan et al., 2005).

X-ray machines are useful tools once passengers have been questioned as a part of the screening process. A passenger with no suspicious signs who answers the questions without cause for further questioning, otherwise known as the typical passenger, does not need to have their bags x-rayed. This passenger does not pose any threat to the aircraft, innocent or otherwise. A passenger with suspicious signs should have their bags x-rayed. The security agent can look for wires connected to the latches of the suitcase and wires connected to batteries as metal items show up more clearly on x-ray machines.

## **Bomb Detecting Devices**

A new technology has emerged for detecting terrorists. Three companies began manufacturing bomb detection devices immediately following September 11: InVision Technologies, L-3 Communications, and VersaLogic Corporation. Since that time, others have entered the marketplace, including Rapiscan. These devices detect certain types of explosives, and an alarm is triggered if a bag passing through the device contains minimum levels of elements found within those explosives (Sweet, 2008). There is no literature currently regarding precisely how effective these machines are in detecting bombs or regarding what types of explosives these machines are capable of detecting. The Federal Aviation Administration (FAA) has certified these machines; however, there is no literature regarding exactly what that means. The FAA and the TSA refuse to release specific information regarding how effective these machines are at detecting bombs.

Bomb detecting machines, if effective, would be a great tool for airport security. There is a question as to whether they will be efficient in that millions of bags pass through airlines every year. These machines are capable of processing a limited number of bags per hour. For example, InVision's CTX 9000 Dsi can process 542 bags per hour. Using this technology alone, however, will not detect knives, box cutters, and other items carried onto the plane or left by accomplices on board for terrorists to hijack planes (Sweet, 2008). It is only an effective tool if it detects bombs accurately and is used in conjunction with passenger screening.

Bomb detecting machines were created in the late 1980s; however, they were not practical at the time. The machines were so large and so heavy that the only way they could be utilized is if the entire airport were built around the machine. No bomb detecting machines could be placed in existing airports. Fortunately, the technology has evolved so that building airports around the machines is not necessary (Sweet, 2008).

## Metal Detectors

Metal detectors are still useful as they deter passengers from trying to sneak metal objects on board aircraft. The September 11 hijackers did not get their box cutters on board themselves because of the metal detectors and x-ray machines combined. Instead, they managed to get box cutters on board aircraft through airport personnel. As we have seen since September 11, metal detectors and x-ray machines are not foolproof as there have been several instances in which individuals have managed to get guns and knives through the x-ray machines. Metal detectors can be used as one of many tools to prevent future highjackings but cannot be relied upon as a sole means of defense (Sweet, 2008).

## Passenger-to-Bag Match

A more effective tool for avoiding bombs on aircraft is the passenger-to-bag match. The White House Commission on Aviation Safety and Security “recommended the implementation of full passenger bag-match to ensure that terrorists cannot check-in a suitcase with a bomb and then not board the flight” (Wilkinson & Jenkins, 1999, p. 105). Every passenger that checks-in luggage has to board the aircraft before that luggage can board the aircraft. This prevents someone from checking a bag with a bomb in it and then not boarding the airplane. This was the case with the Pan Am flight that blew up over Lockerbie. The bag that got on board was not matched to a passenger on board. In this instance, there was a lot of attention paid to the fact that the bag was never x-rayed because ground personnel kept it from being x-rayed. Ground personnel believed they were helping to smuggle drugs on the flight, not a bomb, and were being paid to allow the bag to pass onto the flight without being x-rayed (Wallis, 1993). However, an x-ray of the bag would probably have left the bomb undetected as x-ray machines are completely unreliable. In this instance, passenger-to-bag matching would have kept the bag off of the aircraft.

Accomplishing this task is not as complicated as it sounds: “Matching baggage with passengers poses no great technical difficulty” (Wilkinson & Jenkins, 1999, p. 105). All bags for an aircraft are kept in large bins, pods, or containers. These containers can be coded and bags can be scanned at every leg of a trip in the same way that Federal Express and UPS scan their packages. This makes finding bags relatively fast and easy. Once the bin is located, each bag has a number attached, and most people put their names on their bags, which can also speed up the process of finding a piece of luggage. When a bag has to be pulled for other reasons, such as the need to x-ray a bag because the passenger has accepted a package to carry and does not know its contents, the bag can be located in much the same way. The only difference is that locating the bag becomes even easier as the passenger can describe what it looks like to the agent searching for the bag.

All passengers stepping on board a flight are noted in the computer once they hand their boarding pass to the flight attendant. This is called *on-ing* or placing the passenger *on* the aircraft or the *on list*. The computer then keeps a running list of all passengers who have not gone on board. Once the flight is approximately ten minutes from departure, the passengers who have not boarded have their bags pulled. Most of the time, passengers who have not boarded at this stage have missed the flight because their connecting flight did not make it in time. If the passenger’s

connecting flight has not arrived in time, then their bags will not have made it onto the connecting flight. The computer keeps track of connecting passengers so as to avoid futile attempts at retrieving bags that have not made a connection.

## **Searching**

### **The Aircraft**

Every day, we searched every inch of the aircraft cabin. It involved getting on my hands and knees to feel underneath each seat, checking the lavatories, the emergency equipment onboard, every cubby in the catering area, and so forth. The search usually took three employees approximately 30 to 45 minutes, and supervisors would often hide packages onboard for us to find as a test. The aircraft search was conducted to prevent someone from flying into Raleigh on the plane from Paris and simply leaving a bomb hidden onboard.

Some security departments were allowed to use a mirror at the end of a long handle in order to check under seats; however, these mirrors proved to be ineffective. Oftentimes, the mirrors could not reflect enough light under the seat to allow the security agent to see everything under the seat. This was further complicated by the presence of life vests in small cubbies attached to the bottom of each seat. These cubbies were perfect for hiding bombs either inside or on any of the four sides of the cubby. Only a hand search, feeling around all four sides and inside the cubby, was effective.

All of this searching occurred simultaneously with the aircraft cabin service crew cleaning and preparing the plane for its next flight. Cabin crew for the Paris flight out of Raleigh, North Carolina, had to undergo thorough background checks. Since our flight was international, the airline allowed only senior cabin service crew to service the aircraft. It is not practical to adapt the security measures discussed here to all domestic flights.

Forcing cabin crew to go through thorough background checks is one possible solution. This is not enough, however. Another solution is to search the aircraft after the cabin cleaners have serviced the aircraft. This could be problematic because it requires allowing for twice the amount of turnaround time for an aircraft—the amount of time it takes to ready an arriving flight for its next departure. The best solution, which American practiced, would be to couple thorough background checks of cabin service crews with simultaneous cabin security searches and use one security agent as an observer.

Once the aircraft was searched, an employee would stay at the entrance to the aircraft and guard the plane, checking identification of employees prior to their servicing the aircraft and monitoring the cabin service crew. It did not take long to get to know every pilot, flight attendant, cabin cleaner, and caterer who came into contact with the plane. This ensured that no one could get access to the aircraft and leave a bomb or other weapon hidden on board.

### **Catering**

Catering was another potential target for sabotage. Most likely, a bomb would be hidden in catering as passengers would not have access to catering during

the flight. Catering included all of the food and drink brought on board for the passengers. These items were stored in carts on wheels. An independent contractor prepared these meals and placed them on board the aircraft prior to departure.

Only senior staff at the catering company worked most international flights at the time because the food preparation is more intense for these flights. Background checks performed on catering employees would help catch any problem personnel. Also, the security agent checks the catering, which is very simple to do and not time consuming. The catering carts open easily and can be inspected in a few seconds. The only carts that are locked are the liquor carts which are inspected by local Alcoholic Beverage Control (ABC) authorities prior to being secured.

## **Cargo**

Another vulnerability lies in the belly of the plane. Airlines make more money from shipping items than they do from shipping people. The airlines also ship a considerable amount of U.S. mail. On our Paris flight, we shipped eels, horse meat (which the agents referred to as "Trigger"), and condoms. At the time, there were no set procedures for screening cargo. I adapted the procedures used for screening passengers and applied them to screening cargo.

Eventually, I developed suspicious and positive signs for cargo. Cargo and the accompanying paperwork were inspected every day. The shipper, receiver, transportation used, method of delivery, containers used for shipping, point of origin, and final destination were each analyzed. Shippers could be called to answer questions regarding their shipments. Shipments were opened to make sure they matched the accompanying paperwork. It usually took an hour or two to clear all freight for the day.

U.S. mail was secured by the postal service, and no one is allowed to open the containers once they are sealed. Fortunately, how the post office determines to ship mail is completely unpredictable, so it is not prime for terrorists to use the mail for attack. Once someone puts a package in the mail, there is absolutely no way of knowing how that piece of mail will reach its ultimate destination. This unpredictability is a deterrent to terrorists who desire some control over their method of delivering destruction.

A favorite story is when one of the cargo employees had his little daughter with him at work. A box of eels headed for Paris was being moved and fell off the forklift. When the box hit the ground, the eels spilled out. Grown men went running in all directions, but the little girl ran right over to the eels and starting playing with them. Fortunately, there were no bombs in that box, just slimy critters.

## **The Airport**

The airport itself is vulnerable to attack, especially in high traffic areas. Searching trash cans, under seats, restrooms, gate check-in areas, and every possible spot where a package could be left is vital to passenger security. The mirror on the long handle worked well in these searches as there are many hard to reach places without the same problems discussed above in the plane search.

Supervisors loved to hide packages for these searches. Primarily because they could do so prior to employees coming on duty. If the boss met the aircraft when it came in, then security agents could expect a test on board the aircraft. This takes away the element of surprise that is necessary when searching. Like children afraid of a test, agents would often check the office to see if test packages were missing. If any were missing from the office, then the agents knew they would be either on the plane or at the gate area waiting to be found.

## **Tests**

Knowing that a test package needs to be found completely undermines the process of placing test packages. The element of surprise is needed to ensure that security agents are thoroughly searching the aircraft and airport. Sometimes this is difficult as agents can be very observant. Sending test passengers through the system worked much more effectively as there was no way for agents to find out ahead of time when a test passenger might appear. Supervisors often enlisted friends to pretend to be passengers on flights. They would set these pretend passengers up with fake tickets and suspicious signs to see if agents would find all of the signs. I was tested with a pretend passenger the first week on the job. It was terrifying as there was no way of knowing that the passenger was only pretending. The author almost passed out while manually searching the passenger's bag finding the contents contained newspaper instead of what the passenger had indicated would be in the bag. The supervisor enjoyed my suffering immensely.

After the test, agents felt more confident about their abilities to detect terrorists. While tests could be a little frightening, they were wonderful gauges of how well a security agent could function. Tests also help keep the system thinking like a terrorist. Supervisors were always looking for vulnerability in the system. Terrorists do this all the time. Any security system that does not test itself by continually looking for flaws in the system is asking for trouble.

## **Communication**

Every night before work and after work, briefings and debriefings were held to discuss security alerts, tests conducted, ongoing training, and the like. Prior to the briefings, agents looked at passenger records to determine ahead of time whether there were any passengers who might exhibit suspicious signs. Passenger records were checked to see when tickets were purchased, in what currency they were purchased, in what country they were purchased, and what passport information was available for passengers. During the briefing, any potentially suspicious passengers were discussed so that agents would be ready when the passenger came through the system. Large groups were identified as well so that they could be handled separately.

Today, the computer systems are more advanced such that suspicious signs can be programmed into a computer and passengers can be identified by the computer instead of manually searching individual records: "An automated passenger profiling system known as Computer-Assisted Passenger Screening or CAPS is being implemented" (Wilkinson & Jenkins, 1999, p. 111). CAPS has not been implemented in the United States yet. El Al currently uses computer technology to gather information regarding passengers (O'Brien, 2001). The Boston airport

has already started doing this. This makes the security agent's job much easier. Given that millions of passengers fly domestically every year, checking individual records manually would not be practical for implementing this type of airport security on all domestic flights.

In order to find terrorists, the agent has to know everything they can about them. Training for a couple of weeks before starting the job is just a part of the process. Training has to be ongoing. It has to continue every day on the job by reading the news, reading security alerts, being tested, learning about new technologies, and constantly testing the system.

## **Analysis**

If these security procedures had been applied to the September 11 attacks, there are several aspects of the September 11 terrorist profiles that would have been noticed by security personnel:

- Assuming that the aircraft personnel who aided the terrorists by leaving box cutters on board the aircraft survived a background check, then the box cutters would have been discovered in an aircraft search (CNN.com, 2001). In fact, the personnel leaving the box cutters on board may have been discovered while trying to hide them on board, although this is difficult to predict.
- Atta and Alomari arrived late to the Portland, Maine, airport for their connecting flight into Boston. They rushed airport personnel in order to make their flight. Security would have questioned them at length for arriving late to the airport, and they would have surely missed their flight into Boston. Atta is believed to have been the pilot of the first plane that crashed into the World Trade Center.
- Five of the terrorists, all of them on the same flight, paid cash for one-way, first class tickets costing more than \$14,000 (CNN.com, 2001). This is very suspicious and would have caused a great deal of questioning by security personnel.
- All of the terrorists were born in countries that support terrorism.
- All of the terrorists traveled through countries that support terrorism.
- All of the terrorists held passports from countries that support terrorism.
- A quick background check of the terrorists would have shown that several of them were known terrorists.

It is hard to speculate as to what behavioral suspicious signs the terrorists may have displayed in addition to the list above. Generally, people who are about to commit murder and/or suicide have a tendency to act a little nervous. It is hard to imagine that they would not have been at least a little uneasy, especially once security questioning escalated.

Additionally, many other terrorist attacks could have been avoided over the years by applying this same security model. For example, a simple search of the aircraft would have prevented each of the following disasters (Wallis, 1993):

- The 1986 TWA bombing in which a terrorist left a bomb on board an aircraft after deplaning in Athens; four passengers were killed
- A 1986 Air Lanka bombing killing over 20 passengers; the bomb was placed on board by a customs officer
- A 1987 Korean Air bombing killing 115 people when two terrorists left a carry-on bag on board after deplaning in Abu Dhabi

These are just a few examples. According to Wilkinson and Jenkins (1999), "Terrorists have attempted to plant bombs on board airliners on more than 70 occasions that we know about. These have caused at least 15 crashes killing 1,732 persons" (p. 104). Aircraft searching is vital to the security model, and yet it has not been mentioned yet by Congress or the TSA post September 11.

## Conclusion

There are other threats to civil aviation not mentioned in this article because they lie outside the realm of the model proposed here. The primary threats are ramp access, general airport security, and air missile attack. Ramp access is basic security that has been enforced by the FAA for years. Fines are levied when airlines do not take adequate measures to keep nonpersonnel away from ground personnel areas where baggage is handled and aircraft are maintained, commonly referred to as the ramp. Ramp access problems occur when one employee opens a secure door onto the ramp and then holds that door open for another employee, or when terrorists acquire airport uniforms and use them to get ramp access.

Basically, the airlines have had the technology for many years to make ramp access difficult for nonpersonnel. Some airports are better than others, and certainly U.S. airports are far better at restricting ramp access than many international airports. The key to ramp access is to tie employee identification cards to ramp access and also to make this a way for employees to "sign in" as being on the job. This gives the employee the personal incentive to use his or her ID card to gain access to the ramp instead of bypassing using the ID card to gain access.

As for ground to air missiles, our local and federal law enforcement, intelligence, and military personnel are better equipped to track down and prevent disasters caused by these devices. Some research suggests that air missile attacks are more probable in the future given increased security at airports (Abeyratne, 2004). Meanwhile, attacks that occur within the airport are a separate matter that requires multiple airlines to coordinate security efforts in conjunction with the local airport authority: "From 1973 to 1985, more than 36 attacks occurred at international civil airports, in peace time, resulting in more than 117 killings" (Abeyratne, 1998, p. 109).

The big question is why has the U.S. avoided the security procedures proposed here for so many years?

The probability of dying in an automobile accident is one in 5,000; of being murdered, one in 12,000; of being killed by a terrorist, one in millions. The National Academy of Sciences calculated the chance of an airline passenger's bag containing a bomb at one in 1.2 billion. If casualties were the sole criterion,

cost-benefit analysis might even be used perversely to justify reducing safety expenditures even at the risk of a greater number of accidents, so long as airline travel remained significantly safer than other modes of transportation on a passenger-mile basis. (Wilkinson & Jenkins, 1999, p. 108)

The next question then becomes why adopt these security procedures?

Successful terrorist attacks create widespread alarm, provoke government crises, erode citizens' faith in their institutions, and impose other "costs" on society that are important but difficult to quantify. (Wilkinson & Jenkins, 1999, p. 108)

Abeyratne (1998) supports this perspective:

Unlawful acts against international civil aviation may also cause political instability in a country. If a state or state instrumentality appears inept in curbing these acts, or if the state appears over aggressive, the political consequences can prove to be significant. (p. 101)

There can be no room for error when human lives are at stake. Having practiced this security, there is no system more effective. The overlap of security creates a systems approach that simply cannot be matched by implementation of *ad hoc* procedures and technology. El Al is the best working example of a successful implementation of this model as applied to their system. It is important to remember that this model can be adapted to each society based on the level of threat. Therefore, applying this model to the U.S. would be somewhat different than the Israeli airline application because the threat is different. It is time for the U.S. to join El Al as leaders providing the model for airline security.

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# Alibama, Osama, and Obama—When Can I Shoot? South African Firearm and Legal Issues: A Qualitative and Narrative Approach

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## Introduction

When I was about seven years old, I was given a book prize in my second grade (year) at school for meritorious reasons. What fascinated me about this book was not that this was the first time in my life that I had received some form of recognition for my anthropological self-esteem needs (Maslow, 1968, 1970; Ras, 1998, pp. 77-87), but it was simply the most beautiful, colorful picture on the outside cover of the book. The book was called *Alibama* and depicted a man with a beard, filled with astonishment at the entrance of a cave, which was filled with treasures like gold, jewels, diamonds, and shining daggers!

## Alibama

The man on the outside cover and inside the book was Alibama—a poor man, but a very good and honest man from Persia (present day Iran). By the end of the narrative of this children's book, Alibama, who went with his donkey to the forest to chop wood with his axe, had captured many (I think there were forty!) dangerous robbers in a secret cave, escaped with all of their treasures on his donkey, and then married the shah's (king's) beautiful daughter (a princess!).

Just as Ivan Pavlov, the Russian physiologist, has looked over and over at his dog (Gething, Papalia, & Olds, 1995, p. 113) to make a breakthrough in classical conditioning, I remember that I have looked over and over at the outside cover of this book because this was really an amazing and fascinating picture, imprinted in my mind as part of my childhood memories. In terms of cognitive development, I think the ancient shah of Iran's son-in-law unconsciously meant to my crime fighting beliefs what the ducks and ducklings were for Konrad Lorenz (2007), who discovered *imprinting*, an irreversible learning process, and what small children meant to Jean Piaget, a great pioneer in cognitive development and of constructivist epistemology ("Jean Piaget," 2010).

From a narrative-critical perspective (Ras, 1996), in terms of this old ancient Persian narrative, for me, living in South Africa, Alibama personifies the good guy—the good cop who must see that everyone correctly behaves in the streets and in public. He stands for and symbolizes a man, a law enforcement officer (the "sheriff"), who knows when to draw his gun and to sort out those who try to rob others in order to enrich themselves. In my childhood memories, he was a *tupos* (Greek), a "type," one of a kind, standing for what is right and representing what many FBI officers today would idealize as a man with fidelity, bravery, and integrity. In terms of the

rational-choice theory, there is no doubt in my mind that Alibama was making the right choices in life and that South Africa needs a lot of Alibamas.

## South African Crime Statistics

During the 2008/2009 book year (1 April 2008 to 31 March 2009), the following reported crimes occurred in South Africa:

Robbery with aggravated circumstances	121,392	Attempted murder	18,298
Assault with the intention to do grievous bodily harm	203,777	Car hijackings	14,915
Truck hijackings	1,437	Kidnappings	2,535
Cash-in-transit robberies	386	Bank robbery	102
Street robberies	72,194	Shoplifting	80,773
Murder	18,148	Attempted murder	18,298
Culpable homicide	12,571	Driving under the influence or drugs	56,165
Sex offences	71,500	Illegal possession of firearms	14,045

In short, 2,100,000 serious criminal cases have been reported to the police during this period (Ras, 2009, p. 179; South African Police Service [SAPS], 2008/2009). What makes these figures shocking is the fact that we have a total population of about 49,052,489 people, comprised of 79% black Africans, 9.6% whites, 8.9% Coloureds, and 2.5% Indian/Asian. There are 16,275,424 males and 15,984,181 females in the age group 15 to 64 years—the age group responsible for the majority of crimes (Central Intelligence Agency [CIA], 2010; Ras, 2010a).

## Crime Experiences

I am existentially drawn into crime every day of my life, whether I want or dislike it or not. My wife and I have just returned tonight from hospital (23 February 2010) where we have visited a friend's daughter (Snetemba Mabaso) who landed in Ngwelezana Hospital on Saturday night after someone had fired in the darkness at their car. When it occurred, she jumped out of the moving vehicle to survive; and in the process, she broke her leg. She is only 12 years old and now has to stay in the hospital for at least two months. From a psychological point of view, I know that this incident will have a lasting effect upon Snetemba's early adolescent memories, even after my wife gave her a "significant others" teddy bear to comfort her (*cf.* Jones, 1989).

It is in times like these that I again realize the importance of what we are supposed to do in law enforcement. We must ensure that all the Alibamas of our time try to identify those who are stumbling blocks and deliberate instigators of violence and lawlessness, arrest them, and make sure they are brought to justice. Applicable to the South African context, the Alibamas of today are for me the brave men and women in police uniforms that must move very fast to stop robbers and hijackers in their tracks and to restore law and order when traditional policing strategies like "first a phone call, then a police response" kicks into place (Sheehan & Corder, 1995, pp. 390-391). It also refers to those in private security, especially bodyguards, who are tasked to protect lives and property—especially the lives of their VIPs (very important people) or clients (Ras, 2006, pp. 76-77; 2010b, pp. 415-434).

## **Firearms Control Act 60 of 2000**

Because of all the lawlessness and the high violent crime rate that have characterized the South African landscape, especially since 1994, a new *Firearms Control Act 60 of 2000*, has been introduced. The intention of this Act was *inter alia* to assist the criminal justice system that is already regarded by many legal experts as dysfunctional (Snyman, 2008, pp. 21-29).

It was published in 2000 but came into effect during 2001, and its purposes were to enhance bodily integrity (the right to defend yourself), to control legal firearms, to remove illegal ones, and to ensure responsible and accountable firearm ownership (*Firearms Control Act 60 of 2000*, Section 2; Ras, 2008, pp. 5-14). The former Minister for Safety and Security, Charles Nqakula, correctly indicated in his 2004 budget speech that guns have become the weapons of choice in the commission of violent crime in South Africa (Bopape, 2008, p. 1).

### **When Can I Shoot?**

The existence of violent crimes and the high number of shooting incidents all over the country's nine provinces, especially in the Western Cape, Gauteng, and in KwaZulu-Natal, has again placed renewed interest on an old but very important question, "When can I shoot?"

This question is at present one of the most burning issues on the South African legal scene because the wrong squeeze of a trigger at the wrong time means 15 or more years behind prison bars in one of South Africa's 237 prisons-correctional centers that are 44% overcrowded with its present 165,230 inmates (Van Zyl, 2009, pp. 15-16). Even the pointing of a firearm at the wrong time, whether real or not (like an airgun), carries a maximum sentence of ten years (Snyman, 2008, pp. 466-468; *Firearms Control Act 60 of 2000*, Section 120[6], pp. 41, 58).

The issue of when to shoot seems like a legal conundrum for many, but for those operating in South African law enforcement circles, especially for armed private security guards and bodyguards, it is a critical question that needs a very clear answer. Sergevnin, Gofman, and Dyatlov (2009) have given a very meaningful exposition on the use of firearms by Russian law enforcement and correctional agencies.

What makes their contribution so valuable and a must-read for all those who are burdened by legal issues surrounding the use of firearms in a law enforcement environment is their very explicit explanation of *when* Russian personnel may use their weapons and *for what purposes*. The availability of quantitative data and examples of firearm applications by Russian police and correctional officers are eye-openers to those who were previously isolated by the proverbial "iron curtain" when it comes to sufficient knowledge dealing with the use of firearms by law enforcement officers. Their discussion and clear exposition is simply lacking in South Africa (Bezuidenhout, Ras, & Thorpe, 2004; Sergevnin et al., 2009).

When training people in the use of firearms, especially handguns, I normally try to make the issue simple and say, "You only shoot when your own or someone else's life is in direct and immediate danger." I then add by saying that "Direct means 'face to face'" and "immediate means 'now.'" In short, whenever a person lands in

a life-threatening situation, then he or she is allowed to shoot to kill. Because of all the possible corruption and legal loopholes in the present criminal justice system, firearm instructors and police personnel in our country usually will add, "Make sure that the one that you shoot is dead because dead people will not stand up in court and lie!" We never shoot to wound because lawyers will interpret this as a non-life-threatening situation! (Ras, 2010a).

## Osama

Somewhere between the borders of Pakistan and Afghanistan, perhaps in the Tora Bora mountain areas, Al-Qaeda's Osama Bin Laden is still hiding. After he was almost caught in Operation Anaconda (Bergen, 2006), he now and then pops up on a videotape on Aljazeera to let the non-Arab world know that he is still alive (Ras, 2010a).

Many white South African males (mostly ex-military, police, and traffic officers) have joined the American and Coalition forces in the years since the United States has entered Iraq (Ras, 2003). They have operated and are working as security guards, bodyguards, drivers, or as specialists in particular fields. They are simply there to make enough American dollars to take home because, in their own country, white men experience now what they call *reverse discrimination* because of the introduction of the *Employment Equity Act*.

This Act (Act 55 of 1998) states that black people (defined as Africans, Coloureds, and Indians) must be promoted (South Africa, 1999, p. 7). There is no doubt that the equity laws in South Africa are one of the main reasons why white South African men have ended up in Baghdad and in Kabul (Ras, 2010a).

Whether these men were part of Xe Services LLC (formerly known as Blackwater USA and Blackwater Worldwide) or operating under Dyncorp International, all these men from the southern tip of Africa were regarded by the South African government as "hired guns," as mercenaries. As a result, the government has introduced a new counter-mercenary law in 2006. This is called *The Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act* (Act No. 27 of 2006), published on 16 November 2007, but it still must be put into operation ("Blackwater Worldwide," 2010; "Dyncorp," 2010; Jacobs, 2008).

There is no doubt that these South African hired guns are committed to assisting their American friends in the War on Terror and will not hesitate to pull the trigger when necessary. It is especially these men, operating in Iraq and Afghanistan, who are very knowledgeable when it comes to firearms and are also very interested in the legal question, "When can I shoot?" when they return home for a short break. Their many "gun stories" remind ex-military servicemen of their border duties in Southwest Africa (Namibia) from 1975 to 1989 and build a form of camaraderie among their audiences (Ras, 2006, pp. 317-322).

In terms of those who had an Iraqi or Afghani experience, it seems safe to say, without generalization, that these men perceive ordinary criminals in South Africa in the same way as Osama Bin Laden, Ayman Al-Zawahiri, Abu Ayyub al-Masri, and Al-Qaeda (Ras, 2010a). The perception is that dangerous criminals need lead—full-metal jackets (FMJs) and hollow points (HPs). Terrorists and saboteurs need to

be identified, tracked, and hunted down like animals. "Shoot'em!" and "Kill 'em!" are buzz words. It seems that the South Africans who are sick of crime not only long to have the death penalty back (Snyman, 2008, pp. 21-29), but at times they also want to take the law into their own hands.

Except within certain radical Muslim circles (Ras, 2010a), there is no doubt in my mind that people like Osama and his friends will be regarded in South Africa as dangerous men (criminals). Through qualitative research that the researcher has done, it has become clear that those operating in law enforcement and body-guarding circles want these types of people shot! While emotional sentiments and anger are the driving forces for those who want to shoot, it is quite clear that the *Firearms Control Act* only allows shooting in life-threatening situations.

All forms of vigilante activity or trigger-happy individuals are simply not tolerated in South Africa (Ras, 2010a). As vigilante attacks are regarded as unconstitutional, a constitutional crisis may ensue in our country because ordinary law-abiding citizens feel they find themselves on the edge of a razor blade because their rights to safety and security are only guaranteed on paper, not in practice (Potgieter, Ras, Rugbeer, Moyo, & Nesor, 2008, pp. 100-101).

## Obama

President Barack Obama is seen by the majority of South Africans as a hero with African roots, although many black South Africans were erroneously under the impression that the United States was assisting the previous apartheid government and, as a result, many ANC supporters have a greater affinity to the red bear, the hammer, and sickle and to people who wear t-shirts carrying the face of Ernesto "Che" Guevara ("Che Guevara," 2010).

Among many South African gun-loving and war-minded individuals, Obama's war moves raise concerns. They are worried about the Iraqi withdrawal and the future pulling out of troops away from Afghanistan. There is no doubt in my mind that the 5,000 plus South African men (Powell, 2006) who are involved in these countries are in actual fact more worried about their jobs and their opportunities to make American dollars than peace settlements, indigenous policing solutions, and the development of a human rights culture with sound democratic principles among local Iraqi and Afghani people (Ras, 2003, 2010a).

For those who want to shoot to kill in order to put bread on their table and money in their bank accounts, it is a worrying matter that Obama wants to pull out. For these men, it is easy to shoot. They are moving in war zones where cover, concealment, and automatic weapons like M16s and AK 47s are critical necessities. The Iraqi and Afghani *esprit de corps*, to be together and to be with friends, to move in a group and to kill as a group, in a group, without hesitation, whenever, and when necessary, are the key concepts that still keep these men going. These South African men, operating as private contractors, are now developing into a new breed.

They are "wannabe"s—they *want to be* in Iraq, they *want to be* in Afghanistan. They rather carry an AK 47 than an M16 because no one counts AK 47 rounds, only M16 rounds! From a military point of view, they want to shoot, and they want to kill.

Every South African who boards a plane to fly east has already counted the costs. They know why they are going and what they are going to do there (Ras, 2010a).

In terms of the Alibama, Osama, Obama narrative line, "Obama personifies the leader—the one who is in charge, the Commander, the big Boss! If he continues to wage war to protect American, Iraqi, and Afghani interests, then gun-loving South Africans, especially those operating with the American and coalition forces, will continue to carry their weapons, with their shooting fingers close to their trigger guards. These hired guns need Obama to continue to give the "go ahead." Here in South Africa, they want to hear him say, "We will hunt 'em down!" And as long as they hear these war cries, they will continue to ask, "When can I shoot?," and not only them, but also those who are staying behind and who now also start to develop the desire to join the fight (Ras, 2010a).

What many people do not realize is that the war on terror has created many new job opportunities for people outside the United States. Many South Africans have been given the opportunity to work and to make a decent living for their families through their involvement in Iraq and Afghanistan. Many of them do not want to be associated any longer with a country where their opportunities have been limited through affirmative action (equity) laws. They rather join up with those who stand for a just cause and who are willing to reach out to those who feel they are marginalized (Ras, 2010a).

## Firearm Supporters and Issues

Because of the unpredictability of attacks coming from any direction at any time at any place, South African bodyguards, especially the professional ones, know it is suicide to move around without a handgun and enough ammunition. Black bodyguards operating in rural areas especially emphasize the necessity to have enough firepower with them when the sun goes down. Those who can afford it buy a gun; those who cannot afford one dream to obtain one (Mhlongo, 2010; Vundla, 2010).

Individuals who have revolvers have anything from Rossi to Taurus, anything cheap that is not engraved with expensive labels like Smith and Wesson and Colt. While a few have revolvers like .38 Specials, and even .357 Magnums that look beautiful and powerful, the general thinking and reasoning is that when a person is alone in the rural areas, in the bush and on the dusty roads, then any pistol is better than a revolver because it takes more rounds, and with a spare magazine, with no police station close by to assist, the person feels safer. Combined with Zulu *muti* (medicine), any spare magazine is, psychologically speaking, already a huge advantage to ward off any unwanted criminals (Mhlongo, 2010; Ras, 2006).

South Africa is not a place for *sissies* (proverbial Afrikaans term referring to "weak men or women"). A person needs to be tough in order to survive—and to survive, the majority of people believe they need a gun. Despite all the negative publicity of anti-gun groups like *Gun Free South Africa* (2009) that really undermines the good work that responsible gun owners are doing in controlling crime, by ensuring that they can defend themselves and look after their own properties, there are still strong pro gun groups in South Africa who believe that the more guns in the Republic, the safer the country. Many of these groups are also connected to the National Rifle Association (NRA) of America and definitely will strongly support the sentiments of Wayne LaPierre, Executive Vice-President of the NRA, who recently spoke in

Washington DC, saying, “When we fight for the rights of Americans to protect themselves against violent criminals, we’ll do so with truth and justice on our side” (National Rifle Association [NRA], 2010b; see also Gun Free South Africa, 2009; NRA, 2010a; South African Gunowners’ Association [SAGA], 2010).

Private security bodyguards, professional hunters, and sport shooters are without a doubt the biggest handgun lovers and supporters of firearms in South Africa. They are the ones who will always take the lead to discuss issues like when and where to shoot, how many shots to fire, and when to cease fire or not (Geldenhuys, 2009). The reason for these *indabas* (Zulu word for “discussions”) is simple: One’s life depends on these burning legal issues. The advice given earlier, to only shoot in a life-threatening situation, is something they take very seriously. They will organize themselves, do practical shooting, possibly do scenario training, and they really turn on the heat (lead!) to make sure they will not be caught unaware (Ras, 2010a).

While political rhetoric and war talks continue among politicians and top police leaders (Ras, 2009), the majority of professional bodyguards believe the following: “If I have to shoot it out, I will shoot it out, and when I shoot, I will shoot to kill. I will not let my attacker live because this will be his word against mine in a court of law.” Members also believe to shoot “tap-tap”—that is, fire two quick shots in succession (follow-up shots) as they have learned in the army and in the police. The rationale is, if one ends up in court, it is easy to say, “I did as I was told and instructed to do through my years in the military or police” (Ras, 2006, 2007, 2010a).

Most professional bodyguards use the Glock 17; the Beretta; or its South African clone, the Z88 (official police pistol, which takes a 9 mm Luger round), or its successor, the Pietro Beretta. The majority of private security armed personnel and black bodyguards in South Africa, however, are using the Norinco Star 213 mm (9 × 19 mm) pistol from China. This pistol is actually the Russian Tokarev pistol (Fedor Tokarev’s TT-30), which the Chinese company, Norinco, has changed into the Chinese Norinco 9 mm parabellum pistol. While Tokarev’s pistol took a 7.62 × 25 mm round, Norinco has changed it to a 9 × 19 mm round and also added a safety catch to the weapon (“TT Pistol,” 2010). After the “okapi knife,” most murders in South Africa are committed with Norinco pistols. The reason why the majority of handgun users buy the Norinco is simple: It is the cheapest 9 mm parabellum pistol on the market!

In South Africa, the majority of people (Africans) buy the cheapest handguns just to have something to protect themselves. Before the first general democratic election in 1994, especially in KwaZulu-Natal, there were bloody fights between the African National Congress (ANC) and the Inkatha Freedom Party (IFP). Because of these violent times, many Africans (especially Zulus) have made their own firearms from the pipes of hospital beds and school benches called *qhwasahas*. They had their own backyard factories where skilled men have made these and then sold them to those who wanted to buy them (Ras, 2000). Thousands of these weapons were later destroyed through police clean-up operations.

## Firearm Training

All firearms in South Africa are placed in one of the following four categories: (1) handgun (pistol or revolver), (2) shotgun, (3) rifle (manual operated/bolt action), and (4) rifle (self-loading). Because firearm competency training is now compulsory



in the country (according to *Firearms Control Act 60 of 2000*), every owner of a firearm, or those who want to obtain one, first needs to take and pass a proficiency test before they can be declared competent to possess one.

All firearm owners, private security guards, and bodyguards are required to take compulsory skills training—two or three training courses called *unit standards*. The three unit standards are (1) “Demonstrate knowledge of the *Firearms Control Act 60 of 2000*, (2) “Handle and use a handgun,” and (3) “Handle and use a handgun for business purposes” (like in private security) (Mhlongo, 2010).

Ordinary citizens who already possess a handgun or who want to own one must only do the first (law) and second (handgun) unit standards, while those who are working or want to work in private security (like armed personnel and bodyguards) must also do the business-related unit standard (Mhlongo, 2010). Members need to pass the theoretical and practical tests in all the unit standards in order to be declared proficient (Ras, 2010a). Persons who have or who want a shotgun or rifle must also do proficiency training in these categories of weapons.

It is during the training and taking of these compulsory courses that the question, “When can I shoot?” is discussed. In practice, before a person can shoot to kill in a life-threatening situation, the police must first declare that person competent before a firearm license for self-defense will be issued to that person. In order to be allowed to carry a weapon, a person first has to do all of the theoretical and practical training at a firearm training center (to be declared “proficient”), then he or she applies at the nearest police station for a competency license; the police then send all information to Pretoria (the Central Firearms Applications Office) where the application is considered. If they are then satisfied with everything, they declare a person “competent” (Mhlongo, 2010; Ras, 2010a).

## Competency Requirements

While it is the task of firearm training providers to ensure that a person is proficient in the use of a firearm (theory and practice), it is the task of the police to ensure they are competent (Ferreira, 2005; Mhlongo, 2010; Ras, 2010a). The requirements for competency are basically the following:

A person must be at least 21 years old, a South African citizen, must have no criminal record (specifically a prison sentence without the option of a fine), not inclined to violence, not addicted to drugs or anything with an intoxication effect, or involved in any criminal activities. In short, if you want to shoot the president or want to overthrow the government (high treason or sedition; Ferreira, 2008, p. 79; Snyman, 2008), forget it! Of further importance is to know that every competency license is only valid for a period of five years. A person must then re-apply. (Mhlongo, 2010; Ras, 2010a)

## Life-Threatening Situations

In terms of the culmination of the narrative plot line—Alibama, Osama, and Obama—if it is made applicable to the South African firearm situation, leaders like Obama, in the light of what has been said, must allow good people (like Alibama) to protect themselves against dangerous criminals and terrorists (like Osama) in life-threatening situations.

If someone tries to shoot at you and your life is in danger, you can take him out; but if someone steals your luxury vehicle and drives away, then your life is not in danger, and it will be wrong to shoot at all. In South Africa, the firing of warning shots are strongly discouraged, and it must also be declared at the nearest police station (*Firearms Control Act 60 of 2000*), but this is basically not done in practice because no one wants to take the risk and go and explain how his bullet ended up in a cow or went through a truck's windscreen (Ras, 2010a).

## **Amnesty**

The Minister of Police (up to two months ago still called the Minister for Safety and Security), Nathi Mthethwa, has recently announced another firearm amnesty period that expires on 11 April 2010 and is urging all people to hand back their firearms. It is quite clear that the police want as few firearms as possible in the country because they believe many of these weapons end up in the hands of criminals.

However, it is sad to see on television that many hunting rifles, that seldom are used in criminal activities (except for poaching), are simply destroyed in Gauteng (Vanderbijl-park) at an iron working factory where they are melted to become hot liquid metal—all in the name of safety and security. It is clear that the police are at present busy with drastic measures to ensure that the people will bow to their knees when it comes to more government control over firearms. Firearms, especially traditional bolt action .303 rifles that were used during and after the Second Boer War (Anglo Boer War: 1899 to 1902), are very close to the hearts of white firearm owners, like the farmers (“boers”).

## **South African Police Force**

On 1 December 2009, the South African Police Service's (SAPS) name was changed to South African Police Force (SAPF). This name change was deliberate to ensure that the police portray a strong man's image and that the days of a soft approach to crime are over (Ras, 2009, pp. 182-184; 2010c, pp. 117-118). With this change, the perception was also definitely created that the police now can shoot to kill in order to defend themselves against dangerous criminals with fewer restrictions (Ras, 2010a). The “hesitation-factor” before the police can open fire is now going to be replaced with clearer descriptions of “when” they can shoot. Hopefully, it will be along the lines of the discussions of Sergevnin et al. (2009).

## **Vicarious Liability**

However, those who understand the seriousness of the consequences of any shooting incident know that the responsibility of firing any firearm is tremendous. Today, vicarious liability in South Africa means that people are held responsible for what they do with their firearms. This reality normally starts to sink in when legal firearm owners or those who want to acquire a firearm for the first time, come to accredited firearm training centers to do firearm proficiency training and learn about the consequences of what will happen if they should shoot the wrong person (Mhlongo, 2010).

## Final Remarks

South Africa has many challenges that thicken the plot of this narrative. One of the most important challenges is to ensure that all legal firearm owners renew their existing firearm licenses, and that those who want to obtain a handgun for self-protection (self-defense) meet all of the legal requirements. Despite all the criticism, it seems that the government definitely is making some progress, although it is always seen as too slow.

Firearm research is almost nonexistent in our country. We do not have proper firearm statistics, and we also do not have sufficient academic information regarding case scenarios (*cf.* Morris, 1980), tactics (Dempsey, 1992), or clear guidelines when to use a firearm for self-defense purposes. Although firearm discussions and remarks were made regarding the use of firearms in body-guarding circles (Ras, 2006), a lot still has to be done. One of the biggest challenges is to create an academic journal in South Africa that specifically focuses on firearm issues—something that we do not have. To conclude this brief, unsophisticated narrative, if the Alibamas of today want to remain in the good books of the shah (Obamas), then more attention needs to be paid to firearm issues so that members can be better prepared to deal with all the Osamas in this world.

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# School Crisis Planning: A Case Study

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Nobody working in schools wants to make this phone call: "There has been a shooting in one of the classrooms and a teacher was hurt." Unfortunately, the principal of Notre Dame Catholic Elementary School in Portsmouth, Ohio, had to make this call on February 7, 2008. From the details of this incident, the researcher draws out important lessons learned that can be used by school professionals, law enforcement officers, and fire service professionals to prevent future violent incidents from occurring in schools.

## Literature Review

Every school needs a crisis response plan. The basic outline of a workable plan can be found on the Internet (Dwyer, Osher, & Warger, 1998; School Violence Resource Center, 2009). How do you take a plan and make it effective? Simonds (2008) suggested that school personnel use safety drills as a means to improve school safety plans. Leaders in schools can invite first responders and personnel from neighboring schools to be members of a team that observes school safety drills and then offers feedback. This strategy makes crisis plans more effective and develops a positive working relationship between school personnel and first responders which can be very helpful during a crisis.

Simonds (2008) also recommended that schools use debriefing sessions with students and staff following a crisis drill as another means to improve safety plans. By giving students and staff the opportunity to help enhance safety plans, school leaders increase the likelihood that students and staff will take drills more seriously. Using a team approach, school leaders can creatively find ways to respond to problems and concerns raised during these debriefing sessions.

Having a well-designed safety plan is step one. However, a plan on a shelf is not much good if a crisis occurs. Even after running several safety drills in one year in order to enhance a first draft of a safety plan, school personnel need to continue to practice safety drills regularly and update written plans based on experiences and new information (Boyd, 2000; Simonds, 2008). As this case study will illustrate, every person in the school, even the students, must know how to respond in a crisis. Appropriate response is learned by repeated practice.

Unfortunately, schools are not practicing crisis plans for school shooting scenarios. Neiman and DeVoe (2009) surveyed public school principals. They found that while 83% of the public schools had written crisis plans for a school shooting situation, only 52.5% of the schools practiced these plans (response rate = 77%;  $n = 2,560$  public schools). The findings of Neiman and DeVoe point out an area of weakness in school crisis preparations that likely exists in private schools as well as in public schools. Certainly, private schools need to run safety drills as this case study will point out in dramatic fashion.

In addition to preparing for a violent incident, school leaders also need to make prevention a priority. It is very important that school leaders provide training sessions for staff on how to recognize and report situations that concern them (Shaughnessy,



2005; Simonds, 2007; Simonds & Dickel, 2009; Watson, 2003). The threat assessment protocol developed by the U.S. Secret Service is a helpful resource tool that school personnel can use to identify and help students in need (Fein et al., 2002).

Providing help when it is needed can be an effective means to prevent violence. Students and staff members sometimes need help handling some of life's problems, and schools need to have structures in place to provide assistance (Fitzgibbons, Mahon, & Maus, 2008; Simonds & Dickel, 2009). Access to mental health professionals, medical professionals, and members of the clergy may give students, their families, and school personnel a way to work through issues and avoid frustration and violence.

The school building and the school climate are also important factors to consider when exploring ways to prevent violence (Simonds, 2009). A school resource officer or school security professional can assist school leaders by identifying changes in buildings and grounds that will create a safer environment. Schools can conduct a safety audit to discover and remediate climate factors that might precipitate violence (Boyd, 2000; Dorn, 2002; Simonds, 2009). During a safety audit, school personnel should consider questions like these:

- Does your school have a discipline strategy for students that works?
- Are students at your school bullied?
- Do students feel included and welcome at your school?
- Do you set high standards and help all students strive to obtain those standards?
- Are students involved in creating and implementing school safety plans as appropriate?
- Are there adults in your school with whom students can talk when they are experiencing a crisis? Who are they? Do students agree with your answers?
- Does your school have a graffiti eradication program?
- Do fights frequently occur at your school?
- Do unauthorized persons frequently come into your school or onto your campus?
- Do students bring weapons into your school?
- Do students bring drugs into your school?
- Do students in your school engage in gang-like behaviors?

By asking and answering these types of questions, school and security personnel can identify and address important school safety issues.

## **Method**

Crisis planning and violence prevention are critical tasks for today's school personnel. In this case study, we will explore how people at one school responded to a crisis and the lessons we can draw from their experience. This case illustrates why it is vital to develop, practice, and update crisis response plans on a regular basis.

### **Creating the Case Study**

Through professional contacts, the researcher learned that a violent incident had occurred at Notre Dame Catholic Elementary School in Portsmouth, Ohio, on February 7, 2008. In June 2008, the researcher began speaking with Assistant Superintendent Kathleen Quinn of the Columbus, Ohio, Catholic school system about details of the case. In order to study this event more completely and develop

recommendations for school professionals, law enforcement officers, and fire service personnel, the researcher interviewed Quinn on July 11, 2009.

Quinn is responsible for crisis preparation and response in the school system. Following the violent incident at Notre Dame Elementary, she drove to the school site and assisted with post-incident response. Due to her role in the school system and her involvement with the incident, Quinn had first-hand knowledge of the event and had access to information about prior crisis planning and post-incident response that made her an ideal person to provide information for this case study (Creswell, 2005).

Between June 2008 and September 2009, the researcher consulted Quinn about the details of the case and shared the written case study with Quinn prior to publication. This consultation and sharing refined the case study and enhanced the accuracy of the report (Creswell, 2005). News media reports of the event were also used to further ensure the accuracy of the account (Creswell, 2005; Greene, 2008; Herald Dispatch.com, 2008; WOWKTV, 2008).

## **The Case**

The case begins with a description of how the Columbus, Ohio, Catholic school system developed crisis response strategies prior to February 7, 2008. Then the violent incident is described. The case study ends with a description of the post-incident response by school system personnel, including a discussion of how the perpetrator gained access to the school building.

### **Development of Crisis Plans in the Columbus, Ohio, Catholic School System**

The Columbus, Ohio, Catholic school system includes 54 schools in 15 different counties in Ohio. The superintendent's office is located in Columbus, which is several hours away from some of the schools in the system.

In 2000, the superintendent of schools oversaw the development of a post-incident response team. The team was comprised of staff from the superintendent's office and staff from the schools within the Columbus, Ohio, Catholic school system. The team received training on how to assist school personnel with the sudden death of students and staff, violent incidents, and natural disasters. When a crisis occurred, a phone tree was used to alert team members and dispatch them to the school in need of help.

Early in 2007, the Columbus Catholic schools began working with the local public school district in Columbus on a new crisis response plan. The public schools had received a grant from the Department of Homeland Security, and leaders within the Catholic school system were able to attend training sessions sponsored through this grant. The sessions included training in National Incident Management System (NIMS) protocols. The NIMS protocols provided common language and action plans for school personnel and first responders during a crisis situation.

After attending these training sessions, leaders in the Columbus Catholic school system developed a systemwide crisis plan. Each school principal tailored the plan so that it could be applied to one local school.

Notre Dame Catholic Elementary School in Portsmouth, Ohio, enrolls approximately 150 students in pre-school through the 6th grade. The principal of Notre Dame Elementary, Kay Kern, and two staff members attended the NIMS crisis training in Columbus and brought what they learned at the training sessions back to the school.

All personnel at Notre Dame Elementary learned NIMS protocols and language through the IS100 online training program made available to the school through the Homeland Security grant. Subsequent to these training sessions, school personnel refined their crisis response plans and submitted their plans to the superintendent's office. Regular safety drills were mandated by the superintendent, and Notre Dame Elementary began to run lockdown drills in the fall of 2007 along with fire and severe weather drills.

As a part of the new crisis response plan at Notre Dame Elementary, the principal gave some members of her staff special roles to fulfill during a crisis. One person was designated to establish a safe perimeter around the school, one person was responsible for providing first aid, and one person was given the responsibility of communicating with first responders. During drills and in an actual crisis, the principal of the school would take on the role of incident commander until the first responders arrived.

### **Description of the Incident**

On February 7, 2008, Michael Layne headed to Notre Dame Elementary School to confront his estranged wife, Christi Layne. Before coming to the school, Michael Layne went to a home four blocks from the school and stabbed a woman. The woman was stabbed in the shoulder, and thanks to the heavy coat she was wearing, her injury was not life threatening.

Assistant Superintendent Quinn stated, "On February 7, 2008, about 9:15 AM, a call came to the Office of Catholic Schools . . . the principal of the school was on her cell phone; all she could say was, 'There has been a shooting in one of the classrooms and a teacher was hurt'" (K. Quinn, personal communication, July 11, 2009). Michael Layne, the estranged husband of 5th grade teacher Christi Layne had gained access to the school building, gone to his wife's classroom, stabbed her 16 times, shot at her two times, and then left the scene. One bullet grazed Christi Layne's face and she suffered multiple serious knife wounds.

During the attack, students ran from the classroom and alerted the principal who initiated a lockdown and called law enforcement. Faculty and staff immediately initiated lockdown procedures. The incident lasted 2½ minutes according to data taken from school security cameras. Law enforcement officers arrived just after the man left the school building. They later located the attacker in his home. Michael Layne killed himself following a standoff with the police.

### **Description of Post-Incident Events**

After receiving the phone call about the incident from the principal of Notre Dame Elementary, Assistant Superintendent Quinn drove there. Notre Dame Elementary is a few hours from the superintendent's office in Columbus, Ohio, and Quinn arrived 1½ hours after the incident. The students had already been sent home with their parents. Faculty and staff were gathered in a church hall. Quinn assisted the principal as faculty and staff processed the event, planned a prayer service, and

discussed how to provide counseling services to students and families. Kathleen Quinn also assisted the principal during interviews with the news media, communicated with the superintendent and Catholic bishop of Columbus, and communicated with first responders. She was available in the church hall to help as needed, and the Red Cross provided staff to help as well.

Quinn spent the night in Portsmouth. The morning after the incident, she helped the principal facilitate a meeting with the faculty. The faculty and principal took time to process the event themselves, and then discussed how to help the children recover from the trauma of the event. Quinn reviewed videotapes with the principal and first responders, helped the principal make plans to clean up the classroom where the incident had occurred, and helped to determine who would take over the 5th grade class until Christi Layne recovered from her injuries. Kathleen Quinn and the principal also set up times for parents and students to come and visit the school before classes resumed. This gave parents and students another way to process the event and helped them to be less fearful when school reopened. The school continued to provide counseling services for parents for several days after the incident.

After two days in Portsmouth, Quinn returned to her home in Columbus. She returned two days later to assist with the reopening of the school. Assistant Superintendent Quinn continued to check in by phone and in person with the building principal for the remainder of the school year.

### **How Michael Layne Gained Access**

News reporters stated that Christi Layne had confided to her lawyer that she was afraid that her former husband Michael Layne would hurt her and her son due to domestic disputes and a divorce (Herald Dispatch.com, 2008). Assistant Superintendent Quinn indicated that Christi Layne had also alerted personnel at Notre Dame Elementary about her concerns, and staff members decided that they would not admit Michael Layne to the school if he should come on campus and would call law enforcement for assistance. However, despite the fact that the exterior school doors were locked as usual on February 7, 2008, Michael Layne gained access to the school without being granted access by school personnel. How did this happen?

Using school security cameras, school and law enforcement officials were able to determine that Michael Layne gained access to the school through a lower level door. The door had an electric eye that would disengage the lock if a person came close to the door. A student on the way to use the bathroom walked by the door, disengaging the lock, and Michael Layne was able to enter the school building this way.

### **Lessons Learned**

The Columbus, Ohio, Catholic schools had a well-developed crisis plan in place. This incident necessitated new additions to the plan. The superintendent's office reviewed and revised their crisis response plan and asked all school principals to do the same. School officials learned that better plans to assist parents and respond to members of the news media were needed. Additional training for support staff, school leaders, and crisis response team members was initiated using this case as a way to formulate new response strategies.

It is important to note that it was a group of students who escaped from the classroom and alerted the principal about the attack. Thus, this case study underlines in red the point that everyone in the school needs to know what to do in a crisis, including the students. Students need to have sufficient knowledge to protect themselves and assist others during a crisis situation.

Assistant Superintendent Kathleen Quinn stated that “the schools learned the importance of running safety drills, especially the lockdown drills. Students and teachers responded automatically to the principal’s command to go into lockdown on February 7, 2008, and this automatic response only happened because everyone had run the drills multiple times” (K. Quinn, personal communication, July 11, 2009).

## **Conclusions and Recommendations**

Students and school staff members responded quickly to prevent further injury in this case. Students informed the principal of the attack, and the principal initiated the school crisis plan and called law enforcement. Teachers, staff, and students in the building put the crisis plan into action. This swift and focused response occurred because the school had a plan and practiced the plan. Everyone knew what to do in a crisis. This case teaches us that well-designed and regularly practiced crisis plans are essential for today’s schools.

Due to the physical distance of Notre Dame Elementary in Portsmouth, Ohio, from the superintendent’s office in Columbus, it was approximately 1½ hours before a representative from the superintendent’s office arrived at the school. Principal Kay Kern of Notre Dame Elementary was trained as an incident commander and handled the situation well according to all accounts. However, there will be situations in which the leader of a school and the school community will need more immediate help. In school systems in which the response time for support personnel is lengthy, as in this case, school superintendents will want to consider ways to either decrease response time or make plans to designate a more proximate person as the one who will assist with post-incident response. This will be especially crucial when the leader at the school site is not able to lead the post-incident response.

This case also teaches us about the importance of refining door lock technologies. Before Notre Dame Elementary reopened, the angle of the electronic eye was adjusted so that movement beyond the immediate vicinity of the door would not disengage the door lock. The amount of time that the lock was released was decreased as well. All schools using electronic eye lock release systems will want to make similar adjustments and perform periodic checks of these systems to determine if they are functioning properly.

The superintendent of the Columbus, Ohio, Catholic school system discussed concerns about the electronic eye with police, fire, and state officials. The electronic eye lock release system is required to meet state fire code regulations in Ohio, so the schools are required to use these systems (International Code Council, 2007).

In the 1900s, many lives were lost in schools due to poor fire evacuation plans and unworkable building exit strategies (National Clearinghouse for Educational Facilities, 2009; Watson & Watson, 2002). Clearly, safe and efficient evacuation of school buildings during a fire must be a high priority. But as we continue to adjust

our school crisis plans to meet the needs of today, changes need to be made. Today, we must not only consider how to exit a school building in a crisis, we must also carefully consider how to prevent intruders from gaining access to the school building.

The researcher consulted with three school security professionals about electronic eye lock release systems (J. Baxter, personal communication, August 6, 2009; R. McAuliffe, personal communication, August 5, 2009; C. Weggen, personal communication, August 6, 2009). These professionals indicated that electronic eye lock release systems provide a means to exit the building in an emergency for persons who are unable to operate a crash bar. Based on this case and conversations with these professionals, this researcher recommends that fire officials, police officials, security professionals, and school professionals all work together to develop a new means for persons unable to operate a crash bar to exit a school building. One example would be to install a request to exit switch on crash bars. The request to exit switch requires less pressure to operate than a crash bar.

When considering how best to prevent school violence, we must also consider that school personnel and students sometimes need counseling and other resources to help in times of personal and family distress. Schools are beginning to look at how to provide these resources (Fitzgibbons et al., 2008; Simonds & Dickel, 2009). The Catholic school system of Columbus, Ohio, has begun to seek grant funding to provide additional resources for staff and students, including access to a social worker or pastoral counselor as needed.

Christi Layne was concerned that her estranged husband might try to hurt her. Could a social worker or other professional have helped find a way to intervene before Michael Layne came to Notre Dame Elementary and assaulted Christi? Perhaps not, but this case does raise the question. While social workers, school resource officers, and counselors cannot work miracles, when these professionals are part of a school team, another valuable resource is available to students and staff to help prevent school violence.

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# Using Complex Systems Science and Simulation Modeling to Reduce School Violence

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## Introduction

Finding ways to capture the complex, spatio-temporal nature of school violence is one of the most frequently studied and elusive problems facing social scientists today. Indeed, of the many fears parents of school- and college-age students face in the new century, few are as frightening as the recent spate of violence in and around America's learning environments (Hanke, 1996; Schwartz, Weiner, White, & Joe, 2000). With over half (53.4%) of violent crimes among 13 to 14 year olds, and nearly a third (32%) of 15 to 17 year olds occurring at school (Baum, 2005), the concern appears valid inasmuch as school officials and law enforcement executives routinely face such challenges which range from mild to catastrophic (Kitzrow, 2003).

Though no one is certain when the shift to serious aggression began, Gladwell (2002) attributes the sudden "epidemic" or turning point of school violence to what he calls a "sudden age of isolation" (p. 265), launched by the school massacre at Columbine High in Littleton, Colorado, on April 20, 1999. Previously, lesser forms of violence—fighting, verbal threats, simple assaults—were part of our educational landscape. Columbine, however, was an anomaly, a harbinger of dire school-related events to come.

Over the years, while millions of young people grew up dispirited, emotionally withdrawn, and alienated from others, they had not unleashed the level of violence experienced at Columbine. Gladwell (2002) argues that although several factors may influence student behavior, it is the alienation and distancing experienced through isolation, and not external variables, that lead to outbursts of hostility: "These are epidemics in isolation: They follow a mysterious script that makes sense only in the closed world that teenagers inhabit" (p. 268). Indeed, the threat of violence in the poorly understood world of young people not only may result in injury or death, but it also fuels many students' fear of being victimized to the extent that they are distracted from concentrating on their studies (Lawrence, 1998; McDermott, 1980).

Because the isolated worlds of schools and colleges are unique in their vulnerability to violence, an ecological lens is useful in attempting to identify factors affecting those students who choose to harm their peers. While ecological theorists generally focus on crime and deviant behavior in neighborhood environments, some investigators (see Rodkin & Hodges, 2003) have been successful in using peer ecology in schools as a means for examining how complex interactions can result in victimizations. Indeed, in Bronfenbrenner's (1979) explanation of Ecological Systems Theory, we see the individual as a "highly complex system in which biological, emotional, and social elements are powerfully intertwined" (p.

1223). Stated more succinctly, Bronfenbrenner builds on Lewin's (1935) ecological model in the following formula:  $B = f(PE)$ . Ergo, behavior ( $B$ ) is the function of the interaction of the person ( $P$ ) and the environment ( $E$ ) (p. 73).

In terms of environment, it may be helpful to perceive relationships among students, educators, and administrators in schools as internal "communities," inextricably linked to other schools and to the neighborhoods in which they are located. Doing so allows further exploration of the viability of using complex systems science (CSS), and both linear and nonlinear analyses to prevent further injury in and near educational settings. CSS is an expansion of principles of chaos theory (Walker, 2007; Young, 1995), which may have merit in the early identification of how those factors contribute to perilous changes in students before they are acted upon. Equally promising, recent advances in dynamic systems simulation modeling, which is based on the CSS tradition (Holland, 1995), may offer a robust, cost-effective way to examine the dynamic spatio-temporal factors fueling physical aggression in school settings.

## Predicting Violence with Linear Models

"How could someone not have known that this student was in trouble?" is a refrain frequently heard following catastrophic acts of violence in school settings. Psychologists Mulvey and Cauffman (2001) address the question by noting the difficulties in knowing exactly what to look for, who should look for it, and doubts about what needs to be done when something is discovered (p. 797). Given that a complex chain of transactional factors typically precede acts of school violence, Mulvey and Cauffman observe that the risk of violence itself is a dynamic process, and once students at high risk are identified, steps need to be taken to "monitor the ongoing changes in the lives of these individuals for transitions or turning points" (p. 799). They astutely add, "framing the problem in this way might well change the focus of school violence programs" (p. 799) and the responses of officials when school rules are breached.

In the language of complexity, these changes are called *bifurcations* (discussed below) and detecting them is hampered considerably when using cross-sectional linear procedures that assume causality over the short term. While tidy, incremental, logical mathematical approaches provide some understanding of our natural world, their utility in predicting deviant, criminal, or violent behavior is of meager benefit at best. Nonetheless, despite rather weak results, many social scientists trained in the positivistic tradition still cling to the outdated notion that if we continue to exercise patience, look hard enough, and apply the right statistical technique, we will eventually discover which variables "out there" have the most impact on social phenomena.

Unfortunately, when seeking plausible ways to reduce school violence, continued reliance on linear designs and sophisticated linear mathematical models (e.g., hierarchical linear modeling) to predict and control risky human behavior guarantee continued disappointment. In fact, complexity scientists reject the notion that there is an objective reality "out there" waiting to be discovered. These scientists openly acknowledge the futility of examining relationships—in this instance, the interdependent actions of students, faculty, and administrators—with anything resembling micro-level precision. To them, what seems more realistic is

Weick's (1979) suggestion that a more workable social science perspective may require relinquishing the need for strong predictive models, recommending instead to consider the merit of presenting a broader picture of troubling changes in behavioral patterns of certain students in order to stay abreast of what's happening now in our schools (p. 168).

This adds credibility to Bateson's (1980) assertion that we need to acknowledge the futility of analyzing the static characteristics of individual variables and begin to focus our efforts instead on the outcomes of fluid interactions among individuals, particularly shifting patterns of behavior. For a number of reasons, this makes sense. Extremely few of us exist independent of our relationships with others. Not in our families, our jobs, communities, or schools. And because of the ever-present uncertainty of our lives, we need to be faster, more prescient learners in discerning what is happening or has just happened when unplanned changes occur (Wheatley, 2006, p. 7). Whereas linear paradigms inhibit progress in this enterprise, principles of CSS, augmented by nonlinear analysis, offer a promising alternative for viewing the interactive processes of students, faculty, and administrators in educational ecosystems.

## **Examining Violent Trends with Complex Systems Science and Nonlinear Analyses**

In expanding their argument of the futility of attempting to predict school violence, Mulvey and Cauffman (2001) suggest that important threat-related information may be gained from other students who often are quite aware of problem students sitting in their classrooms (p. 798). As expected, student victims are far more likely than adult victims to know their assailants (Burrow & Apel, 2008). Moreover, failure to pay attention to these rich sources of information is a questionable path to take, particularly if the objective is to continue to waste critical research efforts on structured, linear-based psychological assessments of individuals. Conversely, principles of CSS, when linked to simulation modeling, may prove useful in enhancing risk management in ecosystems.

This is consistent with recent findings by Weisburd, Morris, and Ready (2008), indicating that studies in the public health domain may be useful in illuminating variables influencing risk and protective factors in preventing violence within dynamical settings (p. 167). In simple terms, whereas risk factors are those traits or variables that when present may induce an individual to behave deviantly, criminally, or violently, conversely, protective factors in the individual—and the surrounding environment—may prevent or attenuate harmful effects of exposure to risk (Hawkins, Arthur, & Catalano, 1995; Loeber & Farrington, 2001). In this regard, Moore (1995), stresses the importance of using a public health approach not necessarily for its theoretical benefit as much as for its potential for “identifying plausibly important targets of intervention” (p. 245).

To arrive at workable strategies for identifying at-risk students in need of appropriate interventions, a multiple-risk factor approach that draws from multiple domains, especially within a specific ecosystem, is essential if risk management efforts are to be effective. More precisely, previous studies indicate that a micro-level approach that targets multiple risk factors in these domains can have a positive impact on reducing threats to schools (Weisburd et al., 2008).

As noted above, assessment methods based on having individuals respond to items on structured instruments do little to reveal indicators of trouble in school settings. For instance, Burrow and Apel (2008) admit that their application of logistic regression to nonlinear variables in their study of student victimization was inappropriate (p. 372) and led to low pseudo R-squares (3%). This may occur, Walker (2007) argues, because of our insistence on “stodgily following models of physical science when we know human behavior is much too complex and variable to neatly conform to the parameters of linear models” (p. 556). Complexity scientists might concur and perhaps suggest that in our quest to identify those factors leading to deviant, delinquent, and violent behavior, we must move away from the rigidity of linear modeling in cross-sectional studies and begin instead to explore the advantages of both linear and nonlinear statistical procedures to probe large data sets taken from long-term longitudinal studies to seek out patterns, relationships, associations, interactions, and social bonding in school settings.

Arguably, the web of patterns within these settings can be quite extensive, but for illustration purposes, the school ecosystem model in this paper consists of three: (1) individual students, (2) faculty, and (3) administrators. Though numerous studies exist examining the relationship between families and socially disorganized communities and schools because of limitations to the school as a microcosmic ecosystem, discussion of their influence in this paper is not as focused nor as intensive. Usage of the internal school-as-an-ecosystemic-model appears to be anchored in logic.

As Walker (2007) explains, many live and material entities that are quite complex in ecosystems are not amenable to examination with traditional linear methods (p. 557). In fact, in the nonlinear, quantum world, relationships are the key determiner of everything (Wheatley, 1999, p. 9). CSS, through its principles and metaphors, may provide a framework for demystifying the type of flexible, adaptive thinking required for detecting changes in students as they develop, thereby detecting potential threats before they reach critical, unmanageable stages. Moreover, with school violence, it is not only helpful to identify factors that increase the chance an individual may harm his or her peers, but to also gain an early sense of when these changes are happening in order to quickly apply tightly focused interventions at the micro level (Sherman et al., 1997; Weisburd & Eck, 2004). CSS and simulation modeling can facilitate this process. As will be emphasized later, interventions, and particularly the specific responses of school and police administrators in handling alleged violations of school rules, may have profound consequences for individual students.

To understand the potential benefits of this emerging new science more fully, a primer on its basic concepts is necessary. What follows is a glossary of terms typically associated with CSS as well as an attempt to make them amenable to school ecosystems.

## **Phase Space**

In his essay on CSS and neighborhoods as ecosystems, Walker (2007) avers that a good way to think about phase space is to associate it with a “map of a city where a person’s movement can be plotted” (p. 563) so that when viewed on a 3-D plane, geography can be plotted on one plane, time on another, and movements of the

person on yet another. By visualizing spheres or basins, we can gain a picture of an individual's actions among normative, non-normative, and potentially non-normative behaviors.

For example, when visualizing normative behaviors within school settings, we may see regular class attendance, focused academic study, preparation of term/research papers, and participation in extracurricular activities in one basin; and deviant/criminal behavior, including cheating, alcohol/drug use, stealing, gang involvement, and threatening/bullying peers, in another basin. Potentially non-normative behavior might include riding in cars with friends who drive recklessly, while being present but abstaining at parties where illegal substances or underage drinking are present might fall into yet another basin. Conceptualizing phase space in this way, Young (1995) argues, helps us understand the when and why of how ordinary people move from one way of behaving to another way, and why in particular some of them move from a "peaceable style of dealing with people to another more violent way" (p. 68).

## Attractors

To grasp the concept of the attractor, one has to realize that all systems (again, in this instance, metaphorically, the individual student is a "system") operate in patterns of behavior. When comparing natural science to social science, we see behavior of the former as being strongly drawn to one point—hence, a point attractor. For simplicity's sake, the oft-repeated example of a pendulum going to the same point in an arc and coming to exactly the same place each time (see Milovanovic, 2002; Walker, 2005; Young, 1995) serves as a good example of a typical point attractor in natural sciences. With regard to social science, however, this sort of rigid movement fails because although relatively stable most of the time, human behavior is varied, changeable, and, as Mulvey and Cauffman (2001) noted, anything but predictable.

Instead, the more instructive attractor in CSS is when there is a loosening of stability in the behavior of an individual, yet the person still pretty much adheres to the dictates of conformity. This descriptor—the limit attractor—is more appropriate for explaining most human behavior. The limit attractor generally allows unrestricted behavior, but within two extremes. In the school violence context, a limit attractor describes the relatively dependable student who, with slight and imperceptible variation—occasional minor transgressions, if you will—complies with the wishes and restrictions assigned by parents, teachers, and the school. As a consequence, although still of value, unlike the two attractors discussed next, the limit attractor minimally describes factors useful in detecting and monitoring aberrant student behavior.

School and police officials tasked with protecting students can gain valuable insights from discerning the distinctions between the torus and strange attractors. Returning to our 3-D phase space example for a moment, it is here we can begin to see the behavior of the "student-as-system" following a relatively stable pattern of behavior most of the time, but variations are now beginning to creep into his or her repertoire of movements. That is, some acts of deviance (e.g., truancy, smoking, alcohol use, emergence of risky peer associations) begin to occur, but most behaviors, though more pronounced, still fall well within the acceptable range of conventional behavior. In CSS, this pattern of behavior is represented by the torus attractor.

The vacillation—“drift”—between normative and deviant behaviors that occur with the appearance of the torus attractor should signify to school officials that this is the opportune time to intervene to prevent more egregious, potentially aggressive behaviors. Equally important, school officials must recognize that their actions in response to situations may actually trigger untoward behaviors. Unfortunately, neither of these usually is taken into consideration. And in those cases when they are, often it is too late. Consequently, if these indicators of trouble are not addressed in the early torus attractor stages, a more pernicious attractor—the strange attractor—may appear. With the strange attractor, behavioral patterns diverge so dramatically that supervision becomes nearly impossible as the student’s actions which heretofore were drifting relatively mildly back and forth between acceptable and unacceptable now become unstable, disordered, and on the verge of losing total control. Police and school administrators must realize that once there are indications that a strange attractor is emerging, the need for precautionary intervention is both immediate and critical.

Fortunately, indicators that patterns of stability and instability in behavior have begun to change from limit to torus to strange attractor, or more likely from torus to strange attractor, are capable of being detected. Detection is rendered possible through a CSS concept known as bifurcation.

### **Bifurcation**

Seasoned educators and police officers are aware that students exhibit varying patterns of complex behavior over time. In fact, if we observe students as systems, we see they do not continually stay in one type of attractor. In the physical, and to some extent the social sciences, determining when changes occur from one attractor to another can be quite specific. With each doubling of the patterns of a system (with students, their behavior), movement toward a different attractor begins. Equally important, these doublings are so specific in the physical sciences that the turning points when they occur can be discerned, as has been demonstrated by Feigenbaum (see Young, 1995), the scientist who discovered them.

Thus, it appears worthwhile for school administrators and police officials to look for indicators that a student is moving away from a relatively stable attractor to one that is more disordered. The change from torus to strange attractor discussed above is the most compelling example. The goal, of course, is to implement appropriate interventions long before the student system bifurcates and disintegrates into a far from stable state, characterized by the strange attractor (Milovanovic, 1997; Walker, 2007; Young, 1995). Spotting pattern doublings from more to less order can help. A mild example of a change from torus attractor to strange attractor would be the student whose one time act of cheating and plagiarism goes undetected, and this single set of actions then splits into two sets, with the student now complying with school rules and regulations but also routinely violating them.

### **Feedback**

In the context of schools, colleges, and universities as ecosystems, feedback is the component describing the impulses and signals sent to the system that the system then uses to make changes to itself (Walker, 2007, p. 566). Feedback can be ameliorative, destructive, or have no effect at all on a system. To provide further

illumination on how this concept can apply in school settings, *positive feedback*, taken in its customary meaning, actually has the opposite effect of destabilizing the student system further. For example, strong punitive interventions—zero tolerance to drugs, weapons, and gangs come immediately to mind—as forms of positive feedback can actually precipitate an unanticipated outcome and drive the student system to react uncontrollably or even violently.

On the other hand, carefully considered, thoughtful, and less stringent interventions may calm and return the agitated student back to order and control. This is perhaps better described as *negative feedback* seen with the limit attractor (Walker, 2007, p. 567). Hence, educators and law enforcement personnel wishing to prevent or reduce outbursts of violence should recognize the vital importance of feedback in terms of what is done or not done when presented with situations involving students manifesting strange, abnormal, erratic, or threatening behavior.

Too often, school regulations in the United States and nearly all other countries, are based on straightforward, positivistic, linear binaries—right/wrong, guilt/innocence, and punishment/absolution—that can fuel even more destructive behaviors. To prevent this from occurring, school authorities might wish to avoid overly formulaic responses when disciplinary cases are brought to their attention. This is consistent with Walker's (2007) contention that even when instability appears profound, "certain light and timely control remains possible" (p. 572). Or, as Burrow and Apel (2008) put it, "informal strategies may be more efficacious in reducing victimization risk" (p. 373).

Whatever the degree of control needed to keep schools and colleges safe, thought should be given to how CSS can inform social science on patterns of behavior that may render young people prone to violent acts. By employing CSS principles, we may gain a greater understanding of how a student's actions may teeter between conventional and questionable before bifurcating from a more ordered limit or torus attractor to a strange attractor when control mechanisms lose their pinion, and the seemingly rudderless student now acts on emotion and impulse, with little or no concern for others. To illustrate these concepts, Table 1 provides distinctions between traditional social science and CSS models for examining school violence, Table 2 gives examples of behavioral transitions between attractors, Table 3 provides examples of bullying-avoidance behavioral bifurcations, and Table 4 gives examples of behavioral bifurcations of a student with a deteriorating mental disorder.



**Table 1. Distinctions Between Traditional Research and Complex Systems Science Models**

<b>Traditional Research Models</b>	<b>Complex Systems Science Models, 21st Century</b>
<b>Inquiry Approach: Theories, methods, statistical procedures, testing: Generally linear and cross-sectional</b> (Analyses and evaluation are incremental, mechanical, straight line, static processes.)	<b>Inquiry Approach: theories, methods, statistical procedures, testing: generally nonlinear and longitudinal</b> (Analyses and evaluation are dynamic processes defined by periods of stops, starts, and regressions, and they are evaluated and measured poorly, if at all.)
<b>Emphasis on Structure</b> (Organized, mechanistic approach to identifying and examining factors influencing student behavior; the goal is predictability.)	<b>“Messiness” and Occasional Chaos Normal</b> (Dependent on analyses of systems, trends, patterns, especially changes in relationships—goal is to identify attractors and possible bifurcation points.)
<b>Design</b> (Lower-level agent as subordinate observer and implementer in leader’s design; hence, emphasis is on objective goal attainment.)	<b>Openness to Randomness</b> (Lower-level agent as participant in leader’s design; hence, some planning needed but openness to spontaneity and unpredictability critical to facilitating success.)
<b>Quantitative Analyses</b> (Situation is best explained objectively, often numerically, with equations, graphs, charts, and tables.)	<b>Qualitative and Quantitative Analyses</b> (Heuristic. Quantitative important, but qualitative is equally valuable in analyses because value-laden scientific data weakly explains interconnections among systems/subsystems by quantitative procedures alone.)
<b>Empirical</b> (Positivism, objectivity, and precision are critical to the proper observation of social phenomena.)	<b>Intuitive/Creative and Empirical</b> (Subjectivity present when observing all phenomena; hence, detecting underlying patterns requires logical and creative, qualitative approaches.)
<b>Prediction</b> (Clearly defined constructs and use of appropriate research methods will result in dependable predications.)	<b>Uncertainty</b> (Models for predicting human behavior and rapidly changing social and natural environments highly unreliable. Focus should be on understanding social phenomena; human behavior is too complex to predict.)
<b>Truth Seeking</b> (Based on modernist precepts: verifiable facts and major truths are “out there” awaiting discovery and/or validation.)	<b>Truth as Relative/Dynamical</b> (Seeking after major truths is problematical. Discovering and interpreting ever-changing webs of relationships and interconnections are better at revealing the dynamic nature of the event itself.)

**Table 2. Example of Behavioral Transitions Between Attractors**

Point	Limit	Torus	Strange
Punctual; never absent; assignments always completed on time	Tardy once or twice a semester; classes occasionally missed	Compliance with attendance policies generally satisfactory, but instances of being tardy or absent increasing	Misses classes or arrives late seemingly at will, with no discernible pattern of regularity
Time and effort at completing homework on time scrupulously followed	Homework seldom missed and mostly handed in on time	Homework assignments generally still being handed in on time, but number of incomplete grades increase	Assignments submitted sporadically, if at all
No involvement with transgressions (e.g., tobacco, drinking, pot smoking, use of profanity)	Some experimentation with tobacco, drinking, pot smoking, and profanity, but behavior rarely, if ever, repeated	Weekend partying with tobacco, drinking, pot smoking, and profanity, but conformity to social and educational norms still strong	Tobacco, alcohol, various forms of drug usage, and profanity frequent, often daily

**Table 3. Example of Bullying-Avoidance Behavioral Bifurcations**

Point	Limit	Torus	Strange
No change in walking route to/from school	Occasionally going different way in and near school property	Making it a habit to go different way in and near school property	Creating and randomly using new routes to and from school; eating/avoiding lunch; changing/not changing for gym classes
No discernible change in appearance	Occasionally changing from brighter to darker clothing or from tighter to looser clothing	Alternating from wearing same or different clothing on a regular basis (to the point where others notice)	Grooming and personal hygiene haphazard, with no apparent attention being given to clothes selection or being well-groomed or unkempt
Never bringing a weapon to school	Occasionally bringing a small weapon to school depending on perceived sense of threat	Bringing small or large weapons to school on a more or less regular basis	Maintaining a weapon in book bag or school locker on regular basis with special effort to conceal it
Exercising emotional restraint; anger never outwardly expressed	Occasionally expressing anger and frustration, usually among friends	Expressions of anger and frustration routinely exhibited along with calm behavior	Outbursts or open displays of anger seemingly random, or conversely, angry student grows sullen, secluding or isolating self from others
Perfect class attendance; participation predictable and good	Occasionally late or absent from class; participation generally still good	Class attendance sporadic; increased absences; late arrivals and diminished participation	Attendance and participation problematic; may sleep in class or openly defy or become combative with teacher

Source: Ursula Ziobro

**Table 4. Behavioral Bifurcations of a Student with a Deteriorating Mental Disorder**

Point	Limit	Torus	Strange
Attending class on a regular basis and always being punctual; engaging with professors and peers during class; achieving good grades	Occasionally tardy for class; nonfrequent eye contact with professors; decreased class participation; good grades maintained	Class attendance sporadic; grades falling; professors and other students uncomfortable in the presence of the individual	Frequently not attending class; being removed from classes by professors due to other students' fear of the individual
Responsible, stable behavior; no interaction with mental health services or police	Somewhat odd behaviors leading to therapy; diagnosis of selective mutism by psychiatrist; cooperative with treatment	Stalking behaviors and violent writings leading to therapy recommendations by professors; not compliant with treatment	Police interaction leading to temporary detention order at local mental health service provider; outpatient treatment recommended
Being close with and interacting with family members on an intimate level; attending church regularly	Occasionally attending church and participating in family activities; little verbal interaction with family members	Frequent lack of eye contact with family members; not using "family" names (grandpa, etc); not embracing family members	Family concern with mental health of the individual; referring to him as cold and taking him to church to rid him of his "demons"
Making and interacting with friends or peers at school; staying involved in school activities	Walking to school alone occasionally but still interacting with students while taking part in the school band	Voicing concerns about bullying at school; still attending classes regularly but with little interaction with other students	Threatening of a "hit list" of student bullies, discussing repeating school shootings; isolating from other students

Source: Nicole Meridith

## Early Warning Systems and Simulation Modeling

Without doubt, an infinite number of variables influence the actions of a student before he or she lashes out at classmates or teachers. As discussed in the previous section, bifurcations can be viewed as premonitory warnings or “turning points” that these changes are about to occur. Achieving a better understanding of the unique nature of indicators of impending danger is increasingly possible due to advances in computational power, nonlinear analysis, and simulation modeling. This section describes how researchers may use data-driven dynamic simulations to create models for exploring what-if situations to arrive at estimations of impending bifurcations.

For example, after having reviewed inconsistent results spawned by a quarter-century of disparate methodologies applied to test Routine Activity Theory (Cohen & Felson, 1997), Groff (2007) used simulation modeling and found it to be more effective in evaluating street robberies (p. 75). In her view, previous researchers suffered from three major shortcomings: (1) they failed to consider the spatio-temporal structure of Routine Activity Theory; (2) their measurements were flawed; and (3) they were unable to accommodate an analysis of dynamic, individual-level interactions. Her concerns generally coincided with those of Liu and colleagues (2005, as cited by Groff, 2007), indicating that previous studies were unable to demonstrate relationships in complex, nonlinear interactions and the manner in which patterns emerge from these interactions. Not surprisingly, then, the tidy, static, linear procedures currently being used to examine vacillating human behavior are increasingly being questioned in criminology and other social sciences (see Walker, 2007).

As a consequence, simulation modeling, especially when employing both linear and nonlinear techniques, offers a unique qualitative and quantitative perspective that may become the methodology of choice in the future for examining micro-level interactions and their influence on macro-level patterns (e.g., changes in school rules, policies, and procedures). This brings credibility to the assertion of some scholars (see Gilbert & Terna, 1999; Ostrom, 1998) that simulation modeling already is a third way of conducting social science.

## Implications for Policy

Interested police and school officials will find that the learning curve for simulation modeling is not as steep as they may believe. In addition to reducing the time and cost required by customary research, agent-based simulation models, especially when conducted within a computational laboratory framework (Epstein & Axtell, 1996; Gilbert & Terna, 1999; Macy & Willer, 2002), are parsimonious in how they are created and tested. Uncomplicated models representing the sort of social interactions experienced in everyday life are carefully evaluated first before more complex factors are added. Moreover, elementary statistical techniques are used before advanced linear and nonlinear techniques are applied. In Groff's (2007) study, for example, descriptive statistics, one-way ANOVAs, and simple linear regressions were used before more complex (Ripley's K; complete spatial randomness CSR) techniques were employed to examine changing spatio-temporal relationships affecting street robberies.

In this regard, the notion of agent-based simulations appears especially promising for experimenting with quirky situations that could erupt in school violence because an agent can be thought of as an independent entity capable of being

manipulated by simulation models (O'Sullivan & Haklay, 2000)—and a benign one at that. In this instance, simulations imitate the characteristics and behavior of students, teachers, police, and school officials, further demonstrating how changes in their interactions may not only bring about dangerous behavior but also may provide some guidance on macro-level policies needed to prevent it. Necessarily, this begs the question of whether seemingly fanciful “Star Wars,” “out there” simulation models are capable of truly representing reality. To some extent, this already has been done.

As noted in the Seattle street robbery example above, Groff (2007) effectively used agent-based simulations to model reality. Similarly, Kathleen Auerhahan (2002, 2007) applied simulation modeling to aging prison populations ostensibly spawned by Three Strikes Laws and in estimating felony prison populations in California, respectively. As a result, Auerhahan (2002) not only viewed simulation modeling as opening exciting research possibilities, she further believed dynamic systems simulation modeling can become a valuable policy-making tool as it “allows the policy analyst to examine the potential impacts of law in the absence of data suitable for conventional statistical analyses” (p. 353). Moreover, and perhaps more relevant to prey-predator relationships, Gialopsos, Cai, and Schafer (2008) recently used simulation models to explore how robbery targets might modify their routines to avoid being victimized again.

That said, an additional potential subsidiary benefit of simulation models is their potential for gaining valuable insights on the impact of school rules and policies on violence. This is currently not being done on a large scale because there is insufficient post-intervention data to effectively evaluate them using traditional methods and statistics. Indeed, forward-thinking law enforcement and education leaders should consider whether the traditional approach of waiting many years for suitable school violence data to accumulate in order to analyze them using conventional methods can be sustained. Especially when a more immediate, if not urgent, need exists to create resourceful, robust ways to quickly estimate whether interventions implemented are working (Auerhahn, 2002). Simulation modeling might be an effective way to address this need.

Admittedly, more studies involving the application of dynamic simulation modeling procedures must be conducted and evaluated before they gain widespread acceptance in the education policy research arena. Nevertheless, if outcomes of future simulation-based research result in findings similar to those discussed above, then it would appear that when applied to school settings, miniature model building and testing by competent researchers conceivably could take on a degree of accuracy in describing patterns and trends not found using conventional linear models. Moreover, by combining researchers' expertise, judgment, and discretion in holding constant or systematically varying factors influencing educational ecosystems, researchers using models may be able to provide “a level of control impossible to attain using traditional social science methods” (Groff, 2007, p. 80).

## **Conclusion**

My purpose in writing this paper is to invite further discussion among police and education leaders on the viability of combining complex systems science with dynamic simulation modeling in order to expedite the examination of patterns and trends associated with violent behavior. In the present situation, I use school

violence as a springboard for encouraging educational and law enforcement administrators to develop strategies using the complex systems science (CSS)/simulation modeling approach as a way to quickly and inexpensively detect signs of subtle changes in student behavior that later might lead to an assault. Indeed, educational researchers, after defining and operationalizing relevant variables (e.g., previous assaults, possession of/or access to weapons, suspensions/expulsions, drug/alcohol usage, arrests, in-school detentions, sudden drop in grades) and data-driven dynamical models of what-if situations, might help identify the emergence of destabilizing changes—bifurcations—in real student behavior much earlier than currently is the case with traditional statistical models.

Equally important, simulation modeling may also allow for analysis of both retroactive and prospective intervention strategies, thereby providing at minimal cost almost instantaneous, rigorous analyses of outcomes. To make this point more clearly, I situated CSS within Social Control (Hirschi, 1969) and Drift (Matza, 1964) theories and modified narratives previously offered by Walker (2007) and Milovanovic (2002) to illustrate how actions of school officials in response to alleged infractions of school rules may be helpful, or conversely, may be construed by student offenders as a form of bullying every bit as alarming as that of a classmate. Indeed, much as the dramatization of evil posited 50 years ago by Tannenbaum (1938) may actually increase rather than reduce further acts of deviance, I suggest that rather than improving a student's future behavior, the actions of a school official or school resource officer in dealing with a rule violation may actually exacerbate the situation, thus provoking a harmful bifurcation or chain of bifurcations with potentially disastrous outcomes.

In closing, Walker (2007) calls on criminal justice researchers to take steps to significantly change our theories, as well as our methods for testing them. Doing so may move us "from our current state of, essentially, examining different concepts using slightly different operationalizations and propositions and getting about the same level of explained variance" (p. 581). Thus, even a casual reading of this evolving, nontraditional approach to doing social science suggests that as the principles and techniques discussed herein are refined and improved, the future may provide greater insights not only into school violence but also into complex patterns of other crimes such as drug dealing and usage, prostitution, automobile theft, workplace violence, and fixated/preferential child molesting.

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# Deadly Force Training: Faulty Foundation for Contemporary Programs

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## Introduction

Important factors converged during the 1980s that created momentum to more broadly define and improve deadly force training. Despite that promising nexus, progress was constrained by the nature and customary practices of handgun-related training that developed slowly over the 20th century. The result was a model that was inadequate in its breadth as well as largely impractical and poorly suited for police purposes. Contemporary programs did not spring from a blank slate; they were built on the existing pre-1990s foundation. As such, that foundation needs far greater scrutiny than it has received to date.

Practitioners who have developed and refined their programs over the years have overwhelmingly done so without either access to or use of the tools that researchers and evaluators routinely bring to bear on important public policy matters. Extensive academic research dating to the 1960s has focused on understanding and limiting police use of deadly force. Today, restrictions on the use of deadly force are far more numerous, the process for investigating officer-involved shootings far more rigorous, and expectations for contemporary training are far higher. Indeed, police researchers have noted that pre-1990s handgun and other firearms training generally was problematic in various ways (e.g., consider Alpert & Dunham, 1989, 1995; Fyfe, 1982; Geller & Karales, 1981; Geller & Scott, 1992; Matulia, 1982; McManus, Griffen, Witteroth, Boland, & Hines, 1970; Milton, Halleck, Lardner, & Abrecht, 1977).

The training facet of deadly force, however, has received relatively superficial attention—especially the catalysts that shaped early police handgun training and subsequent influences that resulted in the two models that police sequentially relied upon from the early 1900s through the 1980s. Both were heavily flawed, but the lengthy period of their use entrenched many formal policies and customary practices that continue to influence contemporary training. Because the critical examination of this training domain has been so limited, many assumptions are made about the efficacy of contemporary programming to prepare officers for competently handling these highly challenging encounters. Modern programs typically do bring together key elements of constitutional protections, statutory law, and policy provisions; marksmanship and gunhandling techniques; tactical procedures; and judgment. They do this, however, in a seemingly infinite number of ways.

Policy makers and trainers who wish to adopt best practices for preparing their officers to competently perform during high-risk encounters in which they reasonably might use deadly force are confronted by two chief problems. First, there is surprisingly little empirical research from which to pull together an informed understanding of the foundation for deadly force programs. Second, there has been virtually no emphasis on program evaluation as the proper means for rigorously examining the impact of training on the safe, appropriate, and effective use of deadly force. Even today,

we know almost nothing about how the myriad approaches used by hundreds of academies and thousands of departments affect the outcomes of high-risk and deadly force encounters. On the one hand, this seems surprising given the attention that the use of deadly force has drawn from various quarters over the past several decades as well as its implications for police and public safety. On the other hand, truly practical, high fidelity programs with high levels of utility for field personnel who interact with dangerous persons did not begin to evolve until very late in the 20th century.

This article, therefore, critically evaluates the formative century (c. 1890s to 1980s) of police training that produced the foundation upon which contemporary programs have been built. Extensive original archival materials and the typically overlooked practitioner literature, when combined with prior scholarship on both police history and the use of deadly force, reveal serious flaws. As argued here, subsequent efforts through the 1980s perhaps have improved matters only marginally due to such a weak point of departure. Although we admittedly appear to be in the midst of the most progressive era in police firearms and deadly force training, this statement could have been made at several points in its longer history given the relative nature of such perspectives. Given this and the continuing influence of pre-1990s training, it would be imprudent to equate recent changes with vast improvements. This is because what emerges is a picture of a clearly vital training domain that was poorly conceptualized, which developed at a glacial pace and throughout was oddly disconnected from the practical needs of police. The goal of this article is to better inform researchers and practitioners about the weak foundation underlying contemporary programs that needs shoring up. This article begins by examining the core elements of early handgun training since these comprise the essential background for examining and discussing three equally important related matters: (1) formally certifying or “qualifying” officers in handgun use, (2) credentialing department-based instructors to deliver inservice training, and (3) assessing officer performance in deadly force encounters. This article closes with a discussion of implications for contemporary deadly force training programs. At the center of that discussion is the absence of meaningful research and program evaluation aimed at identifying best practices that can enable future decisionmakers and trainers to identify and implement the safest, most appropriate, and most effective approaches to deadly force training. Future efforts should be aimed at developing high-fidelity programs that meet practical criteria shown to make measurable differences in important outcomes from high-risk encounters.

## **Handgun Training Background**

Patrol officers carried handguns in the 19th century out of legitimate concern over the serious violence sometimes directed at them (e.g., see Lane, 1967; Miller, 1977; Richardson, 1970). This practice developed informally and often was neither officially approved nor proscribed. Many patrolmen simply acquired, carried, and used their revolvers without policy guidance or proficiency training. In the Midwest and Eastern regions, the early custom was for police officers to carry their revolvers concealed in a tunic pocket or in a holster beneath it (which provides an interesting reminder about the ambivalence that surrounded police and firearms). In a rare late 19th century exception, Theodore Roosevelt, the progressive commissioner with the New York City Police Department, introduced periodic rudimentary handgun training and practice (Berman, 1987; Jeffers, 1994; Roosevelt, 1985). Importantly, Roosevelt’s efforts were not widely emulated by police executives in other large cities, and even his own modest program vanished soon after he left office (New York City Board of Aldermen,

1971). The most glaring problem that surfaces from this earlier period is the dearth of handgun training before the second quarter of the 20th century despite urban police officers by then having routinely carried handguns for a half-century. Meaningful efforts to address officer performance potential for deadly force encounters languished for many decades, so handgun use during that period was far from safe and effective. When handgun training did appear and then slowly began to evolve, it took two distinct forms. The first would limit the possibilities for the second and, thus, retard the pace toward more practical developments for the rest of the century.

## **The Martial Model**

Championing police handgun training on a national scale became a focus for the National Rifle Association (NRA) by the early 1920s. Having previously developed a popular competitive handgun marksmanship program, the NRA stepped in to fill the gap with its military-derived, but largely recreationally oriented target shooting model. The NRA was genuinely concerned with “banditry” and other serious lawlessness of the Roaring Twenties, as well as enhancing officer safety and efficiency in the spirit of the Progressive Era’s emphasis on improving government services (e.g., see Hathaway, 1927; Reckord, 1926). The center-pin was the NRA’s National Matches held each summer at Camp Perry, Ohio. There, in 1923, the NRA inaugurated its “Police School” to teach basic handgun marksmanship and related gunhandling to police officers who would then serve as certified instructors at their departments (e.g., see Lister, 1938; NRA, 1923a, 1923b, 1923c). There were similar regional efforts, too, such as in Pennsylvania in the early 1930s (Mitchell, 1932). In addition, hundreds of local NRA-affiliated clubs around the U.S. opened their ranges to police departments, provided instructional materials and marksmanship courses-of-fire, and introduced competition-derived marksmanship standards (e.g., see Himmelwright, 1922).

The NRA’s model for handgun training was not new, however, since its clear heritage was U.S. Army cavalry “dismounted” (i.e., standing instead of on horseback) doctrine, techniques, and proficiency standards that it modified only slightly (e.g., see Bair, 1932). This martial model became widely used because the NRA extolled its virtues and sought to nationally disseminate it during the late 1920s and across the 1930s. Extensively detailing the martial model is beyond the scope of this article, but grasping its principal elements is central to appreciating its ramifications for police deadly force training.

The standard firing sequence was five consecutive shots even though police revolvers typically had the capacity for six cartridges. These five-shot strings, called *scores*, were fired from no closer than 15 yards, more often at 25 yards, and from as far away as 50 yards. A patrolman fired all of his shots at a single bull’s-eye target. Some targets were quite liberal in their overall size as well as in their scoring zone sizes and corresponding point values. The fastest standard firing rate was five shots in ten seconds and began with the revolver in hand and, as thousands of departments gradually came to use this model, undoubtedly sometimes already aimed at the target. Individual departments could, after all, do as they pleased given that the NRA was in a supporting, not sanctioning body, role.

Patrolmen thumb-cocked the hammers of their double-action (i.e., two mechanical options for firing) revolvers in the manner of target-shooters. One was thumb-cocking wherein the thumb was used to cock the hammer as well as rotate the cylinder to

align a chamber with the barrel's bore. This technique enabled a lighter trigger press effort for the shot and, thus, was less disturbing of the sights. For this reason, thumb-cocking generally results in greater accuracy, though at the cost of speed. The other technique was far more practical for high-risk encounters between police and dangerous suspects—simply pressing the trigger. Referred to as *trigger-cocking*, this method cocks the hammer as it simultaneously rotates the cylinder. Given the finely graduated bull's-eye target as the measure of marksmanship and liberal time limits, thumb-cocking made commonsense at the range even though it was not the sensible method for police.

The martial model embodied serious handicaps for police pursuing utility from their training. In addition, it is significant that early police handgun training largely ignored practical gunhandling matters such as safely and quickly drawing their revolvers from their holsters or pockets, moving during a high-risk encounter with a revolver in hand, or quickly reloading the cylinder after firing all the cartridges it contained (assuming extra cartridges were even carried). Because the martial model was not developed for police applications, it offered little of value to police officers confronted with dangerous suspects at close range. Then, as now, deadly force encounters generally do not occur at 25 to 50 yards but, rather, arise out of interactions between officers and dangerous persons who are within reach of one another, only a few steps apart, across an alley or narrow street, or from one car to another during a traffic stop. Nevertheless, the bull's-eye based martial model persisted for many decades because no alternative model appeared that gained sufficient momentum to displace it.

The disconnectedness between the skills fairly obviously needed for armed confrontations and those actually taught and certified through formal qualifying was enormous (more on this later). Today, we know far more about police-involved shootings. Early 20th century urban police departments could have learned something of practical value from their officer-involved shootings, too, particularly since some information on officer-involved shootings and other violent police-public encounters were available through a handful of police executives' memoirs (e.g., consider Costello, 1972; Flinn & Wilkie, 1971; Roe, 1976; Savage, 1865; Sprogle, 1971; Walling, 1972). While memoirs provide far from ideal data, and those early decades finally were critically examined by police scholars beginning in the 1960s (e.g., see Lane, 1967; Miller, 1977; Richardson, 1970; Schneider, 1980), their accounts of violent police-public encounters are sufficient to deduce the following general characteristics. Officers were shot at and/or shooting at suspects at night or under poor lighting conditions; the distances were close; there was little or no warning of the need to use deadly force; violent confrontations often were preceded by physical struggle; and officers and/or suspects were in motion. Had decisionmakers started with a combination of their departments' own experiences coupled with basic information such as the foregoing, the martial model would more likely have been a stopgap in a transition to practical programs with substantial benefits.

### **The Practical Pistol Course Model**

By the 1980s, virtually all police handgun training was based upon the Federal Bureau of Investigation's (FBI) *Practical Pistol Course* (PPC), though primarily in a relative sense as compared to the martial model. The FBI designed its original 50-shot PPC to provide its special agents with training that was more realistic than

that offered by the martial model. In some ways, it accomplished that goal through the attributes such as those below (Hoover, 1945; see Morrison, 2008, for extensive details on the PPC's development):

- Substituting a life-size humanoid silhouette target emphasizing basic anatomical features
- Adding an atypically close, seven-yard firing distance where special agents fired their revolvers from a crouched combat-like stance and by trigger-cocking the hammer
- Drawing the revolver from its holster to then immediately fire
- Reloading an empty revolver under time pressure and then immediately resuming firing
- Simulating the use of cover or concealment to encourage this basic tactic in the field (e.g., a 2" × 6" board extending vertically from a metal rectangular sleeve in the ground)
- Adapting the well-established rifle shooting positions of sitting, kneeling, and prone to reduce exposure to assailants' bullets and to provide greater stability for improved accuracy at longer ranges of 25, 50, and 60 yards

The PPC gradually displaced the martial model as local and state police departments adopted some version of it. By the end of the 1960s, the PPC was the unchallenged basis for initial police handgun instruction and qualifying around the U.S. It, naturally, also became the model for inservice requalifying and related practice (though there was no inservice training in the contemporary sense of this term). The examples presented in the next few paragraphs attest to its widespread use.

In the East, senior officers with the Boston Police Department were attending the FBI's 14-week National Academy program in the mid-1940s, one that included PPC-based handgun instruction (City of Boston, 1945). New York City academy instructors were attending the "standard F.B.I. training course for firearms instructors," while their own recruits were "receiving vastly improved instruction which includes a modified 'Practical Pistol Course'" (City of New York, 1957, p. 26). The NYPD academy even produced a 16-minute film on revolver training titled *The Practical Revolver Course* (p. 27). In the Midwest, in the early 1950s, the Chicago Police were using Colt Firearms' already classic silhouette target that was mated with the PPC (City of Chicago, 1953, 1958).

In the West, the Seattle Police Department was using PPC-based "combat firearms training" as early as 1940, and by 1947 had implemented quarterly requalifying (City of Seattle, 1940, 1947). In nearby Tacoma, elements of the PPC and its silhouette target were being used by the mid-1960s (City of Tacoma, 1966). Police in Honolulu did some of their handgun firing at silhouette targets in the early 1960s, and the department sent an officer to the FBI's Firearms Instructors School in 1971 (City and County of Honolulu, 1960, 1964-1965, 1971). PPC-inspired elements were in use in Honolulu through at least the early 1980s (City and County of Honolulu, 1971, 1976, 1981). Even in the early 1990s, the California Department of Corrections relied upon the POST requirement for entry-level peace officers that prescribed a 36-round PPC-style course (California Department of Corrections, 1991).

In the Southwest, the Phoenix Police Academy was conducting "practical pistol training" (p. 43) for its recruits, including a close-range "double-action modified P.P.C." (p. 45) limited to 25 yards and closer (Miller, 1973). The New Mexico State

Academy used a PPC during the 1970s (Salazar & Lovette, 1977). In the Southeast, the Chattanooga Police Department used a “close-range” PPC featuring shorter firing distances (Hicks, 1975), while the Tennessee Law Enforcement Training Academy program was using both 25-yard and 50-yard versions of the PPC in the late 1970s. Finally, and in an interesting early example of the reverse influence of police training on military training, at least some U.S. Army Military Police were using a PPC-based course for handgun training and qualifying by the mid-1970s (Moore, 1977).

Books and articles by prominent authors in the area of police firearms training attest to the ubiquity of the PPC by the close of the 1980s. For example, Mason’s (1976) *Combat Handgun Shooting* referred to the PPC as “highly regarded by law enforcement officials” and claimed that it had been used to train “more police officers than any other” model (p. 96). Weston’s (1978) *Combat Shooting for Police* included a chapter on various courses-of-fire in which the PPC was the only one of that format that was described in any detail. Roberts and Bristow’s (1969) *An Introduction to Modern Police Firearms* featured a chapter on the original PPC, along with the NRA’s similar combat handgun course of that period. Finally, Williams’ (1977) book on police weapons, ammunition, and training procedures did not even bother to detail the PPC model because its basic elements and characteristics were so widely known. Williams also expressed serious reservations about it as a suitable means for preparing police for armed encounters with dangerous persons (see pp. 202-208).

Scholarly research also began to document the PPC’s widespread use in the 1970s. McManus et al. (1970), for instance, found that nearly all (93%) of the departments serving populations of 100,000 or more responding to their survey used a PPC. Most of the smaller departments did, too, though some were still using a readily recognized bull’s-eye course of martial origins. Skillen and Williams (1977) found that nearly two-thirds (64.9%) of their 111 responding police departments used a “Standard PPC,” a “close range combat” course with a maximum distance of 25 yards, or some other PPC derivative. Most of the rest (24.3%) reported using their “own specific course,” which generally meant their own PPC-derived course (p. 109). As with McManus et al. (1970), Skillen and Williams (1977) even found that bull’s-eye courses were still being used; nearly two-in-five departments continued to use such courses in their periodic inservice training programs, though rarely as the primary course-of-fire (10.8%).

Milton et al. (1977) found that in their study of police use of deadly force, PPC-based courses were in use by all seven of the major cities that they studied—Birmingham, Detroit, Indianapolis, Kansas City, Oakland, Portland, and Washington, DC—and noted that it “may leave something to be desired” (pp. 110-111). Matulia (1982), in probing the use of deadly force among municipal police departments serving populations of 250,000 or more, also described its virtually exclusive use. There were more innovative-sounding approaches at some departments such as “tactical” courses that typically involved placing objects such as cars, mailboxes, doorways, and telephone poles on the range behind which officers took some manner of cover when firing at their targets. Another was a “physical exertion” or “stress” course featuring brief physical activity before firing such as sprinting, sit-ups and/or pushups. There is no evidence, however, of any significant departure from the PPC’s core marksmanship and gunhandling characteristics.

The NRA accelerated the PPC’s adoption by U.S. police departments when it selected this model as the basis for its reinvigorated police training and qualifying

program. Introduced in 1961, NRA coupled the PPC-based training program to its new National Police Shooting Match program that it introduced the following year (Grubar, 1962). Training and competition, whether in the martial era or PPC era, had long been the twin pillars of its efforts. NRA's 1960s program featured a three-day instructor development course that led to certification, formal qualifying standards for recruits and inservice personnel, and new police-only "combat style" matches (NRA, 1960a, 1960b, 1961; Weller, 1963; also see Mate, 1966, for basic course-of-fire details). The FBI's distinctive one-handed, hip- or below-eye-level firing from a crouched stance at seven yards was retained for NRA's program. This iconic component to the course made the cover of NRA's *American Rifleman* in both 1961 and 1963. By the mid-1960s, a survey found that around four-in-five departments were using the "FBI Practical Pistol Course or a modification of it" for their recruit training (Weston, 1964, p. 24). As though to remove any remaining doubt about the PPC model's grip on police handgun training and qualifying criteria, the manager of NRA's Police Firearms Training Department in the late 1970s was a former FBI Academy firearms training supervisor (Anderson, 1979).

## Being "Qualified" with the Handgun

Initial handgun certification followed by periodic requalifying took firm root by the 1970s. Once merely a custom, it has become an expectation of police and reinforced by either state-level statutory law or administrative regulation. Curiously, being qualified with the handgun during the second and third quarters of the 20th century was relatively similar for the soldier, police, and competition target shooter. Despite their different operational settings and purposes, being qualified was nearly always associated with proficiency as measured by the martial model (e.g., consider NRA, 1923a; Purvis, 1936; Reserve Officers Training Corps [ROTC], 1938; U.S. War Department, 1913). The typical scoring thresholds were between the cavalry dismounted requirement of 60%, and the 70% associated with the *marksman* performance category for civilian target shooters, which became popular with the police. Importantly, being qualified simply meant that a shooter had met the *minimum* acceptable level and, in fact, comprised the category below marksman. Merely being qualified did not connote a high level of skill but, rather, quite the opposite.

Nevertheless, the cavalry-inspired martial model supplied the conceptual basis for qualifying police to carry handguns and use deadly force. This role for the handgun qualification process carried over to the PPC model in part because the FBI also relied upon the martial model and its customary 60% threshold before introducing its PPC. The FBI later markedly raised the performance threshold to 85% (Cochran, 1966; Hoover, 1945; Purvis, 1936), a change due in part to agents gaining familiarity with the PPC each time they fired it, the much larger humanoid silhouette, and liberal time limits that did not necessitate practical firing speeds.

Though the FBI did not limit its handgun training to firing the PPC course (e.g., see McGivern, 1938), local and state police tended to use it as the singular basis for instruction, practice, and proficiency testing. Yet, no single 50-shot course-of-fire can possibly incorporate all the skills and abilities that police officers need as the basis for performing competently in high-risk encounters. Furthermore, a course-of-fire that wholly determined the content of instruction, the format for practice, and the formal test is the epitome of the frequently criticized educational approach associated with "teaching to the test" in response to standardized testing. An



officer interviewed by Binder and Scharf (1983) during their study of police use of deadly force provided a candid observation of pre-1990s, PPC-based training: “. . . completely unrealistic, a police Disneyland. You have time to set up; no one is trying to kill you and you aren't completely stressed out from six other insane assignments. Also you're not moving and the target's not moving. Otherwise the training is fantastic here” (pp. 202-203).

To further compound matters, officers in many police departments around the country carried handguns and used deadly force without necessarily maintaining even a low standard of proficiency. Failing scores could be ignored because departments comprised the sole authority and, therefore, could decide to assign failing officers to regular duty (Binder & Scharf, 1983). Officers who demonstrated an inability to reach the modest threshold score, even repeatedly so, nevertheless continued to work in patrol, investigative, and other assignments that brought them into contact with potentially dangerous persons. For example, in 1957, the incoming chief of the Washington State Police found that fewer than two-in-five of his officers had qualified with scores of at least “marksman” (~70%). The department's formal threshold was lower. He attributed this to officers previously not having had any “organized practice shooting programs” for periodic training and practice beyond rote firing of the qualification course (Austin, 1962, p. 23). McManus et al. (1970) also found that some departments did not even require that their officers periodically requalify. Even those that did had broad latitude to set minimum threshold scores based upon various combinations of statutory provisions, local policy or customary practice, mere precedence, or NRA and/or FBI standards—or simply personal preference. This and related findings led McManus et al. to comment that,

With regard to the firearms tests given and qualification scores required of new recruits, there is great variety and no standardization. Not only are the [threshold] percentages different [between departments], but different targets are used (Colt, bobber, Prehle, bull's-eye, a variety of silhouette and combat targets, and special targets). In addition, many agencies have modified courses; when they refer to the PPC (Practical Pistol Course) they are referring to their own version of the PPC. Some standardization appears desirable. (p. 190)

As a part of their larger study, McManus et al. (1970) conducted a case study of the New York City Police Department's handgun training. They found that the qualification threshold score for its then new 50-shot PPC course was 70% despite scoring the large silhouette target on a hit (one point) or miss (no point) basis. As a result, officers could qualify even if they *completely missed* with 15 (30%) of the 50 shots. During the mid-1970s, Skillen and Williams (1977) found that most departments requalified twice a year, though some did so only annually, while others did so three or more times a year. They also found that departments commonly set their thresholds around the academic-sounding 70% level but without meaningful grounding in job-task analyses, observed field performance, or other practical basis.

Another interesting indication of the peculiar status of being qualified with the handgun can be found in urban police department annual reports. For instance, in 1947, 7% of San Francisco's officers were not qualified (City of San Francisco, 1947). That figure was virtually the same 20 years later (City of San Francisco, 1967). Because it is unlikely that a department would sideline such a substantial portion of its sworn personnel, those officers likely worked in fully sworn capacities. Skillen and Williams

(1977) reported that only around 5% of departments responding to their survey removed nonrequalifying officers from field assignments until they demonstrated the required level of proficiency. Approximately 11% simply allowed officers who failed to requalify to remain on duty and to try again at the next regularly scheduled interval. As a result, some officers were carrying out law enforcement duties for as many as six months to a year after failing to requalify on—as argued here—an inadequate measure of a narrow and impractical range of skills. Being qualified clearly had a different connotation than it does today where failing to qualify can be a bar to academy graduation and failing to requalify a potentially serious personnel matter for incumbent officers. Questions remain, however, about the lack of comprehensiveness to contemporary qualification and, therefore, what it logically attests to regarding the potential for police performance in high-risk encounters.

## Instructor Development

As previously noted, NRA police handgun training programs in the 1920s and 1930s focused on teaching sworn personnel to be instructors who could then teach their fellow officers how to handle and shoot their revolvers. The FBI took up this highly influential role beginning in the mid-1940s. By the end of that decade, it was clear that the FBI would “ultimately exercise a profound influence upon the methods and processes of local forces, by raising standards of general administration *and of training*” (Smith, 1949, p. 324) [emphasis added]. It is significant that the National Academy (est. 1935) had approximately 3,000 local and state police alumni by the mid-1950s who had been exposed to the PPC model (Collins, 1943; Cook, 1964; FBI, 1935; Smith, 1949; Turner, 1993; Ungar, 1976). Also of significance were the thousands of “zone schools” held around the U.S. that made instructor development possible for rural departments and/or those with tight budgets. The FBI held instructor zone schools on an array of topics, but firearms instructor development was one of the three most popular (Smith, 1949; Turner, 1993; Ungar, 1976; and for an extended discussion, see Morrison, 2008). The combined effect on the direction of police handgun training was substantial. These two programs graduated thousands of FBI-trained local and state officers who then provided handgun instruction and conducted qualifications based on the PPC model. In addition, besides the NRA and the FBI, only the International Association of Chiefs of Police (IACP) likely would have been capable of effectively promoting an alternative model. Based on the PPC-oriented nature of handgun training articles published by IACP’s official journal *The Police Chief*, that does not appear to have been the case.

With NRA’s resurgent interest in police firearms training in the early 1960s, hundreds of police instructors began graduating each year from its new National Police Firearms Instructor School (e.g., NRA, 1979a, 1979b). As had the FBI, the NRA accomplished this through a combination of nationwide promotion and zone schools. At the end of its first decade, the NRA reported that nearly 250,000 police officers around the U.S. had participated in firearms training delivered by NRA-certified instructors (NRA, 1971). That program remained popular throughout the 1980s, for example, with around 300 local and state police firearms instructors completing the program in both 1976 and 1977 (NRA, 1977, 1978). Three years later, the NRA created a course for firearms training managers and supervisors at which time “more than 2,000 law enforcement organizations [had] registered their training and qualification programs with NRA and [had] received NRA qualification and training certificates” (NRA, 1981a, p. 18; 1981b). The NRA’s

influence was extensive and penetrated deeply, if often indirectly, into the policies and practices of many thousands of police departments. The NRA and FBI were the unrivaled leaders in handgun training format, content, and delivery at the local and state levels during their respective periods of influence.

## Assessing Field Performance

Despite the potential advantages of training and certification processes that should have accrued to officers for performing competently in high-risk encounters, the outcomes from deadly force encounters were rarely systematically evaluated. Available evidence from the pre-1990 period indicates that police combat shooting performance was relatively low (e.g., see Alpert & Dunham, 1989; Cerar, 1990; Fyfe, 1982; Geller & Karales, 1981; Geller & Scott, 1992; McGee, 1981; McManus et al., 1970). For instance, in the mid-1970s, the police bullet hit percentage in officer-involved shootings in Chicago was 15%, a level low enough to make one wonder at what point chance becomes the dominant factor in performance outcomes. Furthermore, bear in mind that police did not miss with *all* of their shots even in the decades prior to the wider introduction of early bull's-eye shooting practice beginning in the 1920s. Therefore, the hit percentage baseline for making comparisons after the introduction of the martial and then PPC models would not have been zero (consider Roussey, 1994; also see Morrison & Vila, 1998).

Despite popular beliefs about the utility of pre-1990s police combat-shooting training (e.g., Harper, 1970), there were serious weaknesses inherent to the martial and PPC models. Neither of them had their doctrinal nor technical developments driven by research, verified through systematic program evaluation, and then continuously refined through a feedback loop. Instead, commonsense handgun training rested upon notions that left academy- and department-based handgun instructors free to pursue approaches that they felt were effective but for which no meaningful gauges were developed. Shootings perceived to be successful could be attributed to training, while the remainder could be attributed to the shortcomings of individual officers or other factors. This might have been understandable early in the 20th century but certainly not as the 21st century approached.

Finally, as for commonsense notions usefully informing the development of effective programming for these complex and demanding encounters, recall the basic characteristics of the developmental eras examined in this article. First, police carried handguns without the benefit of training for over half a century (c. 1840s to 1910s). Second, when they did gradually introduce training, it was bull's-eye target shooting of little practical value to them (c. 1920s to 1950s). Third, they replaced the martial model with the PPC model that not only had been developed in the late 1930s but also was not meaningfully modified as the wave of adoption swept over many thousands of departments (c. 1950s to 1980s).

## Discussion

The principal flaw to police deadly force training has been—and continues to be—inadequate assessment of officer performance during high-risk encounters that do or reasonably could have involved the use or threatened use of deadly force. As examined in this article, the history of this training is not reassuring. Neither the martial nor the PPC models were suitable platforms for progressive

improvements over time. Nevertheless, both of these well-intentioned models were in their respective eras viewed as state-of-the-art answers to high-risk encounters. On one of the few positive notes that emerge from this history, the martial model era did end the period of no handgun training, while the PPC displaced bull's-eye shooting. Those achievements, however, seem insufficient in light of the retarding effect they had on the developmental path of deadly force training.

Promoted around the U.S. during the 1950s and 1960s as the basis for instruction, practice, and certifying officers to carry handguns and, thus, to use deadly force, the PPC was the universal basis for local and state departments and academy handgun training through the 1980s. Although it propagated myriad versions, none could have substantively improved officer preparedness for the breadth of challenges presented by high-risk encounters. What early police deadly force researchers discovered about officer performance during the 1960s through the 1980s indicates rather modest outcomes on the only performance area the PPC feasibly could have impacted—marksmanship. Nevertheless, the PPC was the foundation upon which new marksmanship, gunhandling, decisionmaking, and tactics elements were overlaid during the 1990s and 2000s.

There would have been many obstacles to introducing significant advances prior to the 1990s even though training was a long-standing feature of the Progressive Era's reforms aimed at improving the efficiency and effectiveness of the police. For instance, statewide academies for delivering basic training to officers from small and medium size departments were not the norm until the 1970s. Even when statewide academies became common, academies and departments still operated autonomously in terms of their respective firearms training programs. Instructor cadres responsible for designing basic and/or inservice programs have had limited information on which to base the content and delivery of their programs. Because police use of deadly force is rare, instructors have looked to selective experiences. Few instructors would have put their training to the test in armed confrontations, and the results for those who did hardly could be counted upon to generalize to trainees. Importantly, little effort was made to systematically collect and analyze a large and representative sample of shootings to enable meaningful evaluation of deadly force and related use-of-force and officer-safety training (e.g., see Cerar, 1990, and McGee, 1981, as examples of exceptions to the rule). Even collecting such information for administrative investigations that focused on policy compliance and possible disciplinary purposes was uncommon before the 1980s (e.g., see Fyfe, 1982).

The past two decades have been a witness to steadily increasing calls for greater police accountability in their use of deadly and nondeadly force. The landmark 1980s U.S. Supreme Court cases of *Tennessee vs. Garner* (1985), *Graham vs. Connor* (1989), and *City of Canton, Ohio, vs. Harris* (1989); expanding police officer standards and training (POST) commission programs for recruits; rising expectations for inservice training; and the growing influence of the International Association of Directors of Law Enforcement Standards and Training (IADLEST) all played important roles. There are other important contemporary influences such as the Commission on Accreditation of Law Enforcement Agencies (CALEA) (2008), which was established in 1979 through the collaboration of several major police organizations. Instructor associations also appeared in the early 1980s, including the International Association of Law Enforcement Firearms Instructors (IALEFI) that promulgated its first *recommended* standards in 1984—there are no national

standards *per se* (Beckley, 1984; Kapelsohn, 1994). Nevertheless, with the exception of some POST commissions, none of the foregoing could have been significant factors prior to the 1980s because they either did not exist or had not yet established the necessary footprint for broadly shaping police policies and practices. The impact of these and other factors therefore lagged in putting pressure on making much-needed improvements in deadly force training. Only now are we in a good position to broadly examine the strengths and weaknesses of the approaches that police use to prepare for high-risk encounters.

## Conclusions

Prior to the 1990s, handgun training and qualification processes simply did not address the practical needs of police. This partly was because police policymakers and trainers did not identify practical criteria that their programs should address nor did they follow up with systematic evaluations of high-risk field encounters. One underlying flaw was the assumption that training of any sort would enhance field performance and, thereby, officer and public safety. Though baseless, this belief stunted progress by reducing the apparent need for better and more training. The most obvious evidence of this is the enormous disconnectedness between the nature and extent of deadly force training and the field encounters it is specifically intended to affect. Historically, this is amply documented through a critical examination of the two principal models for handgun training used through the 1980s. In contrast to the essentially complete absence of handgun training during the seven decades prior to the 1920s, the martial model admittedly was a step forward, as the PPC model was subsequently. In reality, however, the needs of police probably would have been better served had they been ignorant of the martial model and instead devised police-specific doctrines, techniques, and instructional methods.

The PPC model offered advantages over the martial model, but it was inadequate as a platform for bringing continual improvement. Importantly, it was mistakenly imbued with the clout of providing officers with the status of being “qualified” with the handgun, this as opposed to being competent across an array of high-fidelity skills and abilities that police have relatively recently realized that they need. The legacy of being “qualified” lends itself to a false sense of ability that impedes what could be better and much more timely gains in deadly force and related officer safety training. This 20th century dilemma persists into the 21st century because it has not yet been properly confronted. To rectify this situation, high-risk encounters must comprise the crucible for evaluating the impact of training, and this will require that many departments loosen the constraints imposed by administratively driven investigations of officer-involved shootings with a narrow focus that produces little or no useful data for enhancing training programs.

Ultimately, being qualified in the use of deadly force must span the knowledge, skills, and abilities empirically shown to maximize safe, appropriate, and effective decisions and actions by police officers. To be credible, the concept of being “qualified” in the use of deadly force must be reformulated to reflect the actual job tasks and real performance demands associated with high-risk encounters. Unfortunately, at present, our sense of the impact of various deadly force training approaches on field performance is largely speculative, not empirical (e.g., consider Morrison, 2003, 2005, 2006a, 2006b, 2010). It seems obvious that there should be strong cause-and-effect relationships between the two, but we have yet to earnestly pursue this avenue.

Presently, our understanding of the effectiveness of deadly force training largely remains a matter of perception since there is scant evidence to guide notions about best practices. Past and present approaches primarily hinge upon various belief systems about “what works” and outcomes that reflect vague, hoped-for effects. Prudence encourages us to closely scrutinize the relationship between training and field performance using a variety of experimental, quasi-experimental, and evaluation research tools. The knowledge and understanding that practitioners and researchers stand to gain from such efforts will usefully inform future improvements to the deadly force training that is vital to officer and public safety.

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# The Forensic Force® Series: Psychophysiological Responses to TASER®-ECD Influence

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## Background

One of the most pressing problems within the law enforcement and use-of-force instructor communities is the reconciliation of force deployments with subject noncompliance and resistance. With the advent of more sophisticated and effective Electronic Control Devices (ECD), most notably produced by TASER® International, many officers have elected to use this quantum of force in place of oleoresin capsicum (OC) sprays, impact weapons, and physical control techniques.

There have been a number of controversial ECD deployments upon noncompliant or physically resistive and combative subjects, including a number of incidents involving in-custody deaths in which ECDs were used. As a result, the media, the public, and the courts have significantly increased their scrutiny of ECD use by law enforcement.

A new decision by the U.S. Court of Appeals for the 9th Circuit in *Bryan v. McPherson* (2010), discussing the appropriateness of a TASER® ECD as a “non-lethal, but intermediate quantum of force,” has joined the historically more notable federal force guideline cases. These cases provide use-of-force instructors and officer end users with force consideration and management parameters. Law enforcement officers are reminded that the Fourth Amendment which addresses aspects of search and seizure and our use of force, requires that we are obligated to balance “the nature and quality of the intrusion (quantum of force used) against the countervailing governmental interests at stake (the need for that level of force)” (*Graham v. Connor*, 1989).

As the 9th Circuit Court recognized in *Bryan* and the 8th Circuit Court in *Brown v. City of Golden Valley* (2009), and as use-of-force instructors and officers know, while ECDs have been described as capable of delivering a 50,000 volt charge, this does not accurately describe the electrical impulse actually experienced by an ECD-influenced subject. Depending upon a number of unique circumstances, the full 50,000 volts do not enter the subject’s body but are sometimes needed to ensure that the electrical current can complete a circuit through the air or the subject’s clothing. In fact, and again depending upon each unique set of circumstances, TASER’s® X-26 model ECD normally delivers a peak voltage of only 1,200 volts to the body.

There is much discussion within the law enforcement, legal, media, and ECD manufacturing communities as to what the actual physiological effects of ECD

influence—referred to as *load*—are upon the body. Much of the research that has been published has been manufacturer driven and is obviously open to interpretation, scrutiny, and speculation. While there have been some independent studies of the physiological effects of ECDs, to our knowledge there have been no studies on the psychological effects of a subject who is under an ECD load.

The investigators wished to conduct a limited, independent research experiment on the psychophysiological effects of an ECD load upon test subjects. This project was funded by Martinelli & Associates: Justice & Forensic Consultants, Inc. of Temecula, California. This forensic and law enforcement consulting and training firm conducts independent use-of-force research and forensic investigations and has no financial ties or professional relationship whatsoever to any ECD manufacturer. Both investigators do provide forensic investigations and expert witness services in criminal prosecution and civil rights litigation in the areas of police/corrections practices and use of force/excessive force involving ECDs.

## Test Hypothesis, Tasks, and Determinations

1. It is known that a strong electrical current acutely introduced into the body will hyperstimulate the Central Nervous System (CNS), the Sensory Nervous System, and the Motor Nervous System.

*Task and Determination* – Investigate the likelihood that a subject suddenly influenced by a strong electrical current will experience immediate sensory deprivation consisting of a loss of hearing and an inability to physically respond to and/or complete commands to perform one simple physical skill—to place their hands behind their back.

2. It is known that some subjects experiencing an acute and prolonged phobic stimulus may enter into a psychological state of panic, freezing, and confusion referred to as *hypervigilance*. It is hypothesized that the sudden introduction of a prolonged and extremely painful electrical stimulus as generated by an ECD through electrical probe injection or a “drive stun” nonprobe exposure will be sufficient to create hypervigilance in certain individuals. It is also hypothesized that this level of ECD load stimulus will be sufficient to cause panic, confusion, and disorientation within some subjects at a level that will obstruct/prevent them from comprehending or complying with any orders given by the involved officer.

*Task and Determination* – Investigate the likelihood of this occurrence.

3. It is known that subjects under the influence of directed pain will move away from the direction of that pain rather than move towards it. ECD electrical current within the body can be perceived as multidirectional by the person under load. It is hypothesized that certain individuals when acutely influenced by a strong ECD electrical current will experience a level of hypervigilance that will cause them to suddenly panic, become confused, and involuntarily attempt to physically escape away from the point of influence. This phenomenon will be referred to as *Pain/Panic Escape Response* (PER).

*Task and Determination* – Investigate the likelihood of this occurrence.

4. It has been well-documented that ECD electrical current flowing through the body negatively affects muscles and joints by stiffening and locking them up. Under this condition, subjects find it difficult or impossible to move. It is hypothesized that most subjects under the influence of an ECD load would be obstructed/prevented from completing any ordered physical tasks such as placing their hands behind their backs.

*Task and Determination* – Investigate the likelihood of this occurrence.

## **Methodology**

Volunteers for this research project were recruited from three primary sources: (1) police officers attending TASER® ECD instructor certification courses for the first time, (2) recruits attending the Basic Police Academy program, and (3) officers attending TASER® ECD end-user certification courses (N = 100). In each case, the test subjects understood on some level, through lecture and videos of subjects under ECD influence, the dynamics of ECDs, with the specific ECD systems being either the TASER® model X-26 or X-3.

The test subjects were told that they were participating in a study to determine certain aspects of ECD load exposure. They also understood that the reason for the research was to attempt to improve the overall use-of-force training process.

### **Test Subject Profile**

The test subjects ranged in age from 22 to 50 years of age with the average age being 30.15 years old. The test group included a cross section of genders and ethnicities of varying heights and weights. All test subjects were relatively healthy adults who were sober and without reported serious medical issues. There were no obvious differences in reactions to ECD exposure due to age, ethnic background, height, or weight.

Based upon Mr. Staton's professional experience in exposing thousands of officers to ECD loads and as is typical in similar exposures, some of the test subjects presented with a higher level of anxiety than others prior to exposure. However, the test subjects' anxiety level did not appear to have any affect on their ability to comply with verbal directions prior to exposure.

The method of ECD load exposure was to deploy either TASER® model X-26 or X-3 probes into the back of the volunteers while the subjects were lying in a prone (face down) position from a standard distance of six feet, with the probes positioned in approximately the same location for each subject. Prior to being exposed, the test subjects were not told what was expected of them except that after the exposure they would be required to complete a short questionnaire about what they had experienced during their ECD exposure. The test subjects were not aware that they were going to be given an order to perform a physical task. The test subjects were not allowed in the room where the exposure tests were being conducted until it was their turn to be tested. After being exposed, the test subjects were told to remain in the test room so as to avoid contact with other test subjects who were waiting to be exposed.

As soon as the probes were deployed and the ECD load had commenced, the test subjects were given three clear and loud verbal orders to "Place your hands

behind your back!” The investigators then made observations on the test subjects’ psychophysiological responses to the ECD electrical stimuli. Each test subject received only one automatic five-second cycle of electrical current from the ECD.

## **Results of the Study**

This study resulted in a number of important findings for use-of-force instructors and end-user officers of ECDs, specifically those using an ECD manufactured by TASER® International. One interesting and confirmed finding was a new psychophysiological phenomenon identified by Dr. Martinelli as Pain/Panic Escape Response.

### **Pain/Panic Escape Response**

The results of this study indicates that ECD neuromuscular incapacitation (NMI) appears to be so acute and painful as to overwhelm the sensory systems of many subjects to a point where they seek to physically escape from “custody” in order to avoid the painful effects of ECD NMI.

Fifty-four percent of the subjects tested reported experiencing a Pain/Panic Escape Response (PER) during which they wanted to physically escape from the location of the intense pain of the ECD load. This response appears to confirm a concept that many use-of-force arrest and control tactics instructors understand, which is that subjects most often move away from the direction of pain. However, when an ECD is involved, this involuntarily generated response appears to be significantly heightened as a direct result of the intensity and multidirectional nature of the electrical stimuli.

A new concern, as postulated by Dr. Martinelli and confirmed by the videos and questionnaire made in this study, is that subjects under ECD influence may experience an involuntary PER wherein the brain engages its automatic survival mechanism and orders the body to escape from the intense, acute pain of the ECD. This PER may be misinterpreted by involved officers as “resistance” to orders and commands while the subject is under load, which, in turn, may cause the officer to activate the TASER® on the affected subject again or repeatedly to force his or her compliance.

Repeated activations may, in turn, create or exacerbate psychological hypervigilance during which the affected subject presents with panic, confusion, and loss of all rational thought and cognizant processing. It is notable that 13% of the subjects in this study reported presenting with hypervigilance consisting of panic, confusion, and “being too stressed to do anything.” Loss of forebrain cognitive processing, transitioning to midbrain automatic survival escape mechanisms, may completely preclude any possibility of the subject complying with orders to stop “resisting.” It is also believed that loss of forebrain cognitive processing would be exacerbated in those individuals already presenting with psychosis, mental illnesses involving slower or confused thinking, and/or those who are under the influence of alcohol and illicit drugs.

Although not scientifically confirmed, it may be possible in some rare instances for officers to create or exacerbate a preexisting psychophysiological “negative spiral” in psychotic and/or drug influenced subjects under an ECD load during prolonged or repeated exposure events. It is hypothesized by Dr. Martinelli that repeatedly

exposing this profile of subject to acute electrically induced NMI may increase the subject's basal metabolic rate (BMR) and psychological hypervigilance, thereby increasing the risk of Agitated-Excited Delirium Syndrome (AED/S). It has been well-documented that the medical phenomenon of AED/S has historically been linked to sudden in-custody death incidents. However, this same condition could occur as a result of other force options being used, which frequently prolong attempts to capture, control, and physically restrain a violent and combative subject with the same presentations.

## **ECD Influence Negatively Affects Hearing and Comprehension**

Prior research has confirmed and use-of-force instructors, psychologists, and physiologists understand that when an individual experiences a phobic scale response (fear) due to a sudden threat, the brain immediately prepares the body to respond by involuntarily infusing itself with stimulants such as adrenalin and epinephrine, and pain blockers such as endorphins and dopamine (Grossman, 1996; Martinelli, 2010; Siddle, 1995) While these "survival chemicals" stimulate the body to allow for faster and stronger defensive responses with limited to no sense of pain, they also create obstructions to normal survival mechanisms such as perceptual narrowing ("tunnel vision"), myopic vision, loss of depth perception, and auditory occlusion resulting in diminished or total loss of hearing.

As discovered from past psychophysiological studies, a combination of an acute and prolonged phobic scale response coupled with the sudden involuntary introduction of stimulants causes a sudden rise in the affected subject's BMR. The BMR is measured by heart rate, blood pressure, and respiration.

Numerous studies in psychophysiology confirm that while an individual's optimal performance "zone" lies somewhere between 90 to 150 BPM (beats per minute), a BMR in which heart rates climb to levels exceeding 200 BPM creates a circumstance where comprehension and cognitive processing, which occur in the forebrain, begin to rapidly deteriorate. A transition then takes place during which normal survival protocols or the "defense hierarchy" rapidly move from the forebrain into the midbrain where trained defensive "automatic" memories are ingrained and such instinctual survival responses such as "fight or flight" are found. The stress-inoculated subject will most likely enter into a state of psychological hypervigilance in which the subject may present with such symptoms as increased agitation, panic, confusion, incoherence, psychological "freezing," or PER.

It is critical that use-of-force instructors teach and ECD end-user officers understand that absolutely no cognitive processing or rational thought takes place in the midbrain. Therefore, no amount of screamed, repeated orders or uses of an ECD for "pain compliance" induced via probes or "drive stuns" will be effective in forcing comprehension and compliance of some subjects who are under an ECD load. In fact, repeated TASER® exposures of the subject may create quite the opposite effect by generating an involuntary PER.

This study documented that 80% of our test subjects indicated that they could hear the instructor officer's directions clearly, and 13% reported that they could hear only a portion of the directions. Seven percent of our test subjects reported that while they could hear some yelling, they could not decipher what was being said.



This finding is of significant importance since officers who have not been properly trained in basic human psychophysiology and its relationship to the use of force expect that every time they issue loud orders or commands to a noncompliant or resistive subject, that subject is fully able to comprehend and comply with those orders. Our research indicates that this is not necessarily the case. Further, it appears likely that officers who give orders to subjects while at the same time influencing them with an ECD may actually be hampering or totally obstructing that subject's ability to comprehend and comply with the officer's orders. Use-of-force instructors, especially those certifying or updating officers in the use of ECDs, including the TASER<sup>®</sup>, need to be aware of and impart this important information to their students.

The hearing problems experienced by our test subjects are consistent with auditory occlusion/exclusion that frequently occurs during high stress situations when the body pools blood and fluids away from the auditory canals and toward the center of the brain as a survival mechanism.

Officers learn in use-of-force classes that comprehension of directions and orders given to noncompliant or physically resistive subjects is critical in achieving compliant behavior. In the U.S. Supreme Court decision *Tennessee v. Garner* (1985), the Court stated that, whenever possible, officers are required to provide the noncompliant or resistive subject with reasonable orders prior to the deployment of force. Reasonable warnings given prior to deployment of an ECD allow the resistive subjects to consider the consequences of further resistance and provide them with an opportunity to comply with the officer's orders. However, what happens when an officer's orders to a resisting subject to stop resisting and place his or her hands behind his or her back are given while the subject is under an ECD load?

## **ECD Influence Impairs or Obstructs the Ability to Physically Complete Tasks**

One finding of our study was that an ECD load may impair or obstruct a noncompliant or physically resistive subject's ability to complete a physical task as ordered by an officer. As use-of-force ECD instructors and officers familiar with ECD dynamics understand, an ECD load creates neuromuscular incapacitation (NMI) that in most cases involuntarily and physically locks up muscles and joints in the body. Contemporary ECD training advises officers to handcuff and/or establish physical control while the resistive subject is under an ECD load.

A problem arises when untrained, improperly trained, and/or overly excited end-user officers repeatedly influence subjects who they believe to be continuously resistive but who, in fact, may be unable to physically complete orders to place their hands behind their backs because they are obstructed from doing so due to an ECD NMI. Dr. Martinelli has found this exact fact pattern to be prevalent in a number of civil litigation cases, including in-custody deaths he has reviewed as a forensic criminologist and police/corrections expert.

This study found that 87% of the subjects tested either experienced some difficulty or were totally unable to complete the physical task of placing their hands behind their backs when ordered by the instructor while under ECD NMI. Of the 87% who reported difficulty or an inability to complete the ordered task, 58% of the

test subjects stated their reasons for this were motor problems with a difficulty or inability to move hands and arms. Only about 13% of the entire test subject sample reported having little to no difficulty completing the task as directed while under ECD influence. Test investigators observing these individuals note that while they did move the hand on the unaffected side of the body to the back, they were not able to move the affected side hand or were only able to move it slightly. So even the ones who thought they complied did so in part but not totally.

The problem of officers unnecessarily and repeatedly influencing subjects with ECDs under the aforementioned circumstances can be easily remedied by training officers in basic psychophysiology and subject responses to ECD influence. Use-of-force and ECD instructors need to train officers in *submission recognition* and encourage the ECD end-user officer to take time to assess a subject's responses following initial ECD influence in order to determine whether or not the subject can comprehend and physically respond to their commands before deciding whether or not they should re-influence the subject. For this reason, instructors also need to reemphasize forcibly restraining and handcuffing resistive subjects while they are under an ECD load whenever it is safe to do so.

Officers attempting to control and restrain subjects also need to constantly evaluate the totality of rapidly evolving circumstances, including special circumstances in which it is known that the subject has a weapon but may have their hands/arms tucked underneath their body since repeated use of an ECD might be justifiable to secure a concealed weapon.

## **Study's Psychophysiological Findings and Conclusions**

- This study has identified and defined a psychophysiological dynamic now referred to as the Pain/Panic Escape Response (PER) associated with ECD NMI. PER appears to occur involuntarily in some subjects when NMI becomes so acute as to overwhelm the subjects' sensory systems to a point where they seek to physically escape from custody in order to avoid the painful effects of the ECD NMI.
- PER may be misinterpreted by involved officers as resistance to orders and commands while the subject is under an ECD load. This perception, in turn, may cause the officer to activate the ECD on the affected subject again or repeatedly to force compliance.
- ECD NMI may cause a loss of forebrain cognitive processing and a transitioning to midbrain automatic survival escape mode. This, in turn, may preclude the ability of the subject to comply with orders to stop resisting. It is believed that loss of forebrain cognitive processing may be exacerbated in those individuals already presenting with psychosis, mental illnesses involving slower or confused thinking, Agitated-Excited Delirium Syndrome, and/or those who are under the influence of alcohol or illicit drugs.
- It may be possible in some rare instances involving the aforementioned subject profile that repeatedly exposing the subject to acute electrically induced NMI may increase their BMR and psychological hypervigilance to a point where the risk of AED/S is also increased.

- This study has documented that a significant number of test subjects exposed to an ECD load experienced hearing and comprehension problems with simple directions issued during exposure. The study also confirmed that an ECD load that creates NMI impairs or obstructs an initially noncompliant or physically resistive subject's ability to complete a physical task as ordered by an officer in a significant number of tested subjects.

## **Study's Training Recommendations**

- Use-of-force ECD instructors must familiarize themselves with basic human psychophysiological and stress performance concepts sufficient to impart this knowledge to end-user officers during initial and periodic update training in the use of ECDs.
- ECD instructors need to incorporate submission recognition training, including role-playing scenarios, into all initial and periodic ECD training courses so that end-user officers can learn to recognize the difference between resistance and psychophysiological impairment of ECD exposed subjects.
- The use of any mechanized, technical ECD is a "perishable skill." Therefore, instructors need to do a thorough job of incorporating a variety of reality-based role-playing scenarios into each ECD training session. ECD training, including participation in scenarios, should take place every year.
- ECD training practicals, especially for the new and overly complicated TASER® X-3 model, should take place under simulated stress-induced conditions that involve darkness, excitement, loud noises, and other distractions to evaluate the end-user officer's ability to manipulate the ECD and make appropriate force decisions.
- ECD instructors should train and encourage end users to cuff under ECD load whenever it is safe to do so. Training scenarios should incorporate this tactic.
- Weapon retention training should be incorporated into every ECD course.
- All ECD end users should be exposed to an ECD load before being certified to carry and use the device. You cannot possibly hope to convince the general public and/or a plaintiff attorney that an ECD is a safe and effective defensive force or capture and control tool when you refuse to be exposed yourself.
- Since there are occasional malfunctions of ECDs, use-of-force ECD instructors should always incorporate alternate weapon transition training into every ECD course.
- ECD instructors should have enough equipment (ECDs, cartridges) for all end users in class as soon as budgets allow.

## **Study's Administrative Recommendations**

- Agencies need to objectively evaluate products and not rely exclusively on a manufacturer's representations. Is the training impacted by a desire to increase sales? Is the content overly influenced by a manufacturer's efforts to avoid

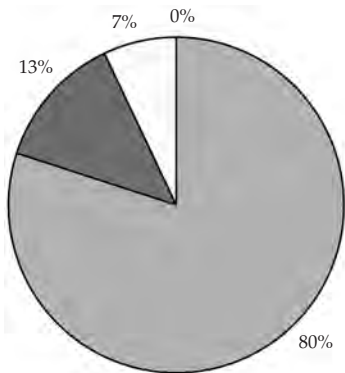
product liability? Does a manufacturer's course's lack of officer safety and capture and control tactics training expose agencies to liability? If this is the case, then agencies should have their own use-of-force instructors sent away for product training and then return home to develop ECD training courses that meet their agency's unique needs.

- Agencies should develop an ECD policy that can be accepted by that agency's general population. This policy should provide discretion to the end-user officer without giving them "free reign."
- Agencies employing an ECD should have a use-of-force tracking system in place that tracks ECD use so that the agency and community can monitor and evaluate the benefits and/or identify problems with ECD deployments.
- Agencies should be transparent with all use-of-force investigations involving ECDs so that the public can see what is being done to correct any deficiencies or problems in their agency's use-of-force program.

**TASER®-ECD Psychophysiological Response Experiment Statistics  
(Researchers: Dr. Ron Martinelli and Jerry Staton)**

1. Grade your ability to HEAR directions while under the influence of ECD NMI (A-C-D-F).

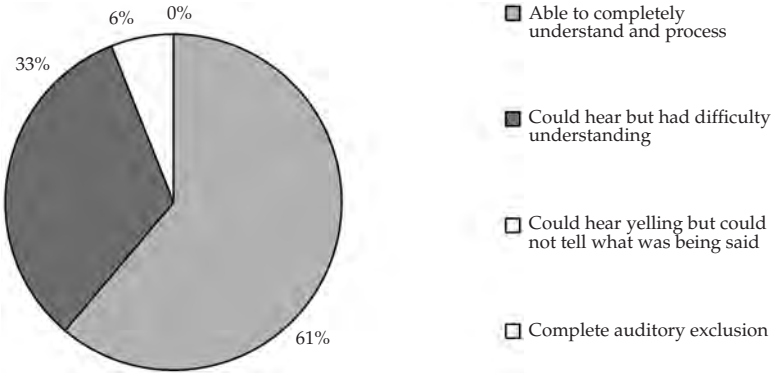
A	C	D	F	%
"I could hear the directions perfectly."	"I could not hear all of the directions. I could only hear a portion of the directions."	"I could hear someone speaking/yelling at me but could not tell what was being said."	"I experienced complete auditory exclusion. I could not hear anything that was being said."	
80%	13%	7%	0%	100%



- Could hear the directions perfectly
- Could not hear all the directions
- Could hear someone speaking/yelling but not what was being said
- Complete auditory exclusion

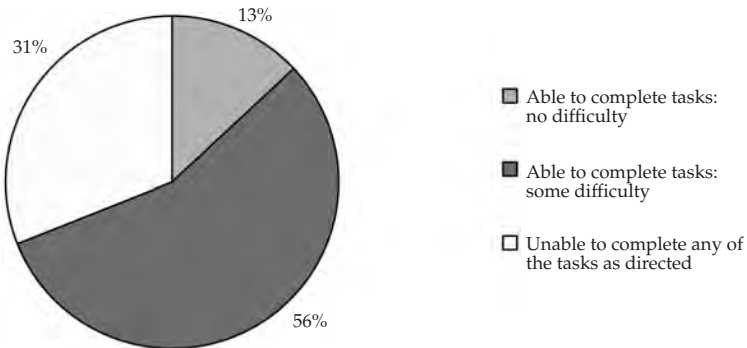
2. Grade your ability to COMPREHEND/PROCESS what was being said to you while under the influence of ECD NMI (A-C-D-F).

A	C	D	F	%
"I was able to completely understand and process what was being said to me."	"I could hear what was being said but had difficulty comprehending processing what was expected of me."	"I could hear someone speaking/ yelling at me but could not tell what was being said."	"I experienced complete auditory exclusion. I could not hear anything that was being said."	
61%	33%	6%	0%	100%



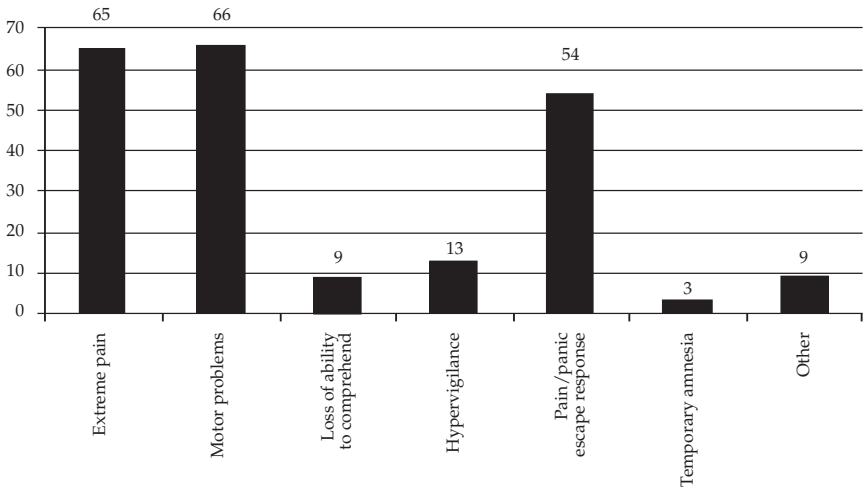
3. Grade your ability to COMPLETE THE PHYSICAL TASKS that you were being directed to do while under the influence of ECD NMI (A-C-F).

A	C	F	%
"I was able to physically complete the tasks as directed without difficulty."	"I experienced some physical difficulty completing the tasks as directed."	"I was unable to complete any of the physical tasks as directed."	
13%	56%	31%	100%



4. Please list any psychophysiological symptoms you experienced while under the influence. (Multiple responses allowed. Total number of responses: 219.)

1	2	3	4	5	6	7
Extreme pain	Motor problems; difficulty or inability to physically move hands and arms.	Loss of ability to comprehend/ process spoken directions.	Hypervigilance: feelings of panic, confusion, freezing; too stressed to be able to do anything.	Pain/Panic Escape Response: "I just wanted the pain to stop, and I wanted to escape from there."	Temporary amnesia while under ECD influence: "I don't recall what happened."	Other Wrote in other psychophysiological responses not covered.
65	66	9	13	54	3	9



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# Case Study: Kansas City, Missouri, Police Department's *Blueprint for the Future* – *Making a Good Department Great*

Thomas Gee, Manager, Internal Audit Unit, Kansas City, Missouri, Police Department

... the new physics cogently explains that there is no objective reality out there waiting to reveal its secrets. There are no recipes or formulae, no checklists or advice that describes "reality." There is only what we create through our engagement with others and with events.

–Margaret J. Wheatley, *Leadership and the New Science*, p. 7

## Introduction

This paper was written to provide insight and understanding of a more than five-year process undertaken by the Kansas City, Missouri, Police Department (KCPD) to improve organizational effectiveness, efficiency, and accountability. By studying this process, it is hoped readers will become familiar with the challenges and the method used by the KCPD in attempting to reach its expected outcomes (i.e., improved effectiveness, efficiency, and accountability). This is not a public relations paper but a candid review of the process. It will codify the process used along with the successes and failures experienced in an attempt to help the reader learn from the KCPD experience and perhaps gain some insight into the complexity and difficulty of the task that was undertaken.

## Background

The KCPD was established in 1874 as a municipal police agency. It has a long and proud history and, as is to be expected, is steeped in the police subculture.

Police subculture is highly resistant to change; it is inward looking; stories are more important than analysis; the demands of the environment require a short term focus (reaction oriented); and it is fraught with conflicting or fuzzy ideas of what good police work means, which frustrates any attempts to measure success. The KCPD is structured as a paramilitary organization and is a Weberian bureaucracy. However, beginning in the 1960s, due to the willingness of the department's management at the time to open the department to experimentation and innovation, several seminal studies were conducted here in the 1970s. The "Kansas City Preventive Patrol Experiment," the "Kansas City Response Time Analysis Study," and the "Kansas City Directed Patrol Study" are considered pillars of modern police administration. One can make a compelling argument that the results of these three studies were foundational to the establishment and growth of the much vaunted community-oriented policing phenomena by preparing the "soil." Thus, the KCPD showed a willingness to move beyond the cloistered police subculture and allow "outsiders" in to challenge prevailing notions if it meant improvement in policing.



The KCPD serves the citizens of Kansas City, Missouri, as well as the regional inhabitants who work, visit, and play in the city. Kansas City, Missouri, was incorporated in 1853. It currently covers 318 square miles, and has a resident population of 480,000 and a metropolitan area population of over two million. The metropolitan area straddles the Missouri/Kansas border.

The KCPD currently has approximately 1,400 police officers and approximately 700 civilian employees. It has six patrol divisions (precincts) and over 20 facilities, including a new Police Academy. It is a full service municipal police department which also serves regional police agencies through the Police Academy; the Regional Crime Laboratory; the Metro Squad; the ALERT computer information system; and its helicopter, canine, and bomb/arson units. It is the intelligence fusion center for the region and conducts many joint investigations with state and federal law enforcement agencies. It consistently receives the largest budget of all city departments.

The KCPD has a unique oversight model which it shares with the St. Louis, Missouri, Police Department. It has a governing board of Police Commissioners who are appointed to a term on the Police Board by the Governor of Missouri. In addition, the Mayor of Kansas City is a full member of the Board of Police Commissioners (BOPC). The BOPC appoints the Chief of Police who, in turn, reports directly to them. The BOPC is not under the authority of the City Council, Mayor, or City Manager. The BOPC is responsible to the Missouri Governor and the citizens of Kansas City. It conducts regular public meetings at which the business of the police department is discussed openly. This oversight model was put in place in 1938 to insulate the police from the machinations of local politicians. Some would argue that this arrangement has allowed the KCPD the independence to be more open to experimentation and innovation since the influence of the police professional is enhanced when the Chief of Police is not directly controlled by local political interests. This viewpoint was supported by Chief Corwin in an interview conducted on February 8, 2010. This model is not without its controversy and opposition by some of the local elected and appointed officials.

In regard to this case study, the journey begins on October 26, 2004, when James Corwin was appointed as the 42nd Chief of Police of the KCPD. Chief Corwin became a police officer with the KCPD in 1979, and over the course of his career, he rose through the ranks to Chief. Chief Corwin is a native of Kansas City and holds a Master of Arts degree from Webster University and a Bachelor of Science degree from the University of Central Missouri. Upon his appointment as Chief, he immediately began using the phrase "high speed/ low drag" to communicate his expectations for department performance to his senior management staff. This set the tone at the top which led to all of what was to follow. And what was to follow was nothing less than an ambitious endeavor to dramatically and fundamentally change the KCPD. His friend and trusted ally in this endeavor was Deputy Chief George Roberts who became the "point man" for the project and did the "lion's share" of the initial work. Unfortunately the BOPC's 30-year mandatory retirement policy for law enforcement officers forced Deputy Chief Roberts to have to prematurely leave the project. However, he was still available to Chief Corwin as an informal consultant, guide, and confidant.

In an interview conducted on January 15, 2010, with Deputy Chief (Ret) George Roberts, it became readily apparent that he and Jim Corwin believed the KCPD had many "broken" processes which were failing to provide the desired outcomes. He said, "The executives didn't really know what was going on in the organization.

We were collecting a great deal of data but it wasn't timely and there was no analysis which would help us in our decisionmaking responsibilities." He went on to say, "there was no accountability and managers were not fulfilling their responsibilities." He and the Chief believed a dramatic change affecting the core processes of the KCPD was called for and that change would have to necessarily involve the organizational culture. According to Roberts, "We wanted to move a good organization to a great one." At this point, these two men had close to 55 years of collective experience with the department and had both risen through the ranks and served in many different elements. They had a depth of understanding of the organization which would prove to be helpful as they guided the change process.

In an interview with Chief Corwin on February 8, 2010, he stated that it was his long history with the KCPD that brought him to the point of wanting to bring about significant organizational change. Reflecting on his career experience, he expressed ongoing frustration with "antiquated" systems and technology; dysfunctional and outdated processes; disjointed attempts at organizational improvement that were overwhelmed by the entrenched silos with competing self-interests; a culture of mediocrity which was a result of no real accountability; a non-thinking environment where "boss" pleasing was the normal expectation and independent thinking was discouraged; academy training that was too military in its approach when the external environment demanded police officers who were problem solvers which requires independent thinking; and finally, he believed the KCPD was "resting on its laurels." But despite these things, he believed the KCPD had great potential because it had "great" people who would rise to the challenge and put the organization at the "cutting edge" of police management.

Chief Corwin went on to discuss the need for an outside evaluation, a sort of "gut" check as he described it. The KCPD needed to have its core processes examined and evaluated. His vision for the organization would demand this.

To live in a quantum world, to weave here and there with ease and grace, we will need to change what we do. We will need to stop describing tasks and instead facilitate process. We will need to become savvy about how to build relationships, how to nurture growing, evolving things.

—Margaret J. Wheatley, *Leadership and the New Science*, p. 38

## Challenge

How does one move a complex and dynamic public organization with networks of interference patterns from good to great? How do you implement and operationalize this notion of "high speed/low drag"? How do you define and measure organizational effectiveness, efficiency, and accountability? Answering these metaquestions (which have many underlying subquestions) was the challenge faced by Chief Corwin and his team in 2004.

## Approach to the Challenge

On November 23, 2004, Chief Corwin informed the BOPC that he was searching for a consultant to assist in conducting a workload analysis of the KCPD. This was followed by the release of RFP 2005-8 (December 22, 2004) seeking companies which would conduct a "Deployment Audit" of the KCPD. The RFP described the

desired project this way: "The BOPC is seeking Proposals for a deployment audit of both Law Enforcement and Civilian personnel in order to identify improved efficiencies without degradation of the safety, quality or effectiveness of services or professionalism of the organization or accomplishment of its mission."

The Scope of Work for the anticipated audit was described as follows: "The overall objective of the personnel and deployment audit is to evaluate opportunities for improvement to the productive use of the department's law enforcement and civilian workforce. The firm shall objectively and systematically examine the KCPD's operations in order to identify recommendations for improved efficiencies without degradation of the safety, quality or effectiveness of services or professionalism of the organization or accomplishment of its mission."

The Deliverables section provides additional insight into the expectations:

At the conclusion of the audit, the firm will provide a report that offers specific recommendations for policy, management action, changes in practices or procedures or initiatives that may result in the following:

1. Improved efficiency of organizational structure without degradation of safety, effectiveness, quality of services or accomplishment of the organizational mission and public satisfaction.
2. Improved deployment of police personnel, including shift scheduling with scheduling options.
3. More appropriate staffing levels and the proper assignment mix of line and staff functions and supervisor/command oversight.
4. More efficient manner by which to provide training, including consideration of scheduling of personnel for ongoing in-service training.

An item which further illustrates the KCPD's desired outcomes for this project is to be found in Addendum No. 1, RFP No. 2005-8 (January 20, 2005):

Item 10: What prompted your request for a deployment audit? That is, what performance deficiencies have led you to request a deployment audit? What are the actual and desired performance targets?

Answers: A desire for an independent review of staffing deployment and recommendations for improved efficiencies to accomplish stated department goals and performance objectives. (*Copy Attached*)

The referenced *Copy Attached* was a performance report issued in December 2004 and displaying data for October 2004. The report listed three performance indicators with performance targets:

1. Committed time percentages
  - a. Calls for service
    - i. Target of 35%
    - ii. Actual of 62% for October
  - b. Administrative time
    - i. Target of 10%
    - ii. Actual of 18% for October

2. Average response time in minutes to Priority 1 calls for service
  - a. Target of 10 minutes
  - b. Actual of 12.73 minutes for October
  - c. Percentage of time target was met for October was 61%
  
3. Clearance rates for Part I crimes
  - a. Violent crimes
    - i. Target of 46.2%
    - ii. Actual of 42% for October
  - b. Property crimes
    - i. Target of 12.5%
    - ii. Actual of 11% for October

The use of October data in a December report described a previous state not the current state which tends to support Robert's contention of a lack of timely information.

On April 18, 2005, the deployment audit was awarded to Berkshire and Associates.

Sometimes, Haw said, things change and they are never the same again. This looks like one of those times, Hem. That's life! Life moves on. And so should we.

—Spencer Johnson, *Who Moved My Cheese?*, p. 45

## **The Berkshire Study**

On July 11, 2005, Berkshire consultants Mike Walker and Bob Stewart met with KCPD's Executive Committee to begin the work. This committee consisted of the Chief, the Deputy Chiefs, and the General Counsel.

On July 14, 2005, Chief's Memorandum 05-2 entitled "Police Department Management and Efficiency Study" was issued to inform department members of the Berkshire Study and what it would entail.

On August 17, 2005, the first meeting of the Berkshire Steering Committee convened. This steering committee consisted of Mike Walker, Chief Corwin, all Bureau Commanders, and the General Counsel Lisa Morris.

In September through November, the Berkshire consultants interviewed 337 department employees "to discuss your current responsibilities and to solicit your ideas on how to improve the department's performance" (Chief's Memo 05-2).

An online survey of all employees was initiated on October 10, 2005, with the issuance of Chief's Memorandum 05-3 entitled "Department Member Survey for Management and Efficiency Study." This was a voluntary survey in which 859 employees took part. Note that nearly half of the workforce took the time to complete this rather lengthy and complex survey. The purpose of the survey was to understand employee perceptions relating to a broad range of issues the study was addressing.

On November 28 and 29, 2005, the Berkshire consultants met with community leaders to obtain their perspectives and expectations of police performance improvement.

Concurrently, the “Citizens Expectation” survey was being conducted by Drs. Ken Novak and Leanne Alarid of the University of Missouri–Kansas City (UMKC) Department of Criminal Justice and Criminology. They had received 1,157 responses to the survey (6,000 were sent out). They also conducted eight focus groups involving 54 Kansas City residents. Chief Corwin did not want this survey to be a “grade card” on police performance, but, rather, he wanted it to define citizen expectations of the department. The survey and focus group results were presented to the department and the BOPC on February 16, 2006.

On July 16, 2006, the *Berkshire Efficiency Study* was presented to Chief Corwin. A presentation on the study was made to the BOPC by Mike Walker and Chief Corwin on September 12, 2006.

The Berkshire Study was renamed *Blueprint for the Future – Making a Good Department Great* on August 7, 2006.

Chief Corwin made a series of *Blueprint* presentations as follows:

- August 17, 2006 – Staff Management (all commanders and managers)
- September 14, 2006 – City Manager Wayne Cauthen
- September 20, 2006 – Editorial Board of the *Kansas City Star* newspaper
- September 21, 2006 – The Kansas City Council (with Mike Walker)

On October 6, 2006, Board Resolution 06-01 was approved. This board resolution adopted the Berkshire Study and supported Chief Corwin in its implementation.

The Berkshire Study resulted in 213 recommendations. In an interview (February 8, 2010), Chief Corwin was asked what his initial reaction was to the Berkshire report. He was also asked how he went about selecting the response strategy which he ultimately followed.

To the first question, he replied that he was not surprised by the results. He did admit to a certain degree of angst when he initiated the outside examination which took control out of the hands of the KCPD. As a new police chief, he realized he was taking a risk both internally and externally. Internally, he would have to explain to his employees why he felt this examination was needed and risk alienating his workforce. Externally, he knew the study would be viewed by the public and the media which might mean criticism. If it came back especially “ugly,” how would the BOPC, the staff, and the public react? But despite these risks, he firmly believed that this review, no matter the outcome, was an essential step in moving the KCPD from good to great. And as it turned out, the results of the study greatly assisted Chief Corwin in launching a process aimed at significant organizational change.

What was left to do was to develop the strategy to use to launch this change. His answer to the second question sheds light on how this came about. Chief Corwin wanted a process that involved the department employees in reviewing and evaluating the Berkshire recommendations. He recognized that change necessarily

involved the folks who did the work of the organization. Without their engagement and buy-in, comprehensive and durable change simply would not happen. Chief Corwin believed he had an intelligent and capable workforce which would rise to the challenge.

## Concurrent and Complementary Events

While the Berkshire Study was underway, other initiatives were occurring which proved to be vital to meeting the challenge. In addition, there were other long-term impact phenomena which occurred to increase the KCPD's capacity to accept and facilitate change.

1. New software from Tiburon, which was purchased and installed to provide a new Computer Aided Dispatch system, a Records Management system, and a detention management system
  - a. This was done in recognition of the fact that the organization needed timely and accurate information to better inform management decisionmaking and to more accurately measure performance. Another hopeful benefit would be increased process efficiency.
  - b. These new systems would prove critical to the future operational planning efforts of department elements.
2. The establishment of CSTAR (Comprehensive Strategic Team Accountability Review)
  - a. CSTAR was designed to provide a comprehensive reporting framework and a method to measure the department's ongoing performance.
  - b. It was also envisioned as a communications enhancing device and a way to breach institutional silos.
3. A survey of citizen expectations conducted by Criminal Justice faculty at UMKC (previously mentioned above)
  - a. The purpose of this survey was to establish citizen expectations which for a public agency are the true measure of performance success.
  - b. This survey along with the City Auditor's quarterly citizen satisfaction survey would be used to establish organizational performance goals.
4. The re-establishment and expansion of the internal audit function
  - a. This move was made to bolster the accountability aspect that was perceived to be lacking in department management.
5. The development of performance measurement training
  - a. This outcomes-based performance measurement training was developed by Manager Thomas Gee, Internal Audit Unit, at the direction of Deputy Chief George Roberts.
  - b. This training would be used to impart the needed knowledge, skills, and abilities employees would need to be successful in the new organizational environment being built by Chief Corwin.
  - c. An outcome of this training was developing employee ability to develop and write the elements of operational plans with valid and meaningful objectives and performance measures.
  - d. Ultimately all *Blueprint* task force members received this training.

6. Project management training offered to employees
  - a. Director Rick Brisbin and Major Robert Kuehl presented project management training to enhance employee skills.
  - b. This training was used to manage the *Blueprint* process.
7. A Leadership Academy established at the Police Academy
  - a. This training was designed to give managers knowledge of high core value leadership.
  - b. In addition, the Choice Module provided all employees with training in unconditional positive regard for others.
8. It is the author's belief that a helpful antecedent was the increasing level of higher education among department employees over the last 40 years which has had a long-term impact in the form of increased expectations by employees to have meaningful engagement with any organizational change process and to desire change which will result in operational improvement and increased job satisfaction. In addition, byproducts of higher education are enhanced problem-solving skills and critical analysis ability.
9. Generation X employees have brought a different approach to work. Gen Xers are highly educated (60%), individualistic, resourceful, and self-sufficient (possibly due to their "latch-key" experience). They value freedom and responsibility and are flexible and adapt well to change.

Field creation is not just a task for senior managers. Every employee has energy to contribute; in a field-filled space, there are no unimportant players. Sheldrake's morphogenic fields grow and develop form because of what is occurring at the level of the individual who is acquiring new skills and knowledge. These fields change their content and shape because of individual activity. This is similar to the insights of organizational consultant Peter Senge, who believes that an organization's vision grows as a by-product of individual visions, a by-product of ongoing conversations.

–Margaret J. Wheatley, *Leadership and the New Science*, p. 56

## **Taking Ownership and the *Blueprint* Process**

As previously mentioned, the Berkshire Study was renamed the *Blueprint for the Future – Making a Good Department Great*. This title change was done to facilitate the taking of ownership and providing a focus point for the future recommendation vetting and implementation process.

At this point, it was decided to form eight task forces made up of volunteers from within the department for the review of the recommendations and to help devise a strategy for implementation. On September 25, 2006, Special Order 06-19, entitled "KCPD Efficiency Study Task Force Volunteers," was issued. This Special Order established the following eight task forces:

1. Communications Task Force
2. Community Involvement Task Force
3. Management and Decision Making Tools Task Force

4. Operational Efficiency and Effectiveness Task Force
5. Organizational Development Task Force
6. Performance Goals and Priorities/CSTAR Task Force
7. Planning Task Force
8. Resource Allocation Task Force

These task forces were formed based on recommendations made in the Berkshire Study.

A Blueprint Project Scope Statement was issued on April 9, 2007. The Statement said that “The *Blueprint for the Future* is a department project which involves streamlining the organization into a more productive department with defined goals and outcomes.” The Statement further described the deliverables as follows:

- Project management
- Recommendations with supportive documentation
- Timetable for completion of the recommendations
- Necessary training to support recommendation development
- Scheduled progress reports
- Performance measurements to evaluate task force recommendations

Thus, each task force was responsible for reviewing study recommendations related to their task force, providing recommendations to the Implementation Committee, and implementing all approved recommendations. An early problem in this process became apparent because the recommendations were being presented to the committee by the Chief. A greater level of detail was desired, so the Chief requested that task force members make the presentations to the committee so clarification of issues would occur directly from the task force members. This change worked well and became the standard practice.

The Implementation Committee consisted of the following: Chief Corwin, the Bureau Commanders, and the General Counsel.

To oversee the process, the Blueprint Office was established on January 3, 2007. Its members were Major Patty Higgins, Captain Jim Connelly, and Sergeant Darren Ivey. This function had been originally assigned to the Planning and Research Division but due to the large workload of that division, it was decided to form the Blueprint Office to provide dedicated and exclusive oversight.

In regard to selecting the members of the various task forces, a decision was made to have the department’s psychologist, Kay White, administer a personality assessment examination (DISC analysis). This was first administered to the pool of potential chairs of the various task forces. This pool consisted of all captains and civilian managers. Later, all members of the department underwent the analysis. The DISC analysis tool was used to increase the mix of personality types on the various task forces to improve the likelihood of success by decreasing the potential of dominant personalities co-opting the process and marginalizing and disengaging less dominant members who could make significant contributions to the success of the project.



The Implementation Committee selected the various task force chairs, and their names were released on December 20, 2006, in an *Extra Daily Informant* (the KCPD's internal electronic newsletter). The chairs were as follows:

- *Communications Task Force* – Captain Cheryl Rose, Captain Kevin O'Sullivan, Captain Ron Fletcher, and Captain Richard Lockhart (appointed February 28, 2007)
- *Community Involvement Task Force* – Major Randy Hundley and Major Laura Barton
- *Management/Decision Making Tools Task Force* – Captain Randy Hopkins and Captain Eric Winebrenner
- *Operational Efficiency/Effectiveness Task Force* – Captain Donna Greenwell and Captain Scot Glaeser
- *Organizational Development Task Force* – Captain James Pruetting, Captain John Mueller, and Manager Steve Patterson
- *Performance Goals and Priorities/CSTAR Task Force* – Director Linda Netzel and Major Anthony Ell
- *Planning Task Force* – Manager Rick Brisbin and Captain Rick Smith
- *Resource Allocation Task Force* – Captain James Connelly and Major Patty Higgins (later replaced on January 11, 2007, by Major Bryon Price and Major Robert Kuehl so they could devote their attention to managing the overall process through the Blueprint Office)

All task force chairs received a 20-hour facilitation training course to better prepare them to lead.

The members of the eight task forces were appointed and began meeting in March 2007 to consider the recommendations assigned to their particular task force. In addition, a project management schedule ("Work Breakdown Structure") was developed by the Blueprint Office staff showing the assigned recommendations with subtasks and completion target dates. The overall target date for the completion of the *Blueprint* process was set at December 31, 2009.

A Web-based survey tool, *Survey Monkey*, was purchased and deployed to be used as needed by the various task forces.

As task forces began to make their recommendations, these were channeled through the Blueprint Office to the Implementation Committee. Here, a presentation was made by task force members, and the committee decided to either accept or reject the task force recommendations (in some cases, further work was requested). The outcomes of all recommendations reviewed by this committee were posted on the KCPD's internal website for viewing by all employees.

The BOPC was updated monthly at their public meeting by *Blueprint* members.

It is significant to note that there were self-initiated recommendations not generated by the Berkshire Study made by the various task forces which resulted in improved operational efficiencies (e.g., electronic activity sheets and electronic operational plans). This could possibly indicate that the task force members believed they had "permission to think" and were not afraid to do so.

The work of the task forces was completed in December 2009. All 213 Berkshire recommendations were reviewed and studied. The task forces sent a total of 103 recommendations to the Implementation Committee. Eighty-five were approved, 14 were not approved, and four are outstanding at the time of this writing. The Blueprint Office was disbanded on January 31, 2010, and its personnel were reassigned.

Enjoy change! Savor the adventure and enjoy the taste of the new cheese.

—Spencer Johnson, *Who Moved My Cheese?*, p. 74

## Part of the Gift Is the Journey

To overcome organizational entropy, disequilibrium must be introduced as a way to break down the barriers to change and growth. Introducing an outside agent into the organizational environment tends to upset the status quo, especially if there is a powerful internal champion(s) who supports this agent and is willing to seriously consider its recommendations for change. This was the case for the KCPD. Taking the recommendations seriously and then using a collaborative process which engaged employees at all levels to further examine the recommendations and operationalize them brought growth by “giving them the permission to think” (Chief Corwin in the February 8, 2010, interview). Chief Corwin further said that the *Blueprint* process may be more important to the KCPD than the ultimate outcomes.

This notion can be supported by the work of the various committees and the collaborative effort. Many lessons were learned concerning resources, cooperation, critical thinking, problem solving, and consensus building. The *Blueprint* process touched nearly every aspect and element of the KCPD and involved a large portion of its employees. It encouraged bringing employees from a parochial viewpoint to an enterprise-wide viewpoint to increase understanding. It revealed the importance of the learning organization and helped to make it a part of the culture.

Some of the tangible pieces of this process were as follows:

- A new Strategic Plan with measurable goals
- New vision and mission statements based on stakeholder expectations
- Establishment of organizational values
- The practice of developing division operational plans with expected outcomes and measurable objectives
- Development of a process to report on the progress of the various operational plans
- Placing KCPD-generated questions on the *Citizens' Satisfaction Survey* conducted quarterly by the City Auditor of Kansas City, Missouri, to measure the department's progress toward its strategic goals
- Deployment of a paperless offense reporting system to provide current crime information to better assist in developing crime prevention strategies
- Video Bulletin Boards placed in department facilities to enhance communication both internally and externally
- Deployment of a system to electronically distribute and acknowledge department written directives

Many organizations have strategic plans, but the difficulty comes in operationalizing them and continuously monitoring progress. Linking the operational plans to the CSTAR process allows for the implementation of strategic goals in a very real way with ongoing monitoring by management and striving for continuous improvement. This much in itself shows that the journey was valuable and has helped the KCPD meet its challenge.

## Closing Comments

The original challenge to the KCPD was stated as follows:

How does one move a complex and dynamic public organization with networks of interference patterns from good to great? How do you implement and operationalize this notion of “high speed/low drag”? How do you define and measure organizational effectiveness, efficiency, and accountability?

As of this writing, it would be premature to argue that the KCPD has completely met the challenge. It might, however, be said that there are now many processes in place which can carry the organization further down the road to meeting that challenge. There is now a systematic enterprise-wide process in place which has the potential of measuring effectiveness and efficiency. This same process holds managers accountable but allows the freedom to develop strategies for meeting their goals and objectives. This could be the path from “good” to “great”!

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# Sheriffs' and Police Chiefs' Differential Perceptions of the Residents They Serve: An Exploration and Preliminary Rationale

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County sheriffs and municipal police chiefs share the burden of managing local law enforcement agencies. However, each manager comes into the top management role through different mechanisms. In the spirit of Progressive Era reforms, the police chief is appointed based on merit, expertise, or previous accomplishments. The sheriff, by contrast, is elected by county residents. This article explores the question of whether these two selection methods hold implications for each manager's perceptions of those who the manager serves.

We will begin by discussing the origins of each office and its attendant selection mechanism. We will then discuss the literature on merit-based appointment as well as low-information elections. We will then propose a set of expectations with regard to each manager's perception of the residents he or she serves. Afterward, we will present original data that seeks to address our research question and put our propositions to the test of empirical scrutiny.

## Progressive Era Reforms, Merit, and Professional Neutral Competence

The *Progressive Era* (from approximately 1880 to 1920) is viewed by many as the dawn of a new type of public administration. During this era, the United States saw a series of innovations designed to make government officials more professional and more accountable than ever before. The perceived need for such reform was rooted in the gross incompetence, malfeasance, nepotism, and instability of the Jacksonian patronage system in which the "victors" were rewarded with the "spoils of war." Following the lead of Great Britain, the U.S. Congress enacted the Pendleton Act of 1883, more commonly known as the "Civil Service Act." This act replaced patronage with demonstrable expertise, or merit, as the criterion that determined success in landing a job in the federal bureaucracy. At the local level, these reforms were combined with comprehensive planning and budgeting systems by workers in municipal research bureaus, most notably the New York Bureau of Municipal Research (Kahn, 1997).

The good government reform movement is seen by some scholars as the zenith of civic associationalism in American history, and it no doubt enabled the scholarly disciplines of public administration and criminal justice to develop as fields of inquiry and practice.

One seminal piece, future president Woodrow Wilson's (1887) "The Study of Administration," exemplifies the spirit behind Progressive Era government reforms. Here, Wilson argues that a firewall erected between politics and administration will enable public managers to borrow efficient management strategies from the private sector while avoiding political tomfoolery.

Wilson's (1887) article was followed by a series of works, collectively called the Principles School, that postulated a list of universal best practices. Here, we see Gulick's (1937) POSDCORB mnemonic as well as Frederick Taylor's (1911) scientific management, in addition to the application of Weber's (1946) bureaucracy. In sum, scholars of this era assumed that they had found the perfect formula for efficient, economic, and effective public management.

Local public police were not excepted from the changes of the Progressive Era. According to Kelling and Moore (1988), the history of American public police can be divided into three different eras, which are distinguished from one another by the noticeable dominance of a particular strategy of policing. The *Political Era*, so named because of the close ties between police and local politics, dated from the introduction of the police into municipalities during the 1840s, continued through the Progressive period, and ended during the late 1890s and early 1900s. The *Reform Era* developed in reaction to the political. It took hold during the 1920s and 1930s, thrived during the 1950s and 1960s, and began to erode during the late 1970s. The reform era, since then, has given way to an era emphasizing community-oriented policing.

The organizational strategy of the Political Era of policing can be characterized as follows: legitimacy and authorization derived from local political leaders, often ward politicians; the police function was to provide a wide array of services to citizens rather than to focus on crime control and prevention; organization design of police departments was decentralized and geographical, which indicated that cities were divided into precincts and that precinct-level managers often, in concert with the ward leaders, ran precincts as small-scale departments—hiring, firing, managing, and assigning personnel as they deemed appropriate; demand for police services came primarily from two sources—ward politicians making demands on the organization and citizens making demands directly on beat officers; and the primary tactic of police was foot patrol, where most officers walked and dealt with crime, disorder, and other problems as they arose. The strengths of the Political Era public police were (1) they were integrated into neighborhoods and enjoyed the support of citizens—at least the support of the dominant and political interest of an area; and (2) the police strategy provided useful services to communities. However, the period also had some weaknesses. Intimacy with community, closeness to political leaders, and a decentralized organization structure, with its inability to provide supervision of officers, inevitably gave rise to police corruption. Kelling and Moore (1988) further explain that a second weakness of this era was that "close identification of police with neighborhoods and neighborhood norms often resulted in discrimination against strangers and others who violated those norms, especially minority ethnic and racial groups" (p. 4). In addition,

the lack of organizational control over officers resulting from both decentralization and the political nature of many appointments to police positions caused inefficiencies and disorganization. The image of Keystone Cops—police as clumsy bunglers—were widespread and often descriptive

of realities in American policing during the middle and late 19th century. (Kelling & Moore, 1988, p. 4; see also Walker & Katz, 2008)

Police reform efforts through the Progressive period started during the late 19th and early 20th centuries. For example, August Vollmer, known as the father of American police professionalism, served as chief of police in Berkeley, California, from 1905 to 1932 and defined an agenda of police reform that continues to influence policing even today. He was most famous for advocating higher education for police officers, hiring college graduates in Berkeley, and organizing the first college-level police science courses at the University of California in 1916. O. W. Wilson was August Vollmer's most famous protégé and the leader of the professionalization movement from the late 1930s through the end of the 1960s. As chief of police in Wichita, Kansas (1928-1935); dean of the University of California School of Criminology (1952-1960); and superintendent of the Chicago police (1960-1967), he had contributed to police management, including the efficient management of the police department and personnel. His textbook, *Police Administration* (1950) with Roy C. McLaren, still in print today, followed the outline of Frederick Taylor's book *The Principles of Scientific Management* and became the informal "bible" of police administration.

The central features of Reform Era policing were (1) the rejection of politics as the basis of police legitimacy, (2) the establishment of law and police professionalism as the bases of police legitimacy and authority, (3) the narrowing of police functions to crime control and criminal apprehension, and (4) the utilization of Taylor's scientific management to bring about organizational efficiency. Also, during the era of reform policing, Kelling and Moore (1988) contend that

police leaders redefined the nature of a proper relationship between police officers and citizens by demanding an impartial law enforcer who related to citizens in professionally neutral and distant terms; and the principal programs and tactics were preventative patrol by automobile and rapid response to calls for service, abandoning foot patrol. (p. 4)

However, the reform strategy ran into difficulty during the 1960s and 1970s. For example, despite impressive preventative auto patrol and rapid response to 911 calls, "police failed to meet their own or public expectations about their capacity to control crime or prevent its increase" (Kelling & Moore, 1988, p. 6). The reform strategy was a successful approach for police during the relatively stable period of the 1940s and 1950s, but it was unable to adapt to social changes that took place during the 1960s and 1970s (Kelling & Moore, 1988; Walker & Katz, 2008).

The crisis of the 1960s and the research revolution in the 1970s stimulated a burst of a new development of what has been known as the *Community Policing and Problem-Oriented Policing Era* since the late 1970s. Its philosophy holds that police departments should develop partnerships with neighborhood residents, develop programs tailored for specific problems, and give rank-and-file officers more decisionmaking freedom with regard to how best to deal with particular problems. For example, Kelling and Moore (1988) assert that

law continues to be the major legitimating basis of the police function, but there is renewed emphasis on community, or political authorization for many

police tasks, along with professionalism. The definition of police function broadens in the community strategy, including order maintenance, conflict resolution, problem solving, and provision of services, as well as other activities. (p. 6)

Regarding the police organizational design, organizational decentralization and decentralization of tactical decisionmaking to precinct or beat level are inherent in this new period. Community policing relies on closer relationships between local police departments and citizens, brought about by lengthening officers' assignments to specific beats for longer periods of time and asking police to establish familiarity with citizens through consultations, crime control meetings, and other efforts. In short, community policing promotes partnerships with local residents and includes neighborhoods as co-producers of crime prevention and control activities (Gaines & Kappeler, 2003; Kelling & Moore, 1988; Trojanovicz, Kappeler, & Gaines, 2002; Walker & Katz, 2008).

Still, the politics-administration dichotomy has proven itself to be imperfect in the real world of public management. Some facets of any public manager's job will always be political for three reasons: (1) ironically enough, because the manager's expertise solely qualifies him or her to discuss policy issues in a relevant policy arena; (2) the manager must be involved in the unmistakably political game of seeking budget appropriations each fiscal year; and (3) all pieces of legislation require discretion to achieve implementation.

Despite these realities, the politics-administration dichotomy is useful, to some extent, in buffering police chiefs and their officers from constant political pressures. This is the basis for the modern, professional (read: paramilitary) police organization that has traditionally operated, at least prior to the community policing movement, with a great deal of insulation from community members (Falcone & Wells, 1995; LaFrance & Placide, 2010). This state of affairs, we propose, has led to a transactional relationship between the police chief and the residents that he or she serves. Thus, we expect that the police chief will use the term "customers" more frequently than sheriffs to describe these residents.

## **The Benefits and Drawbacks of Electoral Selection**

Public law enforcement in the United States is a large and extremely complex enterprise. There are almost 18,000 agencies, including about 12,600 local police departments with about 451,700 full-time sworn officers and over 3,000 sheriff's offices with about 174,200 full-time sworn officers. Police services are provided by four different levels of governments: (1) city, (2) county, (3) state, and (4) federal. One basic feature of American policing is that the primary responsibility for police protection rests with local governments: cities and counties. Municipal or city police are the most important component of American law enforcement, representing 71% of all law enforcement agencies and employing 62% of all sworn officers. Except for a few very large departments (e.g., New York City, Los Angeles, Chicago, Houston, Philadelphia, and Detroit), the typical municipal police department is in a small town. Slightly less than half (45.5%) employ fewer than ten sworn officers (Walker & Katz, 2008). From the outset most Americans had a firm belief that the police should be controlled by local officials organized along municipal lines. Municipal police departments are led by police chiefs, police directors, superintendents, or

police commissioners and mostly these positions are appointed by the city mayor, city manager, or city council.

Another local policing agency is the county sheriff's department. The sheriff's office is a constitutional office in 37 states in the U.S. Sheriffs are elected in all but two states (Hawaii and Rhode Island). As elected officials, sheriffs are directly involved in partisan politics unlike their police chief counterparts. Sheriffs have a unique role in that they serve all three components of the criminal justice system: (1) law enforcement, (2) courts, and (3) corrections. Historically, in rural areas, the sheriff has been the most powerful politician in the county (Friedman, 1993; Walker & Katz, 2008).

Despite Progressive Era reforms that brought about appointment based on merit, U.S. citizens are still asked to vote for a variety of administrative offices at the local and state levels of government. These races are generally partisan, begging one to ask what role partisanship plays in setting state insurance rates (the state insurance commissioner), filing city reports (the city clerk), or administering justice (the county sheriff and state court judges) (Streb, 2008). In fact, it seems that Americans are always voting for one reason or another (e.g., to fill a vacancy at one level of government or another, to decide on a ballot referendum, to retain an incumbent, etc.). This process of constant ballot casting, some argue, can lead to cognitive fatigue. This cognitive fatigue can then give way to voting by means of cheap mental cues or heuristics rather than reasoned, well-informed ballot casting. Thus, we might see that voters decide to retain an incumbent or vote based on the party affiliation of the office seeker (Schaffner, Streb, & Wright, 2007; Streb, 2008). Even in the absence of partisan or incumbency cues, voters might attempt to choose a candidate with a similar ethnic background or gender as themselves (Streb, 2008).

Despite these flaws with our electoral system, however, Americans are apt to react ferociously in the negative when asked whether an office should be filled by appointment instead. One author recalls that a ballot initiative in DeKalb, Illinois, to change the selection mechanism for the city clerk from an elected to an appointed office resulted in an almost 80% negative decision among voters in the city.

Whether correctly or incorrectly, voters like to feel that they have a say in local level bureaucratic operations because they believe that electoral selection is more capable of fostering accountability than meritorious appointment. Past research alludes to the fact that these voters are on to something.

The county sheriff's office, while sharing some duties with the municipal police department, is often tasked with a great deal more responsibility (e.g., operating detention facilities, serving civil processes, guarding the courthouse, etc.). Moreover, the sheriff's office took a wildly different developmental trajectory than the municipal police agency because the top manager of the sheriff's office is an elected representative of the people that he or she serves. Falcone and Wells (1995) trace this present state of affairs to the Colonial era, a time when the roots of the sheriff's office were found in local militias of which all citizens were members. Thus, the sheriff's office should be perceived as more approachable by community members. Because of this historical basis, we propose that the sheriff will be more



likely to use the term “citizens” when describing the aggregate population of residents that his or her office serves.

## **Preliminary Propositions**

Based on the literature, we expect that police chiefs will be more apt to define their service population in transactional terms—that is, as “customers.” We also expect that county sheriffs will be more apt to define their service population in relational terms—that is, as “citizens.”

## **Data and Methodology**

In order to preliminarily test these propositions, we asked a sample of 30 local law enforcement managers to define the members of their service population (more details regarding the sample and respondent characteristics can be found in LaFrance, 2009, 2010; LaFrance & Allen, 2010). Specifically, we asked 12 sheriffs and 18 municipal police chiefs in eight counties in Illinois, Iowa, and Wisconsin (see Table 1) to respond to this question: “When thinking of the residents in your jurisdiction, which term seems most appropriate to describe the relationship these residents share with your agency: citizens, customers, clients, or something else?”

## **Results (see Table 2)**

When presented with this question, six of the 12 (50%) sheriffs said that “citizen” was the best descriptive term, while one sheriff selected “partners,” three said “customers,” and two sheriffs added another term, “neighbors.” Conversely, 11 (61%) police chiefs chose “customers” as the best term, though two of these 12 police chiefs emphasized that a resident “citizen” only becomes a “customer” when she or he directly interacts with the police department (e.g., as a victim, an offender, or someone needing a report). Six police chiefs selected “partners,” and one police chief added the term “bosses.”

While this might seem like a frivolous question, two aggregate, and telling, patterns seem to surface. In order to understand the importance of these patterns, however, the implications of the modal terms must be considered.

Public choice and New Public Management scholars might make the normative claim that a public agency’s relationship with residents should be based on customer service because doing so might help the agency to imitate the efficiency of private sector service delivery by prioritizing services in such a way as to differentiate the agency from others like it in a given area (Osborne & Gaebler, 1992). This allows resident-customers to decide if the agency’s service mix fits with their needs and desires and to make corresponding decisions about choosing to remain in a given service jurisdiction (Tiebout, 1956).

While the customer perspective might be beneficial in that it enhances an agency’s efficiency and, possibly, the agency’s professionalism, skeptics from other theoretical camps might criticize this perspective because it relegates residents to a purchasing role. Thus, a relationship based on customer service limits the input a resident might have in a public agency. This, in turn, limits the public manager’s capacity to develop and articulate a shared vision for the future with his service

**Table 1. Respondent Characteristics of Sheriffs and Police Chiefs**

Type of Manager	Mean Age	Education Distribution	Median County Residence (in Years)	Median Years in Current Position	Median Years in Current Dept.	Median Total Years in LE	Median Total Employees	Median Sworn Officers	Mean Total Training (Local + State + National + Workshops)	Mean Total Professional Association Memberships (National + State + Local)
Sheriff	54	HS diploma: 1	46	7	26	31	183	58	2.50	2.50
	Range: 45-61	AA degree: 2 BA degree: 7 MA degree: 2	Range: 24.5-61	Range: 1-16	Range: 1-40	Range: 20.5-40	Range: 46-558	Range: 17-449		
		HS diploma: 1	29	4.5	10	29.5	59	46	2.28	2.39
	Range: 38-64	Some college: 1 AA degree: 1 BA degree: 7 MA degree: 7 PhD degree: 1 JD degree: 1	Range: 2 months-64 years	Range: 2 months-27 years	Range: 2 months-34 years	Range: 11-40	Range: 10-540	Range: 9-438		

community. That is, the customer perspective hampers a law enforcement executive's ability to be seen as a community leader.

The citizen perspective presents more fertile ground for the cultivation of leadership in that it does not limit the resident's prescribed behavior to that of a customer. Instead, proponents of this view argue, this perspective empowers and challenges residents to take an active ownership role in their public agencies (Denhardt & Denhardt, 2002). Here, citizens, like sheriffs, might see themselves as part of a larger system. Thus, citizens might feel an obligation to, and responsibility for, the maintenance of the system beyond simply having their needs met. This response category seems more inclusive in that it acknowledges a role for all residents rather than merely the ones with which a law enforcement agency interacts (i.e., victims, offenders, etc.). Thus, the sheer numbers dictate that a sheriff or police chief who views his service population as citizens has cast a broader net for a successful leadership coalition.

**Table 2. Responses to “Which word best describes the relationship between you and residents of your jurisdiction?” by Sheriffs and Police Chiefs**

Type of Manager	Citizens	Customers	Partners	Neighbors	Bosses
Sheriff	6	3	1	2	0
Police chief	2	11	6	0	1

*Note:* Two police chiefs gave two responses each.

## Implications and Discussion

If more externally valid (generalizable) results confirm this preliminary discovery, what might the implications be? In order to appreciate the potential implications, it is necessary to take a step back from the actual selection mechanism in order to appreciate the different criteria used to make the electoral or appointment decision as well as who the actors are who make each decision. These criteria and the decisionmakers who use them can lead each type of law enforcement executive to approach his work from divergent power bases.

## Management, Leadership, and Power Bases

Given the selection method of each respective law enforcement CEO, one might question whether sheriffs and police chiefs use different power bases (French & Raven, 1959). For instance, the sheriff might consider his electoral victory as a mandate from the public to fulfill his policy goals. Thus, the sheriff's base of power may be found in his electoral (and often constitutional) legitimacy. In contrast, the municipal police chief's source of legitimacy—selection by the manager/mayor and council—dictates that legitimate power is considerably lower for the police chief. He cannot point to a majority of citizens who selected him for office as can the sheriff. Thus, the police chief must often operate by means of a different power base—his expertise as a law enforcement manager. This power base is reinforced by the highly competitive nature of the job market for police chiefs in which education, experience, and expertise are dominant criteria for selection. If this hypothetical difference in power bases exists in reality, the implications are as follows: (1) the sheriff's legitimate power dwarfs that of the police chief; (2) the

police chief's expert power is much greater than that of the sheriff; (3) in the face of an obstinate legislative body, the sheriff has more potential to appeal to the public successfully than does the police chief; and (4) the police chief has more potential to attempt to influence the legislative body with products of his expertise (e.g., statistics, reports, leverage, etc.).

As this brief discussion demonstrates, antecedent variables (building a successful electoral coalition for sheriffs versus demonstrating technical competence for police chiefs) help to explain the primary independent variable of interest—the method of obtaining office. Moreover, two additional explanations are in order.

First, because residents must exercise their rights as *citizens* to cast votes for the sheriff, the sheriff might be wont to consider those in his service population in this role. Thus, if asked for the appropriate term to describe his relationship with members of his service population, it is understandable that the sheriff is more likely to do so in terms of citizenship.

Conversely, because residents have very little input in the selection of the police chief, and appointment decisions are made by other municipal government actors based on perceived expertise, the police chief might be more inclined to see parallels between his role and that of a corporate CEO. Thus, when asked, most police chiefs describe the relationship between their service population and themselves in terms of customer service.

Second, because sheriffs must serve the same constituents as other elected county officials, these other elected officials may be inclined to view the sheriff as a peer rather than a subordinate. This perception could result in open communication, a crucial prerequisite for leadership (Kotter, 1990/2001; LaFrance & Placide, 2010).

## Conclusion and Suggestions for Future Research

While it is certain that more research is needed before the results of this study can be generalized, this study presents some intriguing data. Moreover, our findings lend credence to the need for police chiefs to focus more effort on community policing in order to transform the transactional relationship they share with citizens into a more open, welcoming relationship based on the accumulation of social capital within their respective communities (Putnam, 2000). Previous research (LaFrance & Placide, 2010) shows that sheriffs invest significantly less effort in community policing efforts than police chiefs. Perhaps this is because, as one sheriff put it, "[S]heriffs have been doing community policing forever . . . before there was a term for it."

In addition, since the late 1890s, police reform efforts during the Reform Era and Community Policing and Problem-Oriented Era have focused mostly on big municipal police departments (e.g., New York City, Chicago, Los Angeles, Philadelphia, Cincinnati, and Boston) and several mid-size police departments (e.g., Kansas City, Berkeley in California, Newark in New Jersey, etc.). In other words, most mid- and small-size sheriffs' offices and municipal police departments have not been included in police reform and research efforts.

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# Ethical Ideology and Ethical Decisionmaking Among Recruit Police Officers

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The literature is replete with studies that examine police ethics, integrity, and corruption (Conti & Nolan, 2005; Crank & Caldero, 2000; Houn, Hesketh, Frank, McConkey, & McGrath, 1995; Kappeler, Sluder, & Alpert, 1998; Rokeach, Miller, & Snyder, 1971; Sherman, 1982; Zhao, Ni, & Lovrich, 1998). A series of ethics, integrity, and corruption studies were catalyzed by the landmark study of police integrity by Klockars, Ivkovich, Harver, and Haberfeld (2000). In this study, 3,235 officers from 30 U.S. police agencies responded to 11 case scenarios describing police behavior. They were asked to rate the seriousness of the case, the severity of discipline the behavior should and would receive, and whether or not they would report the behavior. The study found “substantial differences in the environment of integrity among the 30 agencies in the sample [and that] most police officers indicated that they *would* report a colleague who stole from a found wallet or a burglary scene, accepted a bribe or kickback, or used excessive force on a car thief after a foot pursuit” (p. 2). However, respondents were less likely to report officers who cover up a police DUI accident or accept holiday gifts from merchants.

Several subsequent studies expanded on the Klockars et al. (2000) study. Ivkovic (2005) used the data from the 3,235 U.S. officers and compared it with surveys using the same 11 case scenarios administered to 1,694 Croatian and 378 Finnish police officers. This study found that “evaluations of case seriousness seem to be more heterogeneous across the three countries in the least serious cases such as the off-duty employment, the acceptance of gratuities, or the use of excessive force, and more homogeneous for the most serious cases such as the kickback, a bribe, or a theft of found property” (p. 560). This may be due to cultural variances in the perceptions of the seriousness of issues such as accepting free merchandise. Similar crosscultural comparisons were conducted by Huberts, Lamboo, and Punch (2003), comparing police integrity in the U.S. and the Netherlands, and Ekenvall (2003), comparing police behavior in Sweden, the U.S., and Croatia.

These studies focus primarily on the organizational ethical environment. They provide valuable clues to the impact of the organizational environment on police ethics. While these studies are informative about the organizational environment, they do not address the personal ethics of police officers and the impact of personal ethics on ethical decisionmaking.



## Statement of the Problem

While the literature on measuring integrity in some instances has looked at independent variables such as organizational environment as they are related to responses to integrity scenarios, there is a dearth of research that looks at how a law enforcement officer's ethical and moral position is related to ethical decisionmaking as measured by responses to hypothetical ethical scenarios. This study examines this problem by measuring personal ethical orientations of recruit police officers using the Ethical Position Questionnaire (EPQ) and the officers' responses to six hypothetical ethical dilemmas.

## Measuring Ethical Orientation: The Ethical Position Questionnaire (EPQ)

### EPQ Development

Historically, there have been two major problems confronting researchers in conducting empirical research to identify personal ethical orientations. The first is identifying a theoretical framework based on accepted ethical philosophies and the second is operationalizing that theoretical framework. In an attempt to address these problems, Forsyth and Schlenker (Forsyth, 1980; Schlenker & Forsyth, 1977) proposed that the current major schools of ethical thought could be most parsimoniously defined in terms of two major scales. The first scale draws on the two ethical philosophies of ethical absolutism and ethical relativism. The second scale focuses on ethical idealism.

The first scale is based on the proposition that in making ethical judgments, some people draw on universal ethical rules while others reject ethical absolutes. Ethical absolutism suggests that "objective standards of moral truth exist independently of us" (Harris, 1997, p. 103) and that there "exists an eternal and unchanging moral code that transcends the physical world and is the same for all people at all times and places" (Holmes, 1998, p. 165). Ethical relativism, on the other hand, holds that there is no such thing as universal ethical truths and that ethical dimensions of right and wrong vary from person to person and culture to culture (Holmes, 1998; Pollock, 2007; Rachels, 1999).

The second scale focuses on idealism in ethical judgment. At one extreme, ethical idealists assume that "right" action will result in desirable consequences. Those who are less idealistic believe that "right" action does not always result in desirable consequences (Forsyth, 1980).

To operationalize this theoretical framework, Forsyth (1980) conducted research to develop a valid, reliable, and easily administered instrument to determine personal ethical orientations of individuals. His goal was to develop and validate an Ethical Position Questionnaire (EPQ) that would facilitate the classification of individuals according to ethical orientation (p. 177). Forsyth's work resulted in the development of the EPQ, which consists of 20 statements. Ten of the statements concern idealism and ten concern relativism. A Likert-type response scale consisting of nine points from "completely disagree" to "completely agree" is used for each item. Individuals are classified as to ethical orientation by calculating their mean scores on the relativism items and the mean scores on the idealism items. Tests of concurrent and discriminate validity as well as predictive validity were conducted. Forsyth proposed that ethical judgments can be found to lie on

two major dimensions: (1) ethical idealism and (2) ethical relativism. The resulting taxonomy of ethical orientations is presented in Table 1.

**Table 1. Taxonomy of Ethical Orientations**

	High Relativism	Low Relativism
High Idealism	<i>Situationist</i> Rejects ethical absolutes; advocates individualistic analysis of each act in each situation; relativistic.	<i>Absolutist</i> Assumes that the best possible outcome can always be achieved by following universal ethical rules; absolutist.
Low Idealism	<i>Subjectivist</i> Appraisals are based on personal values and perspective rather than universal ethical principles; relativistic; ethical egoist.	<i>Exceptionist</i> Ethical absolutes guide judgments but pragmatically open to exceptions to these standards; utilitarian.

Adapted from Forsyth (1980).

### EPQ Research in Non-Law Enforcement Professions

Subsequent to its development, the EPQ has been used and validated in ethics research among numerous professional disciplines. Studies have been conducted in accounting (Chan & Leung, 2006; Ziegenfuss & Martinson, 2002), education (Deering, 1998), medicine (Eastman, Eastman, & Tolson, 2001; Furham & Olfstein, 1997; Ganzini, Fenn, Lee, Heintz, & Bloom, 1996; Hadjistavropoulos, Malloy, Sharpe, & Fuchs-Lacelle, 2003), business and management (Bass, Barnett, & Brown, 1999; Davis, Andersen, & Curtis, 2001; Henle, Giacalone, & Jurkiewicz, 2005), criminal justice education (Byers & Powers, 1997a, 1997b), advertising (Treise, Weigold, Conna, & Garrison, 1994), marketing and market research (Vitell, Lumpkin, & Rawwas, 1991), animal research (Wuensch & Poteat, 1998), and information technology (Winter, Stylianou, & Giacalone, 2004).

### EPQ Research in Law Enforcement

Some studies have been conducted using the EPQ in the law enforcement setting. Catlin and Maupin (2002) studied the ethical orientations of a state police recruit class using the EPQ and compared that class to a group of state police officers with one year of experience. They found that there was a statistically significant difference in ethical orientations between the two groups. New recruits were more oriented to ethical idealism and one-year experienced officers are more oriented to ethical relativism.

Also using the EPQ, Catlin and Maupin (2004) examined the ethical orientations of two cohorts of state police officers. The first cohort was administered the EPQ during the recruit academy and again after one year of experience. The second cohort took the EPQ when they had one year of experience and again at the two-year point in their careers. For cohort one, there was a significant shift of orientation from the idealism scale to the relativism scale. The biggest shift in ethical orientation was from an *absolutist* orientation to the *subjectivist* orientation. There was a similar but nonsignificant result for cohort two. From year one to year two, there was a shift from idealistic orientations to the *subjectivist* ethical position. At year two, 41% of all officers occupied the *subjectivist* orientation.

Maupin, Bond-Maupin, and Catlin (2006) used the EPQ to measure the ethical orientations of local police recruits at the beginning of recruit training and again at the end of the training academy. They found a similar trend in a shift down in the idealism scale and an increase in the relativism scale.

While these studies suggest there is a relationship between the longevity of experiences in the law enforcement profession and ethical orientation, the studies did not attempt to look at the relationship between ethical orientation and ethical decisionmaking. The study report here is an attempt to shed some light on that research question.

## **Examining the Relationship Between Ethical Position as Measured by the EPQ and Ethical Decisionmaking Using Responses to Ethical Scenarios**

There is a dearth of empirical studies that focus on the relationship between the personal ethical orientation of police officers and their ethical decisionmaking. One study examines this relationship between ethical position as identified by the Ethical Position Questionnaire (EPQ) and decisionmaking in law enforcement. Catlin and Maupin (2007) used the EPQ and a series of six law enforcement hypothetical ethical dilemmas to investigate the relationship between ethical orientations and responses to ethical dilemmas. The instruments were administered to 177 experienced local law enforcement officers attending an advanced officer training at a regional training program. This study found a statistically significant relationship between ethical orientation and two of the six ethical dilemmas.

There are also studies in other professions and academic disciplines. These studies have had mixed results. In the following studies, the first three found a relationship between ethical orientation and responses to ethical scenarios, while the third found no significant relationship.

Caswell (2003) explored the relationship between EPQ and scores on the Dilemmas in Athletic Training Questionnaire (DAT-Q) among undergraduate athletic training education students and instructors. This study found that there is a positive relationship between an athletic trainer's idealism score and their ethical decisionmaking scores on the DAT-Q and that "individuals scoring high in idealism and low in relativism (*absolutists*) reported significantly higher ethical decision-making scores than all other respondents" (p. 175).

Bass, Barnett, and Brown (1998) conducted a study of the relationship between ethical orientations based on the EPQ and ethical decisionmaking-based responses to three ethical scenarios administered to a random sample of American Marketing Association members who identified themselves as marketing management/sales management professionals:

The first scenario concerned "allowing liking for one customer and disliking another to affect price, delivery, and other decisions regarding terms of sale." The second involved "giving physical gifts, such as free sales promotion prizes or 'purchase volume incentive bonuses' to a customer." The third scenario concerned "gaining information about competitors by asking buyers for specific information about these competitors." (p. 7)

This study (Bass et al., 1998) found that sales managers' ethical judgments of the scenarios were related to the *situationist*, *absolutist*, *subjectivist*, or *exceptionist* ethical orientations. The only significant relationship was with the first scenario. Judgment of the first ethical scenario was significantly different from the other three orientations. They judged it to be more unethical. The researcher then combined the results for the ethical positions of *absolutists* and *situationists*, both of which are high on the idealism scale. The resulting analysis indicated that the high idealism positions were harsher on scenarios one and three, suggesting that idealism explained differences more than the relativism.

Byers and Powers (1997b) examined the relationship between ethical ideology and responses to two versions of a vignette designed to focus on the question of loyalty among actors within organizations. The subjects of this research were criminal justice and non-criminal justice majors at a Midwestern university. They found that *absolutists* and *situationists* perceived the act of being disloyal and truthful to be more important than the reverse of being loyal even if it involved lying. *Subjectivists* perceived lying and loyalty more positively than honesty combined with disloyalty. There was not a significant relationship for *exceptionists*.

Eastman et al. (2001) measured the relationship between ethical ideology using the EPQ and four managed care ethical dilemmas among physicians. They found no significant relationship between ethical ideology and the ethical dilemmas.

## Method

### Research Question

For purposes of this study, we posed the following research question: "Is there a relationship between the four ethical orientation categories of *situationist*, *absolutist*, *subjectivist*, and *exceptionist* as measured by the EPQ and the six hypothetical ethical scenarios designed specifically for this study?"

### Participants and Instruments

Two hundred forty-seven law enforcement officers attending two regional recruit training academy sessions completed the EPQ developed by Forsyth (1980) and used successfully in subsequent studies (Forsyth, Nye, & Kelly, 2001; Treise et al., 1994; Vitell et al., 1991). We also used six separate hypothetical ethical dilemmas. The officers were asked to indicate agreement or disagreement with the outcome of each hypothetical. The six hypotheticals were developed with the assistance of experienced police officers, police supervisors, commanders, and trainers. One hypothetical, Hypothetical 6, was adapted from Jetmore (1997) and reviewed by a SWAT commander. They were pilot tested in conjunction with the EPQ with training commanders and training officers at a regional law enforcement academy. The six hypotheticals covered specific areas in the professional and personal lives of law enforcement officers. These areas included testifying in court (Hypothetical 1), responding to public questions (Hypothetical 2), personal family relationships (Hypothetical 3), tactical/operational decisions (Hypothetical 4), interactions between commanders and supervisors (Hypothetical 5), and interactions between line officers and commanders (Hypothetical 6). The officers were asked to indicate agreement or disagreement with the outcome of each hypothetical. The hypotheticals are available in Appendix A.

Table 2 displays characteristics of the participating officers. The average age was 35.59 years, and the average years of service was 9.18 years. While this was a recruit academy, it should be noted that officers who are moving from one law enforcement agency to another may, in some instances, be required to repeat the academy experience. This is especially true for those who served in military law enforcement agencies. Thirty-four (13.76%) were female and 213 (86.23%) were male. Anglos comprised 58.30% ( $n = 144$ ) of the population and non-Anglos represented 41.70%. The highest level of education of 58 officers was a Bachelor's degree (23.48%); eight (3.24%) possessed a graduate degree ranging from a Master's to a Juris Doctor to a PhD; 130 (52.63%) officers had earned some college credit; and 51 (20.65%) possessed a high school/GED degree only.

**Table 2. Characteristics of Study Participants**

Characteristic	N
Number	247
Average age	35.59
Average years of service	9.18
Males	213
Females	34
Anglos	144
Hispanic	74
African Americans	10
Other ethnicity	19
HS graduate/GED	51
Some college	130
Bachelor's degree	58
Graduate degree	8

## Analysis and Results

The EQP was split into two halves measuring the primary ethical dimensions of *idealism* and *relativism*. Table 3 displays the descriptive statistics of our analysis of these two ethical dimensions. The mean Idealism score was 54.95 (median = 55.00) and the mean Relativism score was 48.20 (median = 49.00). As with prior research (Byers & Powers, 1997a; Forsyth, 1980), we analyzed these two dimensions and found no statistically significant correlation between the scores.

**Table 3. Idealism and Relativism Scores**

Mean	Median	Mean	Median
Idealism	Idealism	Relativism	Relativism
54.95	55.00	48.20	49.00

Next, we adapted the technique of others (Byers & Powers, 1997a; Forsyth, 1980; Treise et al., 1994) to distribute the respondents across these categories. We used the actual as opposed to the theoretical midpoint of the Likert response options to place the respondents into the four ethical orientation categories. (Table 4 displays the distribution of the respondents across the four ethical orientation categories.) We conducted further analysis to determine if there were any significant variations across the four ethical orientation categories that were a function of the demographic categories displayed in

Table 4. Education was related to ethical orientation (Chi-Square = 19.225;  $p \leq 0.01$ ). The data indicate that the greater one's years of formal education, the more likely it is to demonstrate the characteristics of a *subjectivist* or *exceptionist* ethical orientation.

**Table 4. Comparison Across Ethical Positions**

Ethical Position	Situationist	Absolutist	Subjectivist	Exceptionist
<i>Variable</i>				
All	65	60	60	62
(%)	(26.3)	(24.3)	(24.3)	(25.1)
<i>Sex</i>				
Female	10	13	5	6
(%)	(29.4)	(38.2)	(14.7)	(17.6)
Male	55	47	55	56
(%)	(25.8)	(22.1)	(25.8)	(26.3)
<i>Ethnicity</i>				
Hispanic	20	20	14	19
(%)	(27.4)	(27.4)	(19.2)	(26.0)
Anglo	36	31	38	39
(%)	(25.0)	(21.5)	(26.4)	(27.1)
Other	9	9	8	4
(%)	(30.0)	(30.0)	(26.7)	(13.3)
<i>Education*</i>				
High School/GED	20	16	6	9
(%)	(39.2)	(31.4)	(11.8)	(17.6)
Some college	28	27	22	22
(%)	(28.3)	(27.3)	(22.2)	(22.2)
Bachelor's degree and beyond	17	17	32	31
(%)	(17.5)	(17.5)	(33.0)	(32.0)

\*Chi-Square = 19.225;  $p \leq 0.01$

We also compared the key demographic variables of Sex, Ethnicity, and Education as well as each of the four ethical positions with the Agree/Disagree responses of the officers. The results of that analysis are displayed in Table 5. The analysis revealed two statistically significant relationships. Hypotheticals 2 and 6 are related to the ethical orientation categories (Chi-Square for Hypothetical 2 = 13.460,  $p \leq 0.01$ ; Chi-Square for Hypothetical 6 = 9.282,  $p \leq 0.05$ ). Agreement with the resolution for Hypothetical 2 was 78.5% of *situationists* ( $n = 51$ ), 60.0% of *absolutists* ( $n = 36$ ), 88.3% of *subjectivists* ( $n = 53$ ), and 77.5% of *exceptionists* ( $n = 45$ ). The majority of all those in each category agree with the decision of Officer Schmidt to misrepresent the objective reality of the young girl's suffering prior to death to her parents. However, a significantly lower majority of those in the *absolutist* category agreed with Officer Schmidt's decision.

In regard to Hypothetical 6, 52.3% of *situationists* ( $n = 34$ ), 70.0% of *absolutists* ( $n = 42$ ), 66.7% of *subjectivists* ( $n = 40$ ), and 71.0% of *exceptionists* ( $n = 44$ ) disagreed with the resolution of Hypothetical 6. The majority of those in each category disagree with the decision of Officer Alvarez to support Captain Sparks' statistical representation about the incident of home invasions in the neighborhood even though Captain Sparks' representation is accurate, though incomplete. Bivariate

**Table 5. Comparison Across Hypotheticals**

Hypothetical	1		2		3		4		5		6	
	Agree	Disagree	Agree	Disagree	Agree	Disagree	Agree	Disagree	Agree	Disagree	Agree	Disagree
<i>Variable</i>												
Situationist (%)	12 (18.5)	53 (81.5)	51 (78.5)	14 (21.5)	44 (67.7)	21 (32.3)	31 (47.7)	34 (52.3)	41 (63.1)	24 (36.9)	31 (47.7)	34 (52.3)
Absolutist (%)	11 (18.3)	49 (81.7)	36 (60.0)	24 (40.0)	44 (73.3)	16 (26.7)	30 (50.0)	30 (50.0)	29 (48.3)	31 (51.7)	18 (30.0)	42 (70.0)
Subjectivist (%)	17 (28.3)	43 (71.7)	53 (88.3)	7 (11.7)	44 (73.3)	16 (26.7)	35 (58.3)	25 (41.7)	35 (58.3)	25 (41.7)	20 (33.3)	40 (66.7)
Exceptionist (%)	12 (19.4)	50 (80.6)	45 (72.6)	17 (27.4)	46 (77.5)	16 (25.8)	30 (48.4)	32 (51.6)	36 (58.1)	26 (41.9)	18 (29.0)	44 (71.0)
Male (%)	45 (21.1)	168 (78.9)	162 (76.1)	51 (23.9)	154 (72.3)	59 (27.7)	115 (54.0)	98 (46.0)	125 (58.7)	88 (41.3)	136 (63.8)	77 (36.2)
Female (%)	7 (20.6)	27 (79.4)	23 (67.6)	11 (32.4)	24 (70.6)	10 (29.4)	11 (32.4)	23 (67.6)	16 (47.1)	18 (52.9)	10 (29.4)	24 (70.6)
Anglo (%)	30 (20.8)	114 (79.2)	109 (75.7)	35 (24.3)	108 (75.0)	36 (25.0)	73 (50.7)	71 (49.3)	90 (62.5)	54 (37.5)	53 (36.8)	91 (63.2)
Hispanic (%)	16 (21.9)	57 (78.1)	53 (72.6)	20 (27.4)	50 (68.5)	23 (31.5)	37 (50.7)	36 (49.3)	36 (49.3)	37 (50.7)	25 (34.2)	48 (65.8)
Other (%)	6 (20.0)	24 (80.0)	23 (76.7)	7 (23.3)	20 (66.7)	10 (33.3)	16 (53.3)	14 (46.7)	15 (50.0)	15 (50.0)	9 (30.0)	21 (70.0)
High School/GED (%)	6 (11.8)	45 (88.2)	38 (74.5)	13 (25.5)	40 (78.4)	11 (21.6)	29 (56.9)	22 (43.1)	33 (64.7)	18 (35.3)	22 (43.1)	29 (56.9)
Some college (%)	21 (21.2)	78 (78.8)	75 (75.8)	24 (24.2)	66 (66.7)	33 (33.3)	52 (52.5)	47 (47.5)	53 (53.5)	46 (46.5)	41 (41.4)	58 (58.6)
Bachelor's and beyond (%)	25 (25.8)	72 (74.2)	72 (74.2)	25 (25.8)	72 (74.2)	25 (25.8)	45 (46.4)	52 (53.6)	55 (56.7)	42 (43.3)	24 (24.7)	73 (75.3)

correlate analysis and regression analysis indicate those least willing to support Captain Sparks' statistical representation are younger with fewer years of service, and they are more likely to be in the *absolutist* category.

## Discussion

There were no significant relationships between ethical positions and four of the six hypotheticals. The only relationships identified were with respect to Hypotheticals 2 and 6.

Hypothetical 2 deals with responding to public questions for which the officer did not tell the truth to the parents about how their daughter died in an automobile accident. Hypothetical 6 deals with a relationship between a line officer and his commander during a neighborhood meeting. The line officer has done crime analysis to be presented at the meeting by the commander and sees in the data a trend that is different from that emphasized by the commander. When asked by the commander to confirm the commander's statements, the officer does so.

The analysis suggests a relationship between these hypotheticals and the *absolutist* ethical orientation. In both cases, those participants who are associated with the *absolutist* ethical orientation were also associated with a position of truth-telling.

Truth-telling, no matter what the consequences, is closely associated with moral absolutism. Ethical absolutists believe that there are universal, unchanging ethical rules and that persons should obey these rules, regardless of the consequences (Harris, 1997). Ethical absolutism is associated with a deontological system of ethics. Deontological systems of ethics are concerned only with whether or not the act is "right." If the act is right, it is ethical regardless of the ultimate consequences of the act. Therefore, whether the outcome is good or bad is nonconsequential (Holmes, 1998; Pollock, 2004).

In the case of truth-telling, moral absolutists would view truth-telling as important no matter what the outcome. A fundamental principle of nonconsequential (deontological) ethics is that one cannot tell what the outcome of an act will be, so there is an imperative to act morally, in this case to tell the truth, because it is the moral thing to do without regard to whether the outcome is good or bad. Emmanuel Kant (Souryal, 1992) articulated this principle in what has become known as his "respect for persons" categorical imperative. Kant would view telling the parents the truth in Hypothetical 2 and challenging the commander's crime data presentation in Hypothetical 6 as acts of respect. Kantian ethics, a form of moral absolutism, suggests that the parents in Hypothetical 2, the neighbor representatives in Hypothetical 6, and all human beings should be treated "with dignity, and impartiality, regardless of what we may gain or lose from the relationship" (Souryal, 1992, p. 167). In the case of these hypotheticals, telling the truth to the parents is a sign of respect since they have the right to know what really happened to their daughter, and telling the neighborhood meeting participants the truth about what the data show regarding crime trends respects their right to know about potential threats to their safety.

## Limitations

While this sample of 247 experienced police officers was sufficient to carry out a robust analysis, it was a convenience sample and it represented police officers from



a specific regional area of the country. Larger samples from additional studies are required to determine if the outcomes of this study can be replicated. Hypothetical ethical dilemmas are just that. They are hypothetical. They can only minimally replicate real-life situations. Only general assumptions can be made about the ethical motivation of participants in this type of study. In-depth interviews would be required to assess the nature of the ethical motivations.

This study suggests that there may be some relationship between personal ethical orientations as measured by the EPQ instrument. Further studies using other instruments measuring personal ethical position would further inform the results of this study.

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## Appendix A: Hypothetical Ethical Dilemmas

### Instructions

Below you will find six hypothetical ethical scenarios. Following each scenario, you will be asked to agree or disagree with the person's decision in the scenario. Please focus on the ethics of the decision.

### Hypothetical 1: Testifying

Detective Raymond is a witness in a rape and murder trial. The defendant has been investigated in the past for several rapes, but a good case has never been made against him until this one. The previous cases and this one have received widespread attention. While on the witness stand, Detective Raymond answers all the prosecutor's and defense attorney's questions. She completes her testimony and answers all the questions truthfully. She exits the courtroom knowing that she has specific information that may clear the defendant. This information was never elicited from her by the prosecuting attorney prior to the trial, and none of the questions on the stand from either the prosecutor or defense attorney specifically addressed the information she had.

Detective Raymond made the right ethical decision not to reveal the information.

Place an X in the box that indicates your response:  Agree  Disagree

### Hypothetical 2: Responding to Public

Officer Schmidt is dispatched to a personal injury automobile accident. She arrives on the scene to find a young teenage girl pinned under a vehicle that has rolled over. She is screaming out in pain during the final minutes of her life as the EMTs and fire rescue workers try to free her. She dies a few minutes after Officer Schmidt's arrival. During the follow-up investigation, Officer Schmidt encounters the young girl's parents in the emergency room of the hospital. The girl's mother engages Officer Schmidt and asks Officer Schmidt whether or not her daughter was in pain at the time of her death. Officer Schmidt tells the parents that their daughter was unconscious and died immediately and did not suffer.

Officer Schmidt made the right ethical decision about what she told the parents.

Place an X in the box that indicates your response:  Agree  Disagree

### Hypothetical 3: Personal Life

Sgt. Rodgers was reviewing the incident reports for his patrol squad. During that review, he discovered that there was a shoplifting complaint filed by the Target store in his division that indicated a Ms. Jane Lever has been identified by the store as a possible shoplifter. The circumstances of this particular incident did not result in an arrest of Ms. Lever; however, the information in the report indicated that this was not the first time that Ms. Lever has been suspected of shoplifting. Sgt. Rodgers knows that Ms. Lever is the wife of his son's Boy Scout leader. After discussing the information he has obtained with his wife, they decide to change his son, Robert, to another Scout Troop. When Sgt. Rodgers tells Robert that they have decided to

move him to another troop, Robert asks why. Sgt. Rogers does not divulge the information he has but, rather, makes the excuse that the new troop meets at a more convenient time and location.

Sgt. Rogers made the right ethical decision not to tell his son.

Place an X in the box that indicates your response:  Agree  Disagree

#### **Hypothetical 4: Tactical/Operational Decision**

Officer Mallick is a member of the police department's SWAT team. His mission is to fire 37 MM tear gas grenades into a room where a dangerous gunman is concealed. The suspect shot an innocent bystander in a botched robbery attempt. Officer Mallick's team leader will authorize him when to fire. As the incident unfolds, Officer Mallick is informed by a scout that the suspect has a young woman with two children in the room. One of the children is an infant. Officer Mallick does not know precisely where the mother and children are inside the room. He is familiar with the chemical munitions. The grenade he is ready to fire is CS gas. It is lethal in sufficient concentrations to infants and young children or to those with respiratory problems.

Negotiations with the suspect have failed. Suddenly, the team leader orders an assault. He orders Officer Mallick to fire two grenades into the room through an accessible window in his direct line of fire. After the grenades have been launched, the assault will proceed. Officer Mallick responds that he doesn't know where the hostages are, that they may be in the line of fire, and two grenades in succession may prove hazardous to everyone inside the room especially the children. The team leader orders him to fire, and Officer Mallick fires the grenades.

Officer Mallick made the right ethical decision to fire the grenades.

Place an X in the box that indicates your response:  Agree  Disagree

#### **Hypothetical 5: Commander and Supervisor Relations**

Captain Alexander is the commander of the police department's internal affairs bureau. They have had information from an informant that Officer Blass in the Alpha Patrol Division has been engaging in illicit sexual activities with prostitutes who he has picked up but not arrested. Further, there is information that other officers in Alpha Patrol Division may also be involved. Captain Alexander has set up a sting operation in an effort to determine whether or not the accusations have merit. Sgt. Crais is Officer Blass's patrol supervisor. She has heard some rumors that there is an internal affairs investigation involving one of her officers. Sgt. Crais requests and is granted a meeting with Captain Alexander. In that meeting, she asks Captain Alexander whether or not one or more of her officers is under investigation. Captain Alexander tells her he is not aware of a current investigation.

Captain Alexander made the right ethical decision not to divulge the investigation to Sgt. Crais.

Place an X in the box that indicates your response:  Agree  Disagree

## Hypothetical 6: Commander and Line Officer Relations

Officer Alvarez is assigned as the crime incident analyst/intelligence officer in a patrol division. Captain Sparks is the commander of that patrol division. Captain Sparks has been asked to speak to a local neighborhood association about the incidents of crime in the neighborhood. Officer Alvarez is asked by the captain to prepare incident reports and crime trends for his presentation to the association. Officer Alvarez is in attendance at the association meeting. Officer Alvarez's analysis of the crime incident reports suggests to him that there is a distinct and troubling rise in the incidents of home invasions and that this trend has been consistent over time. In the presentation by the captain, the captain does not discuss the trend but, rather, emphasizes that the home invasion incidents in this neighborhood are low compared to other areas of the city and that the residents should not be concerned. During the course of his discussion with residents, he turns to Officer Alvarez and asks him to confirm what the captain has just said. Officer Alvarez confirms the captain's statements without elaborating.

Officer Alvarez made the right ethical decision not to dispute what the captain said.

Place an X in the box that indicates your response:    Agree    Disagree

# Implementation Issues in Police Training Officer Programs: *“The Change [Is] Made Uptown”*

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## Introduction

The police are an anomaly in a free society (Goldstein, 1977). Their difficult mandate strikes the balance between liberty and civility in our society (Lundman, 1980). While the need to properly train police had not always been recognized, once one understands the exercise of individual discretion in police-citizen encounters as well as the potential for the distribution of force by the police, the need for training is evident (Bitner, 1970; Davis, 1975).

Recently, a new model of post academy training has taken root in American policing. The Police Training Officer (PTO) Program represents a substantial innovation in police officer preparation. PTO seeks to supplant the Field Training Programs created in the 1970s. PTO incorporates both problem-based learning techniques and contemporary adult learning methods.

The PTO model departs from “traditional” post-academy training, representing a substantial shift in the method and context of training. This change in tactics requires that the traditional modeling techniques of post-academy training be substantially abandoned in favor of a learner-centered approach. The model also changes the process of evaluation. PTO emphasizes success and growth as the goals of training rather than selecting out marginal or substandard applicants.<sup>1</sup> This supportive posture, its associated nomenclature, and required implementation skills may well be anathema to traditional police culture. It may also be in opposition to forces working to increase the militarization of American policing (Kraska & Kappeler, 1997). A change of this magnitude will require nothing short of apostasy from established police training and will likely encounter resistance in a profession that appears to be, at least initially, change resistant (Guyot, 1979). Additionally, PTO has received substantial support from the federal government. This funding ensures some implementation of the model across the United States. Those who seek to improve policing through PTO would be wise to carefully adopt the model through a detailed implementation process. Such consideration would help ensure proper implementation and the effective use of resources.



## Police Innovation

According to Damapour (1987), “innovation does not occur when a new idea is generated, but rather when a new idea is put into use” (p. 676). In general, the change process may be conceptualized as consisting of three powerful organizational forces. The first involves the politics surrounding the change. Politics, in this instance, focus upon the nature of communication and consultation within the organization. The second force concerns the context of the change. This context requires an understanding of the past and present internal and external organizational environments. The last force focuses upon the substance of the proposed change. Specifically, what is the “type and scale of change” (Nelson, 2005, p. 56).<sup>2</sup>

At the individual level, change requires workers to examine the costs and benefits associated with the change. The outcome of this calculation determines support or resistance to change. The ability to shape and manage individual reactions to proposed change is critical. Change advocates must be cognizant of *tangible* (e.g., money) and *intangible* (e.g., prestige) costs associated with change (Rahe & Morales, 2005, p. 52).

Change may be more difficult in police organizations than in other public organizations. Guyot (1991) found that a police chief’s posture regarding innovation is an important variable in the adoption of change for their organizations. She also concluded that strong unions and civil service are negatively related to innovation. Skolnick and Bayley (1986) have concluded that the actions of the police chief executive and decentralization are critical elements in innovation for police departments. A last variable that may affect a police department’s innovative posture concerns the divide between a department’s managerial culture and its line officer culture. Ruess-Ianni (1983) noted that there might be a general cultural divide in departments between managers and line officers. Buerger (1993) has extrapolated this idea to posit that certain innovations will be more acceptable to line officers than other forms of innovations. Specifically, those innovations that are directly related to their law enforcement function and effectiveness will be more readily accepted.

## The Police Training Officer Program

Police organizations did not always formally train their workers. The Wickersham Commission in 1931 lamented the lack of formalized recruit training in a majority of municipal police agencies (McCampbell, 1987). Those concerned with police professionalism recognized the need for classroom instruction to provide a base level of knowledge. This realization led to the creation of the police academy. It was also realized that some form of training was needed to marry the classroom instruction to police work on the street. This next phase, called field training, serves to provide a conduit between base knowledge learned in the academy and the practical skills required of police in the “real world.” Field training also allows departments to further evaluate trainees with regard to fitness for operational policing. Strong field training models increase the level of service delivered to the citizenry and may reduce civil liability for police organizations, officers, and municipalities (McCampbell, 1987).

The practice of pairing young officers with veterans has been long established. However, the structure of the pairing has frequently been haphazard (Fagan, 1985). In 1972, San Jose, California, was the site of a significant innovation in police

post-academy training. The department created a formal field training program, which utilized selected and trained officers (called Field Training Officers [FTOs]) to both train and evaluate recent academy graduates. By the late 1980s, field training programs had become institutionalized in police organizations, with most of these programs being modeled after the San Jose paradigm. Agencies reported that these programs were successful in terms of standardization of practice as well as reduced civil liability complaints (McCampbell, 1987). San Jose-type field training programs also allow extended time for recruit evaluation, ample time for recruit socialization, and the opportunity to teach tasks not easily learned in the classroom (Langworthy, Hughes, & Sanders, 1995)

The PTO Program grew out of a desire to reexamine post-academy training in a systematic manner. The process of development started with a series of focus groups conducted by the Community Oriented Policing Services (COPS) office involving hundreds of police departments and sheriff's offices. After two years of subsequent design, the Reno Police Department piloted the program. Subsequently, five other departments implemented the PTO model (COPS, 2001).

The PTO model relies upon adult learning techniques with an emphasis on problem-based learning (PBL). PBL was first used in medical education over 30 years ago. It has enjoyed increasing application to various subject areas. The model seeks learning to be both self-directed and collaborative. Knowledge is not imparted upon students but, rather, is discovered by students who are actively involved in the learning process (Kang, Jordan, & Porath, 2009). This method of learning depends upon the use of properly contextualized, real-world, ill-structured problems. The process of solving these problems fosters interpersonal communication, an identification of root causes, and the identification of applicable knowledge sources (Savery, 2006). The process hopes to create lifelong learners who can effectively and efficiently acquire knowledge in the future (Kang et al., 2009).

The PTO differs from the FTO model in that it requires trainees to explore problems from a broad perspective rather than mimic "the correct, established" practice demonstrated or articulated by the field training officer. The model seeks to provide a basis for lifelong learning that enables officers to adapt to the complexities of modern policing. While officers are taught the hard skills necessary for policing (use of weapons and defensive tactics), the core of the model focuses on developing the officers' abilities to learn, lead, and solve problems. The PTO model also relies heavily on adult learning principles (Pitts & Glensor, 2007).

The PTO Program focuses upon substantive topics (the general global topic areas that contain most of what police do in the field) and core competencies (the frequent tasks performed by law enforcement).<sup>3</sup> The program unfolds through a series of phases, starting with an orientation phase and moving into an integration phase. A series of segments follow based upon the substantive topics. A learning matrix guides both trainers and recruits through the process and provides recruits with a baseline from which they can gauge their performance (Pitts & Glensor, 2007). Trainees receive both a midpoint and final evaluation. The model does allow those who do not pass their final evaluation to repeat or remediate deficiencies. However, trainees who fail to achieve the required threshold of performance are recommended for termination.<sup>4</sup>

The PTO model would seem to support many of the current models in policing. The advent of Community Oriented Policing (COP) in the 1990s had a substantial impact on the American policing scene. The model has five core elements. First, COP values community input in establishing both policy and agency focus. Second, COP recognizes that police have a large mandate in society. While the enforcement of laws is one aspect of this, the police understand that many other activities are properly in their domain. COP also recognizes the need for personal communication between officers and the public. This supports a refocused strategic aspect of the model. Officers seek increased contact with the public in an effort to understand issues and learn of problems. This intelligence provides officers with a focus for local problem-solving and prevention activities. Moreover, the increased contact allows for the development of partnerships that may create greater resources with which to attack problems. Last, COP requires a flattening of police organizations and a decentralization of decisionmaking. This allows innovation and problem-solving attempts to be more rapid and flexible (Cordner, 2007).

Herman Goldstein (1990) advocated the model of Problem Oriented Policing (POP) in the 1990s. This model, like COP, focuses upon a proactive posture by police. Police organizations are directed to focus upon substantive problems in their external environments. POP asks the police to look at a variety of problems, not just those related to crime. Police must scan their environments to identify problems and work to have an impact upon them. Thus, police organizations must have the capacity to both analyze data to find problems and to design unique solutions to them. These activities require creativity and the ability to learn about the multifaceted aspects of identified problems.

A new model of policing is currently receiving substantial attention. Intelligence Led Policing (ILP) emphasizes information gathering through the extensive use of confidential informants, offender interviews, analysis of recorded crime and calls for service, surveillance of suspects, and community sources of information. These sources are analyzed so that law enforcement managers can determine objective policing tactics in regard to enforcement targets, prevention activities, and further intelligence gathering operations (Ratcliffe, 2008).

All of the above police paradigms require officers who can gather information, collaborate, and solve problems in a dynamic environment. The PTO model provides the foundation for lifelong learning by officers. The model also focuses upon the ability to understand ill-structured problems, to gather and use relevant information, and to generate solutions. Additionally, communication, self awareness, and leadership are stressed in the PTO model. It therefore seems that the PTO method of training recruits generates officers who can effectively embrace any of the above prominent models.

## Methods

The qualitative method of focus groups was selected for this research. Focus groups represent an established method of gathering information in an interactive group setting. The researcher provides the "focus" of the discussion. The focus group technique produces rich data on a specific topic area. Subjects are encouraged to discuss and react to the views of other group participants. While each subject is a distinct entity, they are often similarly situated and thus can provide affirmation, disagreement, or context to the ideas expressed by their fellow members (Morgan,

1997). In short, subjects can hear information, think about it, and react to it in a way that is not bound by the moderator's understanding of a topic. The focus group method also allows the researcher to "fade away" and lets the subjects guide the discussion. The conversational aspect of the data collection method also allows the sharing of detailed stories and examples from the participants (Hollander, 2004).

Moreover, focus groups can be thought of as a "respectful" research method that demonstrates that the researcher values his or her subjects' opinions. The seeking of participant ideas and reactions demonstrates a lack of condescension and a respect for professional experience. The technique also seems appropriate when the subjects have a substantial connection to the target/topic of the focus group. This subject-matter affinity would logically make them both more knowledgeable and more likely to discuss the topic at hand (Morgan, 2001).

There are concerns about selecting appropriate topic areas for focus group research (Morgan, 1997). It is critical that the topic be one that people would feel comfortable discussing in front of other people. This research focused on the implementation of the PTO model, which related only to the participants' working environment. While the police subculture is strong, this topic would appear to be less sensitive and, therefore, less cloaked than issues related to use of force or officer misconduct. Moreover, this group was conducted by a nonsworn academic in an upscale hotel conference room out of the jurisdiction of all but two of the participants. As such, the environmental context generally was nonpolicing and informal. Last, the moderator worked to create a social context for the group that provided the potential for most participants to share their thoughts and beliefs over the course of the day (Hollander, 2004).

Participants were selected from organizations that practiced the PTO model. Researchers attempted to determine what agencies were using the model via a snowball sampling technique. A survey was then e-mailed to the department regarding PTO. Participants were selected based upon responses indicating use of the model and implementation concerns in its adoption. Additionally, participants were selected from different regions of the U.S.

The group consisted of 12 participants. All participants were sworn police officers and white. With regard to gender, there were four women and eight men. The participants had a wide variation in experience in law enforcement. They were from jurisdictions in the Northwest, upper Midwest, Midwest, and Southeast. They also had been trained as PTOs and had implemented the model in the field. The focus group was conducted from 8:00 AM to 4:00 PM. All but two of the participants traveled into the jurisdiction the night before and stayed in the hotel where the focus group was conducted. The meeting room was arranged with four round tables and a long table in the front of the room for the assistant researcher to take notes. All the tables had microphones to record the conversations of the participants. The facilitator wore an additional body microphone. Participants were informed prior to arrival that the focus group would be recorded audio-visually. Participants were reminded again prior to the start of the discussion, and a photo consent form was provided to the participants. Subjects were paid \$450 for their participation in the meeting. Subjects also had their travel costs paid and received a small per diem for food while traveling. Short breaks (10 minutes) were taken approximately every hour over the course of the day, along with an hour for lunch.

## Results and Recommendations

The focus group generated strong discussion on a variety of topics. This paper specifically focuses on implementation issues associated with the PTO model. Three broad questions were asked during the session that directly related to implementation issues:

1. *Please describe the strategies and tactics your agency used to overcome resistance to implementation.*
2. *What are the most important factors in the successful implementation of PTO?*
3. *An officer comes to you and asks for your guidance. What advice would you give to an officer trying to introduce PTO to his or her department? Why?*

These questions provided a starting point for examining the issue of PTO implementation. Participants recognized that change efforts would have to move through the chief executive of any agency. The group proposed several steps for a chief interested in implementing PTO. First, it was felt that preparing other senior staff as well as mid-level managers was critical. The group averred that prior to selling PTO to the command staff an executive interested in the model must have asked and answered the following simple yet critical questions: "Why are we going to begin using PTO? Why switch?" The group felt strongly that ill-conceived or equivocal responses to this question would damage support for the model. Moreover, it was felt that preparing the other command staff alone required a substantial commitment from the chief.

Senior management was further advised to support and trust the PTO staff. It must be understood from the outset that the PTO Program requires a great deal of hard work. The group felt certain that implementing the program to the point where it is working would take time (five or more years) and involve some tough battles. The group noted that the support of the chief executive was critical and must remain steadfast when the going gets tough.

The group also recommended substantial training for the senior management staff. This training would provide a clear understanding and foundation in the model. They stated that anything short of a full 40-hour course for senior and mid-level management was seen as inadequate for achieving understanding and buy-in. The group was certain that this training must first be attended by management and then delivered to others in the agency in a form of top-down communication.

The group also felt that due to the substantial change represented by the PTO model, a wide variety of persons both internal and external to the police agency must receive some form of PTO awareness training. Those recommended for training include all of the line officers, and clerical and administrative staff as well as telecommunicators and district attorneys. In short, the implementation team should allow any individual who will be impacted by the change to attend the training. The group felt that by communicating to the interested parties early in the PTO process there would be minimal confusion and a smoother transition to the new model.

The group also felt that it was critical that those who were interested in the model should reach out and communicate with agencies implanting the model. They suggested that those interested in PTO visit an agency that has successfully implemented the model in order to see it in action. Through both communication and field visits an agency considering PTO can learn of the firsthand experiences related to the model and its adoption.

The group also recommended that reverence be paid to past training practices prior to the transition to the newer model. Specifically, the hard work and effort put forth by those under the FTO model must be recognized. Part of this process would be to demonstrate the relevant links between the FTO model and the PTO model to ensure that the transition is not seen as a repudiation of the work associated with the past FTO program. Selection of those who would implement the PTO model was also thought to be critical.

The group felt that the selection process should avoid internal politics and favoritism as well as individuals who seek to work in the PTO arena as a stepping stone to promotion. Internal political concerns could well damage the internal organizational view of the model and could damage its credibility. Logically, results such as this would seem to negatively impact implementation. The group also encouraged agencies adopting PTO to implement the PBL model in other parts of the agency (academy training as well as in-service training). Such efforts to integrate PBL across the training curricula of the department would both improve training in general and aid the PTO transition process.

The group concluded that with proper planning, training, communication, and dedication, law enforcement agencies can transition from FTO to PTO. Such a conversion to PTO, in the eyes of the group, increases the effectiveness of an agency in its respective community.

The group discussion addressed aspects of three powerful organizational forces associated with change efforts. The group encouraged chief executives to clearly understand the magnitude of the change to PTO (i.e., the substance of the proposed change). The group also addressed contextual issues in police organizations that were adopting the model. Past practices (FTO efforts) were recognized as a significant issue that must be addressed and treated with respect for the PTO model to succeed. The focus group also advocated for a full understanding of the model by and strong support from the chief executive. These concerns regarding executive support is in concert with the research of Guyot (1991) and Skolnick and Bayley (1986). Last, the group also discussed the need for training on the model across the ranks of the organization. This concern implicitly recognizes the two cultures of policing found by Ruess-Janni (1983). While the group did want significant training for upper management, they also wanted training for all those in the organization who would be impacted by the model. Moreover, the group advised chiefs to have a well-reasoned explanation for the change from FTO. Both the basis for the change and the training would seem to provide logic and common ground, bridging the gulf between management and the line culture in a department.

## Conclusion

The PTO model focuses on developing the officers' abilities to learn, lead, and solve problems. Based on adult learning principles, the paradigm seeks to provide officers with the tools to adapt to current and future environments. This paper seeks to foster proper and effective implementation that will allow better empirical evaluations of the model. Members of organizations contemplating implementing the model recommended that substantial investigation, training, and resources be invested in the adoption process. The knowing support of the chief executive was thought to be a critical element in the change process. Without proper implementation, the model cannot be truly evaluated as bastardized versions may not represent the core ideals of the PTO model. Such hybridization may well ensure failure and doom PTO to the dustbin of other police innovations. As with any new model of policing, future research is needed (Pitts & Glensor, 2007). As PTO seeks to change the foundational elements of police field training, a variety of responses may be elicited for use of the program. Any evaluation of PTO should be carefully constructed by those who seek to understand its impact.

## Endnotes

- <sup>1</sup> Those who fail to meet the competencies required under the model are still removed from police work.
- <sup>2</sup> For an excellent review of the organizational variable associated with innovation, please see King (1998).
- <sup>3</sup> The substantive topics are Non-Emergency Incident Response, Emergency Incident Response, Patrol Activities, and Criminal Investigation; while the core competencies are Police Vehicle Operations, Conflict Resolution, Use of Force, Local Procedures, Policies, Laws and Organizational Philosophies, Report Writing, Leadership, Problem-Solving Skills, Community Specific Problems, Cultural Diversity and Special Needs Groups, Legal Authority, Individual Rights, Officer Safety, Communication Skills, Ethics, and Lifestyle Stressors/Self-Awareness/Self-Regulation.
- <sup>4</sup> These recommendations are reviewed by a Board of Evaluators. Upon review, a written recommendation regarding the trainee's employment status is provided to the training manager. Thus, the model appears to provide some due process protections for police trainees.

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# Back to the Firing Range: An Exploratory Test of the “Target Model” of Discretion

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Communication is the hallmark of human civilization. In fact, much of the social progress of our species is measured by the various communication-based innovations our species has seen—from acquiring spoken, then written, language; the advent of the printing press; the development of radio and television; and the introduction of modern electronic communications tools. However, for as long as we have communicated, there have been inevitable instances of miscommunication and misunderstanding. While miscommunication and misunderstanding are typically associated with hurt feelings and abundant apologies, these human shortcomings have much more severe consequences in law enforcement agencies for which officers are forced to use discretion to make life and death decisions on a regular basis.

Due to the high stakes involved in law enforcement decisionmaking, managers have long labored to adequately communicate their boundaries on the use of discretionary authority by their street-level officers. Despite their efforts to instill these priorities in their officers, most managers can only be certain that these attempts are successful in the aftermath of a discretionary choice. Managers, thus far, have been unable to develop a means by which they can ascertain the level of congruence between their discretionary priorities and those of their subordinates (Johnson, 2010). In light of this quandary, LaFrance (2010) offers a training device designed to aid managers in making such assessments.

## The Target Model of Discretion

LaFrance (2010) argues that discussions of discretion have been too simplistic because they have been based on Dworkin's (1977) doughnut model, which allows only for a single ring of constraint to explain all the considerations that might bind an officer's use of discretion. In place of the doughnut model, LaFrance (2010) suggests that scholars consider a target model of discretion through which boundaries on discretionary choices are represented as multiple and of varying importance. The target model is intended to serve as a measure of the efficacy of top-down intraorganizational communication. That is, organizations with more efficacious communication patterns are expected to exhibit greater agreement between top managers and street-level workers than would be the case in organizations with faulty communication patterns. However, this framework has not yet been subjected to empirical scrutiny. This study, through the use of an exploratory test of the target model, demonstrates how future research may be designed to evaluate the validity of the model. Very simply, the author expects that similar rankings of discretionary priorities between managers and staff indicate effective communication of priorities by managers. The author also expects the converse to be true. That is, dissimilar ratings of these priorities serve as evidence of communication flaws within the organization.

## Method

### Participants

In order to initiate what will become a series of tests on the usefulness of the target model, the author surveyed the police department of a small Midwestern city (population 20,000). This department has seven command staff members (ranging from the rank of sergeant to the rank of chief). All command staff members agreed to participate, yielding a 100% participation rate among top managers. Of the 21 front line officers, 15 agreed to participate (71% of front line officers).

### Procedure

After receiving clearance from his institution's human subjects review board, the author initiated contact with the department and recruited subjects. Subjects were asked to complete a brief biographical inventory in order to ascertain their rank, number of years of experience, age, race, gender, and other background information. Afterward, participants were instructed to respond to a single question, asking them to rank the importance of up to 10 variables that might constrain discretion, starting at the "bull's eye" of a target and working toward the outer rings. There was a slight variation in the question between command staff members, who were asked

"When thinking of how you would like for your officers to use discretion, how would you rank the importance of each of the following as boundaries on discretion?"

and front line officers, who were asked

"When thinking of how you use discretion as an officer, how would you rank the importance of each of the following as boundaries on discretion? "

The potential variables each participant was asked to rank included (1) legal liability, (2) community norms, (3) agency rules/SOPs, (4) political pressures, (5) personal values, (6) other managers (peers of the chief, etc.), (7) professional associations (e.g., IACP, NACOP, etc.), (8) accreditation bodies (CALEA, etc.), (9) informal organization values (fitting in with the culture of the organization; getting along with co-workers), and (10) something else/other (please describe).

These surveys were distributed in June 2010 and picked up by the researcher in August 2010.

## Results

Analysis of responses from command staffers and front line officers revealed a remarkable amount of similarity in the order that each group ranked the potential sources of influence (see Tables 1 and 2). Both groups rated agency rules and standard operating procedures as the most important determinants of discretionary behavior. Both groups also agreed that personal values (individual morality) serve as the second most important source of discretionary behavior, though command staffers ranked legal liability concerns equally with personal values, and front line officers ranked legal liability fourth overall. Most impressively, there was only one category that yielded a

significant mean difference between command staff members and front line officers. Top managers and patrol officers agreed, in the aggregate, that informal organization values and peer group norms made up the fifth most important category. However, individual rankings led to a significant mean difference (4.20 for front line officers vs. 6.00 for command staffers;  $t = 2.13, p = 0.052$ ) between these two groups. Thus, front line officers in this agency are apt to consider informal organizational values to be 4.20 rings away from the bull's eye of a discretion target, while top managers, on average, rate the importance of this source of influence to be 6.00 rings away from the bull's eye.

**Table 1. Front Line Officers' Response Ranks**

Measure	Agency Rules/ SOPs	Personal Values	Community Norms	Legal Liability	Informal Org. Values	Other Mgrs	Prof. Assoc.	Political Pressure	Accred.	Other
Mean Distance from Bull's Eye	2.13 (#1)	2.66 (#2)	3.46 (#3)	3.66 (#4)	4.20 (#5)	4.66 (#6)	5.93 (#7)	6.33 (#8)	6.60 (#9)	--
Median Distance from Bull's Eye	2.00	2.00	3.00	3.00	4.00	4.00	7.00	7.00	8.00	--

**Table 2. Command Staff Members' Response Ranks**

Measure	Agency Rules/ SOPs	Legal Liability	Personal Values	Community Norms	Other Mgrs	Informal Org Values	Political Pressure	Accred.	Prof. Assoc.	Other
Mean Distance from Bull's Eye	2 (#1)	2.43 (tie #2)	2.43 (tie #2)	3.14 (#3)	5.00 (#4)	6.00 (#5)	6.57 (#6)	7.00 (#7)	7.14 (#8)	--
Median Distance from Bull's Eye	2.00	1.00	2.00	3.00	5.00	5.00	6.00	8.00	8.00	--

## Discussion

With the exception of one determinant of discretion, there were no statistically significant differences between the discretionary priorities of command staff members and front line officers. In simpler terms, this indicates that the command staff members of the department are effective in communicating discretionary priorities and ingraining these priorities into the daily lives of their subordinate officers. It is possible this behavior is modeled or is part of the department's training curriculum. However, command staff members and front line officers in this agency do not agree on the importance of the agency's informal organizational culture in shaping discretionary decisions. Front line officers are significantly more likely than their supervisors to cite the importance of informal organizational mechanisms that factor into their decisions regarding the appropriate use of discretion. It is important to address this issue as the informal organization can

often be as important to the health of an organization as the formal organization (Barnard, 1938; Likert, 1961, 1967; Mayo, 1933, 1949; Simon, 1947).

### **What Is the Informal Organization?**

Scholars and organization development specialists use the term *informal organization* to encapsulate norms, values, language, and reward/punishment structures that are not formally articulated by management or incorporated in agency policy manuals (Barnard, 1938). Essentially, the informal organization develops as a result of employing human beings rather than automatons to perform public services (Maslow, 1947; McGregor, 1960). The existence of an informal organization is essential to the health of any agency as it is impossible to codify every aspect of operations (Lipsky, 1980). The informal organization facilitates crucial components necessary in teamwork: trust, *esprit de corps*, and an awareness of how things are typically done (Golembiewski, 1972). For each individual in the agency, the informal organization helps to satisfy belongingness needs, giving each team member a sense of fitting in (Maslow, 1947). The informal organization also helps employees to receive immediate signals regarding appropriate or inappropriate behavior (Roethlisberger & Dickson, 1939). These signals come in the form of peer group sanctions, rewards, and punishments (e.g., mockery, ostracism, etc.) that are unaccounted for in the typical incentive/sanctions schedule formally articulated in the agency's policy manual (Mayo, 1933, 1949).

### **The Effects of Peer Group Bonding: Communication**

Peer group bonding is an important source of support in the stressful environment of law enforcement. Beyond enhancing a sense of safety and belonging, peer bonds serve the overlooked role of making work more enjoyable. Because of the informal organization's important role in guiding peers toward common goals, no reasonable person would advocate for its abolition. In fact, any attempt to eradicate the informal organization would likely lead to an even greater amount of peer group bonding (Hirschman, 1970). Managers, then, must respect the informal organization while focusing on curbing some of its less desirable effects. Foremost, the informal organization serves as a mechanism to communicate information about the health of the agency as a whole. Unfortunately, this can lead to severe instances of miscommunication, hyperbole, and sensationalism. These negative consequences are especially apparent when one considers that the average patrol officer spends a great deal more time interacting with peers than he or she spends with supervisors, especially managers at the apex of the organization.

### **Addressing Communication**

When those on the street are not perfectly informed of the intentions of their commanders, they are more apt to try to guess them. So, the first step in minimizing any negative effects of the informal organization is to ensure that as much information (presented clearly and honestly) as possible is presented to each member of the agency. While a manager might not always be capable of preventing incorrect information from spreading through the agency, the manager should make every effort to address false rumors (Houmanfar & Johnson, 2004). This is especially pertinent during periods of organizational change such as the alteration of department policy (Bordia, Jones, Gallos, Calla, & DiFonzo, 2006; DiFonzo & Bordia, 1998). The manager will be in a better position to react quickly to false information if the manager makes himself available for questions and comments from subordinates. The management

literature refers to this as having an “open door policy” (Blackburn & Rosen, 1993). Another proactive method to minimize misinformation in the informal organization is to spend time outside of one’s office, in the patrol car, and in the office with subordinates. This is what the literature calls “management by walking around” (Blackburn & Rosen, 1993; Brandt, 1992; Peters & Waterman, 2004; Serrat, 2009). Both of these mechanisms are designed to enhance trust between levels of the agency so that management and front line workers are able to have open, honest discussions with one another regarding the work that is done by the agency.

### **Incorporating Informal Organizational Components into Departmentwide Communication**

As may be evident to the reader, the recommendations to practice MBWA (Management by Walking Around) and have an open door policy are really recommendations for members of the agency’s command staff to plug into the informal organization. There are additional measures to be found in the management literature for achieving this goal:

1. Managers might consider the use of a liaison system in which front line officers elect a peer to share information, concerns, and questions with command staff members.
2. Additionally, managers might consider an anonymous suggestion box or its electronic equivalent (discussion board, etc.) as a way to elicit sentiments from subordinate officers.
3. Managers might attempt various team-building exercises, with the assistance of an experienced organization development interventionist.
4. Managers might consider ride-alongs, one-on-one and small group meals, and other experiences aimed at getting to know each front line officer and addressing this officer’s questions and concerns.
5. In order to “humanize” command staff members, managers might try family outings, picnics, and other activities that allow the human sides of the manager and the front line employee to show through.
6. More formally, managers might invest in a Superior-Subordinate mentorship program through which a command staff member serves as a mentor for a handful of front line officers. This would be an appropriate continuation of department-sponsored mentorship that too often ends abruptly after the FTO experience. These mentor-mentee groups would also make ideally sized training groups, provided each command staffer is willing to add training to his or her responsibilities.
7. While proactive intervention is essential to a healthy agency, reflection on management’s and the subordinate’s behavior and decisions is also important. These are in order after a particularly good or bad decision has been made by a member of the agency. Here, the mentorship described above might become an integral part of honest, open reflection. Questions to be used in these sessions might include “How did we handle this situation?” “Was there a conflicting message between command staffers and officers?” “What do we like/dislike



about the decision(s) that we made?" "Would we act the same way in the future? Why or why not?"

8. Another possible route to instilling trust and communication into the agency might be through the use of scenario-based training. Here, managers and subordinates might read/view/experience a scenario and then describe/demonstrate their individual reactions to each scenario. Then, managers and subordinates can see if their reactions match up or if there is a disparity in these reactions. If the latter is true, managers and subordinates can then discuss the root(s) of these differences in reaction and come to a consensus regarding the appropriate reaction.
9. Human nature is such that officers might derive comfort from knowing that a resource is available to them, regardless of whether they ever use it. With this in mind, it might be beneficial to the agency if command staffers take turns being "on call" for emergency and non-emergency questions from subordinates that cannot be answered by their immediate supervisors.
10. Finally, it is appropriate for the agency to take some time every so often to re-evaluate operations. Such opportunities present themselves in yearly milestones (e.g., budget planning, strategic planning sessions, evaluation of employee and group performance, etc.) and will help to address agency norms and customs (especially those that are undesirable). Here, managers and front line officers would be wise to remember that just because a behavior or pattern of behavior has become "normal," it is not always the most appropriate (some norms are not helpful to the organization) and to remember that the agency's mission and attendant goals should never be lost in pursuit of following agency rules (a phenomenon scholars label "goal displacement") (Merton, 1940).

### **Management Reaction to These Suggestions**

When the author presented these suggestions to this department's chief, the chief tended to agree with them. In fact, his succinct reply in full read as follows:

I have noticed some of the things you have pointed out and actually have been doing more MBWA. We also have a department picnic scheduled for next month and a policeman's ball in November. Your summary supports what I have been relaying to my staff.

### **Implications**

While this study's design offers limited generalizability beyond the department it describes, the study is an important contribution to the literature for several reasons. Foremost, the study demonstrates the utility of the target model of discretion as a diagnostic tool and catalyst for intraagency discussions regarding the appropriate influences on discretionary choices on the street level. Future research can easily replicate the research design presented in this study. Such replication is desirable in that it will most likely include multiple agencies of various sizes, larger and smaller than the mid-sized department analyzed in this study. This will enable researchers to confirm or refute the target model as well as the specific findings regarding the need for managers to take proactive measures to tap into their agencies' informal organizations to enhance communication within each agency. Second, this study

continues the aim of recent research, which has focused on augmenting scholarly and practical discussions of officer discretion beyond the dominant univariate, or doughnut, model of discretion. Finally, the study offers some useful suggestions for the practicing police manager to use in his or her attempts to better understand his or her officers' thoughts and behaviors.

## Conclusion

The police department in this study appears to have taken pains to ensure that management priorities are communicated effectively with front line officers. When discussing the use of discretion, there is a great deal of agreement between command staff and front line officers about the appropriate priorities to be considered. However, there is evidence to suggest that command staffers can do more to consider and address the informal organization (e.g., peer group bonds, peer incentives, unspoken/unwritten rules of conduct) with which they operate. This study offers some specific suggestions that may enable command staff members to cultivate an awareness of the informal organization and respond appropriately to its demands. More broadly, this study highlights the need for another trip back to the firing range to perform additional tests of the target model of discretion.

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# Police Department's Review of Officer's Text Messages on Department-Issued Pager Did Not Violate Fourth Amendment

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In 2008, the Ninth Circuit held that a police department's review of an officer's text messages on a department-issued pager violated the Fourth Amendment. The recent Supreme Court decision in *City of Ontario v. Quon*, 560 US ----, 2010 WL 2400087 (2010), has reversed the Ninth Circuit, holding instead that the Department's review of the officer's text messages was reasonable and did not violate the Fourth Amendment.

## Facts of the Case

According to the Court, in 2001, the City of Ontario issued alphanumeric pagers to several members of the Ontario Police Department. The City's contract with the service provider, Arch Wireless, provided for a monthly limit on the number of characters each pager could send and receive.

Prior to acquiring the pagers, the City had announced a "Computer Usage, Internet and E-Mail Policy," which specified that the City "reserves the right to monitor and log all network activity including e-mail and Internet use, with or without notice. Users should have **no** expectation of privacy or confidentiality when using these resources." Slip Opn. at 2. At a staff meeting, a lieutenant advised that messages sent on the Department-issued pagers were considered e-mail messages and would be eligible for auditing. Id. at 3.

The plaintiff exceeded his monthly character limit on at least four occasions, and each time he reimbursed the City for the overage charges. This reimbursement option was suggested by the lieutenant, who reminded the plaintiff that text messages sent on the pagers could be audited, though he said it was not his intent to audit the messages and suggested that the plaintiff simply pay the overage fees instead. Id.

Because the plaintiff exceeded the limit on several occasions, and another officer exceeded the limit at least once, Chief of Police Lloyd Scharf decided to determine whether the monthly limit was too low—which would mean officers were having to pay fees for work-related messages—or whether the overages were due to the sending and receiving of personal messages. Chief Scharf instructed the lieutenant to obtain transcripts of text messages sent by the plaintiff and the other employee in August and September 2002. Id. at 3-4.

The lieutenant's review of the transcripts revealed that many of the plaintiff's messages were not work-related, and many were sexually explicit. Chief Scharf

then referred the matter to internal affairs for investigation into whether the plaintiff was pursuing personal matters while on duty. Internal affairs used the plaintiff's work schedule to redact the transcripts in order to eliminate any messages sent while the plaintiff was off duty and reviewed only the messages sent during work hours. The investigation report concluded that the plaintiff had violated Department rules by sending personal messages while on duty. *Id.* at 4. The plaintiff sued the City and Arch Wireless, alleging that the City violated his Fourth Amendment rights and the Stored Communications Act (SCA) by obtaining and reviewing the pager transcripts, and alleging that Arch Wireless violated the SCA by turning over the transcripts to the City.

## Procedural History of the Case

The District Court denied the City's motion for summary judgment as to the Fourth Amendment claim, holding that the plaintiff had a reasonable expectation of privacy in the content of his text messages and that whether the audit was reasonable depended on Chief Scharf's intent in auditing the messages. A jury concluded that the purpose of the audit was to determine the efficacy of the monthly limits, to ensure officers were not paying fees for work-related messages. The District Court therefore held that the audit was reasonable and did not violate the Fourth Amendment. *Slip Opn.* at 5-6.

The Court of Appeals for the Ninth Circuit agreed that the plaintiff had a reasonable expectation of privacy in the text messages but held that the search was not reasonable in its scope, even though it was conducted for "a legitimate work-related rationale." The Court of Appeals observed there were other, less intrusive means the Department could have used to determine the efficacy of the monthly limit instead of resorting to an audit such as warning the plaintiff at the beginning of each month or asking the plaintiff to redact the transcripts himself. *Id.* at 6.

## Analysis of the Supreme Court's Opinion

Acknowledging the settled principle that the "Fourth Amendment applies as well when the Government acts in its capacity as an employer," the Supreme Court discussed its holding in *O'Connor v. Ortega*, 480 U.S. 709 (1987) in which the Justices disagreed on the proper analytical framework for Fourth Amendment claims against government employers. Ultimately, in this case, the Court decided it was not necessary to resolve whether the plaintiff had a reasonable expectation of privacy in his text messages—either way, the Court concluded, the search was reasonable. *See Slip Opn.* at 9.

*O'Connor* concerned a physician who claimed that his state hospital employer violated his Fourth Amendment rights when hospital officials searched his office and seized personal items from his desk and filing cabinet. A majority of the Court agreed that, although "individuals do not lose Fourth Amendment rights merely because they work for the government," the warrant and probable cause requirement is nonetheless impracticable for government employers. *Slip Opn.* at 7-8, quoting *O'Connor*, 480 U.S. at 717 (plurality opinion).

The four-Justice plurality in *O'Connor* concluded that the proper analysis is as follows: First, because "some government offices may be so open to fellow

employees or the public that no expectation of privacy is reasonable," it is necessary to consider "the operational realities of the workplace" to determine whether a public employee's Fourth Amendment rights are implicated. Under this analysis, the question of whether a reasonable expectation exists is addressed on a case-by-case basis. Second, when an employee is found to have a legitimate privacy expectation, a search "for noninvestigatory, work-related purposes, as well as for investigations of work-related misconduct, should be judged by the standard of reasonableness under all the circumstances." Slip Opn. at 8, quoting *O'Connor*, 480 U.S. at 717-718, 725-726.

Justice Scalia concurred in the *O'Connor* judgment but offered a different analysis. His opinion would have concluded that public employees are covered by the Fourth Amendment as a general matter, eliminating the need for a case-by-case analysis of privacy expectations. But his opinion would have further held that public employers' searches "to retrieve work-related materials or to investigate violations of workplace rules—searches of the sort that are regarded as reasonable and normal in the private-employer context—do not violate the Fourth Amendment," thereby eliminating the need for a case-by-case analysis of reasonableness for work-related searches by public employers. Slip Opn. at 8, quoting *O'Connor*, 480 U.S. at 732.

In *Quon*, the Court declined to decide which analysis of public employees' Fourth Amendment rights is controlling, and it declined to decide what kind of privacy expectation a public employee has in electronic communications made on a device owned by the employer. In the Court's view, it is too early to decide this question because of "rapid changes in the dynamics of communication and information transmission" and the still-emerging role of technology in society and in the workplace. Slip Opn. at 11. Concerned that a broad holding regarding expectations of privacy in employer-provided technological equipment could have unpredictable consequences for future cases, the Court held that the search of the plaintiff's text messages was reasonable regardless of his privacy expectations. *See Id.* at 11-12.

The Court held that the Department's review of the plaintiff's text messages was justified at its inception because of the legitimate work-related purpose, specifically, ensuring that employees were not being forced to pay overage fees out of their own pockets for work-related messages, and on the other hand ensuring that the City was not paying for messaging devices that were being used for personal communications. Slip Opn. at 13.

The Court also held the search was reasonable in its scope because it was an efficient way to determine whether the monthly overages were related to work or personal matters and because the search was not excessively intrusive. The Court pointed to the fact that the Department only audited two months of messages, even though the plaintiff had incurred overage fees at least four times, and the fact that the Department redacted all messages sent during the plaintiff's off-duty hours. *Id.* The Ninth Circuit erred in applying a "least intrusive" standard to this search, and the Supreme Court made it clear in this opinion that a search does not have to use the least intrusive option available in order to be considered reasonable. *Id.* at 14-15.

In assessing the scope of the search, the Court also stated that the extent of a privacy expectation, if any, is relevant to determining whether the intrusion is excessive. Important to the Court's decision was the fact that the plaintiff had been advised and later reminded that the text messages were considered e-mail under the City's computer policy and were subject to auditing. *Id.* at 14.

## **Conclusion**

Although the Court left the question of privacy expectations to be resolved in the future, the Court's holding regarding the reasonableness of the search is enough to send a clear message regarding the need for caution when using employer-issued technology for personal matters. Even if the Court ultimately decides that employees have a privacy expectation in department-issued technology, a search is likely to be found reasonable if the department can demonstrate a legitimate work-related rationale, particularly if employees have been clearly advised that their communications are subject to review.

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# Police Reform in Russia: Searching for New Approaches

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Since the demise of the Soviet Union in 1991, the Russian government has been actively involved in several attempts to reform the militia (police) by advancing its own ideas and discussing proposed international paradigms with state executives and legislators. The initial current step in reforming the militia was made by President Medvedev's decree on police regulations signed on 24 December 2009. That decree proposes to cut the number of policemen by 20%, raise salaries, and reform police training and the selection of new officers. The goal of this initiative is to strip the Russian police of its Soviet legacy and paramilitary, political functions, and to transform it into a purely civilian service.

Russian society recognises the need for modernisation and greater efficiency but is concerned that some important aspects of the reform could be harmful for the police service and the public. It is clear that there are a lot of obstacles to modernizing the authoritarian, militaristic, bureaucratic, and corrupted law enforcement organizations. It is complicated; the political risks involved are considerable; and efforts to change can face strong resistance. This article outlines some controversial issues regarding police reform and sources of resistance to innovation in policing. Naturally, many police officers are seriously concerned about the future of the career police officer due to the proposed 20% cut of the total number of police officers in the Ministry of Internal Affairs. The government plans to mechanically decrease the number of officers, which can lead to a reduction of intellectual capital and experience on the force.

## Reform Background

Two centuries of Russian police history have produced a definite image of oppressive tsars' or commissars' rule in which the police have all the rights and powers and the people have none. The modern (since 1991) Russian governmental establishment has inherited the machine as it was and, due to tremendous political, economic, and ethnic turmoil, did not have enough time and resources to change it. After a couple of decades of extremely dynamic changes in Russian society, it became obvious that old Soviet relics such as the police and military do not match the new semi-democratic realities of the Russian state and communities. The current law enforcement system may be seen in its dramatic evolution in three stages.

### 1917-1953

Upon seizing power in 1917, the Bolsheviks (later Communists) imposed a violent, centrally planned one-party rule over people utilizing a repressive criminal justice system in Russia and then in the Soviet Union. The so-called Workers'-Peasants' Militia was established immediately after the October Revolution on 10 November



(28 October old style) in 1917 for the protection of the revolutionary political and social order. New standards for militiamen were established: to be 21 years of age, to recognize Soviet rule, to be literate, and to enjoy the right to vote. Everyone received by the militia had a subscription to serve at least six months. In many of the cities and counties, voluntary organizations of supporting militia (Voluntary Militia, the Friends of Public Order, etc.) were established. But class separation was strong, and mainly individuals from blue collar and peasant backgrounds were accepted to service. During the Civil War, militia officers actively participated in the military operations on the front. In 1919, the Red Army utilized more than 8,000 militiamen. Political commissars played a leadership role in each and every militia division, affirming the political control and presence of the Communists. The initial paradigm of the Soviet style of policing was based on serving the radical political goals; having a centralized military style structure and *modus operandi*; staying above the law or using "the revolutionary conscious law"; and being composed of mainly blue collar, peasant, and former military servicemen. Eventually, during Stalin's rule, the militia was replaced by the Ministry of Internal Affairs (MVD), which reflected directly the essence of this law enforcement agency as one of the most powerful tools of the Communist party and the Soviet state. In the latter days of the Soviet Union, the MVD embraced plenty of nonpolice services, such as militarized forces called Internal Troops (focused on internal uprisings, ethnic conflicts, riots, demonstrations, etc.), department of corrections, firefighting service, and passport and registration service, to mention a few. The MVD shared police responsibilities with a secret police or Committee of State Security (KGB) in investigating serious crimes such as political offenses, large-scale economic crimes involving foreign currency, banditism, terrorism, sabotage, and mass riots. During this first period, the militia was very much preoccupied with the political agenda of the Communist party.

### 1953-1991

DeStalinization of the Soviet criminal justice system has been marked by the separation of the KGB from the MVD and attempting an important evolution from political policing to a professional policing model. Nationwide training standards and curricula focused on understanding criminal and administrative codes, utilizing forensic science and criminal investigation. Totalitarian style community policing helped militia by enlisting millions of volunteers (*druzhinniki*) to assist in street patrols. There was a general improvement of equipment, technology, personnel, and morale in this period. Nonetheless, the latter years of Soviet reign, including Gorbachev's *perestroika*, were marked with widespread corruption, inefficiency, and brutality. An anticorruption drive was initiated by Andropov and carried on by Gorbachev. Thousands of militiamen were dismissed. The media, in the era of *glasnost*, revealed an unlimited supply of stories of police brutality, incompetence, and corruption. More nonpolice services were added in connection with social order functions for such deviants as juvenile delinquents and drunks. A children's room was attached to most militia districts, usually staffed with female officers who monitored youthful troublemakers. Many militia districts also had a sobering up station for the increasing number of publicly intoxicated individuals.

## 1991-2010

Political actors in the 1990s quickly realized that the MVD, which was designed by Communists, is more than a law enforcement agency and that it needed restructuring along with the separation of power lines. Throughout the 1990s, the Russian militia functioned in an environment of unclear and conflicting laws (including constantly changing Criminal and Administrative Codes) and protocols, limited funding and equipment, a dysfunctional justice system, and a lack of community support. In some states, Russian Federation officers have not received paychecks for months; patrol cars are allotted only a couple of gallons of gas per shift; and officers were assigned for lengthy posts in the area of ethnic conflicts mainly in Southern Russia. High turnover was triggered by militia personnel drainage to better-paying jobs in booming industry of private security. The remaining members of the militia have limited skills and experience. Legal violations, brutality, torture, racism, corruption, lack of accountability, and unprofessional behavior have damaged the police force's public credibility.

Because there has been an accumulation of "non-law enforcement functions" and establishing new militia bureaucracies for performing tasks that are distant from the police mission, additional efforts to reform and decentralize were initiated with the separation of the correctional institutions in 1998 and of the firefighter's service in 2001 from the MVD. Also, law enforcement officers were released from the non-core functions, conducting technical inspections of vehicles, addressing issues of exclusion of illegal migrants from Russia, and monitoring the sobering-up stations. At the same time in the 1990s and 2000s, the Russian Federation witnessed a proliferation of private security forces and the outsourcing of government services related to law and order. Some modest attempts were made to focus local and state law enforcement agencies on operational duties requiring police powers, experience, and specialized training.

Due to major scandals such as mass shootings of civilians by a drunken precinct police chief in Moscow (2009) and multiple cases of rampant brutality and corruption, the new wave of MVD reforms was declared in December 2009, proposing major transformations of the agency. Russian Interior Minister Rashid Nurgaliyev indicated that the law "On Militia" (adopted in 1991) had been outdated and impeded the work. In April 2010, the Ministry proposed to revise some 40 functions that are currently performed by police—in particular, functions to combat terrorism and drug trafficking, which also are overlapped by the Federal Security Service and the Federal Service for Drug Control. To reduce agency attention to the activities of business entities, the police should interfere in the companies' activities only when there are signs of a crime. The most problematic issue in all the attempts to reform the militia was that all the attempts were from inside of the highly centralized and bureaucratic institution.

## Police Reform and Public Discussion

The police force is the core element in the Russian criminal justice system. Changes inevitably will affect the nature of the activities of other parts of the system: prosecution, courts, prisons, and other law enforcement agencies. However, the current practice of these structures may limit the positive effects of police reform. For this reason, police reform should also be accompanied by changes to the work

of the courts and other elements of the criminal justice system. The police force, especially in the transitional systems of Russia and most of the former Eastern Block countries, is the most controversial expression of the power of the state. The change is coming from the top of the power structure, and it will serve the interests of the current administration which understands that the corrupt police and criminal justice system are the major obstacles in democratizing society and moving to the transparent market economy. The efficacy of the police may be measured in a number of ways. Crime control, orderly streets, public support, new technologies, and enhanced skills and tools are a few, but will they reflect on the government's efforts and its concern with the citizens' well-being?

## **Public Opinion**

According to public opinion surveys, Russian people are skeptical about the possible outcomes of the reform. According to the Levada Center (2010), 52% of respondents believed that reform of the militia would merely be decorative. Only 19% of Russians believed in something that would actually be a catalyst for radical reform of the police. Twenty-nine percent of respondents did not answer the question. Among those who did not believe in the success of the reform, the majority (53%) said that it was only steps to reduce the discontent of the population regarding the current police. Twenty-nine percent of respondents were confident that people should not trust the militia to reform itself because there were no social control mechanisms in place. According to the research center of recruitment portal, Superjob.ru, 57% of Russians did not support the renaming of the militia to "police." They did not believe that the name change would solve existing problems. Only 22% of respondents believed that the renaming of the militia reflected an intent to transition from the Soviet system to a modern one (Ryshkina, 2010).

According to the poll, published February 2010, 67% of Russians say they "fear" police, while 81% say they do not feel safe against arbitrary police behavior and 52% indicated that police have extorted bribes (Levada Center, 2010). Public opinion surveys indicate that the Russian militia is practicing predatory policing which can be viewed as focusing a significant amount of officers' efforts on self-enrichment. In 2005, a public survey demonstrated that 31% of respondents believed that greedy people are hired by the militia; 11% of respondents felt that the police is hiring the unemployed (Solovei, 2010)

Significant numbers of militia officers do not see their job as a service for people but, rather, as an opportunity to boost their income. The speedy drift of Russian society to a market economy in the past two decades and the moral vacuum in law enforcement agencies could not prevent the infiltration of pathological materialism ideology among all the ranks.

## **Discussion Format**

The draft bill, "On Police," was released 7 August 2010. Due to the current Kremlin administration's obsession with promoting modern technology, the epicenter of the discussion was available on the site <http://zakonoproekt2010.ru>. The initial response of the people was fast and enthusiastic. However, according to global Internet users' statistics in August 2010, only 59.7 million (42.8%) of Russians are Internet users (Internet World Stats, 2010). According to the pollsters, 78% of the

Russian people are to some extent familiar with the bill, 55% learned about it from TV and radio programs, 13% read it in the papers or on the Internet, 7% read experts' comments on the subject, and 3% are familiar with alternative projects put forward by the opposition. Practically a quarter of respondents (24%) have not heard about the bill, according to the survey (Interfax, 2010).

Mainly online discussions would limit the impact and opinions of the older generation and the economically unsound segments of Russian society. This is especially important because other channels of discussion were very limited or under censorship of the authorities. A September 2010 program called *Justice*, which was shown on the REN-TV channel, which was designed by a State Duma deputy, Andrei Makarov, and dedicated to the draft law "On Police," was removed from the airwaves. According to Makarov, not wanting to discuss concerns around the draft bill publicly, the MVD leadership insisted on the ban of the broadcast, which showed the reality of the future "democratic" orientation and transparency of police (Nikitinsky, 2010).

The public discussion of the bill was over on 15 September 2010, and it was not clear whether the legislation would bring a fundamental change from the Soviet style agency to the partnership institution. In January 2011, the bill is set to replace a 1991 law, "On Militia," which still exists along with numerous amendments, additional laws, and regulations multiplying the rights and responsibilities of the police. President Medvedev benchmarked and tunneled the discussion into clearly defining the police force's functions and closed all loopholes for potential abuse of power. Another objective was to have a unified and universal document which would assist people in comprehending the police's powers.

In discussing the bill, "On Police," the attention of much of the Russians was focused on a rather symbolic and purely historical aspect—the admissibility of a name change from *militia* to *police*. The uniqueness of the choice is that both brands have a negative connotation among Russians: While *militia* reminds the people of a brutal, corrupted, and politically attached Communist tool, the term *police* or *politizai* means the traitors and collaborators who were responsible for mass executions on the Nazi-occupied lands of the Soviet Union during World War II.

Despite the fact that most of the attention was taken away from the content of the document, there were some 1.5 million visits to the site, 33,000 comments posted, and 20,000 of them were specific proposals on how to improve the bill. According to President Medvedev, 99% of the remarks were critical (Abdullaev & Bratersky, 2010).

The draft law has 11 chapters and 57 articles and builds around declarations of constitutional norms and international principles. Vagueness of many norms of the bill on police is a prerequisite for the subsequent manipulation of the law by the adoption of internal protocols and procedures and establishing regulations on how to apply all of them. Since 1991, there were several initiatives by the MVD in its attempt to reform itself, but every time its tactical interests overcame the interests of the citizenry.

## Time Frame

President Medvedev wrapped up the discussion on 15 September 2010 with the aim to put the law in force by 1 January 2011. Definitely, it was not enough time

to have a profound discussion concerning all the aspects of the bill. The bill was discussed online for only five weeks. In September 2010, the chairman of the Duma Committee on civil, criminal, arbitral, and procedural legislation, Pavel Krashenninikov, indicated that to replace the current law, "On Militia," in such a time frame would not be possible and that discussion would require no less than six months after its publication (Bolotova, 2010). This rush approach may indicate that the current power establishment is desperate to demonstrate that fundamental steps were taken to improve the situation with militia/police and alleviate people's dissatisfaction with the imperfect 20-year-old legislation which allowed law enforcement agencies to be so unfit for the new "democratic" realities. Another possibility is that the country's leadership was to demonstrate their willingness to reform rather than to actually engage people in participating in the reform.

### **Controversial Issues of the Bill**

The proposed bill was designed to enhance the federal nature of the police by almost exclusively providing federal funding and eliminating any financial responsibilities in the local and regional budgets. Along with providing funding, the federal center will appoint all senior police officers in the regions. Currently, local governments are participating by approving the federal center's proposed candidates. This was designed to reduce the corruptive influences of the local authorities on law enforcement agencies but also to elevate the independence of local police from the community's regional administrators and residents. Additionally, it will require more control functions to come from the federal center and higher numbers of police *apparatchiks* (full-time professional functionary of the Communist Party or government who are often appointed on the basis of ideological or political loyalty rather than competence) ("Apparatchik," 2010). Such a financial paradigm failed during the Soviet times due to a significantly different level of social-economic development of different jurisdictions and the cost of living. The government should expect drainage of more qualified officers from expensive areas (such as Moscow and St. Petersburg) and the influx of inexperienced individuals from the rural areas. It contradicts the declaration of establishing a partnership police and enlarging the distance between local communities and the law enforcement agency. It is also unproductive from a political dimension because the federal center would be solely responsible for any unfortunate improprieties which definitely will be associated with the government.

Also, it is not clear how much the name change would cost the state, which would have to buy new uniforms, repaint vehicles, and replace official stamps, among other things. The reform also proposes the dismissal and re-evaluation of every one of a million police officers nationwide, with only 75% of the current staff hired back ("Militia," 2010)

In the general provisions of the draft bill, the critical organizational principles of the police were not outlined such as the main structural units of the police agency and their main functions, and the basic procedure to appoint and dismiss the federal executives and heads of territorial agencies. Thus, it gives an opportunity to the MVD to generate departmental rulings and protocols outside of the law and to provide a strong basis for manipulating the system.

The principles of police work have not been changed fundamentally in comparison with "On Militia" (1991). However, there are some important provisions such as

the required publication of annual reports by the heads of territorial bodies of police and the release of annual reports to communities by district inspectors. At the same time, no mechanism was proposed to allow the public to influence those law enforcement leaders with unsatisfactory records. In an attempt to fill the gap, President Medvedev, in his comments on the discussion results, recommended other feedback channels be established (today, it is just “02”—the Russian version of “911”), which can be used to report police inaction and the violation of human rights by the MVD. Creating a single call center (calls from any point of Russia would be free) is another technical recommendation (Zhigulina, 2010).

The rights and responsibilities of police were enhanced with the rights of unimpeded entry at any time of day into residential and other premises if there are sufficient grounds for believing that a crime is being committed; however, there is no provision concerning the clarification of these “sufficient grounds.” The draft bill would give police another 50 powers, including such rights as to access bank data of any individual without a court order; to compel any person to leave a certain place or remove that person by force if the behavior of this person suggests that he or she may cause harm to life and health, damage property or facilities, or is a real threat to public order and the security of citizens; and to restrict freedom of movement of citizens on the street or other public place for one hour with the intention to check identity papers without probable cause, to name a few. Some of these rights are in clear contradiction with the Constitution (Kedrova, 2010).

The use of force and measures of coercion exclude the right of an officer to deliver blows to the head, neck, collarbone area, and abdomen or to the genitals. However, the draft bill has extended the rights of police to produce a shot to defeat the attacker if the person is trying to get something out of his or her clothing without the command of a police officer or to perform other actions that may be considered by a police officer as a threat of violence or an attempt to seize a weapon. The draft declares any police action to be legitimate until proven otherwise by a court decision.

Another controversial provision is the requirement to obtain a sponsor (individual pledge or personal guarantee from a current officer) to be hired into a law enforcement agency. With the extraordinary level of corruption in existence, this proposal will not allow people to enter the force on the basis of merit and standards.

The proposed idea of a police partnership with the community ought to have symbolized the new democratic format of a relationship between them. However, the draft bill allows community councils (oversight) to have control over the police in a manner determined by the head of the federal executive authority in the MVD, which counteracts the community concept.

Discussion around the draft bill brought additional attention to some important issues which were taken into account by President Medvedev such as an introduction of police officer badges with their names and personnel numbers, providing Miranda rights to detainees, allowing individuals to make one phone call upon arrest, and informing citizens about the progress and results of the complaints. From September 2010 until the beginning of 2011, the MVD and the high-ranking establishment of Russia faced the difficult task of analyzing and filtering community and citizen recommendations.

The above brief analysis of the draft bill, "On Police," and the discussion around it demonstrate very small steps toward reform. The proposed changes give no new face (paradigm) to police and are a desperate attempt to accomplish the reform in isolation from other segments of the criminal justice system. Proposed facelifts could not be profound due to the bureaucratic conservatism of courts, prosecutors, and corrections. This draft bill in its present form in fact is no different from the current law, "On Militia" (1991), with some insignificant changes and amendments. The draft bill increases the powers and reduces the accountability of the police force. There is no clear concept of reforming the Ministry of Internal Affairs whose structure survived more than 200 years (since 1802) and the delinquent intrusions of tsars, commissars, and self-proclaimed democrats.

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# The United Nations Convention Against Corruption (UNCAC)

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## Introduction

Corruption has become a phenomenon found in all parts of the globe. Almost every day, newspapers, magazines, and the evening news report on another incident of corruption either at the individual, national, or international level. Corruption has become a major epidemic of the 21st century that governmental officials worldwide cannot ignore. Corruption is more than a dishonest act. It is a dishonest act which destroys the social fabric of society, especially the most vulnerable societies in the developing world. According to former United Nations Secretary-General Kofi Annan, corruption

[i]s an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism, and other threats to human security to flourish. (United Nations, 2004, p. iii)

Moisés Naím (2005), in his book *Illicit: How Smugglers, Traffickers, and Copycats Are Hijacking the Global Economy*, has argued that, “unchecked illicit trade [unchecked corruption] is making the world less safe. It empowers an economic shelter for rebels, crooks, and terrorists” (p. 265). Naím goes further to argue that unchecked illicit activities such as corruption “impairs economic development, and renders more vulnerable the rest of us, who obey the laws and rely on them for protection” (p. 266).

The United Nations recognizes and is concerned about the threats posed by corruption to the stability and security of societies—corruption which undermines the institutions and values of democracy, ethical values, and justice and jeopardizes sustainable development and the rule of law. As a result, the United Nations convened on October 31, 2003, and through Resolution 58/4 passed the United Nations Convention Against Corruption (UNCAC) at the United Nations Headquarters in New York (United Nations, 2004). The purpose of this paper is to provide an overview of the UNCAC and its main objectives in the fight against corruption. This paper is divided into three main parts. The first part discusses the ratification status and who are the main signatures of the UNCAC; the second part addresses the key mechanisms within the UNCAC authorizing States to promote, facilitate, and support international cooperation in the prevention of and fight against corruption; and the final part examines the main accomplishments and challenges facing States of the UNCAC in their efforts to promote integrity, accountability and proper management of public property.

## Signature and Ratification Status

The United Nations’ General Assembly is concerned about the links between corruption and other forms of crime. In particular, the concern is focused on organized crime

and economic crime, including money laundering as evidenced in the adoption of the UNCAC on October 31, 2003. The Convention was open to all States for signature from December 9 to 11, 2003 in Merida, Mexico, and thereafter at the United Nations Headquarters in New York until December 9, 2005, in accordance with Convention Article 67(1). The Convention also asserts in its Article 67(2) that it is open for signatures by regional economic integration organizations provided that at least one State of such organization has signed the Convention in accordance with Article 67(1).

Furthermore, the Convention is subject to ratification, acceptance, or approval by States. Instruments of ratification, acceptance, or approval must be deposited with the Secretary-General of the United Nations as stipulated by Article 67(3). In order for the Convention to enter into force, Article 68(1) states that, "the convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession." Today, 104 States have signed the Convention, and 131 have ratified, accepted, or approved it. Nations that have signed the Convention but have yet to ratify include Bhutan, Guinea, Myanmar, Saudi Arabia, Sudan, Swaziland, Thailand, and Ukraine, just to mention a few. According to Transparency International (2007), a global civil society organization leading the fight against corruption, the countries listed above fall under the category of corrupt or most corrupt nations in the world for doing business (p. 13).

According to Transparency International's (2007) *Global Corruption Barometer 2007*, the poor, whether in developing or highly industrialized countries, are the most penalized by corruption and also the most pessimistic regarding their government's ability to effectively combat corruption in the future. Kofi Annan, in his foreword to the UNCAC (United Nations, 2004), stated that "corruption is an evil phenomenon but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development" (p. iii). In fact, failed states or rogue nations where despotic rulers govern without any accountability to its citizens and where the rule of law is nonexistent have become "black holes" for corrupt activities involving government officials and transnational cooperations (Naim, 2005, p. 262).

## **Self-Assessment of the Implication of the UNCAC**

The United Nations Convention Against Corruption is an example of a multilateral treaty. Under a multilateral treaty or convention, States' signatures to the Convention pledge to collectively prevent and detect corruption and to return the proceeds from an illegal activity and illicit gains. As stated in Article 1, the purposes of the Convention are

- (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including asset recovery; and
- (c) To promote integrity, accountability and proper management of public affairs and public property.

In order to carry out its obligations under the Convention, States are required under Article 5 to “develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.” Obviously, Article 5 places great emphasis on the notion of the rule of law since a nation which does not respect the rule of law is subjected to ostracism by the international community. By losing its credibility in the international community as a nation which does not honor contracts, protect assets, nor promote effective practices aimed at the prevention of corruption, a nation is less likely to receive foreign direct investments which are so essential for a healthy economy and prosperity. Accountability and transparency are also important elements of the UNCAC. Accountability is an element that is hardly in existence in the developing world. In fact, in Latin America, the word *accountability* does not have an equivalent translation either in Spanish or Portuguese.

Accountability is also a word that has become part of the political lexicon with the return to democracy and the end of military authoritarianism in the late 1980s in many Latin American nations. During the decades of military authoritarianism, military leaders operated without accountability or transparency since civil society was nonexistent. With the return of democracy and the collapse of military regimes in Latin America, there has been a proliferation of civic organizations demanding that government officials not only become accountable for their actions but also transparent while in power. The “criminalization of the national interest,” according to Naím (2005), is one of the greatest overlooked trends in our time yet it is one of the most dangerous behaviors in certain countries (pp. 278-279). To highlight the seriousness of the “criminalization of the national interest” and the importance of the public participation in the fight against corruption, the Convention calls upon States in Article 13 to

[t]ake appropriate measures, within its means and in accordance with fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.

Under the Convention, the key articles in the fight against corruption are the Mutual Legal Assistance Article 46, the International Cooperation in Asset Recovery Article 54, the International Cooperation for Confiscation Article 55, and the Special Cooperation Article 56. Article 46 is in Chapter IV (International Cooperation), while Articles 54, 55, and 56 can be found in Chapter V (Asset Recovery).

*Mutual legal assistance* can be either formal or informal. Formal methods of mutual legal assistance include letters rogatory, bilateral treaty, multilateral treaty, letters of request, and executive agreements (i.e., an agreement between heads of state which does not require approval from Congress). Informal methods of mutual legal assistance include FIU/Egmont, Embassy contact, INTERPOL, police to policy, Internet search, and commercial and government databases (Lasich, 2009). Under Article 46(3), mutual legal assistance to be afforded may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;

- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;
- (j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention; and
- (k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

Also, under Article 46(13), the Convention mandates that each State designate a central authority that will have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution.

Request for mutual legal assistance is not an automatic guarantee that another country will honor the request. Mutual legal assistance may be refused under the following conditions:

- (a) If the request is not made in conformity with the provisions of this article;
  - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
  - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction; and
  - (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
23. Reasons shall be given for any refusal of mutual legal assistance.

Another important article in the fight against corruption under the Convention is Article 54. Article 54 provides mechanisms for recovery of property through international cooperation in confiscation. Article 54(1), provides that each State Party to the Convention shall in accordance with its domestic law

- (a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;
- (b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of

such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

- (c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

Article 55 addresses the issue of international cooperation for purposes of confiscation. In fact, Articles 54 and 55 are of extreme importance given that money laundering and corruption often involve transnational crimes. *Transnational crime* is defined as “an activity that is considered a criminal offense by at least two countries” (Naím, 2005, p. 187; Taylor, 2007, p. 1). Article 55 provides that to the greatest extent possible without interfering with its domestic laws that a State Party to the Convention upon receiving a request from another State Party for confiscation of proceeds of crime, property, equipment or other instruments shall

- (a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or
- (b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with Articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in Article 31, paragraph 1, situated in the territory of the requested State Party.

Article 56 addresses the issue of special cooperation. Under this article, a State Party to the Convention may without prejudice to its “investigations, prosecutions or judicial proceedings” forward information to another State Party that may assist the receiving State in “initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under Chapter V: Asset Recovery.

## **Conclusion: Accomplishments and Challenges**

The United Nations Convention Against Corruption (UNCAC) is a major step in the fight against corruption worldwide from a multilateral agreement. A major accomplishment of the UNCAC is that this Convention complements another major instrument in the fight against corruption, namely, the United Nations Convention Against Transnational Organized Crimes. The UNCAC, according to Secretary General Kofi Annam, “provides a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption” (United Nations, 2004, p. iii). However, we should not forget that States operate in the international system from a Hobbesian or realist perspective of world politics; therefore, cooperation is not always possible or sometimes desirable. As John J. Mearsheimer (1994-1995) argues in his article, “The False Promise of International Institutions,” from a realist perspective, the international system is in the eyes of most States “anarchic, all States inherently possess some offensive military capacity toward others, States can never be certain about the intentions of other States, and the primary objective of all States is survival” (p. 10). In other words, realism paints “a rather grim picture of world politics. The international system is portrayed as a

brutal arena where States look for opportunities to take advantage of each other, and therefore have little reason to trust each other" (p. 5).

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