New Crime Wave and Law Enforcement Response

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Editorial

New economic challenges are not coming on their own but are being followed by critical social issues, including uncertainty in crime and justice. A growing number of reports from many states indicate that, as a whole, law enforcement agencies throughout the Nation are experiencing an increase in the number of violent crimes. Some of the current phenomena work as a feeding ground for the increase in crime. For example, the largest and fastest-growing prison system in the world produces growing numbers (approaching almost one million individuals per year) of prisoners released into communities. With the labor market shrinking, this category of citizens are facing more troubles in their attempts to fit into the social fabric, and they are being forced into recidivism. In addition, persistent efforts of local and federal authorities to manage and restrict high levels of illegal immigration have initiated an increased flow of them to a shadow economy and an unlawful way of life. Further, the younger generation is being influenced by a lack of parenting, supervision, and everyday intervention in their lives of unregulated and often dangerous online social networking filled with representatives of deviant subcultures and sexual predators.

Some of the recent polls (Cooper & Secrest Associates) demonstrate that crime is returning to the national consciousness and that Americans believe that crime is more of a threat to their individual safety than terrorism. These trends are especially alarming when budgets for policing are being slashed, and the federal government is paying constantly diminishing attention to funding for prevention at the local and federal levels.

This issue of the Forum focuses on the new crime wave and the related problems confronting local, state, and federal law enforcement agencies within the United States. This collection of articles provides an overview of the topics related to new crime trends, presents valuable information on the resources available to law enforcement, and examines the concerns and obstacles that currently surround discussions about crime fighting. It is our hope that the collection of articles presented in this issue will prove to be a useful tool for all readers.

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Editor
Local Law Enforcement Responses to Human Trafficking in the United States

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Introduction

Trafficking in persons has become a critical human rights and law enforcement issue in the 21st century. Perceived to be one of the world’s fastest growing criminal enterprises, local law enforcement officials must now help prevent domestic and international trafficking. To enable law enforcement to develop effective responses, a knowledge base regarding responses to human trafficking must now be constructed. This study provides the first comprehensive assessment of the current state of local, county, and state law enforcement responses to human trafficking in the United States. This project measures how often and under what conditions different law enforcement agencies identify human trafficking cases and evaluates whether such recognition leads to investigations, interventions, and/or prosecution. This information will be useful to local, county, and state law enforcement officials as they begin to develop successful models for recognizing, reporting, and intervening in situations of human trafficking to inform and enhance future law enforcement efforts.

The trafficking of persons for sale and exploitation has recently become a significant concern in the U.S. and internationally. While no empirically valid analyses of the incidence of human trafficking exist, the U.S. Department of Justice has estimated that between 600,000 and 800,000 people are trafficked internationally each year and 14,500 to 17,500 people are trafficked annually into the U.S. (Miko, 2004; U.S. Department of Justice, 2004). Without empirical validation, however, it is difficult to know the validity and reliability of statistics on human trafficking victimization. Despite the limitations of current estimates of the magnitude of human trafficking victimization, federal law enforcement officials project potentially staggering profits from human trafficking—recently it was estimated at $9.5 billion a year with profits supporting other criminal activities such as money laundering, drug trafficking, document forgery, and human smuggling (U.S. Department of State, 2006).

Though recognition of the importance and severity of human trafficking has grown in recent years, the identification and investigation of human trafficking cases remains a complex undertaking for local law enforcement. Effectively responding to human trafficking requires officers to notice and provide services to victims who often have been underserved by or had poor relationships with law enforcement in the past (e.g., migrants, immigrant community members, prostituted women). At times, officers may be reluctant to intervene in sex and labor trafficking situations due to a belief that victims were complicit with their own victimization. Local law enforcement response is further complicated by immigration issues since many
local agencies have made a decision to not inquire about citizen status during routine policing activities as a means of building trust and confidence in the local community. Since the enforcement of the law in the United States is predominantly carried out by the thousands of local, county, and state agencies representing diverse environments and local crime problems and coming from a variety of different organizational structures, fully understanding how law enforcement perceives and responds to the problem of human trafficking in the U.S. necessitates inquiry into the specific experiences of these agencies.

The majority of research on law enforcement responses to human trafficking to date has focused on the experiences of a narrow number of large municipal police departments that were perceived to be most likely to come into contact with incidents of human trafficking (Clawson, Dutch, & Cummings, 2006; Wilson, Wish, & Kleuber, 2006). While this research has provided an important starting point for understanding the challenges law enforcement agencies encounter in the identification and investigation of human trafficking, it represents only the experiences of a limited number of large agencies. The research presented here measures the present response of local, county, and state law enforcement to human trafficking in the U.S. It provides the first description of the steps taken by local law enforcement to identify human trafficking. Additionally, it will shed light on the impact of law enforcement efforts by measuring how often identification of trafficking victims leads to their rescue and the prosecution of trafficking perpetrators. Ultimately, this research will prove instrumental in providing local law enforcement in the U.S. with the necessary tools to successfully identify, investigate, and prosecute cases of human trafficking.

**What Is Human Trafficking?**

Human trafficking takes many forms. Individuals may be held against their will as domestic workers, working for little or no pay, and with no way to find other employment. Others may be forced into prostitution and isolated from people who could provide a means of escape. Victims of human trafficking have few resources and most often go unrecognized by law enforcement, social services representatives, and other service providers. Their hidden victimization allows perpetrators to offend under the radar of law enforcement, making the significance of this crime more important to understand. As such, current measures of the magnitude of human trafficking may be underestimated.

Trafficking of persons is often fueled by pressure on people to leave the economic struggles of their home country and seek opportunities abroad. While many trafficked individuals are moved to new or foreign locations, movement itself is not what constitutes trafficking; the force, fraud, or coercion exercised on that person by another to perform or remain in service are the defining elements of trafficking in the modern usage (U.S. Department of State, 2005). The human trafficking crisis has recently been exacerbated by factors that include a global economy, increased travel, high demand for low cost labor, inadequacy of law enforcement and legislation, treatment of trafficking cases as illegal immigration, and the potential criminalization of trafficking victims (Shelley, 2003). In addition, the increasing globalization of the world economy through treaties expanding trade (e.g., NAFTA), increased demand for inexpensive and mobile labor, easing restrictions on travel (particularly to and from former Soviet bloc countries), and
the increasing availability and use of high-speed communication tools such as the Internet have all contributed to an atmosphere that makes human trafficking more likely to occur and more difficult to deter.

In the U.S., the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) defined and classified human trafficking into two main categories: (1) sex trafficking and (2) labor trafficking. **Sex trafficking** involves the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform such an act is under the age of 18 years old. **Labor trafficking** is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for labor services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Such violations might include domestic services, manufacturing, construction, migrant laboring, and other services obtained, through subjection to involuntary servitude, peonage, debt bondage, or slavery.

**Local Law Enforcement Identification and Response to Human Trafficking**

Significant efforts are underway in the U.S. to confront human trafficking. These efforts include the enactment of legislation providing resources to both law enforcement and victim services agencies working to identify and assist trafficking victims and prosecute traffickers. The TVPA was the first comprehensive federal law to protect victims of trafficking and prosecute offenders. The TVPA accomplished five main goals: (1) defined a specific crime of human trafficking; (2) enhanced the penalties for slavery, involuntary servitude, and peonage from 10 to 20 years; (3) created a new visa category which allows trafficking victims to receive benefits and services in the United States; (4) ordered a report which ranks countries based on their response to trafficking and specifies sanctions which can be applied to those countries whose governments have not taken adequate steps to prevent trafficking; and (5) provided significant funding for enforcement of anti-trafficking provisions and new assistance programs. The TVPA was reauthorized in 2003 and 2005, increasing the investigative powers of law enforcement and providing additional funding to combat trafficking involving U.S. citizens.

Over the past seven years, law enforcement has begun to respond. Since 2000, the U.S. Department of Justice (2007) has “increased by six-fold the number of human trafficking cases filed, quadrupled the number of defendants charged, and tripled the number of defendants convicted” (p. 1). Since 2001, the U.S. Department of Justice has “charged more than 300 human traffickers and secured more than 200 convictions” (U.S. Department of Justice, Southern District of Florida, 2007, p. 1).

In addition to federal law enforcement efforts to identify and prosecute cases of human trafficking, government officials have publicly recognized the critical role of local law enforcement, alone and in collaboration with federal law enforcement and nongovernmental agencies, in identifying cases of human trafficking (Braun, 2003; De Baca & Tisi, 2002). Interviews with key senior federal law enforcement suggest local law enforcement may be in the best position to identify cases of human trafficking because they know their own communities and are involved in routine activities which bring them into contact with local criminal elements.
where human trafficking may be occurring (Clawson et al., 2006, p. 42). A recent review of federal human trafficking prosecutions suggests that the actions taken by local law enforcement at the beginning of a trafficking investigation can prove crucial to the ultimate success or failure of future efforts to pursue the case (Bales & Lize, 2007). Since the federal government has prioritized human trafficking prosecutions and expects local law enforcement to become the “eyes and ears for recognizing, uncovering and responding to circumstances that may appear to be a routine street crime, but may ultimately turn out to be a human trafficking case” (U.S. Department of Justice, 2004, p. 5), they have provided funding for multi-agency law enforcement task forces to identify and respond to human trafficking incidents in the local community. The multi-agency task forces generally include representatives from local, state, and federal law enforcement; prosecutors; labor regulators and/or inspectional services, victim service providers, other nongovernmental agencies; and mental health professionals. It is anticipated that by bringing together law enforcement professionals from various levels of governmental and nongovernmental service, the task force model would help identify and assist victims and interdict offenders who may not otherwise come to the attention of law enforcement.

While the federal government has determined that it is critical to involve local law enforcement in the fight against trafficking (evidenced in part by their strong support for local human trafficking task forces), little is known about how local departments have reacted to this new mission. This mandate also comes at a time when local law enforcement is faced with increasing pressure to implement other federal initiatives (i.e., Homeland Security), and budgetary resources are being squeezed. It is unclear whether or not local agencies feel pressure to initiate large, often complex organized crime cases or instead use human trafficking resources to continue and improve the most pressing issues in their community such as violent crime or drug problems. Fully understanding how law enforcement perceives and responds to the problem of human trafficking in the U.S. necessitates in-depth inquiries into the specific experiences of local, county, and state law enforcement agencies.

Research on law enforcement responses to human trafficking has largely been confined to small samples of agencies that serve the largest populations, including those who have received federal funding to identify and respond to human trafficking. Clawson et al. (2006) and Wilson et al. (2006) both surveyed large municipal police departments about their knowledge of and response to human trafficking. Researchers in both studies concluded that law enforcement is generally ill prepared to identify and investigate cases of human trafficking. Additionally, they suggest local law enforcement officials perceive human trafficking to be a federal rather than a local policing problem. Not surprising, though, both studies also identified that participation in training and experience investigating cases increased the degree to which agencies indicated that human trafficking was an important problem. While these preliminary studies highlight some of the challenges large agencies face in identifying and responding to cases of human trafficking, much more information is needed to understand the experiences of the vast majority of local, county, and state law enforcement agencies throughout the U.S.

The National Law Enforcement Human Trafficking Survey was distributed through the mail to a random sample of approximately 3,000 municipal, county,
and state law enforcement agencies in the U.S. to measure the current perceptions of local law enforcement about human trafficking and to measure the frequency in which they investigate such cases. Since law enforcement agencies serving larger populations may encounter human trafficking more frequently than agencies in smaller communities, the original random sample was supplemented with all remaining agencies (not included in the random sample) serving populations over 75,000. The national survey instrument was divided into two separate parts. The first part of the survey measured the number of agencies that have investigated a case of human trafficking nationally and identified some of the attitudes of law enforcement officials toward the crime of human trafficking. The second part of the survey measured the nature, characteristics, and outcomes of the human trafficking cases identified by agencies with experience investigating those types of cases. In total, 1,903 total agencies out of the 3,000 agencies sampled (in both the random sample and the supplemental medium- to large-city sample) completed Questionnaire 1 for a 63.4% overall response rate.¹ The following section describes the major findings from the national survey.

**Law Enforcement Perception and Identification of Human Trafficking in Their Local Communities**

Survey respondents were asked to identify the prevalence of human trafficking within their own community. All respondents were provided with the following definition of human trafficking as it is outlined in the TVPA to guide their response:

**Human Trafficking** – The recruitment, harboring, transportation, provision, or obtaining of a person for one of three following purposes: (1) labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; or (2) a commercial sex act through the use of force, fraud, or coercion; or (3) if the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved. **Note:** These definitions do not require that victims be physically transported from one location to another.

As we have seen with other more limited studies of law enforcement, local law enforcement officials perceive human trafficking as rare or non-existent in their local communities. There is little difference in perceptions of sex trafficking versus labor trafficking among local law enforcement—both types are perceived as rare or non-existent. Agencies serving larger communities (over 75,000 in population) are more likely to identify human trafficking, particularly sex trafficking, as a more pervasive problem, though neither group see any type of human trafficking as widespread in their community (see Table 1).

As with any new crime type, officers need training and guidance to help them understand if they have come across a case of human trafficking and to know how to respond to the situation. The fear is that officers will come into contact with incidents involving human trafficking victimization during the course of their normal operations and, without training or policies, they will be unprepared to identify the cases as such and respond appropriately. The national survey measured the degree to which law enforcement agencies have taken steps to prepare their personnel to identify and investigate the types of indicators that should alert the police to cases of human trafficking.
<table>
<thead>
<tr>
<th>Table 1. Perceptions of Human Trafficking Problem in Local Community</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Random Sample</strong> (n = 1,661)</td>
</tr>
<tr>
<td>Sex Trafficking (from outside U.S.)</td>
</tr>
<tr>
<td>1.30%</td>
</tr>
<tr>
<td>4.80%</td>
</tr>
<tr>
<td>Sex Trafficking (from inside U.S.)</td>
</tr>
<tr>
<td>6.00%</td>
</tr>
<tr>
<td>Labor Trafficking (from outside U.S.)</td>
</tr>
<tr>
<td>2.00%</td>
</tr>
<tr>
<td>Labor Trafficking (from inside U.S.)</td>
</tr>
<tr>
<td>1.70%</td>
</tr>
</tbody>
</table>
Due in part to the attitudes about the pervasiveness of human trafficking cited above, preparation to identify and investigate human trafficking has been minimal by law enforcement agencies across the country. Approximately 21% of the random sample of local, county, or state law enforcement agencies nationwide have had some type of human trafficking training; 9.8% have a protocol or policy on human trafficking; and only 6.4% have designated specialized units or personnel to investigate these cases. Across the board, larger agencies, particularly those serving populations over 250,000, have made more preparations to identify and investigate cases of human trafficking (see Table 2).

**Table 2. Distribution of Preparation for Human Trafficking Cases Across Agency Size and Type (Random Sample, n = 1,661)**

<table>
<thead>
<tr>
<th>Population Size</th>
<th>Have Training</th>
<th>Have a Protocol</th>
<th>Have a Specialized Unit or Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4,999 and below</td>
<td>13.1%</td>
<td>8.9%</td>
<td>3.1%</td>
</tr>
<tr>
<td>5,000-9,999</td>
<td>19.1%</td>
<td>7.4%</td>
<td>4.8%</td>
</tr>
<tr>
<td>10,000-24,999</td>
<td>20.9%</td>
<td>9.3%</td>
<td>2.8%</td>
</tr>
<tr>
<td>25,000-49,999</td>
<td>21.1%</td>
<td>5.7%</td>
<td>5.4%</td>
</tr>
<tr>
<td>50,000-74,999</td>
<td>17.5%</td>
<td>7.5%</td>
<td>5.3%</td>
</tr>
<tr>
<td>75,000-99,999</td>
<td>38.0%</td>
<td>7.4%</td>
<td>8.6%</td>
</tr>
<tr>
<td>100,000-249,999</td>
<td>29.0%</td>
<td>8.1%</td>
<td>7.1%</td>
</tr>
<tr>
<td>250,000 and above</td>
<td>65.6%</td>
<td>32.8%</td>
<td>50.8%</td>
</tr>
<tr>
<td>County Non-MSA</td>
<td>16.5%</td>
<td>9.6%</td>
<td>1.6%</td>
</tr>
<tr>
<td>County MSA</td>
<td>16.5%</td>
<td>12.5%</td>
<td>10.1%</td>
</tr>
<tr>
<td>State Police</td>
<td>47.1%</td>
<td>18.8%</td>
<td>17.6%</td>
</tr>
<tr>
<td>Total</td>
<td>21.0%</td>
<td>9.8%</td>
<td>6.4%</td>
</tr>
</tbody>
</table>

**Law Enforcement Perception and Identification of Human Trafficking Cases**

Despite the limitations law enforcement agencies face in being prepared to identify and respond to human trafficking, more cases of human trafficking were identified by local law enforcement agencies than may have come to the attention of federal officials. Approximately 7% of the law enforcement agencies in the random sample report having investigated a case of human trafficking. Agencies that serve larger populations are much more likely to have investigated a case of human trafficking than smaller agencies, but cases were identified by law enforcement agencies serving all sizes of communities. Of those agencies that responded to the random sample, 43 states indicate having at least one law enforcement agency that has investigated a case of human trafficking. The highest proportions of agencies indicating they investigated cases of human trafficking were from Arizona (50%), Florida (26.5%), and California (26.5%).

In addition to agency size and regional differences in identification of human trafficking cases, there appears to be a strong relationship between agencies which have taken steps to deal with human trafficking cases, such as dedicating specialized units or personnel to human trafficking investigations, conducting training, and developing protocols or procedures for identifying and responding to cases and agencies, and agency success in identifying and investigating cases...
of human trafficking. Agencies with specialized units, training, or protocols were more likely to investigate cases of human trafficking than those agencies without such practices in place. Nearly 44% of the agencies in the random sample with a specialized unit or personnel assigned to investigate human trafficking identified a case of human trafficking compared to only 5.7% of those agencies without a specialized unit (see Table 3).

Table 3. Proportion of Agencies that Report Investigating a Case of Human Trafficking (Random Sample, n = 1,661)

<table>
<thead>
<tr>
<th>Population Size</th>
<th>Yes</th>
<th>No</th>
<th>Total (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4,999 and below</td>
<td>3.0%</td>
<td>97.0%</td>
<td>100% (591)</td>
</tr>
<tr>
<td>5,000-9,999</td>
<td>5.7%</td>
<td>94.3%</td>
<td>100% (211)</td>
</tr>
<tr>
<td>10,000-24,999</td>
<td>5.3%</td>
<td>94.7%</td>
<td>100% (228)</td>
</tr>
<tr>
<td>25,000-49,999</td>
<td>10.1%</td>
<td>89.9%</td>
<td>100% (99)</td>
</tr>
<tr>
<td>50,000-74,999</td>
<td>12.5%</td>
<td>87.5%</td>
<td>100% (40)</td>
</tr>
<tr>
<td>75,000-99,999</td>
<td>11.1%</td>
<td>88.9%</td>
<td>100% (18)</td>
</tr>
<tr>
<td>100,000-249,999</td>
<td>23.1%</td>
<td>76.9%</td>
<td>100% (39)</td>
</tr>
<tr>
<td>250,000 and above</td>
<td>58.3%</td>
<td>41.7%</td>
<td>100% (12)</td>
</tr>
<tr>
<td>Non-MSA County</td>
<td>7.1%</td>
<td>92.9%</td>
<td>100% (212)</td>
</tr>
<tr>
<td>MSA County</td>
<td>5.1%</td>
<td>94.9%</td>
<td>100% (118)</td>
</tr>
<tr>
<td>State Police</td>
<td>32.4%</td>
<td>67.6%</td>
<td>100% (34)</td>
</tr>
<tr>
<td>Total</td>
<td>6.7%</td>
<td>93.3%</td>
<td>100% (1,602)</td>
</tr>
</tbody>
</table>

The relationship between specialized personnel and successful human trafficking identification is consistent with growing acceptance from the international law enforcement community that specialized personnel are critical to effective human trafficking investigations (INTERPOL, 2007). Since human trafficking is a complex crime, often involving a wide range of criminal activities which require diverse investigative methods and proactive investigations, specialization is necessitated. Human trafficking investigations often hinge on the ability of victims to provide information about their experiences. Without properly trained investigators sympathetic to the detrimental effects of physical and emotional trauma on victims’ trust and their willingness to provide information and share their experiences, human trafficking cases are less likely to be appropriately identified and properly investigated. The need for specialization is enhanced because human trafficking is both a relatively new crime and rare in many communities. Investigations of human trafficking cases appear to have many similarities to the investigation of crimes motivated by bias, where researchers have consistently identified specialized units or personnel as critical to successful investigations and reporting of such relatively new and rare crimes where victims may be more reluctant than normal to provide information to law enforcement (McDevitt et al., 2003).

Approximately 20% of agencies with human trafficking training identified a case of human trafficking compared to only 4.4% of those agencies with no training. Of those agencies that indicated they had training specific to human trafficking, the types of training provided included inservice training (46.8%), new recruit training (15.5%), roll call training (11.3%), publications (24.9%), online training
(10.9%), regional training (43.8%), national training (14.7%), and off-site training (38.9%) (agencies were allowed to choose more than one type of training). Nearly 27% of the agencies with a protocol or policy on human trafficking identification and investigation had investigated a case of human trafficking compared to only 5.6% of those agencies without such polices.

While one may be tempted to conclude that training, protocols, or the designation of personnel to investigate human trafficking cases alone results in more investigations, we do not fully understand the time-ordering of these events from the data presented in Table 4. It is certainly possible that in many cases agencies adopted training or identified specialized personnel following the identification and investigation of a particularly complex or troubling human trafficking case. Future research should continue to monitor the relationship between preparation and identification of human trafficking.

Table 4. The Relationship Between Agency Preparation and Identifying a Case of Trafficking (n = 1,661)

<table>
<thead>
<tr>
<th>Investigated a Case of Human Trafficking</th>
<th>Yes</th>
<th>No</th>
<th>Total (N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has Specialized Unit or Personnel*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>43.5%</td>
<td>56.5%</td>
<td>100% (62)</td>
</tr>
<tr>
<td>No</td>
<td>5.7%</td>
<td>94.3%</td>
<td>100% (1,361)</td>
</tr>
<tr>
<td>Has Training*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>19.8%</td>
<td>80.2%</td>
<td>100% (258)</td>
</tr>
<tr>
<td>No</td>
<td>4.4%</td>
<td>95.6%</td>
<td>100% (1,190)</td>
</tr>
<tr>
<td>Has a Protocol*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>25.6%</td>
<td>74.4%</td>
<td>100% (125)</td>
</tr>
<tr>
<td>No</td>
<td>5.6%</td>
<td>94.4%</td>
<td>100% (1,260)</td>
</tr>
</tbody>
</table>

* = p < 0.01

Investigation and Prosecution of Human Trafficking Cases

While the phenomenon of human trafficking is expected to be rare, the total number of investigations initiated by local law enforcement appears to be growing as information about the problem has become more readily available. Between 2000 and 2006, the number of human trafficking investigations by respondents rose dramatically each year from 175 reported cases in 2000 to 750 in 2006. Additionally, the average number of cases investigated by each agency more than doubled from three cases in 2000 to eight cases in 2006 (see Figure 1).
A number of important factors seem to lead law enforcement to identify and begin investigating cases of human trafficking. Law enforcement agencies report they most often learn about cases of human trafficking during the course of other investigations (e.g., drug raids, calls for domestic violence). Nearly 92% of law enforcement agencies that investigated at least one human trafficking case reported a connection between trafficking and other existing criminal networks such as drug distribution or prostitution. Those agencies that indicated they had investigated at least one human trafficking case were also much more skeptical about the usefulness of media reports, referrals, and missing person reports than agencies who had not investigated a case of human trafficking. Instead, these agencies indicated overwhelmingly that “information from different investigations” was the most useful source of information. Additionally, agencies that investigated cases also thought “tips from co-conspirators” were more likely to provide useful information than agencies that had not yet investigated cases of human trafficking. Agencies that investigated a case of human trafficking also cited a number of “other” sources of information, including intelligence from other law enforcement agencies (both local and federal), routine traffic stops, and National Crime Information Center (NCIC) broadcasts.

Somewhat surprisingly, the majority (70%) of agencies that have investigated a case of human trafficking have only investigated a single type of case (either sex trafficking or labor trafficking); the proportion of agencies that investigated only one type of trafficking case is nearly equivalent (36% investigated only sex trafficking and 34% investigated only labor trafficking). There are two potential explanations for this phenomenon: first, it may be the case that communities are experiencing only one type of human trafficking, or second, that there is a certain amount of specialization in agencies that have investigated human trafficking cases and that agencies focus in the area in which they have experience. In turn, they identify the types of cases in which they have developed expertise.

There are some important variations between sex and labor trafficking investigations. The overwhelming majority (nearly 75%) of sex trafficking cases identified by law enforcement involve a single offense—forced prostitution. We do not find a similar
concentration of offenses for agencies investigating labor trafficking cases. A majority of responding agencies indicate investigating at least one case of general bonded labor or debt bondage (35%) followed by restaurant work (26%) and domestic servitude (14%). Additionally, those agencies focused on sex trafficking have made more arrests on average than those agencies focused on labor trafficking. Agencies that indicated only investigating cases of sex trafficking reported making an average of 14 arrests between 2000 and 2006. Agencies that indicated they only investigated cases of labor trafficking reported an average of six arrests, and agencies that reported investigating both types of human trafficking made an average of 18 arrests.

Although a large number of investigations do not result in arrests, if an arrest is made, it is likely to lead to a formal charge. Since 2000, a little more than half of the agencies that investigated cases of human trafficking have brought formal charges against individuals involved in human trafficking. Of those agencies that brought formal charges, 32% reported filing federal charges, and of those filing federal charges, 61% prosecuted cases under federal TVPA statutes. Agencies associated with federally funded human trafficking task forces were more than twice as likely to file federal charges when compared to other non-task force agencies (55% compared to 25%).

There are numerous challenges associated with investigating cases of human trafficking (see Figure 2). The most frequent challenge faced by law enforcement agencies investigating cases of human trafficking was a lack of victim cooperation (70%). Paradoxically, noncooperation and fearfulness on the part of the victim is also one of the most important indicators that alerts law enforcement to the possibility of human trafficking. The majority of law enforcement agencies believe that victims do not cooperate with law enforcement due to fear of retaliation to themselves or their families as well as a lack of trust in the criminal justice system. Previous research suggests that human trafficking victims are often threatened by traffickers that if they go to law enforcement they will be put in jail or deported (Aron, Zweig, & Newmark, 2006). We find that victims’ fear of law enforcement may not be unwarranted. When asked about outcomes for foreign victims of human trafficking, about 25% of the victims received T-visas and about an equal number were deported.

**Figure 2. Challenges to Identifying and Investigating Cases of Human Trafficking**

![Figure 2](image-url)
Language barriers or lack of adequate translators were the second most prevalent challenge (63%). Interestingly, lack of preparation, including many of the preparatory steps discussed earlier in this report, was the next most common issue or challenge. Respondents cited a lack of resources (62%), a lack of training (53%), and a lack of policies and protocols (45%) as frequent hindrances to investigating and prosecuting human trafficking cases. Only 13% of agencies indicated that they encountered resistance from the U.S. Attorney or District Attorney to pursue human trafficking cases.

Conclusions and Policy Recommendations

Identification and investigation of human trafficking cases is a complex undertaking for local law enforcement. The federal government has provided strong national leadership in the fight against human trafficking, but responses from local law enforcement remain essential to the successful identification and investigation of these crimes. Municipal, county, and state police are familiar with their local communities and are involved in routine activities that will likely bring them into contact with human trafficking victims and offenders. Despite being well-situated to identify such crime, the complex nature of these cases presents significant challenges. The analysis described here provides important information on the characteristics of human trafficking identification and investigation strategies being employed by law enforcement throughout the country. A number of policy recommendations can be developed from these findings.

First, since local law enforcement agencies throughout the country generally do not perceive the problem of human trafficking to be a major concern in their community, more work needs to be done to identify the risk factors and indicators of human trafficking activity in local communities to expose the connection between human trafficking and other criminal networks that exist, which may be better understood. In many cases, even when the police are called to an incident involving human trafficking, local law enforcement may not recognize the circumstances of exploitive labor, even those involving force, fraud, or coercion, as a crime. This problem is of course not new. Law enforcement has often had to adapt to changing legal and social environments. For example, domestic violence was until quite recently perceived by many in local law enforcement as a personal problem or family issue, not a crime. Local law enforcement was hesitant to become involved in people’s intimate relationships even when they involved violence. Part of this resistance, we now know was based on the fact that officers did not feel that they had the proper tools and training to address such complex problems. Now, domestic violence is seen much more clearly as a police problem, a crime, and something that the police have tools to address. Compounding the problem of human trafficking victim identification is a reluctance of local law enforcement to intervene in circumstances that may involve immigration regulations. These challenges must be taken into account as law enforcement learns to treat human trafficking as a local crime and develops the skills necessary to combat this problem.

Second, human trafficking cases are often complex, involving a new area of law where rules and routines are not well-established. Working with human trafficking victims and offenders can also involve activities that may be out of the normal range of experiences for line officers (e.g., language barriers, severe trauma, immigration issues). In addition, the complexity of human trafficking cases often requires local
law enforcement to partner with other groups (e.g., federal law enforcement, inspectional services, or regulatory agencies and NGOs) in order to successfully identify, investigate, and prosecute a case. Yet, few agencies have taken steps to adequately prepare their officers to navigate human trafficking investigations. According to the national survey, only 9% of local law enforcement agencies have a protocol or policy on human trafficking and even fewer (4%) have designated specialized units or personnel to investigate these cases.

Model protocols should be acquired and made available to local law enforcement agencies to help guide their personnel in the identification and investigation of human trafficking as well as to provide resource information as to the roles and responsibilities of partner agencies or organizations that might assist them. Formal operating rules, such as protocols, are particularly important in circumstances in which agencies may not have specialized units or personnel who can be devoted to the investigation of human trafficking cases or whose personnel change over the lengthy periods of time often required for many of these investigations to take place.

Finally, victims of human trafficking are often reluctant to come forward to the police and may resist law enforcement efforts to intervene, even in highly exploitive situations. If investigators rely too heavily on victims to reach out to law enforcement and provide information about their experiences, they will likely miss instances of human trafficking that may be occurring in their community. Even when victims do come forward, they have often suffered severe trauma, which decreases their ability to provide reliable and consistent information (Bales & Lize, 2007; Tyldum & Brunovskis, 2005). While victim testimony is ultimately critical to determining the mechanisms of force, fraud, or coercion used in human trafficking operations, it does not always need to be the central focus of investigative strategies. Expanding the investigative tools available to law enforcement to identify and investigate these cases will improve the success of future interdiction and prosecution efforts.

The research presented here provides the first benchmark of the current steps taken by local law enforcement agencies across the United States to identify or recognize human trafficking. It has provided important information about the current perceptions of local law enforcement officials about the problem of human trafficking in their communities and the steps their agencies have taken to prepare to investigate such cases. Yet, there is much more to learn. More research needs to be done to understand why many human trafficking victims and offenders are not identified by law enforcement. Additionally, we lack basic information about the connections between the human trafficking network and other criminal networks which could improve law enforcement identification and investigation strategies. Finally, more work is needed to help develop successful strategies for supporting and restoring victims of human trafficking.

Despite these challenges, local agencies in the criminal justice system are often in the best position to both identify these damaging crimes and provide protection and safety for trafficking victims who need assistance. The analysis presented here is intended to inform our understanding about the nature of law enforcement perceptions, preparations, and responses to the crime of human trafficking across the U.S. The recommendations that come from this research are intended to help these agencies strengthen and improve their efforts to identify, investigate, and successfully prosecute crimes of human trafficking.
Endnotes

1 In July 2006, the GAO reported a number of serious deficiencies in the estimates of trafficking in persons across international boundaries used by the United States government. Specifically, the GAO found “methodological weaknesses, gaps in data and numerical discrepancies” that cast doubt on the reliability of both U.S. and international estimates (p. 2).

2 The TVPA provides mechanisms for non-citizen victims of human trafficking who participate in the investigation and prosecution of trafficking cases, or who are under 18 years of age, to apply for nonimmigrant status through a special visa created for trafficking victims (T-visa). Potential trafficking victims receive certification through the U.S. Department of Health and Human Services, Office of Refugee Resettlement, which will provide access to benefits, including employment authorization, medical services, mental health services, housing, and Supplementary Security Income (SSI).

3 One of the well-known limitations of mail surveys is lower response rates compared to other methodologies such as face-to-face interviews. It is generally accepted that response rates above 50% are adequate for mail surveys (Dillman, 1991), while others suggest vigorous follow-up correspondence and use of incentives can increase response rates closer to 60 or 70% (Weisberg & Bowen, 1977). Additionally, since human trafficking is a topic that is unfamiliar or considered unrelated to the regular duties of some law enforcement agencies, we anticipated the survey response to be lower (Groves, Presser, & Dipko, 2004). Numerous steps were taken to overcome the challenges inherent to mail surveys, including University sponsorship of the survey, use of stamped return postage, postcard follow-up, and varying questionnaire color. Additionally, agencies that received the survey were provided the option to either fill out a paper version or complete the survey online.

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References


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Why Gangs Form

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Introduction

While reading about why gangs form, it is important to remember two things:

1. At a minimum, a gang may be defined as a group of two (some legislation requires the number to be three) or more individuals who have had an ongoing relationship with each other and who support one another individually or collectively in the recurring commission of delinquent and/or criminal acts.

2. Gangs vary widely in their composition and reason for being. Some are large, well-organized, and specialized in their criminal endeavors, while others are fleeting, small, and opportunistic. Some are involved in street crimes, while others are involved in hate crimes, satanic rituals, and other deviant behaviors.

The gangs discussed in this article are street gangs—gangs that exist primarily to profit from their criminal activities and/or to defend their turf, be it a neighborhood or the street corners upon which they sell drugs and conduct other criminal activity.

Why do street gangs form? The answer to that question reveals why some people join gangs and, at the same time, the needs the gangs fulfill for them. As Gardner (1992) notes, “[G]angs come into existence and flourish because the needs of the young people in a neighborhood or culture or family are not being met” (p. 16).

The gang situation in the United States is repeated in other cultures as the author witnessed when studying the gang phenomenon in Canada, England, and the Netherlands. Nearly everyone interviewed for this study identified the correlates of gang formation within a relatively narrow range of possibilities. They believed gangs formed because the needs of certain individuals were not being met through other channels (e.g., the family, schools, faith, the business community, and the neighborhood). Also apparent were the needs identified by Gordon (2000):

The causes of the waves of street gang and wanna-be group activity in Vancouver (British Columbia, Canada) were elusive, but the main reasons for involvement with . . . gangs and [wanna-be] groups were economic and ethnic marginality; material gain; the attraction of supportive peer groups; and flight from abusive family circumstances. (p. 39)

American psychologist Abraham Maslow (1970) categorized human needs into higher and lower levels. He referred to this as the “hierarchy of needs.” His is a widely accepted model for understanding the biological, psychological, and social needs of human beings. Maslow believes the lower-level needs must be adequately satisfied before an individual may successfully pursue the higher-level needs. The lower-level needs are physiological (i.e., hunger, thirst, shelter, sex, and
other bodily needs) and safety related (i.e., security and protection from physical and emotional harm). The higher-level needs are belongingness (i.e., affection, belonging, acceptance, and friendship), esteem (i.e., self-respect, autonomy, achievement, and status recognition), and self-actualization (i.e., the drive to fulfill one’s potential and self-fulfillment).

According to Maslow (1970), as each lower-level need is satisfied, the next level becomes dominant, with self-actualization being the ultimate goal. Where a need is absent, movement to the next level is impeded. Using his perspective, lacking a sense of security (a lower-level need) at home or in school, a youth may join with similarly situated youths who can provide the needed security. Absent a sense of belonging (a higher-level need) at home or at school, a youth may join with similarly situated youths for mutual support, acceptance, and friendship. For some youths, gangs fulfill the need for safety and belongingness.

One might ask, “How do such similarly situated youths meet each other?” Other than meeting in the neighborhood or at school, youths who are abused at home or who are tormented at school may, because of their behavior, be singled out by school officials for special treatment. Placing these children in special classes, tracks, or programs puts them together. If the behavior these youths exhibit leads to police custody, they are likely to meet in detention centers. Upon release, these youths are sometimes shunned and, intentionally or not, placed in a situation in which their only friends may be others who have misbehaved. The beginnings of a gang are not difficult to see in these scenarios.

The social implications of Maslow’s model suggest that gangs form to satisfy needs that are going unmet, or are perceived as not being met in the families, schools, and neighborhoods in which their members live or socialize.

The field of criminology offers us two distinctly different explanations for delinquent and criminal behavior. The classical school suggests that some people choose to violate the law. The choice is based upon the use of one’s free will while rationally contemplating the pros and cons of committing the illegal act and, in the end, choosing to act based upon the belief that the illegal behavior will result in more pleasure than pain. The way to reduce criminal/gang activity according to this explanation would be to increase the probability and level of pain (e.g., fines, incarceration, etc.) inflicted upon the wrongdoer, thus discouraging the inappropriate behavior. Choices and their consequences are stressed.

Determinism is the opposing school of thought. It suggests that some people are compelled to act in an illegal manner due to biological, psychological, and/or social forces beyond their control. It suggests that in order to reduce criminal/gang activity, we need to offer biological/medical, psychological, or social remedies. In reality, both explanations have value, as do both remedies. This article emphasizes the social and psychological correlates of gang formation.

There is no one all-encompassing reason for the formation of gangs, although there may be some reasons that are more significant than others in their impact. The reasons why this researcher believes gangs form, what they offer their members, and why some people join them are presented in Table 1. At least three themes form the backdrop against which the correlates of gang formation may be viewed.
First, issues raised by Maslow’s hierarchy of needs provide a silent but ever present backdrop for understanding many of the explanations. In addition, the correlates are often intermingled. Finally, social disorganization is typically associated with the formation of gangs and gang joining. As the informal institutions of social control weaken—such as the family, the school, and the faith community—some people begin to behave in unacceptable ways. As Spergel et al. (1991a) observed, “(The) gang is an important social institution for low-income male youths and young adults from newcomer and residual populations because it often serves social, cultural, and economic functions no longer adequately performed by family, school, and the local market” (Preface). In addition, “Rapid urban population change, community disintegration, increasing poverty, and social isolation contribute to institutional failures and the consequent development of youth gangs. The interplay of social disorganization and lack of access to legitimate resources, in particular, figure in the development of seriously deviant groups” (Spergel et al., 1994, p. 3).

Why gangs form and why some youths join them are two different questions, but their answers are inextricably intertwined. When reading the professional literature on gangs, the topic “Why Youths Join Gangs” is discussed far more often than the topic “Why Do Gangs Form.” This researcher prefers to write about why gangs form because removing those factors may more effectively reduce gang activity in the long term. Focusing on why gangs form draws our attention to the social forces that pull or push some people into a gang rather than on the people themselves. This requires a paradigm shift for those who focus more on the gang members than on the reasons why the gang they joined was created in the first place.

The following are among the most apparent correlates of gang formation and, while not prioritized, are presented in the order in which they will be addressed in the remaining pages:

- Social discrimination or rejection
- The absence of a family and its unconditional love, positive adult role models, and proper discipline
- Feelings of powerlessness
- Abuse, fear, and a lack of security
- Economic deprivation
- School failure, low self-esteem, and delinquency
- The lack of acceptable rites of passage into adulthood
- A lack of legitimate free-time activities
- Building upon a pathological offender’s needs
- The influence of migrating gang members
- Mass media portrayals of gangs and gang members
- Following in the footsteps of others
- Because they can

Each correlate suggests remedies needed to reduce gang formation and gang joining. The correlates are often referred to as risk factors. Individually, they do not explain why a gang may form or why someone might join a gang, but they become more apparent as possible causes of gang formation when there are several of them operating at the same time. For example, discrimination alone may not cause
a gang to form; however, when discrimination is accompanied by abuse, poverty, single parenthood, and school failure, gang formation is more likely as is the likelihood of gang joining. In this sense, there may be a “tipping point” in terms of the number of risk factors in operation beyond which chronic delinquency and gang joining are more certain. The risk factors could be thought of as precursors to gang formation in that it takes several of them before a gang may be created.

The explanations offered here are not mutually exclusive, and the combination of explanations may vary over time, from one neighborhood to another, and from one individual to another. There are some explanations, however, which consistently appear in chronic gang communities where gangs dominate social interaction on the street. How might a community address the gang problem it is experiencing? Each of the correlates of gang formation and gang joining presented here suggests its own solutions. If a lack of legitimate free-time activities is a problem, the neighborhood needs to create legitimate free-time activities. If racial/ethnic discrimination is present, the community needs to create programs that reduce the level of discrimination, and so it goes for each of the correlates or risk factors (see Carlie, 2002-2007, for more information on this issue).

### Table 1. Reasons for the Formation of Gangs and Gang Joining

<table>
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<tr>
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<tbody>
<tr>
<td>Social discrimination or rejection</td>
<td>Acceptance</td>
<td>Longing to be accepted and to enjoy a sense of belonging</td>
</tr>
<tr>
<td>The absence of a family and its unconditional love, positive adult role models, and proper discipline</td>
<td>A surrogate family</td>
<td>Their need for a family, unconditional love, positive adult role models, and discipline</td>
</tr>
<tr>
<td>Feelings of powerlessness</td>
<td>Power</td>
<td>To overcome their powerlessness</td>
</tr>
<tr>
<td>Abuse, fear, and a lack of security</td>
<td>Security</td>
<td>To reduce feelings of fear and to feel secure</td>
</tr>
<tr>
<td>Economic deprivation</td>
<td>A means of earning money</td>
<td>For economic gain</td>
</tr>
<tr>
<td>School failure, low self-esteem, and delinquency</td>
<td>An alternative to school and a way to gain respect and build self-esteem</td>
<td>Out of frustration at their relationship to school and an effort to develop self-esteem</td>
</tr>
<tr>
<td>The lack of acceptable rites of passage into adulthood</td>
<td>A rite of passage to adulthood</td>
<td>To accomplish the passage from childhood to adulthood</td>
</tr>
<tr>
<td>A lack of legitimate free-time activities</td>
<td>Activity</td>
<td>To keep from being bored</td>
</tr>
<tr>
<td>Building upon a pathological offender’s needs</td>
<td>A setting in which one can act out his or her aggression</td>
<td>To vent their anger</td>
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<tr>
<td>The influence of migrating gang members</td>
<td>Any of the aforementioned</td>
<td>Any of the aforementioned</td>
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<tr>
<td>Mass media portrayals of gangs and gang members</td>
<td>Any of the aforementioned</td>
<td>Any of the aforementioned</td>
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<tr>
<td>Following in the footsteps of others</td>
<td>Any of the aforementioned</td>
<td>Tradition and acceptance</td>
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<tr>
<td>Because they can</td>
<td>Any of the aforementioned</td>
<td>Any of the aforementioned</td>
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Social Discrimination and Rejection

Field Note: A Hispanic alternative school counselor said, “Mexican youth are being marginalized, pushed to the edge of society. As a result of this, they create their own subculture or join an already existing alternative subculture . . . the neighborhood gang.”

Gangs form in response to racial, ethnic, and other forms of discrimination in order to provide their members with feelings of acceptance and belonging otherwise denied them. In his research, Brown (1998) found that “Many gang parents actively attempted to discourage their children’s gang involvement. They were, however, attempting to raise the youths under conditions of racial discrimination and segregation and confinement to deteriorating, poverty-stricken neighborhoods. The youths viewed their gang affiliation as a means for survival” (p. 10).

In addition to racial discrimination is discrimination against people who have emigrated from other nations as well as people who have migrated or moved within the United States. Those who immigrate sometimes face prejudice and discrimination upon arrival in the host culture. The more mature adults among them may find a way to work through the prejudice and discrimination they encounter. Perhaps they have better coping skills than their children and younger adults. Some of their children, however, may turn to other children like themselves who are encountering rejection from members of the host culture. The concept of the immigrant tradition holds that those groups of immigrant youths sometimes morph into street gangs—formed, primarily, for the protection of their own members and to gain a sense of belonging and acceptance, at least among themselves.

In regards to the immigrant tradition, Robert Park and Ernest Burgess, sociology faculty at the University of Chicago in the early 20th century, developed a unique perspective on the urban environment called the ecological approach (Park, Burgess, & McKenzie, 1925). An outgrowth of their work provides us with valuable insights into the nature of urban life today and its relationship to the formation of gangs. Park found that a population of people (e.g., African-Americans, Asians, Caucasians, or Jamaicans) usually dominate (in population size) a given neighborhood. Over time, “new” and ethnically or racially different people may move into or invade the neighborhood and gain dominance over the old population through a process of succession.

They also observed that the process of dominance-invasion-succession sometimes resulted in conflicts between the various groups moving into and out of the neighborhood. Lacking successful integration, conflicts may lead some who seek protection and acceptance to form a group to fulfill those needs.

Sociologist Albert Cohen (as cited in Martin, Mutchnick, & Austin, 1990) provides insight into how gangs may form when integration into the larger society is blocked. He wrote, “If an individual finds assimilation into a larger and dominate [sic] culture problematic, he or she may search for alternate routes to the desired recognition and respect. Such a new quest is made easier if one associates with others who are experiencing similar rejection. As individuals experiencing similar stress congregate, new subcultures emerge” (pp. 245-246). For some youth, the new subculture may be a gang. According to Grennan, Britz, Rush, and Barker (2000), throughout history, when any ethnic group (e.g., Jewish, Irish, and Italian) was at
the bottom, gangs were formed (p. 16). This is part of the immigrant tradition as it explains gang formation—a small proportion of every new immigrant group may be deviant and, at the extreme, may form into a gang.

Immigration (the movement of people from one country to another) is only one half of the issue. The other half is migration (population movements within the same country). Migration may also result in difficulties with integration. Criminologist Thorsten Sellin (1938) referred to conflicts between one culture and another. He believed such conflicts are based upon the cultural differences between the different populations—particularly their norms concerning personal conduct. Carried out in the 1920s, Sellin’s research hints at a long history of understanding the causes of cultural conflict. His concepts can be applied to this discussion of why gangs form by viewing gangs as a mechanism for dealing with, or as product of, those cultural conflicts. They may form to provide an accepting environment as well as one that protects one’s cultural beliefs from people with conflicting beliefs.

Vigil (1988) explains the complexity of this situation when he refers to the “multiple marginality” (p. 15) experienced by youths from a foreign culture who are simultaneously rejected by the host culture and their home culture. Not only are some Hispanic youth rejected by their hosts, they are also rejected by their parents and other fellow immigrants because the youths are rejecting their “Hispanic-ness” in favor of trying to be adopted by the host culture. Moroccan youth in Amsterdam (Netherlands) are facing the same problem.

As Maslow (1970) found, a sense of belonging is a basic human need that must be met if the individual is to be healthy in the broadest sense. This need for acceptance may result in a child rejecting his or her family where they are not being accepted and forming a group of similarly situated youth in hopes of finding acceptance among them.

Absence of a Family and Its Unconditional Love, Positive Role Models, and Proper Discipline

Research conducted for this study began with an academic sabbatical in 1998. The author’s colleagues asked, “Why bother (to go into the field to study gangs)? People join gangs because their families are a mess. Right?” The author’s reply was “I’m going into the field to do research on gangs, so I’m not going to reach a conclusion until I complete the study.” What the author learned was that families are not islands unto themselves. They exist in a social network with other social institutions such as schools, neighborhoods, and the faith and business communities, to name only a few. By the end of this research project, it had become clear that the families from which the majority of gang members came were most often located in neighborhoods where the social institutions of informal social control (i.e., the family, schools, faith institutions) were weak or dysfunctional.

Gangs often form as a substitute for having a dysfunctional family—one which failed to provide unconditional love, positive adult role models, and proper discipline (not too lenient and not excessive). While a gang may serve as a surrogate family, it cannot replace what a “normal,” healthy family offers its children.
There is widespread agreement that the well-being of American society depends on the health of America’s families. Consensus also exists that the social and economic changes of the last generation or more have made it increasingly difficult for families to raise the next generation successfully. As reported by the U.S. Department of Education (2001),

Fatherlessness in America is at historically high levels. Four out of 10 children—an estimated 24 million—do not have their fathers present in their homes. Research shows that children from father-absent homes are more likely to do poorly in school or drop out; suffer from lower levels of self-esteem; get involved with drugs, alcohol and gangs; become teen parents; get into trouble with the law; or become incarcerated. (p. 1)

In addition, Lingren (1996) found that “from 50 to 85% of gang members come either from a single-parent home, or one in which no parent resides. If the parent is not available to provide structure, supervision, support, and caring during this crucial time of adolescent development, teens may turn to gang participation to fulfill their needs” (p. 1).

The Family as Socializing Agent

According to Campbell (1992), “There are several family-related factors that contribute to the formation of youth gangs: lack of parental guidance, lack of love and respect from the family, and deterioration of the family unit. It is these factors that drive the youth elsewhere to satisfy their needs to be accepted and to belong” (p. 58).

Schaefer (2001) explains that “The family is the most important agent of socialization in the United States, especially for children” (p. 101). The socialization process may be briefly defined as the way in which a culture’s norms, beliefs, and values are transmitted from one generation to the next. If a culture values human life, that value will be transmitted from parent to child through the process of socialization. If respect for another person’s property is valued, that value will also be passed along. If adherence to society’s laws is valued, the child will likely become a law-abiding adult. A myriad of values are transmitted in this fashion when there are family members or guardians present early in a child’s life who believe in those values and who are willing to spend the time needed to pass them on. The setting in which they are passed on also needs to be an affective one in which the child loves, respects, and values his or her parents or guardians.

Terence P. Thornberry (1998), in an excellent summary of family-related risk factors for gang membership, wrote

In general, poor family management strategies increase the risk for gang membership by adolescents. More specifically, low family involvement, inappropriate parental discipline, low parental control or monitoring, poor affective relationships between parent and child, and parental conflict put youths at risk for becoming gang members. These family-based risk factors are quite consistent with those generally observed as increasing risk for involvement in delinquency. (p. 35)
When the family is absent, when there is a dysfunctional family, or there are competing value systems being presented to a child, the transmission of mainstream cultural values may be endangered. The values may not be transmitted or those that are may run contrary to the values of the mainstream culture. According to Spergel et al. (1994),

Family disorganization, such as single-parent families or conflict between parents, does not as such predict gang membership. A variety of other variables must accompany a weak family structure to produce a gang problem youth, including [failure to complete developmental stages] and the availability of a peer group that does not fully support family and school. (p. 4)

Spergel et al.’s insight supports the notion of the “tipping point.” While delinquency does not necessarily involve gang membership, their correlation with each other is suggestive. The relationship between adult females, female juveniles, and delinquency has also been studied. According to Fejes-Mendoza, Miller, and Eppler (1995),

The family relationships of juvenile female offenders were characterized by mother-daughter friction, criminal role modeling of siblings, and multiple sources of abuse. Although familial abuse and modeling of criminal activity is typical in the history of most delinquents, what was most striking in profiling family dynamics of juvenile females studied was the stormy relationships with adult females, such as mothers and teachers. (p. 318)

Some gang youth come from dysfunctional families. Among the dysfunctional traits are child abuse, spouse abuse, substance abuse and addiction, parental gang membership, the absence of one or both parents, internal family strife, and poorly blended families—a family consisting of two adults, each with children from relationships other than the current relationship. If a child is raised in a family in which the parents are themselves gang members, there is little hope the child will escape being socialized into a gang and adopt the values of its members.

### Unconditional Love

Unconditional love is love that endures through hardship and disapproval, and over time. It is not contingent upon some specific expectation or requirement. Those who experience unconditional love are often considered fortunate and, as a result, may possess an internal strength and acceptance of self that prepares them for life as contributing members of society. Many who seldom or never experience unconditional love seem bound to forever seek it out or face a life of self-doubt. A visit to the “Psychology” or “Self-Development” section of a bookstore should provide sufficient evidence of the apparently consuming desire of people to be unconditionally loved and accepted.

The author’s experience with gang members suggests few came from a family setting that offered unconditional love. Even gangs may be dysfunctional in this regard. Their abuse of some of their own members and continual tests of loyalty do not resemble unconditional love. When a girl joins a gang, she views other gang members as her role models. Although these girls may have poor adult role models at home, the gang members they may idolize are equally poor role models.
Often, they are led down a path of violence, drug abuse, and casual sex, ending up pregnant or in court before they have graduated from high school.

**Positive Adult Role Models**

Lewis Yablonsky (1997), a senior researcher on gangs, noted that “Most youths who become gangsters have had no positive adult role models in their lives. In too many cases, their adult role models are frequently in and out of prison” (p. 7). As has been noted in much of the literature on gangs, many of their members come from single parent homes in which the mother or maternal grandmother is the only guardian present. Accordingly, in fatherless families, there may be no positive adult male role model for a young male child to emulate. As Miller (2001) found,

“The gang is a product of the broken home” was a popular saying among those who worked with gangs in the 1950’s . . . . The research suggested a causal link between youth gangs and males reared in fatherless households. The argument, in brief, was that the absence of a stable male role model in many low-income households created identity problems for males and that the gangs, with their emphasis on tough masculinity, male bonding, and macho values, in essence took the place of fathers in providing a model of male identity for boys raised primarily by women. Gang membership played a vital role in learning and practicing the characteristics and attitudes of male adulthood.

Insofar as the proposed link between gangs and fatherless families is valid, one would expect that communities with gangs would have more female-headed households than other communities and that an increase in the number of female-headed households would lead to an increase in the number of gangs. Available data support both assumptions.

According to Reiboldt (2001),

Youths often feel that gangs can protect them and keep them safe within the neighborhood, even when lacking parental support for the decision. When children are not monitored or supported by their parents (especially in single-parent households), gang membership becomes more attractive to youth. Joining a gang, therefore, seems to be one mechanism for an adolescent to find both family fulfillment and protection. (p. 220)

A gang may at times be a functional alternative to having a family. It may provide its members with a sense of belonging, affection, mutual support, and association. Among the differences between a family and a gang, however, are the gang’s possible initiation requirements; the expectation that its members will violate the law and conceal the criminality of fellow members; conditional love/caring; and the need to exhibit a certain bravado, which precludes being vulnerable and opening oneself up for examination and guidance. Being threatened with punishment or murder for leaving the gang also differentiates gangs from a family. That some youths who join gangs hope to find a surrogate family is understandable, but depending upon their level of desperation, this need may blind them to what the gang is actually about and the consequences of joining that may follow.
In some cases, the gang is merely looking for additional members in order to boost its reputation as the biggest and most powerful in the neighborhood. They sometimes have little regard for the welfare of their members. Some gangs seek new members with the expectation that the new members will carry out the least desirable or most dangerous chores for the gang (e.g., transporting illegal drugs, killing people, conducting drive-by-shootings, holding the weapons).

Field Note: I asked a long-time West Coast gang unit member why he thought some kids join gangs. He replied, “Effectively, none of them have parents and, if they do, the parents have poor parenting skills. The kids don’t take responsibility for their actions. And their parents and the criminal justice system don’t hold them responsible for their behavior.”

Discipline

When used appropriately, discipline reinforces compliance with family expectations. When not used, or when used inappropriately, it may result in neglect or abuse of a child. Lynskey, Winfree, Esbenson, and Clason (2000) found that “youths with low self-control levels reported that they were more deeply involved in gangs than youths with high self-control, as were youth who did not receive close parental monitoring” (p. 13). Excessive discipline (to the point of abuse), inconsistent discipline (sometimes the result of the discipliner’s substance abuse, incompetence, or absence from the home), or lack of discipline (possibly neglect, the most common form of child abuse) encourage the onset of misbehaving and set into motion a cycle of abuse that may drive a child from the family home. It drives some children to form gangs and others to join them.

Powerlessness and the Absence of Hope

Gangs may form as a result of youths having little hope and a sense of powerlessness over their own lives. Desperate about their current life situations (e.g., being abused, failing in school, being addicted to drugs) and feeling powerless to gain control over it, they may form a gang in order to gain power or control.

One of the questions asked of each gang member interviewed for this study was “What do you think you will be doing ten years from now?” The common reply was “I won’t even be alive by then, so who cares!” Jackson and McBride (2000) addressed this issue when they wrote, “To convince a young person who is not sophisticated enough to see beyond tomorrow, that he must prepare for the future, can be an exercise in futility” (p. 17).

Yablonsky (1997) addressed the same issue when he found that “Gangsters have created their (macho) stance in part as a reaction to their deeper feelings of alienation and hopelessness about achieving any degree of success in the larger society. They strike back through gang violence at a society they feel has boxed them into hopelessness” (pp. 19-20).

Interviews with gang members conducted for this study revealed considerable hopelessness. It seemed to surface most often with older gang members; members who had lost fellow gang members through death or injury; or those who had been arrested, convicted, and sent to prison. The gang members interviewed who were 20 years of age or older nearly all said they’d “had enough” of the gang
life. If they had a younger sibling or a child, they discouraged them from ever getting involved in the gang life. They saw gangs as losing propositions. Even the established, older members who had accumulated money, cars, apartments, and a few women felt that way.

It appears that, at first, a gang offers potential and new members the prospect of being accepted, loved, cared for, and protected. It creates an environment in which they feel a sense of belonging. There are opportunities to socialize, date, have sex, obtain drugs, and, perhaps, earn money. In that environment, the potential or new member may begin to have a sense of hope, of having a future in the gang, and a future for him- or herself. It invites the feeling of finally having control over one’s life, of having the power to become someone.

As learned from many of the gang members interviewed, however, with the passage of time, these hopes all too often become an illusion, as gang members suffer the loss of fellow members, get arrested, spend time in jail or prison, deal with probation and parole officers, get hounded by the police, and have to deal with rival gang members. Ironically, they often become powerless in the face of such circumstances. This continuing sense of hopelessness and powerlessness has a certain liberating effect. Why attempt to control one’s behavior for fear of being penalized when one’s life is viewed as short and it doesn’t mean anything anyway? That’s what fosters gang formation—the desire to control one’s life and the circumstances that arise in it. Without access to socially acceptable avenues for acquiring power, the gang offers opportunities to acquire it.

Abuse, Fear, and a Lack of Security

Some gangs form because certain individuals fear abuse and lack a sense of security in their lives. They may be exposed to neglect or emotional, psychological, physical, and/or sexual abuse. The sources of abuse are many and include, but are not limited to, family members, strangers, peers, one’s own or rival gang members, school personnel, and police.

James Garbarino is a nationally recognized expert whose research focuses upon the impact of family, community violence, and trauma on a child’s development. He defines maltreatment of children as “acts of omission [neglect] or commission [emotional, psychological, physical, and/or sexual abuse] by a parent or guardian that are judged . . . to be inappropriate and damaging” (Garbarino & Eckenrode, 1997, pp. 8-9). He also found that “. . . children who are maltreated are much more likely than non-maltreated children to develop a chronic pattern of bad behavior and aggression” (p. 80).

The most recent data on murder and other forms of maltreatment of children in the United States is instructive. According to Finkelhor and Ormrod (2001), “Most homicides of young children are committed by family members through beatings or suffocation. Although victims include approximately equal numbers of boys and girls, offenders include a disproportionate number of women. Homicides of young children may be seriously undercounted” (p. 1).

Other countries have similar difficulties, China among them. In a study conducted by So-Kum Tang (1998) in Hong Kong, researchers found, “When compared to
U.S. families, Chinese families showed... much higher rates of severe violence toward children (461 versus 110 per 1,000 children). Children aged 3-6 years were the most vulnerable victims, and female caregivers the most likely abusers in both U.S. and Chinese families” (p. 385).

Many gang members come from families in which they are neglected and where psychological, emotional, physical, and sexual abuses are found. These abuses at a very early age typically have a negative effect on a growing child. They leave an indelible impression, which leads to the kind of anger and aggression we see exhibited by today’s gang members. Does this mean that every abused child will become a gang member? Certainly not. These maltreated children will, however, face challenges and be more likely to suffer from low self-esteem, have trouble at school, and feel terrible about themselves and others.

Noting, once again, the intermingling of risk factors, Walker-Barnes and Mason (2001) report, “A survey of thirty-one 12- to 17-year old female, minority, alternative school students found they might turn to gangs for protection from neighborhood crime, abusive families, and other gangs. Family characteristics linked to gang involvement included a lack of parental warmth and family conflict” (p. 303).

Data in The Sourcebook of Criminal Justice Statistics (Bureau of Justice Statistics, 1999) confirm the basis for some of the fear teenagers may feel. Thirteen percent of male and 10% of female teenagers interviewed estimated their friends had been “attacked by a gang or posse” in the last 12 months (p. 96, Table 2.5). When some of these children walk out the front door of their place of residence, they find violence on the street as well as in their schools and on school playgrounds. For a 6-, 7-, or 8-year-old child, it is a terrifying universe and one over which he or she has little or no control. How does a child cope with this situation? The author received an e-mail in May of 2004 in which the writer exemplified his concern for his own safety and desire for security:

I am doing a paper about Hispanic street gangs for school, and your website really helped. I am 15 and live in Detroit, Michigan. My high school is a host to about 12 different gangs though it is not really a serious problem. My school is on the North Side of Detroit and is more fortunate than some of the South Side Schools. I joined one of the gangs at my school... when my little brother was beaten up by another gang. For me, gang life consisted of a few scruffles and a broken leg, nothing serious. I decided to leave the gang when most of the rival gang members either dropped out of school or graduated. Their [sic] was also talk of an L.A. gang coming to take over some “action.” I did not want to get involved with any L.A. gang so I left.

For children in a loving, caring family, the family may provide the security they need, but if the family is the source of fear, or if it is a dysfunctional, abusive, or neglectful, the children may be left to fend for themselves. Without any other source of safety, a gang can provide for a child’s need for security. There is safety in numbers and in the reputation of the gang. Ironically, concomitant with gang membership is exposure to injury from one’s own gang members and rivals and, of course, involvement in the justice system.
Some young females seek gang membership in hopes that the male gang members will stop the abuse the young women are experiencing at home. According to Moore and Hagedorn (2001), “There is one aspect of female gang life that does not seem to be changing—the gang as a refuge for young women who have been victimized at home. The available research consistently shows that high proportions of female gang members have experienced sexual abuse at home” (p. 3).

Gangs may be most likely to form when what Maslow (1970) identified as the basic human need for safety and security can be found nowhere else. The security a gang provides may be a byproduct of the gang’s reputation, thus preempting an assault by rival gang members and other people. It may also be direct and physical as when one or more of the other gang members come to the aid of a fellow member whose safety is being threatened. A gang member’s security is enhanced by a gang if its members offer resources needed for a member’s legal defense and/or provide weapons for self-defense and alibis when they are needed to avoid prosecution.

**Economic Deprivation**

Gangs may form to provide a mechanism for earning money or obtaining goods and services not available, or perceived as not available, through legitimate means. As street gangs appear to be concentrated in neighborhoods characterized as relatively impoverished, where unemployment and underemployment are common, the lack of employment may lead to gang formation in those areas. According to Mocan and Rees (1999),

A longitudinal study of over 16,000 high school students in the United States found that an increase in local unemployment resulted in increased property offending by both high school males and females (burglary, robbery, and theft). The researchers suggested that, to reduce juvenile property offending, communities would be wise to increase employment opportunities and increase family income. (p. 3)

Reiboldt (2001) found that . . .

A complex relationship exists between adolescents, gangs, family, and neighborhoods. The community in which youth are raised provides the environment in which gangs operate. When neighborhoods are poor, violent, and unsafe, gang activity is often an outcome. If economic opportunities do not present themselves, the gang option is seen by many as an alternative way of obtaining power, money and protection. (p. 222)

Areas characterized by a lack of economic opportunities, poverty, inadequate city services, and struggling school systems are typically home to a significant segment of a community’s minority and/or new immigrant populations. This is an age-old tradition as these neighborhoods provide less expensive housing and tend to offer a sense of comfort to minorities/immigrants due to the preponderance of people sharing their same demographic profile.

When businesses move out of an inner-city or impoverished neighborhood to surrounding areas and when new businesses develop in the suburbs rather than
in the inner city, inner-city residents are left with a declining number of legitimate opportunities to work and make a living. Economic opportunities and the quality of life in a given neighborhood are inextricably bound to one another. In their review of Wilson’s (1987) book, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy*, Small and Newman (2001) noted that

. . . since 1970, structural changes in the economy, such as the shift from manufacturing to service industries and the departure of low-skilled jobs from the urban centers, increased black joblessness in central city ghettos. The inner cities also suffered from the flight of middle- and working-class blacks who took advantage of affirmative action and fair housing laws to relocate to higher-income urban neighborhoods and the suburbs. As working families departed and the nonworking families stayed behind, inner-city neighborhoods became mired in concentrated poverty. The result, Wilson argues, was a new “underclass” of single-parent families, welfare dependency, joblessness, and overall increased “social pathologies.” (p. 24)

Small and Newman also noted Wilson’s belief that the . . . concentration of poverty results in the isolation of the poor from the middle class and its corresponding role models, resources, and job networks; more generally, he argues that being poor in a mixed-income neighborhood is less damaging than being poor in a high poverty neighborhood. Concentration effects increase the likelihood of being unemployed, dropping out of school, taking up crime and becoming pregnant out of wedlock. (pp. 29-30)

In addition to decimated business areas, poorly managed public housing stands out as one of the most common characteristics of an inner-city gang neighborhood (Carlie, 2002-2007). Carlie did not suggest that all public housing is dominated by gangs, only that gangs are disproportionately found in neighborhoods with poorly managed public housing. These neighborhoods are characterized as providing limited opportunities for gainful employment—particularly for young people. Having lost the businesses and the property taxes they generate, the neighborhoods cannot adequately support the schools, parks, streets, sidewalks, and other infrastructure necessities. In stark contrast, a suburban youth can usually find part-time employment in any one of a number of his or her neighborhood groceries, restaurants, shops, department stores, or other places of business.

The increase in the gang problem, at least partially, is the result of the unemployment and underemployment of minority males. As Spergel, Ehrensaft, Alexander, and Laster (1991b) found, inner-city gang- and gang-prone youth have the highest rates of school failure and unemployment and the least appropriate employment skills and work attitudes.

**Gangs, Turf, and Profit**

Today’s street gangs appear to be more interested in profit than anything else. The millions of Americans who use drugs made illegal by our government have fueled a large and profitable drug market. The poor quality of life found in our inner cities and the lack of legitimate business skills among the youthful population
there have created an alternate economy where theft and fencing operations, prostitution, gambling, and the sale of illegal drugs proliferate. In a survey of 30 12- to 17-year-old female, minority, alternative school students, Walker-Barnes and Mason (2001) found the students felt that “...through their participation in illegal activities, gangs were viewed as providing access to excitement and money-making opportunities not available through legitimate social institutions” (p. 305).

Put simply, if a community fails to provide legitimate opportunities for its residents to earn money, some of them may organize to find ways to earn money for themselves. If no legitimate way to earn money is available, illegitimate ways will be found—and one way is through forming a gang. As Cloward and Ohlin (1960) established in their research nearly 50 years ago, where the legitimate means for achieving the culturally legitimated goal (financial success) are limited or denied, illegitimate opportunity structures, such as gangs, will arise to provide an alternative means of reaching that goal.

The arrival of crack cocaine in the early 1980s signaled an increase in the use of such illegitimate means. As Wiley (1997) found,

Gangs have been involved with the lower levels of the drug trade for many years, but their participation skyrocketed with the arrival of “crack” cocaine. Almost overnight, a major industry was born, with outlets in every neighborhood, tens of thousands of potential new customers, and thousands of sales jobs available. In slightly over a decade, street gangs have become highly involved in drug trafficking at all levels.

In those areas where gangs arise as an illegitimate opportunity structure, the solution is found in the nature of the problem itself. As related to Maslow’s (1970) low-level needs, Persily notes,

In some areas gangs are providing alternative economies to youth who have no resources by providing not only a sense of identity, but also a means to meet basic needs for food, clothing and shelter. In these cases crime, primarily drug trafficking, and violence is endemic to their survival, and long term solutions are not easy to find without addressing the basic survival needs of their members.

The Response to a Lack of Legitimate Opportunities

A lack of legitimate opportunities, or when access to them is limited or denied, coupled with a demand among youth for the most fashionable clothes, cars, drugs, CDs, and other material goods and services, creates an environment in which theft and drug sales flourish. It only takes one or two youths with an entrepreneurial spirit to organize a group to satisfy that market. If they do so using illegal means, they are a gang. If they do so using legal means, they are budding entrepreneurs.

Writing in the 1930s, Robert King Merton (1938), a well-respected and insightful sociologist, suggested that people who are discriminated against and denied access to the legitimate means of achieving our culturally legitimated goal of financial success may turn to illegitimate means for reaching that goal. For Merton, and
most Americans, the legitimate means for reaching the goal of financial success include the acquisition of an education, getting a job, and working hard.

Millions of Americans, however, are denied access to a good education and meaningful job opportunities, with racial and ethnic minorities being the most recognizable among them. As we have seen, some of the schools and businesses in the neighborhoods in which they live are struggling and may offer little in the way of hope for the future. Richard Cloward and Lloyd Ohlin (1960) refined Merton’s concept by adding the notion that some of the illegitimate means used to achieve financial success may be as structured as the legitimate means—they called them illegitimate opportunity structures, and gangs are one of them.

Gangs provide an illegitimate opportunity structure for earning money and obtaining other goods and services. Similar to someone applying for a legitimate job in order to make a living, someone else may be initiated into a gang, which will also offer opportunities to make money. Gangs are an opportunity structure similar to legitimate businesses except that the way they “earn” money is illegitimate.

Moore and Hagedorn (2001) provide a useful and concise look at the transition that has occurred in the American economy relative to gangs and the inner city. Where jobs in legitimate business are lost, activity in illegal activity may increase:

Throughout the 20th century, poverty and economic marginality were associated with the emergence of youth gangs, but in the 1980s and early 1990s, the loss of hundreds of thousands of factory jobs made conditions even worse in America’s inner cities. Hagedorn’s study of gang formation in Milwaukee, WI, a city then suffering economic decline, shows that although the parents of most gang members usually held good jobs, these jobs had disappeared by the time their children were grown. It is not surprising that gangs proliferated rapidly during this period, not only in Milwaukee but throughout the nation. (p. 2)

Merton (1957) stated his findings most succinctly:

Our primary aim is to discover how some social structures exert a definite pressure upon certain persons in the society to engage in nonconforming rather than conforming conduct. If we can locate groups peculiarly subject to such pressures, we should expect to find fairly high levels of deviant behavior in these groups, not because the human beings comprising them are compounded of distinctive biological tendencies but because they are responding to the social situation in which they find themselves. (p. 186)

To put the matter concisely, the inner-city environment in many chronic gang cities may be characterized as having little in the way of economic opportunity for some of its youth—particularly poorly educated, immigrant, and minority youth. In the face of this, gangs have formed as a mechanism for earning money or otherwise obtaining goods and services not available through legitimate means.
School Failure, Low Self-Esteem, and Delinquency

When addressing the relationship between school failure and delinquency, one is drawn into a conversation about self-esteem because much of a youth’s feelings of self-worth are based upon his or her performance in the school setting. As used here, esteem refers to the regard in which people are held by others. If they are held in “high” esteem, they are thought of positively. People who have high self-esteem commonly regard themselves as good people; they are satisfied with themselves and confident. They have a sense of self-worth and self-competence. People with low self-esteem think poorly of themselves.

Some children are able to build high self-esteem at home. Their parents or guardians reward them for positive behaviors, thus fostering the development of high self-esteem. Other children are struggling at home. They are abused, neglected, and generally made to feel as though they are worthless and unwanted. They are more likely to develop low self-esteem and feel badly about themselves. They also have a propensity to feel negatively toward others.

While some gang members present themselves with bravado—think highly of themselves and are proud of what they have become—some youth who join gangs suffer from a negative self-image. Opportunities to feel good about themselves in their family or at school were few and far between. Yablonsky (1997) contends, “The gangsters’ personality problems of low self-esteem and sense of alienation drive them to act super tough to compensate for their sense of inferiority” (p. 18). One could easily add teachers and school administrators to the list of those who may “disrespect” youths.

According to Yablonsky,

. . . the following sequence of events depicts the early socialization process in the background of the typical sociopathic gangster: (1) as a child, he is emotionally, sexually, or physically abused or neglected by his primary socializing agent, his parents; (2) because he is treated in negative ways and with limited respect, the child feels humiliated, demeaned, and unworthy; (3) as a consequence of this pattern of socialization he develops a low self-concept and feels self and other rage and hatred. He tends to accept on some deeper emotional level a message he is repeatedly given, which he interprets as “If these powerful people in my life, my parents, think that I am stupid, inadequate, and unworthy of love and respect, I must be an inferior person”; (4) mixed in with this creation of feelings of low self-esteem is a rage against the parents who abused or neglected him, and this rage is often displaced to others in a society that also treats . . . [him] with . . . disrespect. (pp. 120-121)

Schools are another social institution in which a child may develop either high or low self-esteem. When children succeed at school—earn good grades, are respected by their teachers—they are more likely to develop high self-esteem. When children fail in school—when teachers punish or ridicule them—they are likely to develop low self-esteem. As Fejes-Mendoza et al. (1995) found, “Educational histories of juvenile female offenders reflected repeated failure, unrealistic ideations about how well academic skills were being performed, a high percentage of students
needing special education, and unsatisfactory past relationships with teachers (p. 315).

If school failure sometimes leads to feelings of low self-esteem, one can understand that a gang may form in order to provide such youths with an opportunity to build self-esteem through the reputation of the gang, positive association with one another in the gang, gang-related accomplishments, and gaining power over others as a result of their gang affiliation. As in non-gang society, gangs offer ways in which their members may earn “respect” (although such respect is actually “fear” of the individual). Succeeding in the commission of a crime earns respect within a gang. Among other things, respect may be earned by “ripping people off” (i.e., stealing or playing a con game), disrespecting authority, successfully committing a crime, dominating another person, exploiting others, serving time in prison, or being a known associate of a gang member with greater status than one’s own. The point here is that a gang provides opportunities to build self-esteem—opportunities that were perceived of as unavailable outside the gang.

Middle- and upper-class youths have several sources for achieving a sense of self-worth. Among them are excelling at school, succeeding in extracurricular athletics, going to camp, excelling in a leisure-time activity or craft, and earning a legitimate part-time income. Some of these opportunities are difficult to obtain for lower-class children and even less so for children from the underclass—families that have lived in poverty for several generations. According to Egley (2000), “Fifty percent of gang members were reported as underclass, followed by working class (35%), middle class (12%), and upper middle class (3%) (p. 1).

There are at least three ways in which delinquency has been linked with school failure. Poor academic performance for some children results in low self-esteem, which may result in being truant and dropping out of school. This, in turn, may lead to the formation of a gang through which the individual gains a sense of self-worth. Those who are expelled from school or placed in an alternative school or classroom meet one another, and the potential develops for forming a group. Alternatively, some neighborhood schools are failing in their effort to educate and socialize students, which may result in a child’s rejection of school and the formation of a gang (with other disaffected students) as a mechanism for filling time, acting out against the school, acquiring skills needed to make money, and building self-esteem.

Finally, according to Siegel and Senna (1997), school failure and delinquency may be the result of problem behavior syndrome—that is, possessing a low IQ, experiencing a turbulent family life, low self-control and impulsivity, drug use, depression, malnutrition, abuse, and disease (p. 365). Gangs may form when children with problem behavior syndrome are brought together or seek one another out as a support group.

Once again, the relationship between school failure and delinquency is intertwined with other risk factors as noted by the Office of Juvenile Justice and Delinquency Prevention (1999). In their report entitled Promising Strategies to Reduce Gun Violence, they state,
The tri-city area of Pharr-Alamo-San Juan, Texas, has 5,000 gang members (about one-fourth of the student body) attending the district’s schools. It is an area of high drug use and drug trafficking within 44 neighborhoods (colonias) characterized by high unemployment, few job opportunities, and substandard housing that is often without indoor plumbing. Children who are most at risk often come from families involved in drug use and/or trafficking and frequently have been sexually abused. (p. 199)

**Poor Academic Performance**

Thornberry (1998) contends that students with low educational expectations are at increased risk for gang membership. He also notes that low parental expectations for their children’s academic performance are more likely to lead to gang membership. Le Blanc and Lanctot (1998) add that students exhibiting low commitment and involvement at school are also more likely to join a gang. As Maguin and Loeber (1996) found

> Poor school performance is known to be a strong predictor of involvement in delinquency or crime. Children with lower academic performance are more likely to offend, more likely to offend frequently, more likely to commit more serious offences, and more likely to persist in crime. These relationships can be found even when socioeconomic status and prior conduct problems have been controlled. (p. 248)

Garry (1996) found that “truant students are at higher risk of being drawn into behavior involving drugs, alcohol, or violence. A California deputy assistant attorney who handles truancy cases says he has never seen a gang member who wasn’t a truant first” (p. 1).

Present-day statistics alert us to the fact that there is a significant problem related to dropping out, and it impacts certain ethnic and racial groups differently. According to research conducted for the Office of Juvenile Justice and Delinquency Prevention (2000), Hispanic Americans appear to be most at risk of dropping out and, as previously stated, they represent the largest single ethnic group of gang members in the United States today. Cotton (1991) reported that

> Few issues in education are of greater concern to policymakers, educators, and the general public than the plight of ethnic and racial minority students in the nation’s urban schools. To be sure, many of these young people receive high-quality educations, achieve at admirable levels, and complete high school equipped with the knowledge and skills needed for further education or entry-level employment.

> An alarming number of these students, however, achieve at significantly lower levels than their White counterparts and leave school—either through dropping out early or at graduation—lacking the skills and knowledge required by employers, colleges, and trade schools. (p. 1)
Failing Schools

As noted earlier, most street gang members live in impoverished conditions. The neighborhoods in which they live are characterized by neglect at all levels, including neglect by their city governments. One aspect of that neglect is reflected in the condition of many inner-city schools. Worn down, neglected, and denied regular maintenance, the physical plant of the school itself is neglected. Neglected, too, are the school libraries, desks, and the teachers. The teachers are overworked and faced with too few resources to do the job they were hired to do and would like to do if conditions were better. Some even receive “hazardous duty pay” for working in such conditions.

Further complicating matters is the fact that immigration and migration have created an increasingly diverse population of students in many of our inner-city schools. How well-prepared are administrators and teachers to deal with the diversity and the resulting conflicts? How well-prepared are the students? Research has shown that some students are stigmatized by teachers and school administrators because of their differences, which makes the educational experience at school even more difficult for the affected student. As Wang, Haertel, and Walberg (1997) found

Educational environments that are responsive to human diversity treat differences among students as strengths that can be built upon or as needs that must be accommodated. Unresponsive and ineffective systems of delivery ignore individual differences or, even worse, treat student differences in a stigmatizing manner that reduces learning opportunities. (p. 11)

Faced with the frustrations of teaching sometimes unmotivated or disruptive students, some teachers practice social promotion. Social promotion is an unwritten policy wherein teachers allow students performing at substandard levels to promote into the next grade along with the children who performed well. There are consequences for the children who are socially promoted. They are not prepared for the next year in school and are more likely to experience failure or other frustrations. According to Denton (2001) and the U.S. Department of Education (1999), social promotion undermines students’ futures when they fail to develop critical study and job-related skills.

The situation at home may be just as problematic for some inner-city children. Their parents are far from helpful. They detract from their child’s school performance by discouraging attendance (so the parent can use the child to do something else—shopping, stealing, taking care of the parent, etc.), failing to tutor the child, and hindering teachers’ efforts to help the child.

Problem Behavior Syndrome

As mentioned above, it is possible that both school failure and delinquency are caused by a third factor—the problem behavior syndrome (Siegel & Senna, 1997, p. 365). If this is the case, then, for children so afflicted, our attention needs to turn to the causes of the problem behavior syndrome and an understanding of whether the syndrome leads to gang formation or not.
Failing at school, for whatever reason, presents our youth and our society with a significant challenge. Illiteracy, a lack of exposure to positive role models in the school (peers and teachers alike), and the frustrations that follow in the wake of academic failure lay the foundation for powerlessness, a loss of hope, and low self-esteem. The challenge for these children is to stay out of trouble and to keep from associating with other children who are in a similar predicament.

The Lack of Acceptable Rites of Passage into Adulthood

The term *rite of passage* describes any ritual that denotes an individual’s passage from one stage in life to another. According to Bloch and Niederhoffer (1958), gangs may form in response to a lack or unavailability of culturally approved rites of passage from childhood to adulthood. Gangs offer alternative rites of passage for their members. In their work, “Bloch and Niederhoffer assert that when societies do not make adequate preparation, formal or otherwise, for the induction of its adolescents into adult status, the youths will make their own culture for this transition, and they assert that the gang is this social form” (Yablonsky, 1997, p. 172).

When does a child become an adult? When does a girl become a woman or a boy become a man? There are several rites of passage that mark such transitions. Among them are one’s first day of school, graduation, religious confirmation, Bar Mitzvah, first job, work promotion, voting, culturally significant birthdays (e.g., turning 16, 18, 21, 30, or 65 years of age in American society), first marriage, menopause, retirement, and death. According to Papachristos (1998), “Successful rites-of-passage programs for adolescents may provide . . . an avenue for change. [They] provide an alternative rite of passage into adulthood” (p. 40, italics added for emphasis). Papachristos also believes that for youths who do not have access to legitimate rites of passage, such as those listed above, gangs fulfill the key elements of a rite of passage:

They provide a *group of elders*, sometimes called OGs or veteranos, for the new members to emulate, admire, and model. There is a *period of separation* from the family of origin of the new member during which an initiation or other ceremony may take place. A *sacred place* is established and may take the form of a territory, a corner, or a meeting place. There is a *symbolic death* of the new member as he or she leaves the old life as a non-gang member and takes on a new identity as a member of the gang—complete with a new name (moniker); a new group of associates; and, perhaps, a new way to dress, move, talk, and live.

There are *trials and tribulations* including, in some instances, feats which must be performed or trials which must be endured as a means of proving oneself worthy of entry into the gang. A *revelation* takes place in the new member concerning his or her new place in the world and purpose for living. After being accepted into the gang, a *resurrection* takes place as a new person with a new status in life. After all of the above, the new member becomes a part of a new way of life, a new community, a new family—the gang. He or she is *reincorporated back into the community* with a new status. (pp. 35f, emphasis added)

Using crosscultural studies, Bloch and Niederhoffer (1958) found delinquency rates were lower in societies with clearly identified, culturally legitimated, and
accessible rites of passage from childhood to adulthood than in societies without such rites. Some of the rites of passage referred to above are not equally accessible to everyone in American society; therefore, according to Bloch and Niederhoffer’s notion, delinquency rates are comparatively high in the United States.

For some youth, a gang becomes an alternative way to transition from childhood through adolescence to adulthood. A gang confers power, which may be exercised over others and gives members the perception that they are now “grown up” and can move up to a new status or position in the gang. Passing the gang’s initiation ceremony is only the beginning of this process for some people. By successfully completing tasks within the gang, the new member becomes established and moves from a lower status in the gang to a higher status. Committing a crime, getting arrested, serving time, and participating in other events mark a gang member’s move up the social ladder of the gang. Each movement up in status is another step in the rite of passage into adulthood—in the case of gangs, becoming an OG or a *vetereano* (as in some Latino gangs).

Having few legitimate ways to be recognized as an adult, some youths may smoke, skip school, participate in sexual intercourse, and drink alcohol to emulate grownups because these are perceived to be adult behaviors. Adults smoke, they don’t have to go to school, they have sexual relations, and they consume alcohol. The problem is, in most communities, that kind of behavior on the part of a minor is defined as delinquent or criminal.

**Lack of Legitimate Free-Time Activities**

In some cases, gangs form in response to a lack of legitimate free-time activities for a community’s youth. As Stone (1999) found, among the reasons for joining gangs were obtaining money, protection, or lack of alternative activities.

For most youths, family, school, and faith institutions offer an array of legitimate activities—enough to keep some children so busy they are literally exhausted at the end of the day as are the parents who shuttle them from one activity to another. Families go on vacations and picnics. Boy Scouts and Girl Scouts sponsor outings and socials. Schools take children to the zoo and offer a range of after-school activities, including specialty clubs and athletics. Faith institutions sponsor missionary work, community service, dances, and activity centers where youths can socialize and be entertained.

Some youths, however, live in family and neighborhood settings that are devoid of such activities, or in settings in which activities are limited due, in part, to financial constraints. If lawful forms of activity are not available, some youths will opt for activities that may get them in trouble with the law. Some of the unlawful activities take the form of striking back at family members, peers, school authorities, and others. This may include running away, vandalism, fighting, and theft. When caught for behaving in this manner, the youth may be placed in detention and begin socializing with youth in similarly situated circumstances.

Once formed, gangs provide a multitude of things to do for their current and potential members—both lawful and unlawful. Among the lawful activities are socializing (“kickin’ it”) and parties. Among the unlawful activities are the crimes
they commit. The point is that, lacking legitimate free-time activities, some youths unite to find amusement, sometimes to the community’s detriment as well as their own.

Building Upon a Pathological Offender’s Needs

Some youths are abnormal or pathological, filled with anger and rage, and easily provoked into violence. As a result, they are often marginalized by their families, school teachers and administrators, justice personnel, and others. Time spent in confinement for their acts brings them into association with other youths who exhibit similar tendencies. They may begin to associate while in confinement and continue their relationship upon their return to the community. Alone or together, they may also form a gang by recruiting other disaffected youths to join them.

In this regard, gangs sometimes form as a result of recruitment by pathological offenders or as a result of their attraction to other disaffected youth. According to Mealey (1995),

Sociopaths are “outstanding” members of society in two senses: politically, they command attention because of the inordinate amount of crime they commit, and psychologically, they elicit fascination because most of us cannot fathom the cold, detached way they repeatedly harm and manipulate others. . . . Sociopaths, who comprise only 3-4% of the male population and less than 1% of the female population, are thought to account for approximately 20% of the United States’ prison population and between 33% and 80% of the population of chronic criminal offenders . . . Furthermore, whereas the “typical” U.S. burglar is estimated to have committed a median five crimes per year before being apprehended, chronic offenders—those most likely to be sociopaths—report committing upward of 50 crimes per annum and sometimes as many as 200 to 300. Collectively, these individuals are thought to account for over 50% of all crimes in the U.S. (p. 523)

Lewis Yablonsky is a well-established American gang researcher whose research on gangs began in the 1960s. His latest work, Gangsters: Fifty Years of Madness, Drugs, and Death on the Streets of America (1997), identifies and expands upon the pathological nature of some gang members—particularly core members and instigators of violent gang activities:

Most violent-gang behavior is sociopathic; however, many but certainly not all gangsters can be characterized as having sociopathic personalities. A comprehensive analysis of the concept of sociopathology and the sociopathic personality, in my view, is vital to understanding gangsters and the overall gang problem.

[Gang members’] pathology becomes most apparent in their [lack of remorse in the] treatment of other people. In contrast with my view of violent gangsters as sociopaths, some gang theorists and researchers persist in perceiving contemporary gangs as “families” and normal adolescent groupings. These viewpoints present a distorted perception of gangs as normal rather than pathological collectivities. The sociopath factor explains how and why gangsters can kill without remorse or regret. (pp. 101-103)
Additionally, Yablonsky contends that gangs not only provide a setting in which pathological offenders may act out their aggression, some gangs encourage such behavior. For example, gang initiation ceremonies ritualize aggression. If you’ve never witnessed someone being “beat in” to a gang, visit www.youtube.com, do a search for “gang initiation,” and watch some of the initiations. Acts of aggression against rival gang members are expected, perceived as normal, and often rewarded. Such acts include beatings, mutilations, drive-by shootings, and murder.

In his book entitled *Inside the Criminal Mind*, Stanton E. Samenow (1984) states the following:

Criminals cause crime—not bad neighborhoods, inadequate parents, television, schools, drugs, or unemployment. Crime resides within the minds of human beings and is not caused by social conditions. Once we as a society recognize this simple fact, we shall take measures radically different from current ones. To be sure, we shall continue to remedy intolerable social conditions, for this is worthwhile in and of itself. But we shall not expect criminals to change because of such efforts. (p. 6)

Samenow doesn’t refer to delinquents and criminals as pathological. Rather, he believes it is the way they think that results in their delinquent or criminal behavior. He believes that “we must understand how criminals think and realize that they have a fundamentally different view of the world from that of people who are basically responsible” (p. 5). He is convinced that the traditional and widely accepted way of thinking about criminality—that it is “symptomatic of a deep-seated psychological or sociological problem” (p. 9)—is fundamentally incorrect and has led us to offer solutions for reducing delinquency and criminality that are ineffective and inappropriate.

Samenow contends that sociological explanations for the cause of delinquency or criminality are “simplistic”:

If [sociological explanations for crime] were correct, we’d have far more criminals than we do. Most poor people are law-abiding, and most kids from broken homes are not delinquents. Children may bear the scars of neglect and deprivation for life, but most do not become criminals. The environment does have an effect, but people perceive and react to similar conditions of life very differently. (p. 13)

In summary, Samenow states that “No factor or set of factors—sociological, psychological, or biological—is sufficient to explain why a person becomes a criminal” (pp. 19-20). While Samenow’s focus is on becoming a delinquent, there may be something of value in his perspective as to why some youths get involved in gangs (a form of delinquency as well as criminality). Perhaps the emphasis on the sociological and psychological explanations for gang formation and gang joining are, at least in part, mistaken. We may need to focus more on the way gang youth think and be more concerned about changing their thinking patterns.

What is certain is that the causes of gang formation and gang joining are many. No one explanation will suffice and, as Samenow reminds us, no one perspective (sociological or psychological) will suffice.
The Influence of Migrating Gang Members

Some gangs form as a result of recruitment by gang members who have moved from their own neighborhood to another neighborhood within the same community or from one community to another, including across state and national boundaries. This is an explanation for why some gangs form as well as for how gangs may increase in number within a community.

In order to measure the extent of gang member migration on gang proliferation, Bilchik, in the 1997 National Youth Gang Survey (1999), included several questions on the subject. Gang migration was described in the survey as

... temporary visits for social or criminal purposes as well as longer stays, including permanent moves for any reason. ... Results of the survey show that 84% of respondents experienced some gang migration into their jurisdictions in 1996. In addition, it was estimated 21% of the youth gang members in these jurisdictions were migrants.” (p. 30)

Some gang members move because their parents or guardians want to get them away from a gang environment or are afraid that, if they don’t move, their child will get involved in a gang. They sometimes don’t realize their child is already committed to the gang life, so they have inadvertently moved a gang member to a new location. The reasons for gang members moving are many. Among them are moving to escape pressure from the local police, getting away from rivals or fellow gang members who they fear for one reason or another, the pursuit of new markets for selling drugs, or the desire to find new and more lucrative locations in which to commit other crimes.

Some gang members move into a neighborhood from prison either because they had completed their sentence or, more often, because they were conditionally released on parole. According to McGarrell, Hipple, and Banks (2003), “From 1990 to 2000, the number of former prisoners released annually from U.S. prisons increased from 400,000 to 600,000. Research has found that about two-thirds of released inmates will re-offend within 3 years of release” (emphasis added). One must also remember that gangs dominate in many of America’s prisons and, as such, when released, inmates may start or spread that gang culture in the communities to which they relocate.

A recent report from the Police Executive Research Forum (1999) highlights the seriousness of the migration issue:

In 1996, police across the country were growing alarmed over a marked increase in violence, drug trafficking, and related crimes traceable to youth gangs. Much of the crime growth seemed to follow gangs’ migration into new areas for fresh members and markets. Police were frustrated by newcomers’ distinctively colored clothing, tattoos, cryptic hand signals, and graffiti. (p. 1)

Acting as a magnet, migrating gang members socialize with local youth, drawing some of them into the gang culture. Or they may actively recruit for new members or use intimidation and other fear tactics to make certain people join the gang.
Mass Media Portrayals of Gangs and Gang Members

Mass media portrayals of gangs, gang members, and gang culture (i.e., symbols, attitudes, values, artifacts, behaviors, etc.) may play a role in the creation of some gangs. The concept and nature of a gang migrates into the minds of mass media consumers. The term mass media refers here to the Internet, radio, television, commercial motion pictures, videos, CDs, and the press (e.g., newspapers, journals, and magazines)—what are referred to collectively as broadcast and print media. Their impact on the minds of our youth has been hotly debated. Research conducted by Lees, Deen, and Parker (1994), however, lays the foundation for understanding the relationship between media messages and delinquency. Lees et al. found that “Television, movies, radio, and music all have profound effects on youth development. Before youth have established their own value systems and are able to make moral judgments, the media promotes drugs, sex, and violence as an acceptable lifestyle” (p. 1).

As mentioned previously, most documented street gang members in the United States can be characterized as being poor (approximately 85% are from the underclass or lower class economically). Some of them will venture into illegal ways of earning an income. Movies and videos that show gang members enjoying the fruits of their illegal activities (i.e., drugs, sex, a nice apartment or house, money, cars, power, and guns) suggest, in some youths’ minds, ways to reach the goal to which most Americans’ aspire—financial success and all that it entails. The ways in which that income is earned sometimes entails the use of violence, which is also communicated through mass media portrayals of gangs.

By watching mass media portrayals of gang member behavior, some children learn about illegitimate ways to acquire goods and services. They learn how to lay in wait to “hit” (murder) someone. They learn what a drive-by shooting looks like, how it’s done, and how to possibly get away without getting caught. If they watched the popular movie American History X, they learned how to “curb” someone. What the viewer sees in that movie is a Skinhead (a Caucasian gang known for its ideologically based hatred of African-Americans and other minorities) forcing an African-American youth to lay face-down in the street perpendicular to the curb. The youth’s mouth is then forced open and pushed down until the curb is in his mouth. The Skinhead then stomped on the back of the young man’s neck fracturing his jaw, shattering his teeth, and breaking his neck.

When it comes to portrayals of gangs, gang members, and gang culture, the media sometimes goes into great detail. They portray the language, dress, body movements, and “the look” of a gang member—male and female. Among other things, they show in explicit detail the crimes gang members commit—how drugs are sold, how to “shoot up” (inject drugs intravenously), how to freebase, how to rape someone, how to stab or shoot someone, how to wear one’s colors (gang identification), how to “throw signs” (hand signs symbolizing one’s gang affiliation), and how to settle disputes using violence (typically with the use of a firearm).

There is no clear evidence that violence in the media causes consumers of the mass media to behave violently or to join gangs. There is only a growing suspicion that
the increasing amount of violence, including gang-related violence, in the mass media is contributing to the spread of the gang culture in our midst.

**Following in the Footsteps of Others**

Gangs have been known to form as a result of emulation of existing gang members by their children, siblings, peers, and friends. They join because other people they know and respect are members, and they wish to follow in their footsteps. In some neighborhoods, particularly those populated by economically depressed minorities, there is a strong tradition of gang joining. Efforts to dissuade youth from joining gangs in that environment are complicated by that tradition.

Perhaps the most commonly known method of being initiated into a gang is being “beat in.” Established gang members beat the initiate for a specified period of time (usually 30 to 60 seconds); however, the method of being initiated into a gang referred to as being “blessed in” is testimony to the fact that gang joining is associated with parental, sibling, or peer gang membership. An initiate may be blessed in to a gang because he or she has or had a relative in that gang.

**Because They Can**

Gangs may form when non-gang delinquents and delinquent groups are left unmonitored. In this situation, individual juvenile delinquents and delinquent groups are allowed to develop into gangs through the negligence of the residents in the neighborhoods and communities in which they are found. Gangs form if the residents and/or their social services and law enforcement agencies are unaware of the gang’s presence, aware of their presence but in denial of the problem, or if local justice policies are ineffectual in dealing with the gang members.

Group delinquency may morph into gang delinquency when the situation is left unattended. The difference between group delinquency and a gang was clarified by Curry and Spergel (as cited in Mays, 1997) when they defined “...group delinquency as law-violating behavior committed by juveniles in relatively small peer groups that tend to be ephemeral, ... loosely organized with shifting leadership. The delinquent group is engaged in various forms of minor or serious crime” (p. 314). They define “gang delinquency or crime as law-violating behavior committed both by juveniles and adults in or related to groups that are complexly organized although sometimes diffuse, sometimes cohesive with established leadership and membership rules” (p. 315).

In the field of criminology, there is an explanation for crime referred to as opportunity theory (Gottfredson & Hirschi, 1990). In essence, it states that crime cannot exist without an offender, a victim, and a circumstance or opportunity that brings the two together. Crimes occur where and when the opportunity for them to occur appears. Using the notion of opportunity, gangs cannot exist, or will have difficulty existing for very long, in an environment in which there are no potential victims—where victims are difficult to find, or where victims successfully fight back. It is also difficult for a gang to exist if the opportunities they need for their existence are not present (e.g., weak law enforcement, community denial of a gang problem, media inattentiveness, no graffiti removal, and a drug market, to mention only a few).
If drug prevention programs are effective in making people knowledgeable about the negative consequences of taking drugs, to whom will gang members sell drugs? Without a demand for illegal drugs, there is no drug market for a gang to feed. If children are being taught to resolve conflicts without resorting to violence, who will the gang provoke into a fight? In other words, under an aggressive campaign to remove potential opportunities for committing gang-related crimes, it becomes more difficult for gangs to form or thrive.

There may always be children who are disobedient, who violate the rules, and who break the law. If two, three, or more of them begin associating with one another over an extended period of time and support one another in violating the law, a gang may develop. It will be more likely to develop if nothing is done to stop it. Why? Because it can, it will be allowed to form. The family, the school, the community, the police—whichever social institutions, they have allowed the gang to develop by default. Failure to pay attention and take needed action enables gangs to develop.

**Conclusion**

Perhaps Yablonsky (1997) best summarized most of the correlates of gang formation presented here when he wrote, “Gang behavior is often an appropriate response to the pathological conditions that exist in the inner cities of the United States” (p. 181). This does not explain why all gangs form, however. Why aren’t all children who live in “pathological conditions” in the inner city involved in gangs? Why are some youth who live in affluent neighborhoods involved in gangs? How do we explain these apparent anomalies?

For Samenow (1984),

> Criminals cause crime—not bad neighborhoods, inadequate parents, television, schools, drugs, or unemployment. Crime resides within the minds of human beings and is not caused by social conditions. Once we as a society recognize this simple fact, we shall take measures radically different from current ones. To be sure, we shall continue to remedy intolerable social conditions, for this is worthwhile in and of itself. But we shall not expect criminals to change because of such efforts. (p. 6)

It seems apparent that we need to both remove the risk factors that appear to foster the formation of gangs and work with individuals who simply made very bad choices. As we have found, gangs form because they fulfill unmet needs for their members. Gangs serve a purpose. They are functional. This thread of functionality—or the satisfying of unmet needs—is woven through most of the explanations of correlates or risk factors we have just explored. Samenow’s findings suggest we also need to hold responsible those who involve themselves in the gang culture.
Bibliography


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Incorporating Restorative Justice Concepts in Sexually Based Offenses

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Introduction

Historically, our criminal justice system has been criticized for inadequacies surrounding the charging, prosecution, and punishing of sex offenses. Often, victims of sex crimes do not see satisfactory justice within our formal system of adjudication. The intent of this essay is to explore the use of restorative justice, an alternative method of dispute resolution, in cases of acquaintance sexual assault and minor sexually based offenses such as flashing, peeping, and harassment. Restorative justice, an alternative to official adjudication, will be examined in order to evaluate the feasibility of its use in certain types of sex offenses. Since our legal system discounts certain types of sexual victimization, this paper will discuss the role of restorative justice concepts and describe their use in specific types of sexually based offenses. For the purposes of this essay, sexually based offenses shall include incidents of acquaintance rape and minor sexual offenses such as harassment, voyeurism (peeping), and indecent exposure. These particular offenses were included in order to align this discussion with the current research of Koss, Bachar, Hopkins, and Carlson’s (2004) and Bletzer, Koss, Raskin, and Beach’s (2007) RESTORE Program, which uses restorative conferencing for acquaintance rape and non-penetrative sex offense cases. The RESTORE Program is a research project currently in progress in Arizona and works in conjunction with the prosecutor’s office. The process provides an option for victims of certain types of sex offenses to have their cases taken out of the formal court process and handled through restorative conferencing.

For this paper, the examination of acquaintance rape and non-penetrative sexually based offenses were chosen due to the theoretical possibility of a more satisfactory outcome for these crimes through restorative conferencing than with traditional court processes. Specifically, there is a small chance of a successful outcome through court proceedings for these offenses, and when they are prosecuted, victims often express dissatisfaction with the process (Hopkins & Koss, 2005; Hudson, 2002). Sexual assaults that are perpetrated by someone unknown to the victim tend to be better handled through the traditional court process; therefore, these types of sexual assaults will not be examined in this paper.

Why Alternatives to Formal Systems of Justice Are Needed

Women’s Fear of Crime

The fear of crime literature demonstrates that women’s fear of crime affects them in unique ways. Acquaintance rape and other non-penetrative sexually based offenses limit women’s social and spatial freedom and increase their fear of crime (Hopkins & Koss, 2005; Koss et al., 2004; Riordan, 1999). Riordan’s (1999) quantitative study of effects of indecent exposure found that nearly half of the female respondents (48.6%) have been victims of flashing, and this experience reinforced their fear of
sex crimes. Additionally, 21.9% of college women were victims of obscene phone calls, and 2.4% were seen nude without permission (Fisher, Cullen, & Turner, 2000). Fisher and Sloan (2003) found that, in general, women’s fear of all types of victimization is higher than that of men’s. Their findings indicated that rape is in the backdrop of women’s fear of encountering any type of crime, meaning that women fear a sexual assault may occur in conjunction with any type of face-to-face crime-related confrontation. Indeed, fear of crime disrupts the fabric of women’s lives because women alter their everyday behavior to avoid sexual assault (Cook & Koss, 2005). The impact of even minor sexually based offenses, such as peeping, flashing, and obscene phone calls, is far-reaching and increases women’s fear of crime; therefore, it is imperative that the criminal justice system address such offenses (Koss et al., 2004).

Prevalence of Sexual Assault and Rape “Believability”

According to the National Violence Against Women (NVAW) Survey, Tjaden and Thoennes (2000) found that over 17% of the women surveyed claimed to have been victims of a completed or attempted rape at some point in their lives. Additional findings reported in the NVAW Survey indicated that the majority of sexual assaults were perpetrated by someone known to the victim (Tjaden & Thoennes, 2000, 2006).

Today, even with greater public awareness surrounding what constitutes sexual assault, people still view rape in stereotypical terms—that is, rape is considered to be recognized if it is perpetrated by a stranger, in a public space, with use of force (Anderson, 2007). Estrich (1987) demonstrated that the legal system reluctantly views acquaintance rape as a “real” sexual assault. In contrast, stranger-perpetrated sexual assaults are viewed as “believable” by the justice system and therefore tend to be more adequately addressed by the adjudication process. Indeed, Anderson’s (2007) research found that people were more inclined to suggest a rape victim report her assault to police if the perpetrator and circumstances aligned with that of a typical stranger assault; they were less apt to suggest a person notify police if the assault was perpetrated by an individual known to the victim. This research lends credence to the idea that people are more inclined to view stranger-perpetrated sexual assaults as believable, and that these respondents did not view a known-perpetrator sexual assault as a rape.

Fisher, Daigle, Cullen, and Turner (2003) found in their national study of rape victims that a large percentage of victims did not view their own sexual assault as a rape. Victims in this study were more likely to label their experience as a rape if force or threat of force was used, a weapon was present, penetration was completed, or the victim used forceful verbal resistance. However, 48.8% of the victims of completed rapes in this study did not view their experience as a rape. These results are consistent with prior research indicating that women were more likely to report their sexual assault to formal support networks, such as police and physicians, if their experience included physical injuries, fear for their life during the assault, or if the assault was committed by a stranger (Ullman & Filipas, 2001). Additionally, Ménard (2005) found that most victims in her study (56%) did not report their sexual assault to police and that most of them knew their offender. Since most sexual assaults are perpetrated by someone known to the victim and victims are hesitant to come forward, alternatives for victims should be considered.
In fact, in Ménard’s study, only 13% of the victims were sexually assaulted by a stranger. Still, society continues to view “legitimate” sexual assault in terms of a stranger-based, sexually motivated blitz-type attack. If both society and the justice system maintain that a “believable” rape is one which is perpetrated by a stranger, then rape victims might indeed be less inclined to report their victimization or may encounter less satisfaction with a system that doubts their claims.

Since research has shown that only a small percentage of sexual assaults involve a stranger as the perpetrator, we are looking at a situation in which many rape victims are not viewed as true victims of sexual assault. Additionally, since the studies mentioned here suggest that the handling of sexual assault cases seems to be adequate for stranger assaults yet lacking for assaults where the victim and offender knew one another, alternative methods for assisting victims of known-perpetrator sexual assaults need to be considered.

Victim Satisfaction with the Legal System

Campbell, Wasco, Ahrens, Sefl, and Barnes (2001) found in their study of rape survivors that 52% of those rape survivors surveyed viewed their involvement with the legal system as a detriment to their emotional well-being. In Campbell et al.’s study, only 25% of the rape cases reported to police were actually prosecuted—that leaves 75% which were never brought to the prosecutorial phase. Of those cases which were prosecuted, only 10% were tried and convicted, with 5% resulting in guilty pleas. It is notable that Campbell et al. found 80% of the rape allegations that were prosecuted involved a perpetrator who was a stranger to the victim, with only 20% of prosecuted cases being an assailant known to the victim. Since most sexual assaults involve a perpetrator known to the victim (Fisher, Cullen, & Daigle, 2005; Ménard, 2005; Tjaden & Thoennes, 2000, 2006), it is a matter of significance that few known-perpetrator sexual assaults are processed through the legal system, which lends credence to the fact that many rape victims are dissatisfied with the legal process. Since the legal system tends to play out negatively for victims of sexual assault (Campbell et al., 2001; Matoesian, 1993), it makes sense to review alternatives to traditional adjudication in certain instances; this is where alternative dispute resolutions such as restorative justice may have a significant impact for victims of acquaintance sexual assault and minor sexually based offenses.

Victim discontent with the formal system of justice stems from negative experiences with the process itself. For instance, when cases are actually brought to the adjudication phase, victims are asked to describe explicit details of the sexual assault in open court, their police reports are made public, and—even with rape shield laws in place to protect against damaging intrusions—their sexual history is scrutinized. Traditional court hearings propel victims into a position of being nothing more than a witness for the prosecution, with their needs and desires unmet by the criminal proceedings (Koss et al., 2004). On the other hand, prosecution of stranger sex assaults tend to have higher conviction rates and overall better victim satisfaction due to the fact that judges and juries tend to be more inclined to believe the victim of a stranger rape (Koss, 2000; Koss et al., 2004). Due to low prosecutorial success rates and victim discontent with the handling of cases in acquaintance rape, as well as the legal system’s minimization of minor sex offenses, alternatives to formal adjudication, such as restorative conferencing,
should be considered for those assaults and abuses that result in less victim satisfaction with the criminal justice process.

Background of Restorative Justice: Retribution vs. Restorative Models of Justice

Historical Perspective

The philosophy of restorative justice has deep historical roots which date back to the Code of Hammurabi in 1700 BCE and, in fact, may have been used earlier than retribution as a method of dealing with social infractions (Meyer, 1998). According to Meyer (1998), in some cultures such as those where Islamic law prevails, the system encourages victims to deal with their offender outside of formal punishment, and, in turn, the offender must pay restitution to the victimized individual. Crime in these types of legal systems is considered a violation of a person’s rights—they are crimes against the person—and the offender is expected to make amends and repair the harm done. Restorative justice springs from the idea that the victim takes a central role in these justice proceedings. This is in contrast to our current legal system in which crimes are considered to be committed against the state without much emphasis on the victim (Herman, 2005).

Retributive Justice

In the last few decades, we have seen a shift from a rehabilitative model of justice to one of retribution (Garland, 2001). Retributive justice involves the notion of “just deserts,” wherein the offender deserves the punishment doled out based on the severity of the criminal infraction; the Biblical notion of “an eye for an eye” (Lippman, 2007). Retribution thus rests on the assumption of proportionality in that punishment is proportional to the seriousness of the crime, and rehabilitation of the offender is not taken into account (von Hirsch, 2007). Retribution is focused on the criminal without regard to compensation to or restoration of the victim (Darley & Pittman, 2003). In contrast, restorative justice places emphasis on the victim with the offender making amends and repairing the harm done to society (Gromet & Darley, 2006), returning to the historical roots of justice mentioned previously wherein the victimized person is central to the process of justice itself, and the offender is expected to take responsibility and to make “good” with society and the victim.

What Is Restorative Justice?

As an alternative to retributive justice, restorative justice contends that the crime victim holds a very prominent position in the process of justice (Erez, 2007). Although restorative justice practices vary, Daly (2006) suggests that there are four core elements to modern restorative practices. The first and most central element is that an offender admits guilt and takes responsibility for the crime (Bletzer, Koss, Raskin, & Beach, 2007; Daly, 2006). The offender’s admission of responsibility for the crime is essential. Without this aspect, the restorative process is unable to function. Restorative justice is not involved in the adjudication or mediation of facts but is a segment of the penalty phase of criminal processes (Daly, 2006). In some instances, such as Bletzer et al.’s (2007) RESTORE Program for sexual assault, cases meeting carefully chosen criteria are referred by the prosecutor’s office to
an alternative mediation program outside the justice system. In this particular program, after prosecutor referral, it is the victim who gets “the say” in whether or not the case can go forward with an alternative method of dispute resolution. The victim chooses to forego the formal system of adjudication and participate in restorative conferencing; this assigns the central role in the process to the victim. In the case of RESTORE, the authors claim the process is no less, and in fact may be more rigorous than, the formal court process. Therefore, the offender is not “getting off” easily by circumventing the court process, which may have simply implemented fines for minor sex offenses.

Second, the offender and victim typically have a face-to-face meeting with each other along with their chosen supporters and a mediator (Daley, 2006). This is often called restorative justice conferencing or conferencing circles. This conference begins the “formal” phase of the restorative process and allows the victim to voice the impact the crime has had on her life through a carefully prepared impact statement—although she and her supporters may add additional comments to what is written in the statement. The offender also has a chance to talk about the incident, take responsibility, and express remorse (Bletzer et al., 2007). The main objective of the conference is that it is a means of supporting the victim through empathy and respect (Bletzer et al., 2007; Braithwaite, 2002).

Third, the informal process of conferencing relies on the expertise and participation of laypersons, such as trained mediators or counselors, but is also deeply entwined with criminal justice practices. Restorative processes are therefore constrained by the legal system (Daly, 2006). In the RESTORE Program for sexually based offenses, cases are specifically referred to the program by the prosecutor, thereby removing them from formal adjudication. In addition, the offender’s progress is continuously monitored by those overseeing the program in order to ensure compliance with all required criteria (Bletzer et al., 2007).

Fourth, there are goals for both offenders and victims in the restorative process (Daly, 2006). Offenders are held accountable for their actions and encouraged to make amends (Braithwaite, 2002; Daly, 2006; McAlinden, 2005). In the RESTORE Program for sexually based offenses, a rigorous yearlong process leads up to the culmination of the offender taking official responsibility for the crime. In this specific program, the offender is required to pay fees for the process itself, pay any fees or costs encountered by the victim due to the crime or restorative proceedings, submit to a psychosexual examination, attend therapy, complete community service to an agency chosen by the victim, and attend regular meetings with the mediation lay-staff (Bletzer et al., 2007). Ideally, deterrence from future crimes and reintegration into the community are desirable outcomes for the offender (Braithwaite, 2002; Daly, 2006; McAlinden, 2005), although Daly (2006) cautions that neither of these may be achieved in the restorative process and—while desirable—should not be expected.

Victim participation in the restorative process encompasses goals such as creation of a forum to voice how the crime affected her as well as to have a say in the penalty handed out to the offender. Additionally, the victim is able to get answers as to why the offense was committed (Daly, 2006). In essence, the victim’s voice is heard throughout the process in a way that is impossible in our formal system of justice. Victim/offender reconciliation is also a desirable goal in the restorative process,
but yet again, this goal may not be achieved. Reconciliation may not be a personal goal for the victim in certain cases (Daly, 2006) nor should apology be an expected outcome (Coker, 2006). Repairing the harm done through honest communication is a commonly cited goal of restorative justice programs (Gavrielides & Coker, 2005). In this respect, it may be more beneficial for a line of open communication to be the central point in the process rather than an expectation of apology. The foundation of restorative justice is based on a process of respect and empathy for the victimized person (Bletzer et al., 2007; Braithwaite, 2002), a process that is not reflected in our current formal system of justice.

**Why Use Restorative Concepts in Sexually Based Offenses?**

**Little Chance of Victims Seeing Justice in a Formal System of Justice**

The use of restorative justice in lieu of formal criminal processes may be beneficial to victims of known-perpetrator sexual assault and minor sexually based offenses because, sadly, these cases are rarely prosecuted nor is there a likelihood of perpetrator conviction through the courts (Hudson, 2002). Historically, traditional criminal proceedings have failed for these types of crimes (Daly, 2006; Herman, 2005; McAlinden, 2005) because criminal procedures are not designed to handle cases that “are widespread and so often socially condoned” (Herman, 2005, p. 571). Therefore, alternative methods of handling these cases need to be considered (Hudson, 2002; McAlinden, 2005). Problems with evidence in sexual assault cases is often cited as a reason for low prosecution and conviction rates (Daly, 2006; Hudson, 2002) because the crime often occurs without witnesses—that is, where the victim and offender are secluded (Hudson, 2002). Traditional criminal prosecution also fails due to the high standards of proof needed for a conviction (Hudson, 2002; Koss et al., 2004). There is difficulty in attaining the standard of proof “beyond a reasonable doubt” that is needed for a guilty verdict in acquaintance rape and minor sexually based offenses (Koss et al., 2004). It is widely held that the criminal justice system is ineffective at prosecuting certain types of sexual violence (Daly, 2006), but the question remains as to whether restorative justice processes are a better solution (Hudson, 2002). Since the legal requirements of the criminal justice system do not adequately address victims’ experiences and, in fact, might be in opposition to what victims claim they need (Gavrielides & Coker, 2005; Herman, 2005), alternatives such as restorative justice may be more conducive to dealing with the aftermath of emotions that victims experience such as anger, shame, and despair (Gavrielides & Coker, 2005).

In the current system of criminal law, crimes are committed against the state rather than the victim; therefore, it is the state that brings criminal action against the accused. In addition, constitutional rights are guaranteed for the offender rather than the victim (Herman, 2005), creating a situation in which the victim becomes a passive observer or simply a pawn of the state and in which the victim’s needs and desires are not considered. In Herman’s study of victims’ encounters with the justice system, she found that victims were astonished to discover that priority was placed primarily on the defendant and that victim interests were not at all addressed by the courtroom workgroup. Victims came to court expecting their interests to come first and had difficulty understanding that their welfare was not factored in—other than in regard to their role as witness for the prosecution. From
the victim’s perspective, the formal justice system seems to be an unsatisfactory solution for many affected by sexually based offenses.

Secondary Victimization by Traditional Court Process, Negative Social Reactions, and Barriers to Disclosure

Victims often choose to forgo criminal prosecution due to the re-victimization that is notorious in criminal trials (Herman, 2005; Hudson, 2002). Hesitation on the part of the victim to participate in a criminal trial is, in part, due to the fact that the victim’s sexual history is scrutinized in the courtroom setting and her behavior prior to and during the assault is questioned (Herman, 2005; Hudson, 2002). Herman (2005) best summed up sexual assault victims’ humiliation during their criminal trials when stating “Victims understand only too well that what awaits them in the legal system is a theater of shame” (p. 573). Certain negative social reactions have a heavy bearing on a victim’s post-assault emotional well-being—reactions that can include victim blaming, or family and friends of the victim withdrawing from her due to the assault (Ullman, Townsend, Filipas, & Starzynski, 2007).

Ullman, in her 1996 study on sexual assault disclosure, found that victims viewed formal support providers, such as the police, clergy, or physicians, as less helpful to them than informal support systems such as family or friends. Reasons posited for this were that victims received more negative social reactions from formal support networks than their informal support networks (Ullman & Filipas, 2001). Research is consistent in that victims tend to shy away from formal support after a sexual assault, and this tends to stem from lack of supportive attitudes, negative social reactions, and secondary victimization. If victims are not willing to disclose their sexual assaults because they think they will be blamed or that they will not receive any type of credible support, then justice—as a vehicle of fairness—is unavailable to survivors of sexual assault. Therefore it might make sense that victims look for alternative methods to deal with the aftermath of victimization.

Victim/Offender Benefits of Restorative Conferencing

Daly (2006), through an empirical analysis of conferencing in adolescent sexual assault cases, found that court implemented penalties for sexual assault emphasized punitive measures, which, in turn, de-emphasized rehabilitation and behavioral change through counseling. Interestingly, the empirical evidence showed that an alternative method, victim/offender conferencing, did the opposite; it placed emphasis on the rehabilitation and behavioral change of the offender. Due to the system’s failure to meet the needs of victims—and many times, offenders—and the fact that scholars have looked toward alternatives to traditional court processes for just these reasons, a restorative justice approach as an alternate method of dealing with specific types of sexual assault, such as acquaintance rape and minor sexually based offenses, has potential benefits for both the victim and offender.

Benefits for the Victim

Many cases of acquaintance rape never make it to the prosecutorial phase. When criminal trials do take place, victims often do not have the opportunity to fully express the way in which the crime affected them, thus hindering victim satisfaction
with the process (Jülich, 2006). Restorative conferencing (victim/offender face-to-face meetings) provides an avenue where victims’ voices can be heard in a way that the traditional court process is unable to provide (Curtis-Fawley & Daly, 2005). In interviews with victims of childhood sexual abuse, Jülich (2006) found that many victims wanted the chance to tell the offender how the abuse affected them and expressed a desire for accountability on behalf of the perpetrator. Victims also conveyed a need for a social support network to be present within a safe forum while meeting with the perpetrator. Accountability and acknowledgment of guilt by the offender is also important to victims, and since guilt admission is central to the concept of restorative justice, this also provides a draw toward the use of conferencing (Curtis-Fawley & Daly, 2005; Herman, 2005). Since criminal convictions are difficult to obtain in sexual assault cases due to high standards of proof (Hudson, 2002), victims voiced a need to participate in a forum where their offenders admitted guilt while not being subject to the legal terminology of “guilt” (Jülich, 2006), which might enable a perpetrator to legally skirt the process of being found guilty and, subsequently, never be held accountable for the crime.

Benefits for the Offender

Restorative justice has numerous benefits for the offender. The philosophy uses a concept of reintegration shaming in which the shaming portion works in two ways: (1) as a deterrence effect in that it creates social disapproval for the act, and (2) it creates twinges of conscience in the perpetrator. Consequently, societal and individualized goals intertwine in the restorative process. Reintegration comes into being when the offender has admitted to the wrongdoing and addressed the harm to the individual or community; after doing this, the community accepts the offender once again as a productive member of society. One important societal goal is complying with the criminal law, and this is the basis for reintegrative shaming (Braithwaite, 1989). Restorative justice and its use of reintegrative shaming helps the offender move away from a life of crime without stigma attaching as it would with more stringent punishments such as imprisonment (Braithwaite, 1989, 2002; Henderson, 2007; Hudson, 2002).

Often, offenders are oblivious to the fact that their victims may have had strong negative repercussions from the crime (Henderson, 2007). Restorative justice conferencing ensures that the offender acknowledges that indeed there was a victim and that the victim has been hurt by the offender’s actions (Braithwaite, 2002; Henderson, 2007; Hudson, 2002). In this respect, techniques of neutralization and denial of victim—which offenders often use to justify their behavior—are negated and the true heart of the issue can be addressed (Braithwaite, 2002; Coker, 2006; Hudson, 2002). Since there is no room for the offender to employ justifications, excuses, or denial, real talk can ensue regarding the offense at hand and the effects that the crime has had on the victim. In essence, the offender is made to accept responsibility for his actions. Acceptance of responsibility is one way in which the offender can benefit from restorative conferencing. Scholars have pointed out other benefits as well such as alternatives to imprisonment.

Societal shifts in criminal punishment have moved the United States in a retributive direction with skyrocketing rates of incarceration (Braithwaite, 1989; Garland, 2001). Due to this, incarceration is more likely than ever for persons facing sanctions within the criminal justice system today (Garland, 2001; Garvey, 1998). Restorative justice,
on the other hand, is a tool that might be more conducive to rehabilitation and reintegration, allowing for society to move beyond the incapacitation and retributive models currently in vogue (Hudson, 2002). Therefore, the restorative concept might be a plausible alternative for carefully selected cases. Cases which might be conducive to restorative conferencing include those which do not have a high success rate in the criminal adjudication process or cases that include relatively minor offenses. Alternatives to incarceration via methods such as restorative conferencing assist in moving judges away from an “imprisonment mentality” (McDonough, 2007, p. 35). In addition, with the use of restorative justice, society accomplishes two goals: (1) it shows that it does not approve of the behavior (Kahan, 1996) and (2) the process results in an “unpleasant emotional experience [for] the offender” (“Shame, Stigma, and Crime,” 2003, p. 2187). This type of societal disapproval is accomplished with incarceration as well, but restorative processes result in a more socially productive scenario of reintegration (Braithwaite, 1989; Kahan, 2006). With restorative justice, society accomplishes condemnation of the criminal behavior with a less stigmatizing form of punishment (Kahan, 2006). This is not to suggest that restorative justice is a solution for all types of criminal behavior.

A purely restorative approach may not be appropriate in many instances. Additionally, restorative justice may not be palatable to the public as a singular method of dealing with certain types of crime. Research conducted by Gromet and Darley (2006) suggests that most people would view restorative justice as an acceptable alternative to traditional court processes if the crime is not “serious.” That is, restorative conferencing could stand alone as a method of dealing with the crime if the offense was minor. If the crime was deemed “serious,” respondents were still willing to accept restorative conferencing as long as there was a combination of restorative conferencing and retributive measures. This suggests that the general public, while still viewing restorative conferencing as a valuable tool of justice, still wants to see some amount of retributive punishment for serious crimes—to see the offender punished for his wrongs.

In addition to the advantages for the offender listed previously, admissions of guilt are central to the restorative process. When such an admission is made, opportunities for therapeutic and rehabilitative interventions for the offender become possible (Curtis-Fawley & Daly, 2005). For instance, restitution payments to the victim are often concomitant with restorative sanctions and produce a rehabilitative effect for the offender. Kempinen (2002) found that offenders who paid the majority of court-ordered restitutions were less likely to recidivate—that is, offenders accepted responsibility for their crimes by making tangible amends for their actions and, in turn, gave thought to the avoidance of future criminal behavior. This is an indication that, indeed, Braithwaite’s (1989) twinges of conscience are at work as an aspect of rehabilitation. Kempinen (2002) states,

> by accepting responsibility and repairing the damage to the victim in a tangible way, offenders may reap benefits that remain long after the criminal sanction has ended, including taking responsibility in other aspects of their lives and avoiding criminal behavior in the future. (p. 1)

Thus, possible rehabilitative opportunities exist for the perpetrator when using restorative concepts that might not be available through current modes of retributive punishment.
Critiques of Restorative Justice in Conjunction with Sexually Based Offenses

Some critics of restorative justice view the process as being too lenient or soft on crime (Curtis-Fawley & Daly, 2005; Daly & Stubbs, 2006; Henderson, 2007). Daly and Stubbs (2006) claim that opponents point to the restorative process as being an overly optimistic view of human nature, especially as it applies to the adversarial relationship between perpetrators and victims. Opponents also express concern for the use of restorative justice due to the nature of face-to-face meetings between the perpetrator and victim (Hopkins & Koss, 2005), which may lead to re-victimization (Daly & Daly, 2005). These meetings may provide an opportunity for the offender to further intimidate or perpetrate violence on the victim, creating potential problems with victim safety as well as giving the offender a chance to exploit the process (Daly & Stubbs, 2006; Hopkins & Koss, 2005). However, Hopkins and Koss (2005) note that for acquaintance rape, since it is a relatively isolated event rather than an ongoing victimization, the risk for repeat violence is lower than that of other types of gendered violence (such as domestic violence) and may be a situation that is more conducive to the restorative process. The risk of re-victimization in restorative conferencing may be more of a problem with repetitive gendered violence such as domestic violence with which the perpetrator has continuing contact with the victim and a history of intimidation, manipulation, and psychological abuse. Therefore, restorative justice, as a stand-alone alternative to formal adjudication, may not be a viable option in domestic violence cases or other serious criminal offenses.

Procedural Safeguards

One area that needs more in-depth research is the issue of procedural safeguards for the offender who participates in the restorative process (Hudson, 2002). To what extent are due process rights extended to the offender? This question arises with the use of restorative concepts because, at times, prosecution is circumvented or deferred when restorative conferencing is used (Daly, 2006). When this happens, critics question whether lack of judicial oversight may result in loss of due process rights for the offender (Ashworth, 2002; Greenblum, 2005). Ashworth (2002) argues that it should be the role of the state to ensure administration of justice and procedural safeguards for offenders. For instance, difficulties arise when leaving punitive decisions up to the victim or community because some victims may be more vindictive and desire a harsher penalty, while others may look toward a more lenient conclusion to the case. This creates a situation in which the offender receives inequitable treatment. Ashworth brings up a plausible argument regarding core elements of our justice system—those protecting the rights of the defendant. Procedural safeguards are a major question that should be addressed as these rights are the foundation of our criminal justice system—a constitutional right extended to all accused individuals.

Conclusion

Victims of acquaintance rape and minor sexually based offenses face inherent obstacles when dealing with our criminal justice system for a myriad of reasons. Offenders often get away with the wrongdoing or are simply punished with miniscule fines, creating a situation in which the crime is not seriously considered. This leads to little accountability on behalf of the offender and victim dissatisfaction with the criminal justice system. Crimes such as acquaintance rape and minor
sex offenses occur all too often in our society, with little chance of victims seeing justice in the formal system of adjudication. Restorative conferencing is one option that appears to be a viable solution in certain, carefully selected situations. Not all sexual assault cases are candidates for restorative conferencing, and, certainly, the formal system of adjudication should be used for sexual assaults that have a greater likelihood of being prosecuted. However, known-perpetrator sexual assaults and minor sexually based offenses face many obstacles when being considered for prosecution. These offenses—when carefully screened and referred by the prosecutor as suitable for restorative conferencing—should be considered for this victim-centered approach to justice.

Critics of restorative justice point out the possibilities of misuse and failure on behalf of both victim and offender during such processes as court diversion and conferencing. Therefore, the costs and benefits should be weighed carefully before implementing this alternative. Cases must be carefully examined to see if they are a good fit for a restorative model, and possibilities of misuse or abuse of the process by the offender should be closely examined before turning to restorative justice.

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References


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Osama’s Boyz: The Homegrown Jihadi Terrorist Threat as Gang Activity

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The Violent Radicalization and Homegrown Terrorism Prevention Act of 2007 (HR 1955) defines homegrown terrorism as

The use, planned use, or threatened use, of force or violence by a group or individual born, raised, or based and operating primarily within the United States or any possession of the United States to intimidate or coerce the United States government, the civilian population of the United States, or any segment thereof, in furtherance of political or social objectives.

Perhaps more important is what homegrown terrorist groups are not. They are not an expeditionary force of terrorists sent to carry out an attack (e.g., September 11). The homegrown terrorist group, even when it is able to make contact with or receive some support or training from a formal terrorist organization, remains a largely autonomous, self-recruiting, and self-directing entity. Jihadi refers to an adherent of a particular form of fundamentalist Islam—Salafyah/Jihadiya. The crux of this ideology is that it is required of all Muslims to engage in violent jihad, or holy war, and that it necessary to fight against the “far enemy”—the United States and its allies—in order to then be able to overthrow the “near enemy”—secular or otherwise apostate regimes in Muslim countries. Finally, for the purposes of this paper, terrorism means acts of political violence that primarily target civilian populations and are perpetrated by civilians who themselves hide among civilians.

Osama’s Boyz: The Gangs of the Global Jihad

Frederick Thrasher (2004) defined the gang in the following way:

The gang is an interstitial group originally formed spontaneously, and then integrated through conflict. It is characterized by the following types of behavior: meeting face to face, milling, movement through space as a unit, conflict, and planning. The result of this collective behavior is the development of tradition, unreflective internal structure, esprit de corps, solidarity, morale, group awareness, and attachment to a local territory. (p. 7)

Aside from the issue of territoriality, the groups that have perpetrated most of the major terrorist attacks in the West since 11 September 2001 fit neatly within Thrasher’s definition. In place of territory, these gangs see themselves as defending the Muslims of the world (Pluchinsky, 2008, p. 183). Silber and Bhatt (2007, p. 5) identify ten cases of homegrown jihadist terrorism in their study of the radicalization process, including the following:

• The Madrid bombers of 11 March 2004—who started as a criminal gang involved in dealing hashish and designer drugs—purchased their explosives with drugs
and a stolen car (Jordan, Mañas, & Horsburgh, 2008, p. 24). The Madrid bombers were united by a common bond in that most had emigrated from Tetouan, Morocco (Sageman, 2007, p. 85). The Madrid bombers were members of radical Islamist online communities who downloaded many files which rationalized or encouraged acts of terrorism but did not say anything online that would have indicated their terroristic intentions (Weisburd, in press).

- The Hofstad Group, which succeeded in killing Dutch filmmaker Theo van Gogh and planned many other attacks, came together via social clubs and radical mosques (Vidino, 2007, pp. 581-583). They made aggressive use of the Internet for the purpose of da’wah (preaching) and recruitment (Benschop, 2005), and they were also bound by a common hometown in Morocco, the port of al-Hoceima (Sageman, 2007, p. 85).

- The 7/7 London bombers, the core of which first came to be acquainted via a street gang called “The Mullah Crew” in Beeston, Nottingham, UK, hatched their plot while the members hung out at a boxing gym (Kirby, 2007, p. 418). Members of this gang shared a common ancestry in Kashmir (Sageman, 2007, p. 85), which not only helped to solidify their bonds but also allowed them to make contact with the al-Qa’ida organization in Pakistan.

Other gangs active in this period include the Toronto 18, connected by various websites to like-minded gangs in Europe and the United States (Allan-Mills, 2006; El Akkad & McArthur, 2006); the Osama bin London crew (Bowcott, 2008), who provided training in the UK for the failed 7/21 attack on the London Tube; and the Jam’iyyat Ul-Islam Is-Saheeh (U.S. Department of Justice [USDOJ], 2007), a California state prison gang that tried to carry out a series of attacks in the Los Angeles area.

Finally, there is the gang in Belmarsh Prison in the UK, which inspired the name of this paper: the Muslim Boys. Formed by young Muslim inmates charged with terrorism-related offenses, the Muslim Boys have rioted in response to the seizure of a smuggled mobile phone (Turnbull, 2007), plotted to murder the warden (Moyes, 2008), and generally sought to intimidate the other inmates in order to get them to conform to the gang’s view of proper Muslim behavior (Bentham, 2006).

Demographics

A study of 214 individuals involved in real-world jihadist activity in Europe in the post-11 September period (Bakker, 2006) revealed that over 70% of all the individuals in the study were either from one of three Muslim countries or were descended from immigrants from those three countries. Figure 1 illustrates this point.
The author dismisses out of hand the suggestion that Algerians, Moroccans, and Pakistanis are more likely than other nationalities to be Islamist terrorists, but the data does seem to suggest that Islamist terrorists in Europe at the present time are more likely to be Algerian, Moroccan, or Pakistani. Do ethnic, cultural, social, or historical factors play a role in the radicalization of these individuals? Perhaps they do to a certain extent. For example, Algeria and Pakistan both have histories of Islamic political violence, which may serve as an inspiration for the current generation of angry young Muslims. However, that does not seem to be the case for Morocco. Could it be that ethnicity, which is obvious and gets more attention, is less important than certain environmental factors related to where and with whom these radicalizing individuals dwell? As the preceding discussion suggests, homegrown jihadi gangs develop more or less organically and spontaneously as an assortment of mostly local factors coincide.

**Differential Jihadization**

The process of radicalization by which individual angry young Muslims become part of a homegrown terrorist gang is a not necessarily linear progression through four stages: (1) pre-radicalization, (2) self-identification, (3) indoctrination, and (4) jihadization (Silber & Bhatt, 2007, p. 19). In the final stage, these gangs begin to view themselves not merely as supporters of someone else’s holy war but as mujahedin in their own right. One explanation of the demographic data discussed earlier could be termed *differential jihadization*. That is to say that demographically similar individuals in different locations will radicalize at different rates.

We may find an explanation for this phenomenon in traditional criminological theory, first and foremost in Sutherland’s (2004) Differential Association Theory, which
stipulates that criminal behavior is learned in interactions with others within intimate personal groups. While criminal behavior may be an expression of needs and values, it is not caused by those needs and values. Others sharing those needs and values will express them in non-criminal ways. Cloward and Ohlin (2004) added an important element to Sutherland’s theory when they noted the role played by opportunity:

What we are asserting is that access to illegitimate roles is not freely available to all, as is commonly asserted. Only those neighborhoods in which crime flourishes as a stable, indigenous institution are fertile criminal learning environments for the young. Because these environments afford integration of different age-levels of offender, selected young people are exposed to “differential association” through which tutelage is provided and criminal values and skills are acquired. To be prepared for the role may not, however, insure that the individual will ever discharge it. (p. 284)

Consequently, particular communities that have previously given rise to jihad-inspired terrorists will likely continue to do so, and communities that have not done so in the past will likely remain less of a problem in the future due to the absence of people from whom one may learn the ways of violent jihad and the absence of the opportunity to put those teachings into action.

**Threat Assessment**

Homegrown jihadi terrorism is a social phenomenon, a group project, a gang activity. While any individual has the potential to act in a violent manner, the level of threat increases significantly if that individual is part of a group of like-minded people. Assessing the threat that such a gang poses will have everything to do with issues of association and opportunity. One common scenario is that an individual is found to be active on radical Islamist websites. On a threat continuum, the threat level increases if, for example, this person begins obsessively downloading videos of people being killed. The level of threat increases still further if that person is found to be hanging out with a group who share his interests. Trips to rural areas to engage in military-style training increase the threat level still more as does the opportunity to travel to an area of conflict such as Pakistan. The presence of a spiritual leader who can readily justify acts of violence may be a part of this process (Silber & Bhatt, 2007) but is not truly a requirement because such guidance can be found readily online (Weisburd, 2008). The opportunity to acquire or construct weapons or explosives (e.g., the residency status that allows the legal purchase of firearms) may be all that is required for this group to become operational.

A consequence of differential jihadization—the effect of the differentials of opportunity and association on the ability of individuals or gangs to fully radicalize and become operational—is that for homegrown jihadi terrorism to even be a concern, there must be a Muslim community of some sort. This need not be a religious community as jihadization seems to be, to some extent, a response by second- or third-generation immigrants to assimilation within their local Muslim community (Sageman, 2007). Nothing comes from nothing.

**Future Research**

This paper has sought to ground our understanding of homegrown jihadi groups in the findings of early criminological studies of gangs. A logical next step would
be to research the comparison of contemporary jihadi gangs with more ordinary criminal gangs to determine the extent to which the findings of studies of the latter can be applied to efforts to combat the former, and vice versa. One place where members of both kinds of gangs may be found and observed is online, and it may be fruitful to examine how each type of gang utilizes the virtual world. The study of homegrown terrorism as gang activity, and implicitly the study of such terrorism as a kind of delinquent behavior, is only one of perhaps many opportunities to apply criminological theory and research to problems of terrorism and political violence.

References


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Encountering the “Broken Brain”: Listen, Listen, Listen

Victor Lloyd, Law Enforcement Training Specialist, Mental Health Association of Southwest Ohio

The brain, like any other organ of the body, can malfunction. The problem is that when the brain malfunctions, the symptoms are not physical. They are behavioral. We are used to thinking of behavior in terms of moral or immoral, legal or illegal, right or wrong. But that is precisely what oftentimes occurs when the brain is not working right. So, in the same way an EMT would never approach someone who is having an epileptic seizure and tell that person to “Stop doing that,” it is equally illogical to ask a person who is hearing voices or manic or depressed or having a panic attack to “Stop doing that.”

Before one can talk about what to do when encountering a person whose brain is “broken” or malfunctioning, it is important to fully understand the implications of what that means. In this article, the goal is to help the first responder understand what a “broken brain” means and then focus on one of the most important skills in effective interaction with any special population—the Three Levels of Listening.

There is not enough time in an article like this to describe in detail how the brain works and what all the possible things are that can go wrong. Although it weighs only a few pounds, it contains millions of cells that interconnect to form a communication system that is analogous to, but much more complicated than, a computer. These connections are assisted by specialized chemicals. Suffice it to say that it is essential that these chemicals in the brain that assist in all that communicating maintain a delicate balance, and when it is thrown off, the brain cannot do what it is supposed to do. Therefore, people will experience sensations or thoughts or feelings that result in certain kinds of behaviors. The first step in effective interaction with persons who have a mental illness is to recognize that the behaviors are the result of an organ in the body, the brain, that is malfunctioning.

But how does a person distinguish these behaviors that are the result of a mental illness from those that are the result of a person “acting out” criminally or otherwise? There are many skills to use when interacting with persons with mental illness or with any special population for that matter, but perhaps the most important in assisting with making this distinction is listening. I am not simply talking about hearing the words or even understanding what someone is saying, although that is important. I am talking about the Three Levels of Listening, the second element of the five-part ALARM System I use in crisis intervention training and education. The “L” stands for “Listen” and the three levels of listening are (1) Listen with our Ears, (2) Listen with our Eyes, and (3) Listen with our Gut.

Listening with Our Ears

One of the things that distinguish humans from other animals is our ability to communicate—we have language. It is one of the abilities that humans have that makes up for what we lack in strength, speed, or agility. Through language, we can
start or stop wars, create beautiful poetry or destructive prose, communicate our hate, or express our love. Most significantly, we use language to express or hide what is going on inside our brains. Since language is a function of the brain, when the brain is “broken,” language can be, and is often, affected. Listening, therefore, is an important skill in effective interaction with persons with mental illness. Like good listening skills for effective communication, listening for mental illness is essential. Persons with schizophrenia, for example, may have language that is confused or paranoid or disorganized in content. They may reflect delusional thinking, so listening involves not only paying attention to the words to get the meaning of what is said but it also involves listening to the content and/or context of what is said to recognize signs of disordered thinking. Persons who are anxious or depressed will also “give away” their illness by what they say and how it is said. One effective tool for determining the thought content of a person, for example, is to check and see if they are “oriented” to time and place and person. “What day or year is it?,” “What is your address?,” or “What city do you live in?” can be more than just information questions. Ironically, in most encounters, a law enforcement officer will be asking these or similar questions anyway. As the information is gathered, these questions can reveal what is going on inside the brain. If, in fact, a person is found to be confused or disoriented or having delusions, that tells the listener that he or she has to slow down, take extra time, and be more patient with the subject, much as the EMT has to adjust their actions based on what they determine the physical situation of the individual to be. The bad news is that this requires a lot of attention. The good news is that much of what law enforcement officers learn in their recruit training and in their “on the street” training has already and continues to build on this fundamental skill. When dealing with this or any special population, it just means adding to the list of what to listen for.

Listening with Our Eyes

It is a fundamental principle that the better part of human language is nonverbal. That is, we say as much if not much more with our body language as we do with the spoken word. Everyone has had the experience of hearing someone say that they are “all right” or “doing ok,” yet, upon seeing their eyes cast down, their shoulders slumped, and their face in a frown, we recognize immediately that the words don’t match their body language. And, we intuitively trust the body language over the spoken words. So, “listening” to body language that is being spoken is another important element in determining what is really going on inside the brain, which, in turn, helps set the agenda for how to interact.

Body language is spoken on several levels, however. Essentially, a person’s outward appearance, their body movements, their speech, and more can all give clues as to their mental state. The key is learning what to “listen” for. Some body language is louder than others. For example, you see a man walking down the street wearing winter clothes in the heat of summer or summer clothes in the cold of winter. Already, if you are paying attention, that person has begun to speak volumes about what is going on inside his brain. It is not unusual for a person diagnosed with a thought disorder like schizophrenia to dress not only inappropriately but to put themselves at risk. I recall a couple of years ago seeing a man wearing a heavy winter coat on one of the hottest days in the city. He was at risk. He was also very delusional and hearing voices. I was able to get him to go to the local Food Bank where they knew him and kept him out of the heat. Further clues, observed
even before the first word is exchanged, may give you more information to work with. In the encounter I just described, I also noticed that the man would stop at telephone poles and start “preaching” to them and then move on, seeming to be holding a conversation with someone. It was evident even before I spoke the first word to him that he was very disorganized, very delusional, and that I would not be the only voice he would be listening to if he were listening to me at all. I knew the only course of action was to be patient and to keep all my questions short and simple, often repeating them. In between his other conversations, he was able to tell me where he was heading, which was just a couple of blocks away. That was enough for me to call ahead to make sure they knew what was going on. They assured me they were familiar with him and knew what to do.

This example reiterates the initial point of this article. If an individual’s brain is so disorganized that he or she cannot or will not dress appropriately, then, as a “first responder,” I cannot expect this individual to respond to me in an organized, logical way. When I know what’s broken, I have a better idea of how to respond.

Other body language may be more subtle but no less important. That is why, for example, almost every mental health professional learns how to do a Mental Health Status Exam. It is a simple tool, but it takes a little practice. Appendix 1 presents a simplified version of the Mental Health Status Exam that any first responder can use. It combines elements of listening with both ears and eyes. Oftentimes, listening with both ears and eyes at the same time is very important because one way may give clues that are not obvious with the other. For example, I work with individuals with schizophrenia in a remarkable new program that helps “exercise” the brain. If I were blindfolded and could only hear these individuals speak, I would have to conclude that nothing possibly could be wrong. Once I begin observing a couple of them, however, I would notice the very “flat” affect that is common in persons who have been diagnosed with schizophrenia. Their faces show little if any expression. I would also observe that with one or two of them they seemed to pause when speaking. If I was only listening, it would not seem to mean anything; however, while watching them, it looks like the pauses are there because someone else is talking to them and, as a matter of fact, they tell me that they are still hearing voices. Now I know that although they are not as disorganized as the man in the example above, and that they will be able to have a relatively normal conversation with me, I also know that I have to be aware of and be patient with the distraction of the other voices. Sometimes, depending on the conversation, what we need to accomplish, and the level of the person’s insight into the voices, I may even ask what the other voice or voices are saying. The more I know about what is working and what is not working, the safer and more effective my response will be.

Listening with Our Gut

Perhaps the most neglected listening skill when it comes to interactions with persons who are mentally ill is, ironically, one of the most important skills that police officers rely on—their gut or intuition. First, let me define what I believe this important skill to be. In the everyday experience of seeing and hearing, our brain is bombarded with so much information we cannot possibly be conscious of it all at any given moment, yet on some level it registers. When driving, for example, our eyes and ears are taking in a lot of information, most of which, since it seems unimportant, we do not even think about—it is automatic. Sometimes, however,
something important may slip by and our brain, based on what we know from training or experience, seems to send a warning signal, a gut feeling, that something is not quite right. This is the third level of listening—when our brain, through our senses, is telling us to “look again” or “pay attention; you missed something!” This has been confirmed to me over and over again when, after reviewing this section in our training programs, officers will tell me stories of how they sensed something was wrong or just had a feeling that something was not right. In every instance, trusting or listening to their gut proved the right thing to do and, upon reflection, the officer was able to pick out what he or she had missed consciously, although the brain had registered on that other level and sent the warning.

Just to be clear, when I talk about intuition, I am not talking about some psychic or paranormal event. There is nothing mysterious about it. I believe it is the way our senses, especially our eyes and ears, work together on many levels, consciously and unconsciously.

Listening to our gut should be an integral part in interacting with persons with mental illness. Mental illness is complicated, and the symptoms are not always clear and obvious. Sometimes we can be looking and listening and everything seems to be ok, yet there is a sense that something is wrong. A young woman came to me for counseling many years ago when I was still pretty new at it. In my head, as any good therapist would, I immediately started going through the Mental Health Status Exam: the client was appropriately dressed, her speech was clear and organized, there was no sign of strange motor movement, and so on, but I had a gut feeling something was wrong. The conversation was all about her personal problems at home. She was making good sense, but I could not shake the uncomfortable feeling I had. After a few minutes, she suddenly said, “And then there are the surgeries.” I was slightly thrown off by that comment, and when I asked her to explain, she told me that every night aliens came to her room and surgically removed all of her internal organs. Nothing she had said or done previous to this comment had given any indication that she was delusional—at least nothing that I had paid attention to. While reviewing this case with another therapist to discover what I had missed, he asked me to describe her face and what affect was she showing. It was then that I realized that she had almost total flat affect—no show of any range of emotion no matter what she was talking about—a hallmark of thought disorders. I had seen it, but I had not paid attention to it. However, because I had learned at some point during my training that it was significant, my brain registered it and sent me the message, “You’re not paying attention!” Chalk it up to inexperience, but it was an important lesson. When the feeling comes, pay attention. Ask more questions. Look again. That is a very important part of listening to one’s intuition as it is with any level of listening. It is essential to use all three. It is not a good idea to rely on a single one, especially intuition.

A former police officer who has written a lot about intuition and listening to that part of ourselves is Gavin de Becker (1997) in his book *The Gift of Fear*. I believe it should be required reading for every law enforcement officer and every mental health professional.
Summary

Like any organ in the body, the brain can malfunction. Mental illness is the category of disorders that describes the various ways the brain can be “broken.” Recognizing that something is wrong is the foundation for taking appropriate action that is both safe and effective. One of the most important skills to develop to set the tone for making the best decision is listening at all three levels: with our ears, with our eyes, and with our intuition.

Appendix 1. The Mental Health Status Exam

<table>
<thead>
<tr>
<th>Listening with Ears</th>
<th>What to Listen/Look for</th>
<th>It Might Mean . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Orientation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time</td>
<td>Is the person oriented to day, month, or year?</td>
<td>Disorientation to time person or place can indicate a brain injury (concussion), but, in the absence of any injury, may indicate some level of psychosis most common in schizophrenia</td>
</tr>
<tr>
<td>Person</td>
<td>Can the person identify who they are?</td>
<td></td>
</tr>
<tr>
<td>Place</td>
<td>Does the person know where he or she is and/or what is going on?</td>
<td></td>
</tr>
<tr>
<td><strong>Content</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delusions</td>
<td>Fixed false beliefs about self or others; often paranoid in content</td>
<td>Delusions and hallucinations are psychotic symptoms most common with schizophrenia but can be seen in severe depression or mania</td>
</tr>
<tr>
<td>Hallucinations</td>
<td>Hearing voices or sounds are most common but can occur in any of the five senses</td>
<td></td>
</tr>
<tr>
<td>Grandiosity</td>
<td>Exaggerated to the point of being unbelievable but not quite delusional</td>
<td>Most often occurs with bipolar mania but can occur with some personality disorders</td>
</tr>
<tr>
<td><strong>Speed</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressured</td>
<td>Very rapid speech; looks like the person is trying to “push” it all out at once</td>
<td>Common to bipolar mania but can be seen in thought disorders like schizophrenia</td>
</tr>
<tr>
<td>Retarded (slow)</td>
<td>Slow in response and slow in delivery</td>
<td>Depending on content of speech may indicate severe depression or “thought blocking” common to schizophrenia</td>
</tr>
<tr>
<td><strong>Volume</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loud</td>
<td>Inappropriate to the situation</td>
<td>Could indicate person is trying to talk over the voices; if also very pressured, speech may indicate bipolar mania</td>
</tr>
<tr>
<td>Soft</td>
<td></td>
<td>Look for other signs of depression</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Listening with Eyes</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appearance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dress</td>
<td>Appropriate to season? Bizarre or reflecting a delusion? Disheveled?</td>
<td>May indicate disorganized thinking</td>
</tr>
<tr>
<td>Hygiene</td>
<td>Lack of self-care?</td>
<td></td>
</tr>
<tr>
<td><strong>Motor (Movement)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agitation</td>
<td>Exaggerated movement? Uncontrolled energy? Accompanied with irritability?</td>
<td>May indicate mania or anxiety or panic attack</td>
</tr>
<tr>
<td>Retardation</td>
<td>Stiff or awkward?</td>
<td>This can be a sign of side effects from older antipsychotic medications</td>
</tr>
<tr>
<td></td>
<td>Slow or low energy?</td>
<td>May indicate various levels of depression</td>
</tr>
</tbody>
</table>
### Affect/Mood:
Affect is the outward expression of mood; mood is the feeling the person is experiencing.

<table>
<thead>
<tr>
<th>Range</th>
<th>Depressed: low energy, sad, irritable</th>
<th>Manic: high energy, irritable, grandiose</th>
<th>Labile: moving back and forth from one extreme to the other</th>
<th>Flat: little or no affect at all; blank look</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reactivity</td>
<td>Fearful? Angry?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriateness</td>
<td>Is the emotion the person expressing appropriate to the situation?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attention to affect is critical in assessing mood which is crucial in determining response. It is a good idea to “reflect out loud” the mood you are seeing and ask for confirmation: “You look sad, angry, afraid to me—is that right?”

1This model of the Mental Health Status Exam is taken from a variety of sources and presenters in the Mental Health Response Team training program, most notably from the lectures of John Kennedy, MD, of the University of Cincinnati and members of the University Hospital Mobile Crisis Team as well as from this author’s own experience.

2This section is not intended to help make a definitive diagnosis but, rather, to indicate what might be going on inside the brain to better assist in making an effective response. Each section should not be considered by itself but always in combination with others.

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Mr. Lloyd has presented at national conferences on various aspects of police training and has taught in the Public Agency Training Council annual institute held in Las Vegas, Nevada. He has been invited to consult and train law enforcement agencies in Arizona and New Jersey.

Mr. Lloyd has appeared on local radio and television. In the spring of 2005, he and the Mental Health Association were co-recipients with the Cincinnati Police Academy of the “Outside the Box” Honorary Mention Award presented by the Ohio Crime Prevention Association. In October of 2007, Mr. Lloyd was the recipient of the National Alliance for Mental Illness Community Educator of the Year Award.
The Better Part of Valor: Court-Overtime Pay as the Main Determinant for Discretionary Police Arrests

Peter Moskos, Department of Law and Police Science, John Jay College of Criminal Justice

Court is like our heroin; it’s just something we need!
–A Baltimore City police officer

To understand police discretion and arrest decisions in high-drug areas where the majority of arrests occur, variables related to the police officer must be examined. It is not that traditional suspect-based variables—race, age, sex, demeanor, and criminal activity—are unimportant, but a focus on suspects neither explains the massive number of discretionary arrests in high-arrest police districts nor the huge variances in arrest numbers among individual officers working in identical conditions. Discretionary arrests are more influenced by officer-based variables than any suspect-based variable. The discretionary will—even whim—of individual police officers, the desire to make an arrest, is the best predictor of arrest numbers. Desire for court-overtime pay is the single most important factor affecting the quantity of discretionary arrests. Age and morale are also significant causal variables.

A necessary condition for a patrol officer wishing to make a lot of arrests is the sale of illegal drugs. A large, public open-air market provides a virtually limitless supply of arrestable suspects. The drug block is a buzz of constant activity. Dealers hawk their wares, customers come and go, and addicts roam the street hustling for their next hit. Occasionally, a police car will appear, and the street crowd will disperse, slowly walking away from the police car. Being too fast or too slow can make oneself a conspicuous mark for police attention. So people walk, shuffle, and roll with a well-practiced nonchalance. Soon after the appearance of a police car, the street will be deserted. When the police car leaves, people return, and the action resumes. An arrest-based police culture can exist in a low-drug environment, but without a limitless supply of arrestable criminal offenders, an arrest-based culture cannot make a lot of arrests. Neighborhoods without public drug dealings will not produce a high number of arrests.

This participant-observation research was conducted in a high-crime and high-arrest police district with a flourishing trade in illegal drugs. The Eastern District is one of nine police districts in a mid-sized East Coast city that will be referred to as “Baltimore” (location names have not been changed). This police district, almost exclusively African-American, is home to approximately 45,000 residents. Every year, there are over 20,000 arrests. “It’s like shooting fish in a barrel,” one officer explained. “You’ll never run out of people to arrest here.” Levels of poverty, unemployment, homicide, and all other indicators of urban blight are very high. Research data, both qualitative and quantitative, were gathered over a 20-month period during which the author completed the police academy and worked as a uniformed police officer, mostly on the midnight shift (see Moskos, 2008).
The Baltimore Police Department estimates that 80% of homicides are drug related. The violence of Baltimore’s drug trade may be extreme, but it is in many ways typical of drug-related violence in America’s poorest neighborhoods: young men, usually African-American, with access to guns and involved in illegal public drug dealing, shoot each other for issues of protection, turf, and respect. Police response to an active drug corner follows a standard modus operandi: a citizen calls 911, a responding police car approaches, drug activity stops, and people—dealers, friends, addicts, lookouts, and any “innocents” who happen to be walking by—will slowly walk away. Officers who police the ghetto by and large hate the ghetto. The criminal justice system is perceived as a revolving door: “Justice for criminals” goes the well-worn police cliché. Police build their “stats” and earn court-overtime pay while residents get rap sheets and spend nights in jail.

A group of men selling drugs on the stoop of a vacant building will likely be ordered to go home. Yet police cannot legally order adults to go home. It is, after all, a free country. Police do not want every request turned into a confrontation. Requests need to be perceived as orders. To have such authority, police need to be respected or feared. An arrest is the “. . . or else” of a police order. Most often, corner boys will go for a brief walk around the block and then, after the police leave, reconvene on the same or a nearby stoop. Dispersing without being asked is considered a sign of criminal activity or perhaps an outstanding warrant. But police also view quick and unprompted departure—walking, not running—as a sign of respect and a satisfactory resolution to most problems. An officer in the police academy explained, “Tell them to leave the corner, and then take a walk. Come back, and if they’re still there, don’t ask questions; just call for additional units and a wagon. You can always lock them up for something. You just have to know your laws. There’s loitering, obstruction of a sidewalk, loitering in front of the liquor store, disruptive behavior.” If a group remains on or returns to the same stoop despite an officer’s order to leave, the officer is challenged and forced to follow-up on a threat. If you promise to lock somebody up, you have to deliver.

Only in high-drug areas do police officers make extensive use of discretionary non-drug-related charges. Any minor charge will suffice. In Baltimore, loitering is the most widely used minor criminal charge; in New York City, it is disorderly conduct. Loitering is defined in Baltimore, in part, as “interfering, impeding, or hindering the free passage of pedestrian or vehicular traffic after receiving a warning” (Baltimore City Code, Article 19, 25-1). In practice, loitering is failing to move when ordered to move by a police officer.

These arrests are invariably linked by police to the drug market. Arrests are believed to control the drug market by inconveniencing sellers, users, and others who benefit from illegal drug deals. One officer described an unorthodox approach he used very rarely: “Sometimes I’ll flip a quarter for a loiterer. Tails he goes to jail and heads he doesn’t. They’ll be going, ‘Heads! Yeeah!’ I asked if they ever fuss when the coin came up tails. He said, ‘No, not really.’” While this approach was rarely used (even by this officer), it illustrates both the discretionary nature of loitering arrests and the knowledge and acceptance of police discretion by officer and suspect alike. The suspect would be unlikely to complain because they know the officer could lock them up, and a 50% chance of walking free is better than no chance at all.
The Drug “Shop”

Street-level drug operations are called “shops” because of their operators’ business-centered outlook. Those involved consider themselves to have “jobs,” but the term going to work is reserved for employment in legal jobs (Venkatesh, 2008). Corner drug dealing has five distinct jobs or positions: (1) lookouts, (2) steerers, (3) moneyman, (4) slinger, and (5) gunman. In practice, these roles can be amorphous. More often than not, one person handles multiple positions, but a cardinal rule of drug dealing is to keep the money and the drugs separate. This limits everyone’s legal liability. There are other positions in a drug operation—the couriers or runners who transport drugs, the cooks who cook crack, the packers who package drugs in $10 or $20 units for resale—that are not actively present in the street-level drug trade and therefore not the focus of the patrol officer.

Lookouts are the lowest job in the drug operation. Almost always an addict, a lookout has the simple job of alerting others when police approach. The steerer, hawker, or tout is responsible for promoting the product and leading the customer to the seller. While the jobs of both the lookout and steerer are often freelanced to local addicts, the moneyman or “bank” holds the money and is therefore a position of some responsibility. A customer arranges the type, price, and quantity of a drug sale with the moneyman (who is not always a man). The slinger—slinging is also a term used for drug dealing in general—looks after and distributes the drugs to paying customers. Since the criminal justice system treats juveniles more leniently, many slingers are under 18. The fifth and final position in any successful shop is the gunman or soldier responsible for protection. Drug dealers regularly experience robberies due to the fact that they are unable to turn to the police for protection (Jacobs, 2000).

After a customer pays money to the banker, the slinger gives drugs to the buyer. This process is known as hitting off. The slinger will access a hidden stash of drugs as needed. The drug stash, containing perhaps a few dozen pills of heroin and vials of cocaine, is kept nearby in weeds, trash, alleys, holes in lampposts, windowills, or abandoned buildings. The idea is to keep the quantity of drugs in possession small enough so that when arrested, the criminal charge will be simple possession rather than the more severe charge of possession with intent to sell. Dealers, in effect, use a street version of what is known in more accepted industries as “just-in-time inventory.”

If a shop is run efficiently, the boss—himself working for or with a mid-level dealer—should be able to sit and observe the operation. By not handling drugs or money, he faces little risk of arrest from uniformed patrol officers. Low-level slingers serve as easy targets for loitering arrests as they must remain near their drug stash. While any member of a drug-dealing group is considered fair game for arrest, the easiest and most docile arrest targets are the customers. Although being a drug addict is not an arrestable offense, drug addicts commit numerous other minor crimes while they hustle for money, search for their next hit, or possess small amounts of drugs. Heroin addicts in particular facilitate an easy arrest by being notoriously docile and nonconfrontational (except when going through withdrawal). Heroin addicts often stink and carry communicable diseases, but unlike people high on other drugs, they never fight. Since arrests are by definition “hands-on” and demand close physical contact, police officers would like suspects to be cooperative, noncontagious, and sweet smelling. But police will usually settle for one out of three.
When the legal community discovered the problem of police discretion in the 1960s, they declared it illegal, immoral, and in violation of a democratic ethos (Goldstein, 1960; Kadish, 1962; LaFave, 1962). Of course it would come as a surprise to most police officers that discretion was “invented” in 1960 (and that it was considered a problem). Though all but ignored in academic literature before then, police have used discretion since the first establishment of a modern police force (see Table 1). Egon Bittner (1967), arguably the first academic to cast a positive light on police discretion, described the difficulties in policing skid-row areas with their high level of “non-normal” behavior. At the root of the conflict were varying citizen expectations toward the role of the police. Bittner saw police discretion as an underappreciated skill learned on the job, allowing police to function effectively in areas with greater criminal activity.

Table 1. Police Discretion in the Literature, 1936-2000

<table>
<thead>
<tr>
<th>Author</th>
<th>Key Discretionary Concept</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vollmer, 1936</td>
<td>Professional police</td>
<td>No mention of discretion</td>
</tr>
<tr>
<td>Whyte, 1943</td>
<td>Neighborhood</td>
<td>Different police response in different neighborhoods</td>
</tr>
<tr>
<td>Goldstein, 1960</td>
<td>Police power to not invoke the law</td>
<td>Introduces concept of police discretion</td>
</tr>
<tr>
<td>Kadish, 1962</td>
<td>Less enforcement of law in Black neighborhoods</td>
<td>Equates discretion with racism</td>
</tr>
<tr>
<td>LaFave, 1962</td>
<td>Non-enforcement of the law</td>
<td>Describes discretion</td>
</tr>
<tr>
<td>Banton, 1964</td>
<td>Discretion as a theoretical dilemma for police officer</td>
<td>Cops are in a bind in lower-class neighborhoods</td>
</tr>
<tr>
<td>Piliavin &amp; Briar, 1964</td>
<td>Dependent on demeanor</td>
<td>Discretion based on juvenile suspect’s demeanor, not race</td>
</tr>
<tr>
<td>Bittner, 1967</td>
<td>As a learned skill</td>
<td>Discretion good</td>
</tr>
<tr>
<td>Wilson, 1968</td>
<td>Varies according to police department</td>
<td>Introduces service, watchman, and legalistic concepts of policing</td>
</tr>
<tr>
<td>Alex, 1969</td>
<td>Race of police officer</td>
<td>Black police officers have tougher job in Black neighborhoods</td>
</tr>
<tr>
<td>Black &amp; Reiss, 1970</td>
<td>Complainant’s desire regarding suspect</td>
<td>Wishes of Black complainants responsible for disproportionate number of Black arrests</td>
</tr>
<tr>
<td>Van Maanen, 1978</td>
<td>The “asshole”</td>
<td>Suspects’ attitude key</td>
</tr>
<tr>
<td>Smith, 1986</td>
<td>Class of neighborhood key; race not important</td>
<td>Equal treatment by police within an area; better treatment in better neighborhoods</td>
</tr>
<tr>
<td>Anderson, 1990</td>
<td>Race, class, style of clothes, regular patrol officers versus specialized unit</td>
<td>Describes conflict of cultures in the ghetto</td>
</tr>
<tr>
<td>Klinger, 1997</td>
<td>Police district</td>
<td>Service varies by police district, regardless of neighborhood variations within district</td>
</tr>
<tr>
<td>Engel et al., 2000</td>
<td>Demeanor</td>
<td>Demeanor not significant</td>
</tr>
<tr>
<td>Mastrofski et al., 2000</td>
<td>Complainant’s desire regarding suspect</td>
<td>Complainant’s desire not very significant; severity of crime key</td>
</tr>
<tr>
<td>Robinson &amp; Chandek, 2000</td>
<td>Domestic violence</td>
<td>Situational variables</td>
</tr>
</tbody>
</table>
James Q. Wilson (1968) believed that police behavior varied in different cities based on the department’s general approach to policing. He articulated the familiar distinction among watchman, legalistic, and service styles of policing. Smith (1986) narrowed the focus and observed officers behaving differently in different neighborhoods within a city. Smith stressed class over race, arguing that discretionary arrests were more likely in neighborhoods with low socioeconomic status. In higher socioeconomic neighborhoods, conversely, police treated both Whites and Blacks better. But within each neighborhood, police treated both Whites and Blacks equally.

Klinger (1997) built on Smith’s neighborhood concept by noting that police discretion was dependent on the overall socioeconomic characteristics of the police district in which officers worked. While police behavior could vary greatly from one district to the next within any single district, the police would respond uniformly to all calls regardless of an individual’s race or class. Klinger highlighted four key factors that affect officer discretion: (1) officer cynicism, (2) police workload, (3) the definition of “normal” crime, and (4) the degree to which officers believe victims were responsible for their predicament.

Engel, Shepard, and Sobol (2000) noted the characteristics of an officer’s supervisor significantly affected police officer discretion. Robinson and Chandek (2000) examined officer discretion as it specifically related to domestic violence. They introduced important but previously overlooked situational variables such as the demographic characteristics of an officer, the victim’s cooperativeness, the victim’s injuries, and the time of shift. Barlow and Barlow (2000) argue that discretionary actions by both White and Black police officers discriminate against African Americans.

Overall, the literature establishes that police exercise considerable discretion in their day-to-day arrest decisions. While such discretion was initially seen as prima facie evidence of racism and something to be identified and eliminated, most contemporary research tends to see police discretion as inevitable and even desirable when used judiciously. While recent literature has begun to focus on police-related variables as a significant factor in discretion, no research has focused on police officers’ desire for court and overtime pay as the main variable affecting quantity of low-level discretionary arrests.

**Identifying Discretionary Arrests**

At the simplest level, police discretion is an officer’s decision to act or not act when there is an option to do otherwise. Citizens in the Eastern District—African Americans—are routinely and legally asked by police if they have identification. Though there is no obligation to respond, police officers may ask people their names, where they are going, and where they live. Failure to carry ID or go by one’s legal name is nearly universal among those questioned by police in the Eastern District. Since you cannot write a ticket to a person you cannot identify, all offenses, even nonarrestable offenses, become arrestable (technically, detention for the purpose of identification). This is the flaw in the street code’s logic. Most drug suspects partake in multiple, if minor, illegal activities. More often than not, street-level drug dealers are rowdy teenagers who drink, shout, litter, loiter, and curse. Without identification, all these behaviors become grounds for arrest. This gives police great discretionary leverage in their dealings with citizens.
Once an officer has probable cause for arrest—and a smart officer tries to have legitimate probable cause for something—then any disobeyed command or bad attitude can result in arrest if the police officer so chooses. Strategically, officers gain compliance from a suspect and control of a situation by presenting their arrest decision not as a response to legitimate but technical violations of the law but rather as personal—even extralegal—officer discretion. Police commands are usually expressed in specific personal terms for which there can be no acceptable rejoinder. As long as police have some reason to lock up a suspect, then any disrespect or failure to follow a request (however reasonable or unreasonable) could be grounds for a legal arrest. On street corners in poor neighborhoods, people—usually young minority men involved in the illegal drug trade—are arrested when they refuse to obey a police officer’s orders to move or if they talk back to police. An analogy could be made to pretextural car stops (Whren v. U.S., 1996). Officers are constitutionally permitted to stop a car for any reason as long as there is some legal reason (even if unrelated) for the stop. On drug corners, then, police, in effect, conduct pretextural arrests.

Though police-officer based variables are the key determinant for a discretionary arrest decision, suspect-based variables do matter. Criminal behavior and a bad demeanor certainly increase the likelihood of arrest. Polite people often avoid arrest, while rude folks talk their way into handcuffs. The primacy of officer-based variables can be seen in the wildly varying arrest numbers for the police officers in any given squad. If suspect-based variables—race, demeanor, and criminal behavior—were the key factors determining arrest, one would expect similar arrest statistics for the 13 officers for whom suspect-based variables are constant. As is typical among police, a small proportion of police make the majority of arrests. In one police squad, the three highest-arrest officers were responsible for 54% of the squad’s total arrests (see Table 2). The three lowest-arrest officers were responsible for just 7% of the squad’s total arrests. These variances can only be explained by examining the officers involved and the distinction between high- and low-discretion arrests.

<table>
<thead>
<tr>
<th>Officer</th>
<th>Arrests (Total)</th>
<th>Felony Arrests</th>
<th>Nonfelony Arrests</th>
<th>Traffic Citations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jake Atz</td>
<td>77</td>
<td>5</td>
<td>72</td>
<td>135</td>
</tr>
<tr>
<td>Charlie Bricknell</td>
<td>66</td>
<td>1</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>Terry Cox</td>
<td>49</td>
<td>6</td>
<td>43</td>
<td>59</td>
</tr>
<tr>
<td>Pat Duncan</td>
<td>31</td>
<td>11</td>
<td>20</td>
<td>18</td>
</tr>
<tr>
<td>Art Ewoldt</td>
<td>24</td>
<td>2</td>
<td>22</td>
<td>28</td>
</tr>
<tr>
<td>Gene Ford</td>
<td>20</td>
<td>8</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>Ross Grimsley</td>
<td>20</td>
<td>2</td>
<td>18</td>
<td>64</td>
</tr>
<tr>
<td>Tom Hamilton</td>
<td>18</td>
<td>0</td>
<td>18</td>
<td>19</td>
</tr>
<tr>
<td>Charlie Irwin</td>
<td>16</td>
<td>4</td>
<td>12</td>
<td>60</td>
</tr>
<tr>
<td>Gerry Janeski</td>
<td>11</td>
<td>3</td>
<td>8</td>
<td>40</td>
</tr>
<tr>
<td>Burt Kuczynski</td>
<td>10</td>
<td>2</td>
<td>8</td>
<td>36</td>
</tr>
<tr>
<td>Phil Lowe</td>
<td>10</td>
<td>1</td>
<td>9</td>
<td>28</td>
</tr>
<tr>
<td>Sherry Magee</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>356</td>
<td>47</td>
<td>309</td>
<td>577</td>
</tr>
<tr>
<td>Mean</td>
<td>27.4</td>
<td>3.6</td>
<td>23.8</td>
<td>44.2</td>
</tr>
<tr>
<td>Median</td>
<td>20</td>
<td>2</td>
<td>18</td>
<td>36</td>
</tr>
<tr>
<td>Std Deviation</td>
<td>22.7</td>
<td>3.2</td>
<td>22.3</td>
<td>34.0</td>
</tr>
</tbody>
</table>
Table 3. Correlation Between High- and Low-Discretion Arrests

<table>
<thead>
<tr>
<th>Correlation Between</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonfelony arrests (high-discretion) and traffic citations (high-discretion)</td>
<td>0.785</td>
<td>0.001</td>
</tr>
<tr>
<td>Nonfelony arrests (high-discretion) and felony arrests (low-discretion)</td>
<td>0.075</td>
<td>0.81</td>
</tr>
<tr>
<td>Felony arrests (low-discretion) and traffic citations (high-discretion)</td>
<td>0.018</td>
<td>0.95</td>
</tr>
</tbody>
</table>

Source: Baltimore Police Department Monthly Performance Sheets, compiled by author

For the purposes of this study, felony arrests are considered low-discretion and misdemeanor arrests and traffic citations are considered high-discretion. For felony crimes—especially those involving victims and violence, arrests are largely a function of luck and an officer’s ability to identify and locate a suspect. If a man is bleeding and a woman is holding a bloody knife yelling, “I cut that son of a bitch and I’d do it again,” she will get arrested. If the suspect cannot be located, the responding officer makes no arrest and hands the case over to a detective. For the most part, patrol officers stumble across felony arrests. The vast majority of police calls for service do not result in an arrest, and the bulk of arrests are not felonies. For minor and nonviolent offenses, such as traffic citations and nonfelony arrests, police officers exercise a great deal of discretion. In any given work shift, an officer can decide to write five traffic tickets and, in a high-drug area, lock up two low-level drug offenders. An officer can also decide to write no traffic tickets and give people warnings for minor crimes. Even when there is no drug charge, in high-drug areas most discretionary arrests are in some sense drug related (broadly defined). Likewise, many minor crimes become drug arrests when the search “incident to arrest” (after arrest) finds drugs on the suspect’s person.

To confirm the legitimacy of the high-discretion/low-discretion dichotomy, the correlation between these two categories is examined (see Table 3). If the categorization were false, it would be expected that there would be some constant correlation among all forms of police activity. That is to say, some officers may be more active than others, but there shouldn’t be a large difference between kinds of arrests within any given squad. In fact, however, there is.

The data strongly support (1) felony arrests as an indicator of low-discretion arrests, and (2) nonfelony arrests and traffic citations as indicative of high-discretion activities. Among individual officers, there is a strong correlation between the two independent measures of high-discretion activities (nonfelony arrests and traffic citations). Officers who make a lot of discretionary arrests also write a lot of discretionary traffic citations (F = 0.785, Sig. = 0.001). Yet, officers have little control over low-discretion arrests (felonies). There is no correlation between felony arrests and nonfelony arrests (F = 0.075, Sig. = 0.81) or between felony arrests and traffic citations (F = 0.018, Sig. = 0.95). In other words, distinctions between individual officers account for the variance in quantity of high-discretion activities In pure quantity, high-discretion activities (n = 885) far outnumber low-discretion arrests (n = 47).

Low-Arrest Officers

Officers who “look for trouble” open themselves up to use of force, physical danger, and the likelihood of civilian complaints. There is very little incentive and considerable disincentive to work more than the minimum required. You do not
get paid to work harder, but you do get paid for court. Most officers want overtime, but for some, the hassles of court outweigh the extra money. For one officer, the lengthy commute was the deciding factor:

Fuck no, I don’t want court. Like I want to come here on my day off. Two hours [pay] ain’t worth it. With my drive, I’m going to spend more on gas. Or what if you get 1:30 [pm] court? I’m supposed to work midnight to eight, drive home, sleep for three hours, drive to court, sit around for a few hours, have the case be postponed, and then go back to work that night? No thank you. I used to make more arrests, and then they started banging us for no-shows [punishing officers for failing to appear in court]. Fuck it.

Unlike police schedules, most courts operate on regular business hours. Court time is scheduled without consideration for an officer’s work and sleep schedule. Since police do not work Monday to Friday, court cases are often in the middle of an officer’s “weekend.” An officer on the midnight shift may receive an afternoon summons, while an officer in a specialized unit working 7:00 pm to 3:00 am will be expected to appear in court daily at 9:00 am. There is no “officers’ lounge” in court. Nor coffee. Nor may one read in the courtroom to pass the time. To put it bluntly, “Court sucks.”

The hassles of the booking process can also serve as a deterrent to discretionary arrests. After an arrest, the officer must complete the booking process before going home. Most officers are hesitant to make arrests or get in situations likely to lead to an arrest toward the end of their work shift. Bookings are unpredictable. To control overtime pay, superiors also discourage late discretionary arrests. The simplest arrest, something like loitering, takes about an hour for the arresting officer to process: the procedure involves paperwork relating to the arrest, paperwork relating to the charging of the prisoner, and a commute to Central Booking for court paperwork. The amount of time needed to process an arrest can vary greatly: computers go down; shifts change; juveniles are booked separately from adults; prisoners demand medical attention (officers try very hard to avoid a multihour trip to the hospital—being under arrest does not allow you to jump the hospital’s waiting-room queue); property and evidence must be submitted; drugs must be photographed and submitted; and wagons must be available for prisoners’ transport.

A lengthy booking process—one involving drugs and the arrest of two suspects, one adult and one juvenile—can take more than eight hours. The volume, variety, and redundancy of paperwork in the police department is, to the uninitiated, shocking. For such an arrest, in addition to preparing drugs for submission (photographing the drugs in a heat-sealed bag and filling out an arrest log and a drug book), 21 forms and labels, 19 of them in longhand, need to be completed in five different locations: one primary incident report, one supplement report for the incident, one arrest form, one statement of probable cause, one charging document for the adult, one juvenile custody form, one juvenile supplement listing the charges against the juvenile, one list of prior arrests for the juvenile, two seized property forms, five property submission forms, one lab request for drug analysis, one pink property tag for a property bag, two envelopes for property submission, and two envelopes for money submission.
Despite the general culture of arrests that exists, given the amount of time an arresting officer may be out of service, superiors occasionally discourage arrests. One day, many officers called in sick and there weren’t enough officers to cover all the posts. At roll call, the shift commander said, “Use discretion. I only want felony arrests or if you have to, like domestic violence. Tell the knucklehead on the corner to go home. You can get him tomorrow.”

Older officers making few arrests can be defensive about their low-arrest totals, likely claiming that their arrests are “quality” or that the department will punish them if a prisoner complains about treatment. The quality of low-arrest officers is almost impossible to quantify. If you stay out of trouble and make the occasional arrest, nobody in the police department will give you a hard time. Some low-arrest officers are simply lazy. Others are burned-out. A few are simply afraid. In private, many older officers simply admit they got tired of policing cowboy-style. Ultimately, patrol officers are judged by their superiors with quantifiable “productivity stats,” namely arrests, and the ability to stay out of trouble. Nevertheless, it is very easy for police officers to get away with doing very little work. Some low-arrest officers are excellent police, however. These officers see arrests as a sign of failed policing, disorder, and crime. Peacekeeping is an underappreciated skill for the patrol officer; officers receive no official credit for informally defusing potentially explosive situations.

Officers who ride together for the first time will ask each other about their work-related interests. On my first night riding with Officer Lowe (from Table 2; all names have been changed), he asked me, “What are you into?” But then quickly added a twist: “Whatever it is, we’re not doing it. I don’t get into nothing.” Later that evening he explained, “I got sick of court. I don’t arrest people anymore. And I don’t go to court on my day off. You don’t get rewarded for arrests. I prefer to sit on my post and prevent. I don’t want to see [crime] pins on my map.”

Lowe talked about his motivations and the department’s emphasis on arrests and stats:

*The thing about this emphasis on stats is I haven’t changed. I’ve policed the same way for the past five years. I guess when I first came out I was more gung-ho, jacking people up [stopping and searching people]. But then I got shot at. It’s a humbling experience. . . . Now my priority is to me. I’m going to go home to me and my family.*

On another occasion, Lowe and I were riding together at 2:30 AM on a Saturday morning. We came across a group of seven young people sitting on their stoop and the stoop of the vacant building next door. They were all drinking bottles of malt liquor. Music was playing from a boom box, but not very loudly. There had been no complaint dispatched. Officer Lowe asked them for their IDs. Surprisingly, all but one had an ID. Only one was over 21. Lowe told them they weren’t old enough to drink. He asked them to get off the vacant building’s stoop and to take the beer inside. We were polite, as were the youths. When we left, Lowe said, “That’s what pisses me off. I think I handled that well. I like to think that now they respect me a little more, too, because I wasn’t a dick. Would I be doing a better job if I locked them up? But I don’t get any credit for good policing.” Six arrests (for underage
drinking in public) would be an impressive month’s haul for any officer, especially Officer Lowe.

Soon after school ended for the summer, Officer Lowe was walking in the courtyard of a low-rise public housing complex after midnight. A group of young teenagers was shouting and playing. Lowe stopped the juveniles and asked to see a parent or guardian. When an appropriate adult was found, Lowe lectured her about the need to respect the city curfew and honor the peace of her neighbors late at night. The process took about an hour. Lowe explained his actions to me:

Where are their parents? Who knows. Grandma acts all concerned if I’m there. But they don’t give a shit. If they did, they wouldn’t let their kids hang out and drink in the middle of the night. I just try and be a buzz kill, so they drink somewhere else. . . . Everybody thinks I’m a hump [lazy officer]. And maybe I am. But I like to keep things quiet. If Cox wants to run around chasing punks, that’s fine. But I prefer to take a nap. [My] post is quiet. I walk foot here for a few days [after school gets out] to make sure people don’t think this is where the summer party is. You see what’s going on 700 Port [St.]? They can go party there. A few hours of work now will keep things nice and quiet for the rest of the summer.

Unlike younger officers, Officer Lowe was resigned to remaining on midnight patrol in the Eastern District. He saw no benefit to having good “stats” and claimed not to care how he was judged.

High-Arrest Officers

Police officers who want to make arrests want them on their own terms, ideally without victims, complaints, or unnecessary paperwork. Police in general and young officers in particular believe that making arrests is the essence of police work. Within individual patrol squads, a few officers make the majority of the arrests. Officers who want arrests make a lot of them. Officers who don’t, won’t.

Within reason (and for good reason) most arrests in high-arrest areas are at the discretion of the individual police officer. For the police department, arrest numbers are a way to quantify police productivity and efficiency. These are your tax dollars at work. If the homicide numbers aren’t going down, at least arrests show that police officers are doing something. For police officers, discretionary arrests are a way to make a buck. A legitimate late arrest may result in a few extra hours of overtime pay. Officers abusing squad overtime could quickly find themselves detailed to foot patrol as punishment. Court-overtime pay comes out of a different part of the budget, so police supervisors have no objection. When officers want consistent overtime, they go to court.

While “collars for dollars” is more a New York City term, the concept of arresting people for profit exists in Baltimore as it does in all police departments. Each prosecuted arrest requires multiple court appearances by the police officer as there are always numerous postponements. For officers who want overtime money, court is an easy way to get it. More serious cases can drag on over many months, even years—that’s a lot of overtime. When not on scheduled duty, Baltimore police officers are paid time-and-a-half overtime and are guaranteed a minimum
of two-hours pay for each court appearance. With the exception of traffic court, police officer testimony is rarely required, perhaps in about 5% of all cases. Yet an officer’s presence is required even when no testimony is needed. An officer who is working a shift will be summoned to court only when needed. When off-duty, however, police officers must come to and will be paid for all court appearances.

Knowing an officer must be present for a case to proceed, some suspects use postponements strategically. Other suspects simply don’t have their act together. The first postponement is usually because the suspect does not have representation. The second postponement often comes when the suspect failed to secure or meet with his or her court-appointed attorney. And then, of course, postponements happen for various legal reasons. The only thing that matters to a police officer is that he or she is paid to be there.

In District Court, if a case is not prosecuted, officers can punch in at 9:00 AM and punch out at 9:01 AM, a practice known as the “9:01 Club.” This is considered the ideal arrest to maximize overtime pay and to minimize time in court. Active officers with a court appearance per day can add 30% to their take-home pay, a huge incentive to some. While police officer pay is lower in Baltimore City than most other jurisdictions, paychecks in Baltimore City can be larger: “You might get paid more in the [Baltimore] County. But you can make more here [in the city].”

Officer Charlie Bricknell provides a useful case study for a high-arrest officer. He is a short, weight-lifting young officer with an attitude both aggressive and self-effacing. Though hard-headed, Bricknell is also quick to point to his faults: “I’m dumb as a sack of rocks. I am definitely not the sharpest tack in the box. . . . I’m a poster child for ADD.” While some officers enjoy the relaxation of slower periods, Bricknell says he needs to keep moving. He explained this need to me: “Look, Mr. Harvard. You always got something to read. Maybe you like that. I can’t sit still. Can you imagine me reading a book? I’m lucky I can spell my name. I’ve never read a book. I prefer to twiddle my thumbs. I won’t even pick up a magazine unless it’s got pictures and even then there better be some pictures of half-naked ladies or beefy guys [muscle magazines].”

In March, after the series of low-arrest memos, Bricknell decided he was going to set the record for number of arrests in one month: “The major wants stats; I’m going to give him stats. . . . I may want to transfer somewhere else some day. I want the stats. . . . and Atz [who claimed to have the record for number of arrests in a four-week work period] doesn’t think I can beat him.”

Bricknell decided that the easiest way to make lockups was to arrest people for violating bicycle regulations. Many bikes, at least late at night, are used by drug runners and drug lookouts. At night, all bikes are legally required to have a light. Bricknell would stop bicyclists for this violation. If the rider had ID, he would write a citation. Most people didn’t have ID. These riders were locked up. While the specifics of bicycle lockups were largely unique to one officer, the general approach to discretionary arrests was very typical.

One sergeant was dismissive, “I wouldn’t accept those as arrests. That’s not real police.” Our sergeant, however, was supportive: “But the lieutenant eats that shit up! . . . As long as the lieutenant likes them, I’m all for it.” Bricknell defended his actions:
I lock up bicyclists. It’s called zero tolerance. If you’re biking in violation of the law, I’m going to write you a ticket. At 3:00 a.m., you need a light. You ever seen a light here? If you don’t got ID, C.B.I.F. [jail]. All those humps [less active officers] can call me whatever they fucking want. I don’t see them arresting Al fucking Capone. It’s legal. And I’m gonna do it. If they don’t want to get locked up, all they gotta do is follow the law. It’s even easier. All they gotta do is carry ID! But boy, do they hate me at ECU [the evidence room where the bikes were submitted as prisoners’ property].

Bricknell set the record with 26 arrests in one month.

Later our sergeant told me,

Look, I don’t know what his [Bricknell’s] motivations are. But I think it’s good. He’s locking people up, which is more than half the people in this squad. You think the lieutenant doesn’t like those stats? It’s good for all of us. And he gets a lot of [drugs] off those lockups. Most of them are dirty. And it’s all legal.

Squad members were mostly dismissive of Bricknell’s particular high-arrest strategy. The general consensus was that if you want to make a lot of arrests, you should make “real” low-level arrests such as targeting loitering, low-level drug possession, and traffic-related offences. One squadmate said, “Giving tickets to people on bikes who have no money? That’s just wrong.” Another officer said, “It’s stupid. But if that’s what he wants to do with his time, good for him. I couldn’t do it. But he doesn’t care what people think.” Another said, “Man, with Bricknell and Atz, it’s like Tweedledee and Tweedledum. One’s pulling over every bike, and the other is locking up every junkie that comes from the Southeast [District]. Is it making the sector any safer? I don’t think so.”

Officer Atz, who had more experience than Officer Bricknell, defended his own high-arrest workstyle:

Unless it’s a busy night, I’m going to jack-up whoever I can. They [drug dealers] may not all have drugs on them. But nine times out of ten, one of them is dirty. It may not even be what they’re dealing. Maybe just a blunt for “personal consumption.” Either way, I win: a good lockup or 9:01 court. I don’t like to sit on my ass and hump out all night. I’ve got a short attention span. I need to go out and do something.

I asked Atz about his predilection for loitering arrests. He replied, “Sarge really likes arrests, and I give them to him. . . . Conspiracy to possess. Loitering. I don’t give a shit if they [state’s attorney representatives] won’t take it. That’s their problem.” The sergeant defended Atz’s high-arrest strategy as well: “Crime right now is all on Twenty-Two and Twenty-Three Post. And if you start knocking off [arresting] one or two [addicts] a night, you start making a difference. That’s what we did in Twenty-One Post. It works!”

Morale and Arrests

While some officers rarely make any arrests, even high-arrest officers will stop “producing” during periods of low morale: “It’s a cliché, but it’s true. If you don’t do nothing, you can’t get in trouble. I used to go out there and bust my balls. But after you get a complaint or two, bullshit ones, you say fuck it. If this department
won’t defend me, assumes I’m guilty, I’m not going to do shit.” While arrests are mostly determined by the discretion of individual officers, overall morale greatly affects this discretion. Alexandre Mas (2006) highlights the link between morale and arrest statistics: in the months after police officers lose pay-related arbitration cases, arrest rates and average sentence lengths decline.

Officers’ arrest numbers can vary greatly over a short period of time. Officer Lowe (from Table 2), the low-arrest officer, made ten arrests during a six-month period. His monthly arrest totals ranged from zero to four. Officer Lowe made no arrests during the month in which Officer Bricknell locked up 26 people. Yet Bricknell made only three arrests in November and just one arrest in December. A few observations from a period of a few months illustrate the effect of morale on Bricknell’s (and others’) productivity.

One officer did not come to work one day as he had been approved for a day off. However, his day off had been disapproved without his knowledge. When he returned to work, he was charged with being AWOL, a fireable offence. He was angry when he told me, “I could do shit out here! Write warrants, get guns, but you see the support you get? It’s not worth it. So you just answer calls. If you’re out there doing your job, you’re going to get complaints against. Someone will go to the phone and say, ‘I was locked up and I didn’t do nothing!’”

In early December, a brief and official memo, universally called a “95,” was required from every officer who failed to make at least one arrest in the previous four-week work period. Until then, there had been no formal pressure to make arrests or write traffic citations. As a squad, many members felt that the different workstyles of various squad members complemented each other. I asked my sergeant about the real significance between my one arrest that month and the other officers’ zero arrests. The sergeant said that the difference came from above: “If you make an arrest, I don’t have to write a 95 on it. Now I have to write a 95. And they have to write a 95, too!” He continued, “This is Compstat bullshit. It’s all numbers. The major goes downtown and gets grilled if they see a zero in any category. So now we can’t put zeros down for anything. . . . If I get yelled at, then I’m going to be pissed. . . . Look at the list; you made an arrest. They didn’t say anything about you. But Janeski and Irwin had no arrests. . . . There’s no excuse in 15 [work] days not to make one arrest!” The sergeant told Officer Janeski, one of the officers with no arrests, “Make one freakin’ arrest. It will keep them off my back and me off your back.”

Janeski said he was unwilling to police aggressively because he did not want to be the victim of a lawsuit or internal investigation:

_Sarge says some people are just coming in here to get a paycheck. But is that wrong? I don’t want to lose my job and my retirement because some idiot doesn’t pull over and kills a pedestrian. . . . What if I turn on my lights and he makes a right on Washington [the wrong way down a one-way street] and slams into someone on the other side of the street? Who’s to say I wasn’t chasing them? Me!? What’s wrong with wanting to avoid lawsuits? IID [Internal Affairs] numbers? It’s not worth it. I want to retire._
An officer explained the difference in arrest numbers among squad members:

*Look, you can go out there and try and get into shit or you can be a hump. The more shit you do, the more lockups you’ll get. But if you want lockups, you just pick up junkies. You stop cars. You can lock up as many as you want. A lot of stuff you don’t have control over. Domestics? You’ve got mandatory arrest. If someone is cut, you cuff the dude with the knife. But those aren’t usually on-view. And if they are, it’s hard to run from. Anyone can make bullshit lockups. But sometimes you just get tired of it all.*

After the low-arrest memo criticizing officers with poor “stats,” squad monthly arrest totals decreased from 73 to 50.

New Year’s Eve is a hair-raising night to work. Traditionally, many residents celebrate by shooting guns in the air. Starting a few minutes before midnight, literally hundreds of gunshots are discharged: big guns, small guns, even a few automatics. After the very intense initial volley, frequent gunfire is heard until 1:30 AM, after which things calm down and remain relatively quiet. The sheer number of guns in the area illustrates both the need for and the futility of gun control laws.

The commissioner canceled all regular and vacation days off. The shift commanding lieutenant called in sick. He said he had hives. With all the other officers reporting for work, there was an entirely predictable shortage of cars and radios. I asked one officer why he had stayed in the Eastern District all his seven years:

*I can’t get out . . . I’ve put in for [a lot of promotions and even straight transfers]. But none came through . . . One time I solved a homicide on the day it happened. A witness said Funk-funk did it. I knew right away who that was and where he lived, Spring Street. I know this area. So I go there and get the guy and the gun. Later, the Lieutenant tells me that I’m too valuable, and he can’t afford to have me leave midnights. So what do you get for doing good work?*

Police officers working in the Eastern District captured about a dozen guns that night. The following roll call, on New Year’s Day, the lieutenant returned in high spirits and with no sign of hives. When he gave a routine injunctive to back each other up, there were coughs in the roll-call room. Later an officer expressed a common view: “Who the hell is he to tell us to back each other up? Where was he? Whatever respect I had for him went right down the drain.”

A few days after New Year’s, all officers with one or no arrests the previous month were again required to write a 95. This time the bar had been raised to two. Squad members were angry, even those who previously made a large number of arrests. One officer told me, “You asked in the beginning what is it that gives everyone a bad attitude. Well, now you see . . . How dare the major or L.T. [Lieutenant] call my work unsatisfactory when they have no idea what kind of job I do!”

In January, with morale lowered by the second low-arrest memos the squad arrest total dropped from 50 to 46. The number of officers making no arrests increased. In early February, the third and final low-arrest memo was released. More officers complained, but the sergeant complained about officers complaining: “Those who do the most complaining are the ones doing the least work!” One officer, whose
monthly arrest total dropped from seven in December to one in January said, “They started fucking with us, so we stopped working. . . . This shit they have with the 95s? If they’re going to worry about production and pressure us to make traffic stops and arrests, fuck ‘em.” Although squad arrests increased to 61 that month, three officers made zero arrests.

During this period, a memo read in roll call stated that officers in the Eastern District were using too many disposable plastic handcuffs at a cost of 70¢ each. The irony of this memo was lost on no one. One officer said, “I love this bullshit! First they tell us to lock people up. Then they tell us we’re using too many cuffs. We could just ask the whole district to march single-file down to CBIF.”

At the end of each shift, officers record their work statistics on the squad stat sheet. As in baseball, where even the weakest Texas-League single looks like a line-drive in the box score, for police, all arrests—good, bad, guilty, innocent, convicted, or never charged—look the same on the stat sheet. The more the better. Felony arrests look like home runs. But nothing is wrong with a misdemeanor single.

**Conclusion**

Historically, research on police discretion and arrest decisions has focused on suspect-related variables and the nature of police/public interactions. By looking only at officers working in the same squad, suspect-based variables can be held effectively constant. Yet, a large variance in arrest numbers remains. The most important determining factor is an officer’s desire for court-overtime pay. Officers who want to go to court make a lot of discretionary arrests. Officers who do not want arrests only make a few.

Arrest numbers are a standard measurement to quantify police performance. In the police world, arrests are good. Young officers with high morale are the most likely to seek arrests and the resultant court-overtime pay. A minority of high-arrest officers account for the majority of all arrests. The majority of all arrests are discretionary. Discretionary arrests do in fact reflect real (though minor) violations of the criminal code. But these arrests, by nature discretionary, are not necessary. They occur because police organizations encourage arrests, and individual police officers, often motivated by court-overtime pay, want lockups. Arrests decrease when the hassles of arrests—lack of departmental support, citizen complaints, the burden of court, and/or an ineffective court system—make putting away the bad guys no longer fun or worth the trouble. Very few patrol officers remain committed to a high-arrest style of policing after more than about five years on the force.

While there should be nothing explicitly racist or discriminatory about making legal arrests, to arrest in quantity, police work in areas with many potentially arrestable people. Public drug dealing and the resulting circus of dealers, addicts, and other customers provide the perfect milieu for high-arrest officers wanting to make discretionary arrests. These neighborhoods are disproportionately poor and minority. In other words, cops do not go out trying to lock up Black people, but it just so happens the neighborhoods where they can lock up lots of people happen to be Black.
The implications for this research are rather straightforward. If we wish to reduce arrests (and it is by no means a given that police organizations wish to reduce arrests) and the number of minorities entering the criminal justice system, changing an arrest-based police culture should be the goal. Ultimately, the importance of arrests in a police culture needs to be examined. Understanding the nature of arrests from a police perspective is the first step. While current trends in policing hold police commanders accountable for reducing crime, the rank-and-file police officers are still largely judged on “productivity stats.” Arrests and response time are used to justify productively regardless of any relation to crime prevention. Police at all levels should be judged by the absence of crime in their jurisdiction and not police reaction to crime after the fact.

Alas, a desire to change police culture is quixotic, perhaps futile, and susceptible to unintended consequences. We could reduce arrests simply by recognizing what we already know: discretionary arrests occur because arresting officers want money. It would be rather simple to reduce arrests by providing opportunities for police overtime that are easier and more reliable than are off-duty court appearances. Increased pay is also likely to reduce arrests, but not as long as court remains the most convenient overtime option. Further research could examine the correlation between the availability of alternative sources of overtime pay and number of arrests. If, as this research claims, arrests in high-drug areas are primarily the result of an officer’s desire for court-overtime pay, then alternative sources of easy overtime should decrease the total number of discretionary arrests. For instance, there is a law (much maligned in the press) in Massachusetts requiring a uniformed police officer at all road construction sites. While this is certainly featherbedding of a sort, along with making police rather easy to find, the law should reduce the quantity of for-profit arrests. It is easily argued that it is better to pay police officers overtime to stand in uniform on the street than it is to pay the same officers to sit in a courthouse awaiting another postponement (while also having to pay a non-union flagman to stand at the construction site). Significantly, police chiefs should focus on what role arrests should play in a greater crime prevention strategy. Police management needs to move beyond a simple, “arrest is good” philosophy. While in some circumstances discretionary arrests may indeed be good, arrests need to be seen as a means to a greater police goal and not simply an end in themselves.

Endnote

1 This article borrows from Chapters Four and Six of Cop in the Hood (Moskos, 2008).

References


Peter Moskos, PhD, is assistant professor of Law, Police Science, and Criminal Justice Administration at the City University of New York’s John Jay College of Criminal Justice. His first book, *Cop in the Hood*, is published by Princeton University Press (www.copinthehood.com). Moskos specializes in a sociological approach to police culture, police patrol and crime prevention, drug violence, police/minority relations, and qualitative methods. He is a former Baltimore City police officer.

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School Response Actions: “Flexibility Is the Key!”

Gregory Champlin, Natural Hazards Specialist, New Hampshire Emergency Management

What started as a normal school day has gone bad. As the teacher is finishing a unit in mathematics, “LOCKDOWN” is announced over the school’s public address system. The teacher and students all know what is expected of them because they have practiced this many times. The teacher locks the door, covers the window, and darkens the classroom while the students move to an area that minimizes their exposure. For a few minutes the school is very quiet . . . then there’s a loud bang as if someone has broken open a door, followed by popping sounds and screams. Shortly, the same scenario is played out again, but this time much closer; the intruder is coming nearer, moving from classroom to classroom!

The teacher moves to the window and observes police officers surrounding the school. She contemplates signaling them and evacuating the children out the windows, but that is not part of the response. They have been told to remain in the classroom during a LOCKDOWN, not evacuate.

This is a situation we all hope will never happen—an armed intruder threatening students and staff. When your school is impacted by any hazard, however, whether manmade, technological, or natural, do your school personnel have the tools they need to respond to the incident, the flexibility to adapt to a changing situation, and the authority to make decisions on their own?

Over the decade and a half I have been supporting school emergency planning efforts in New Hampshire, through training seminars, workshops, awareness sessions, and drills and exercises, I have never focused on a single hazard, believing that “The hazard that isn’t planned for is the one that has the potential for the greatest impact!”

The question is, with the limited amount of time school personnel have, how do they become proficient at emergency response? There are two primary areas in developing a school plan: (1) the Incident Command System, which will give school personnel the management structure they need when responding to and recovering from an incident as well as a structure for the development of their plan, and (2) the Response Actions, which should be practiced and refined through conducting drills.

Based on New Hampshire’s hazard and risk assessments, I recommend seven Response Actions:

1. EVACUATION – Get out if the interior of the facility is not as safe

2. REVERSE EVACUATION – Move quickly into the facility because of an outside threat or hazard
3. SHELTER IN PLACE – Protection against a toxic plume (hazardous material, radiological, or smoke)

4. LOCKDOWN – Protection from an interior threat

5. LOCKOUT – Protection from an outside threat

6. DROP, COVER, AND HOLD – Protection from falling objects and any other perceived or actual threat

7. SCAN – Staff action during a bomb threat

I wish to point out that schools that have a high risk of one particular hazard should consider instituting a hazard specific Response Action and spending more time drilling and exercising for that hazard. For example, a school district with a high earthquake hazard will dedicate more time in drilling Drop, Cover, and Hold, while a school located in Tornado Alley will include a tornado-specific response action.

This is a true all hazards approach to school emergency planning. With these seven Response Actions, school personnel are able to react and respond to any hazard by utilizing one or a combination of these responses. They are also user-friendly and can be put into effect easily. Many organizations have produced “flipcharts” for teachers that cover everything from a broken leg to a terrorist attack and are usually long and complex. In New Hampshire, I decided that it was much more important to give school personnel and students the ability to respond instantly without having to look up what to do.

For example, the first warning a teacher may have of a tornado strike in New Hampshire is looking out a window and seeing pine trees flying through the air (“We’re not in Kansas, Toto!”). This scenario does not leave any time to look through a flipchart. Instead, the teacher gives the DROP command. The students (and teacher) drop under their desks and face away from windows. After the danger has passed, an assessment is done of damages and injuries. Based on these findings, the next step could be any action—from nothing at all to an evacuation (on- or off-site). The same response would be used for an earthquake. That same teacher could see someone walk onto school property with a firearm. The response in that situation would be pretty much the same. The teacher would give the DROP command to protect the students, but in this case, the teacher would also yell “LOCKDOWN,” notify the office of an intruder on campus, and go into LOCKDOWN.

Flexibility is one of the keys to an effective response. We cannot script emergencies. The next emergency is never going to be like the last one. However, with these seven Response Actions in place, a school can respond to any hazard. For example, in the case of a shooter on campus, school personnel may utilize several of these actions at once. Personnel close to the shooter may EVACUATE and/or DROP in order to protect personnel in the kill zone, while others not in the immediate vicinity of the shooter may go into LOCKDOWN. One elementary school in New Hampshire called a LOCKDOWN when a teacher suffered a heart attack in a hallway. Emergency Medical personnel had free access to the patient, and none of the children were exposed to the situation. The bottom line is that school
personnel are given the tools and authority needed to protect the students and themselves and have more confidence in handling dangerous situations.

Teachers must have the authority to act on their own! I have personally witnessed a call from a teacher to her principal via radio asking if it was “OK” to pull the fire alarm because the corridor was filling with smoke! If only the principal had authority to pull the alarm, they wouldn’t locate pull stations all over the school! There would only be one big red lever in the principal’s office. By the way, the principal of that school held a staff meeting that afternoon to inform her people that it was alright for them to pull the fire alarm if they thought it necessary. In fact, a great way to keep the lines of communication open between administration and staff is to allow five minutes of every staff meeting to a safety issue.

I am not advocating for anarchy during an incident; however, staff members must be given the authority to act on their own if they perceive it to be the best action for their own and their students’ safety. If a LOCKDOWN is called when a teacher and students are in the corridor and can’t safely get to a secure area, they must not have to be told in advance that they’re allowed to EVACUATE to an Area of Refuge out of doors. If not, they could find themselves face to face with the “Evildoer”!

We cannot expect school personnel to spend long hours practicing these Response Actions. DROP, LOCKDOWN, LOCKOUT, SCAN, and sometimes SHELTER IN PLACE do not have to be practiced by the whole school at the same time. I recommend teachers practice these with each of their classes any time they have a spare moment such as between lessons or to wake up everyone after lunch. Using this approach, Response Action drills will not severely cut into precious class time. REVERSE EVACUATION can be practiced just before the normal end of recess or physical education, again to save time. Only after the students and staff are comfortable with them should drills be held involving the entire school.

By having access to multiple Response Actions, practiced through drills, school personnel will be able to respond to any incident by using one or more of these actions. The more these actions are drilled, the more confidence school personnel and students will have and the more their anxiety will diminish. The more confident the staff becomes, the more apt they will be to act on their own initiative if necessary, and the flexibility of their response will also be improved.

So what of that teacher in the classroom at the beginning of the article? Would you want them to remain where they are and potentially become victims because “they weren’t told what to do”? Or would you rather have the teacher open the windows and direct the students to the safety of the police lines?

None of this is 100%, but by taking our planning efforts one step at a time and by including all the players, we will be better prepared to protect our most precious assets if and when the worst should happen.

Gregg Champlin is the Natural Hazards Specialist with New Hampshire Emergency Management, primarily responsible for the agency’s earthquake, hurricane, and school emergency planning programs. He also serves as Deputy Public Information Officer and has done extensive work in
news media relations, public outreach, and disaster public information during emergencies. Champlin also does private consulting on emergency preparedness for schools and other institutions.

Involved in school emergency planning for well over a decade, Champlin developed and has conducted over 400 two-day Comprehensive Emergency Management Planning for Schools (CEMPS) workshops for educational, community, and emergency response personnel across the nation. He has conducted thousands of sessions for faculty, students, and parents. Believing that all plans must be tested, Champlin has aided many schools and communities in the planning and execution of table-top and full-scale exercises.

Champlin has been a featured speaker for many regional and national programs and conferences, including regional and national conferences for the National Association of School Resource Officers, the Massachusetts Organization of School Nurses 100th Anniversary Conference, the U.S. Department of Education’s 2005 National Web Cast, and the Massachusetts Association of Emergency Managers. The U.S. Department of Education called on Champlin to assist them in the formulation of their emergency planning recommendations for the nation’s schools. Champlin also assists FEMA in the development of their outreach programs and materials for educational institutions.

Champlin is a lead instructor at FEMA’s Emergency Management Institute in Emmitsburg, Maryland, and has been on the adjunct faculty of the University of New Hampshire and Plymouth State University, specializing in multi-hazard emergency planning for schools.

Serving with the U.S. Coast Guard for five years, Champlin specialized in shipboard firefighting, hazardous materials security, and vessel and port inspection. He has also been a volunteer firefighter and has managed and owned several businesses.
Strategic Problem Solving as a Tool for Violence Prevention

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William Sousa, PhD, Assistant Professor, Department of Criminal Justice, University of Nevada, Las Vegas

Introduction

Herman Goldstein’s (1979) “problem-oriented” policing concept has had an important influence on the methods by which police approach matters of crime. Goldstein argued that the police could be more effective if they viewed crime in terms of problems rather than in terms of incidents because often crime incidents are not disconnected but are part of a larger problem. A boisterous bar, for example, may produce many crime incidents. If the police simply respond to each of these incidents as a separate event, further incidents are likely to result. However, if the police address the problem (i.e., the crime-facilitating factors in the bar itself), future incidents may be prevented.

This article presents a description of the Greater Newark Safer Cities Initiative (GNSCI), a problem-solving initiative in Newark, New Jersey, that followed on Goldstein’s footsteps. The primary goal of GNSCI was to reduce homicides in the city. Unlike many popular initiatives to date (e.g., the Boston Gun Project), GNSCI’s efforts focused on individuals instead of groups or places. Overall, the individual person approach proved to save the lives of those who received the intervention. The description offered here outlines the steps taken by GNSCI to reach the goal of reducing homicides and explains how these steps aided in bringing together law enforcement, clergy, and service providers in an innovative, collaborative manner. First, a brief description of the initiative’s site and the creation of GNSCI will be provided. Next, the problem-solving analysis is given. Finally, the interventions designed and implemented by the GNSCI Working Group that resulted from the initial problem analysis are described.

Intervention Site and the Emergence of GNSCI

Newark is a midsize northeastern city located in the State of New Jersey. For decades, the city has suffered a violence problem. Newark is one of the most violent municipalities in the state, with an average rate of approximately 20 homicides per 100,000 residents (in the 1980s, 1990s, and 2000s). Consequently, during the late 1990s, local and state officials, community leaders, and researchers at Rutgers University began developing a coalition designed to deal with the ongoing violence problem. This coalition, which later became known as the Greater Newark Safer Cities Initiative (GNSCI), was designed to reduce violence in Newark and its neighboring jurisdictions (e.g., Irvington and East Orange). It was comprised of local (i.e., Newark Police Department, Irvington Police Department, East Orange Police Department), state (i.e., New Jersey State Police), and federal (i.e., Bureau of Alcohol, Tobacco, and Firearms) law enforcement agencies; New Jersey parole and probation departments; New Jersey Attorney General’s Office;
U.S. Attorney’s Office; community faith-based groups; local clergy; and social service and treatment providers.

Strategic Problem-Solving

As mentioned, Herman Goldstein (1979) introduced the innovative concept of “problem-oriented policing.” In a seminal piece, Eck and Spelman (1987) describe Goldstein’s problem-oriented approach as it was operationalized in Newport News, Virginia. This operationalization, commonly known as the SARA Model, presents a four-step method for solving crime problems. SARA (Scanning, Analysis, Response, and Assessment) involves (1) identifying a problem; (2) collecting information to gain knowledge about the scope, nature, and cause of the problem; (3) developing an intervention to deal with the problem; and (4) evaluating the effectiveness of the intervention(s). Eck and Spelman argue that the SARA Model was useful for reducing problems in Newport News.

Perhaps the best known example of a successful problem-solving initiative is the Boston Gun Project—an effort designed specifically to reduce youth homicides. An interagency working group was assembled for the Boston Gun Project, consisting of primarily line-level criminal justice officials and other practitioners. This group applied both quantitative and qualitative problem-solving approaches to assess the dynamics of youth violence in Boston and then developed an intervention designed to have a substantial, short-term impact on youth homicide (Kennedy, Braga, & Piehl, 2001). This strategy involved deterring gang members from committing violent acts by threatening them with sanctions. For example, when a particular gang would come to the attention of the working group, the members of that gang would be given a warning: Violence would not be tolerated. If they continued engaging in violent acts, every legal lever available would be pulled to incarcerate them for a prolonged period. At the same time, however, street workers, probation officers, parole officers, and local church workers offered gang members services and other types of assistance if they wanted to turn their lives away from crime. If the gang did not desist, the police department would increase patrols, disrupt drug markets, serve warrants, and enforce misdemeanor offenses in an effort to dismantle the gang. An evaluation of the intervention suggests that the effort was associated with a significant reduction in homicides, shots-fired calls for service, and gun assaults (Braga, Kennedy, Piehl, & Waring, 2001).

Due to the success and innovativeness of the Boston Gun Project, the initial GNSCI partners modeled their problem-solving initiative after it. Like the Boston Gun Project, GNSCI partners began their problem-solving tactics by assembling an interagency collaboration between criminal justice agencies, social services providers, community agencies, and the local government of Newark, which was known as the GNSCI Working Group. Once the foundation of GNSCI was set and the interagency collaboration was formed, the GNSCI Working Group moved forward with the problem-solving strategy and initiated the steps needed to design an intervention. The following are the initial steps of GNSCI’s efforts at developing the strategy.
Stage 1: Getting Started – Identifying the Problem

Identifying a problem and developing knowledge of it are the first steps in any problem-solving initiative. In its first systematic analysis of the violence problem in Newark, GNSCI partners focused on homicides because the overarching goal of the GNSCI Working Group was to prevent people from being killed and from killing others. As a result, GNSCI members decided to analyze previous homicides in order to gain an understanding of why people in Newark were killing each other at such high rates. They believed that previous homicide files were useful in understanding current homicides in the city because, on the surface, not much had changed in Newark regarding homicides.¹

Stage 2: Data Collection

Once the problem was identified by GNSCI partners, the data collection effort began. First, GNSCI research associates created data collection protocols in order to ensure that the researchers were collecting the data in a systematic and consistent manner (see Appendix A). The data collection began in March 2000. GNSCI researchers collected information on homicide incidents that occurred in the City of Newark between January 1, 1999, and June 30, 2000.

GNSCI research assistants analyzed homicide investigation files from the Newark Police Department in order to gain an understanding of the problem. These files contained rich detail about the homicide incident (i.e., date, time, incident address, premise, motive, weapon used, relationship between victim and offender), victim (i.e., demographic information, employment status, gang affiliation, past criminal history), and suspect(s) (i.e., demographic information, employment status, gang affiliation, past criminal history). Based on the information collected from the files, the researchers were asked to create a narrative for each incident, describing the circumstances that led to the homicide, detailing how it occurred, and providing information on the victim and suspect(s) that would help in further understanding the incident. Research staff noted if the victim or suspect had a history of drugs (e.g., addiction, use, dealing, etc.), alcohol use, mental illness, prostitution, or domestic violence.

GNSCI researchers also obtained the official criminal histories of homicide victims and suspects. From these criminal records, GNSCI researchers gathered the following: the date of the person’s last arrest, the number of arrests the victim and suspect had prior to the incident, felony convictions, violent offense charges, weapons charges, drug offense charges, property offense charges, administrative charges, and public order charges.² The purpose for obtaining these criminal histories was to gain more complete knowledge of the individuals involved in lethal violence. In particular, researchers were interested in knowing whether victims and suspects continuously engaged in behavior that placed them at risk of violent victimization or offending.

Stage 3: Analyses and Findings

The analyses of Newark homicides consisted of an examination of (1) victim and suspect demographic characteristics as well as their past criminal involvement; (2) situational/circumstantial factors of homicide incidents; and (3) the spatial
concentration of the incidents. The first set of analyses revealed that the majority of victims and suspects were African-American males (see Table 1). The average age for victims was 30 years old, while suspects had an average age of 27 at the time of the incident. On average, both victims and suspects had been arrested four times prior to the incident and had at least one felony conviction. These data also revealed that the average suspect and victim had an extensive history of using, dealing, or possessing drugs.

Table 1. Victim and Offender Demographic Information

<table>
<thead>
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<th>Variables</th>
<th>Victim (N = 96)</th>
<th>Suspect (N = 108)</th>
</tr>
</thead>
<tbody>
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<td>Average age</td>
<td>30</td>
<td>27</td>
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<tr>
<td>Race</td>
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</tr>
<tr>
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<td>86%</td>
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<td>11%</td>
</tr>
<tr>
<td>White/Other</td>
<td>4%</td>
<td>3%</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>80%</td>
<td>90%</td>
</tr>
<tr>
<td>Arrests</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent charges</td>
<td>1.5</td>
<td>1.6</td>
</tr>
<tr>
<td>Weapons charges</td>
<td>1.2</td>
<td>1.2</td>
</tr>
<tr>
<td>Drug charges</td>
<td>4.3</td>
<td>4.5</td>
</tr>
<tr>
<td>Property charges</td>
<td>1.8</td>
<td>1.1</td>
</tr>
<tr>
<td>Administrative charges</td>
<td>0.7</td>
<td>0.9</td>
</tr>
<tr>
<td>Public order charges</td>
<td>0.1</td>
<td>0.1</td>
</tr>
<tr>
<td>Felony convictions</td>
<td>1.3</td>
<td>1.1</td>
</tr>
</tbody>
</table>

The analysis of the circumstances of the homicides showed that the majority of homicides (68%) were committed with a firearm (see Table 2). In addition, the majority of incidents involved victims and assailants who knew each other at the time of the murder. Drugs played an important role in precipitating violence in Newark—they were the primary motive in 27% of all homicide incidents and a contributing factor in 49% of the incidents. Spatially, the findings did not show any hot spot within Newark (see Figure 1). Instead, homicides occurred sporadically throughout the city.
Table 2. Incident Characteristics (N = 96)

<table>
<thead>
<tr>
<th>Variables</th>
<th>%</th>
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<tbody>
<tr>
<td>Main Motive</td>
<td></td>
</tr>
<tr>
<td>Drug</td>
<td>27</td>
</tr>
<tr>
<td>Revenge</td>
<td>17</td>
</tr>
<tr>
<td>Domestic</td>
<td>16</td>
</tr>
<tr>
<td>Escalating dispute</td>
<td>12</td>
</tr>
<tr>
<td>Robbery</td>
<td>13</td>
</tr>
<tr>
<td>Other</td>
<td>9</td>
</tr>
<tr>
<td>Gang</td>
<td>1</td>
</tr>
<tr>
<td>Unknown</td>
<td>5</td>
</tr>
<tr>
<td>Relationship Between Victim and Offender</td>
<td></td>
</tr>
<tr>
<td>Acquaintance</td>
<td>48</td>
</tr>
<tr>
<td>Domestic</td>
<td>19</td>
</tr>
<tr>
<td>Stranger</td>
<td>12</td>
</tr>
<tr>
<td>Friend</td>
<td>9</td>
</tr>
<tr>
<td>Unknown</td>
<td>12</td>
</tr>
<tr>
<td>Weapon Used</td>
<td></td>
</tr>
<tr>
<td>Gun</td>
<td>68</td>
</tr>
<tr>
<td>Knife/sharp object</td>
<td>13</td>
</tr>
<tr>
<td>Hands</td>
<td>10</td>
</tr>
<tr>
<td>Blunt object</td>
<td>8</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
</tr>
</tbody>
</table>

Figure 1. Spatial Distribution of Incidents (January 1, 1999, to June 30, 2000): Pin Map
Design of Interventions and Implementation

The analysis of the homicide data by Rutgers’ researchers provided the GNSCI Working Group with findings and information that the group could utilize in developing and implementing its first intervention. Two points that the analysis made clear were critical at the planning stage. First, Newark consists of many neighborhoods that were troubled by homicides. While certain areas of the city were clearly “tougher” than some, no single area was consistently more problematic. Second, because of the geographic dispersion of homicides, an intervention that focused strictly on police enforcement in hot spots would likely not be effective (or feasible, given available resources) on its own. The homicide problem demanded a response that differed from the one used by the Boston Gun Project. Therefore, with input from all partners, the GNSCI Working Group ultimately designed a primarily person-based intervention that was supported by place-based strategies.

Person-Based Intervention: The GNSCI At-Risk Group

While the geographic analysis provided a different picture of the homicide problem than in other problem-solving exercises (such as the Boston Gun Project), the analysis of the homicide files proved useful in answering the question of who was killing who. Victims and suspects resembled each other in many respects. First, they were primarily minority males in their late 20s and early 30s. Second, and perhaps more importantly, both victims and suspects had extensive contact with the criminal justice system: both averaged nearly 4.5 adult arrests, both averaged at least one felony conviction, and many victims and suspects were on probation or parole (or had been at some point in their past). The data indicated that those most at risk of homicide (as either victims or suspects) were chronic offenders. Working Group members from Essex Probation suggested that if those individuals in Newark most at risk were chronic offenders, it was likely that they came into frequent contact with the criminal justice system and were therefore often under some type of criminal justice supervision (i.e., probation or parole). Such control over a group of offenders affords the criminal justice community with a number of levers (e.g., technical violations, increased sanctions for offenses committed while under supervision, etc.) that can be pulled with the intention of stopping, or persuading offenders to stop, their violent behavior. This reasoning formed the basis of a pulling levers deterrence strategy that was loosely modeled on the Boston experience. The innovative nature of the strategy rests in coordinating the use of existing criminal justice power, authority, and resources, and targeting them on those offenders who are most problematic in the community.

The pulling levers deterrence strategy became an important part of subsequent GNSCI efforts. Working Group members began contemplating procedures to identify those who were most at risk of violence and to notify them of the deterrence message while at the same time offering them an effective and appropriate positive alternative. Consequently, the Working Group began developing an inventory of available community resources and sought the advice of its faith-based and social services partners. The idea was that if offenders are asked to desist from violence (through a communicated deterrent threat), a broad range of support services had to be offered to make abstaining from violence a viable course of action. As with the pulling levers deterrence strategy, the innovation lies in efficiently targeting
already existing community resources—mentoring, counseling, job training, substance abuse treatment, education—to the specific needs of the identified population, and generating services that may not currently exist.

These two prongs—(1) leveraging criminal justice authority and (2) targeting community resources—comprise an overall strategy that has guided the Working Group in its development of violence reduction tactics and specifically the formation of the GNSCI’s at-risk group. The creation of the at-risk group included a series of steps. One step involved identifying those most at risk of violence in Newark. Essex County Probation was important at this stage (followed shortly after by New Jersey Parole). Probation (and then parole) was asked to provide a list of individuals on their caseload who were most likely to kill or be killed or become victims of violent behavior in the near future. The probationers and parolees had to meet a specific set of criteria developed by the GNSCI Working Group and approved by an appellate attorney in the New Jersey Attorney General’s Office (see Appendix B). These criteria, which resembled “career criminal” legal standards already in use in some New Jersey jurisdictions, served several purposes. First, they were meant to identify only a small number of individuals who were most at risk—this was important so that supervision caseloads would be manageable and so that the limited number of social services and treatment resources would not be strained. Second, the criteria provided an objective measure of those most at risk—such objectivity was important in the event of any legal challenges. The 49 probationers who were ultimately selected, who resembled homicide victims and suspects in terms of demographic characteristics and past criminal histories, became the initial at-risk group.

The second step involved communicating the message. This took the form of a GNSCI notification session. The individuals in the at-risk group were asked as a requirement of their condition of probation to attend a notification session where presenters from various criminal justice agencies, the faith community, and social services agencies delivered the two-pronged message of deterrence and service provision. Sensing that the courthouse gave a symbolically unbalanced message (i.e., more criminal justice than service provision), Working Group members believed that subsequent notification sessions should be held in more “neutral” settings. Notification sessions were therefore held in neighborhood churches with GNSCI faith-based partners serving as hosts.

The third step involved providing ongoing monitoring of the at-risk population. Most individuals in the initial at-risk group were assessed for their service needs. Processes were then put in place to ensure that these services were delivered and that at-risk individuals no longer engaged in criminal activity. One process, which was initially implemented by New Jersey Parole for at-risk parolees (followed shortly after by Essex County Probation), came to be known as accountability sessions. To promote accountability by at-risk group members in complying with the new “rules of the game,” and to ensure that delivery of services actually took place in accord with promises made to them in notification sessions, at-risk group members attended these accountability sessions as a group.

A second process came to be known as case conference sessions. These sessions were meant to strengthen accountability within the Working Group and among the at-risk group participants. A small group of GNSCI partners, which included parole and probation officers, prosecutors, and social services providers, met twice a month. The
The purpose of these case conference sessions was to discuss the individual progress of participants and to make certain that they did not “fall through the cracks.”

The Safer City Task Force

While the person-based strategy was clearly the most visible initiative that evolved from the homicide problem analysis, a geographic initiative was also developed to focus on those police sectors that were identified as most problematic by GNSCI partners. The Newark Police Department created the Safer City Task Force to serve as the platform for GNSCI’s geographic-based tactics. The task force, made up of 35 specially chosen officers, engaged in high-visibility police activities, mainly foot and automobile patrols in those police sectors that had historically been troubled by crime and violence. The officers were also specially trained in an interdisciplinary program—not only did they receive updated training on police procedures, they were also instructed by social services providers, the faith community, probation, and parole. To maximize criminal justice resources, other criminal justice agencies collaborated and coordinated activities with the Safer City Task Force. Probation officers, for example, joined police officers in making home visits to at-risk individuals within hot spot areas. Additionally, the Newark Police Department began increasing warrant executions at the request of GNSCI partner agencies.

Conclusion

The homicide problem analysis ultimately led to the pulling levers deterrence strategy, which became the groundwork for the initial GNSCI effort. Unlike other cities in the United States where violence is concentrated in pockets or hot spots (Sherman, Gartin, & Buerger, 1989), Newark’s violence problem was more dispersed and not suitable for a strategy based solely on targeting geographic areas. The analysis instead led GNSCI staff and the Working Group to implement a primarily individual-based approach that was supported by a geographic strategy.

To date, although there has been no formal evaluation, several conclusions can be drawn from GNSCI’s initial efforts. First, GNSCI was reasonably successful at preventing those who are at risk from becoming involved in violence. As of 2005, of the 350 probationers and parolees that were part of the GNSCI caseload, only 20% had been rearrested for any crime and only 13% had been arrested for a violent offense. In addition, less than 10% of the clients had been victims of a violent offense. No suitable comparison group exists for the at-risk group, and so it is difficult to state conclusively that it is GNSCI that has helped these numbers. However, Working Group members believe these percentages to be extremely low given the characteristics of the at-risk population. These individuals were heavily involved in criminal activities, such as drug use, drug sales, and gang membership, that increased their risk of victimization and offending substantially. Indeed, criminological research has shown that people who are involved in criminal activity are more likely to be victims and/or perpetrators of violent acts (Jensen & Brownsfield, 1987). In addition, many of the individuals on the GNSCI caseload have received social services and treatment resources that otherwise would not have been available to them.

In conclusion, despite what is perceived to be a success on the part of GNSCI, it must be noted that while individuals in the at-risk group have not engaged
in violence, homicide in the city remains an ongoing problem. GNSCI, however, should not be considered a failure. As mentioned previously, the initiative appears to have had an effect on those who actively received the intervention. Consequently, similar person-based initiatives should be considered in municipalities where practitioners want to target individual habitual offenders (e.g., a gang, a group of habitual offenders) or where the violence is so randomly spread geographically that law enforcement has encountered problems with getting a grip on it.

Endnotes

1 This information was obtained in the April 5, 2000, GNSCI Working Group meeting.

2 For violence, weapons, drugs, property offenses, and administrative offenses, charges filed by both the police and the prosecutor were considered.

References


Appendix A. Data Collection Protocol

Greater Newark Safer Cities Initiative

**Victim**
- NAME:
- DOB:
- AGE:
- SEX:
- RACE:
- SIB#:
- SSN#:
- ADDRESS:
- CITY:
- OCCUPATION:
- OTHER

**Offender**
- NAME:
- DOB:
- AGE:
- SEX:
- RACE:
- SIB#:
- SSN#:
- ADDRESS:
- CITY:
- OCCUPATION:
- OTHER

**Motive**
- DOMESTIC
- CHILD ABUSE
- ROG/GIRL
- DRUG DEBT
- OTHER DEBT
- DRUG TURF
- DRUG SALES
- DRUG USE
- ACCIDENT
- BUSINESS GONE AWAY
- FIGHT GONE AWAY
- SELF-DEFENSE
- ROBBERY
- OTHER

**Narrative**
Appendix B. At-Risk Criteria

1. To be placed in the at-risk group, an individual must

   A. be currently on parole or probation following conviction for any crime of violence, weapons offense, or the sale or distribution of CDS (any combination)

   or

   B. have been arrested on, at minimum, five occasions within the previous 10 years for indictable crimes of violence, drug offenses involving distribution or sale, or weapons offenses (any combination)

   or

   C. have two prior convictions for any indictable offense.

2. In addition to the foregoing, the individual must satisfy at least one of the following criteria:

   A. The individual has at least three arrests for crimes of violence, weapons, or drug offenses involving distribution or sale (any combination) and at least one prior conviction for any indictable offense.

   B. The individual has at least one prior conviction for a crime of violence and an additional arrest for any indictable offense.

   C. An articulable factor or factors identified by probation, parole, the prosecutor’s office, or police unrelated to the individual’s criminal record which justifies placement in the at-risk group. Such factors include, but are not limited to, (1) prior victimization, (2) involvement in gang activity, and (3) information from the community bearing upon the individual’s likelihood of reoffending. Race and ethnicity are strictly prohibited from consideration. These articulable reasons must be documented in an addendum to be created.

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Who Is a “Muslim American”? 

The first problem facing law enforcement officials in dealing with Muslim and Middle Eastern Americans is that the group’s very designation as an ethnic minority in the United States is at best unclear. Officially (at least for immigration and Affirmative Action purposes), people from the Middle East are classified as White. Census data, except in cases where people are asked to indicate their ancestry, record Middle Easterners as White. Using information from the ancestry background portion of the U.S. Census, the Center for Immigration Studies provides estimates of Middle Eastern immigrants by their country of origin (see Table 1).

Table 1. Middle Eastern Countries with the Largest Immigrant Populations in the United States, 2000

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Iran</td>
<td>279,062</td>
<td>70,648</td>
<td>90,437</td>
<td>117,977</td>
</tr>
<tr>
<td>Pakistan</td>
<td>269,831</td>
<td>143,125</td>
<td>88,530</td>
<td>38,176</td>
</tr>
<tr>
<td>Israel</td>
<td>123,695</td>
<td>44,456</td>
<td>39,577</td>
<td>39,662</td>
</tr>
<tr>
<td>Iraq</td>
<td>112,586</td>
<td>68,414</td>
<td>7,470</td>
<td>36,702</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>103,341</td>
<td>86,885</td>
<td>13,149</td>
<td>3,307</td>
</tr>
<tr>
<td>Turkey</td>
<td>91,178</td>
<td>49,264</td>
<td>13,603</td>
<td>28,311</td>
</tr>
<tr>
<td>Egypt</td>
<td>87,266</td>
<td>44,632</td>
<td>15,518</td>
<td>27,116</td>
</tr>
<tr>
<td>Lebanon</td>
<td>83,396</td>
<td>21,731</td>
<td>29,841</td>
<td>31,824</td>
</tr>
<tr>
<td>All others</td>
<td>319,492</td>
<td>162,794</td>
<td>86,162</td>
<td>70,536</td>
</tr>
<tr>
<td>Total</td>
<td>1,469,847</td>
<td>691,949</td>
<td>384,078</td>
<td>393,611</td>
</tr>
<tr>
<td>All Arab countries*</td>
<td>583,846</td>
<td>291,357</td>
<td>130,176</td>
<td>162,313</td>
</tr>
</tbody>
</table>

*Arab countries include Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen, and all persons who did not report a country but were born in the region and gave an Arab ancestry, primarily Palestinians.


Note that this report includes the following countries in its definition of “the Middle East”: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, Turkey, United Arab Emirates, West Sahara, and Yemen.

The same report suggests that while historically immigrants from the Middle East have been primarily non-Muslim (Christians and Jews), this trend has shifted in
recent decades, with Muslim immigrants constituting the majority of immigrants from the region. As the report states,

Immigrants from the Middle East are not a homogenous group. One of the most important aspects of this diversity is in the area of religion. While the Mideast itself is overwhelmingly Muslim (approximately 98 percent), historically this has not been true of immigrants to the United States from that part of the world. For much of this century, the vast majority of Middle Easterners in the United States were Christians, mostly Maronites from Lebanon, or Armenians, Assyrians, Greeks, Chaldeans, and a small number of Jews fleeing predominately Muslim countries. In recent decades this situation has changed significantly.

While the Census Bureau does not ask respondents about their religion . . . we estimate that 15 percent of the Middle Eastern immigrant population in 1970 was Muslim, but that by 2000 it was 73 percent Muslim. Thus, as the Middle Eastern immigrant population has grown over the last three decades, it has become far more Muslim. (Camarota, 2002, p. 3)

Another problem associated with studying Middle Eastern immigrants is that the term Middle East is itself a dubious designation. Culturally and geographically, this group represents a vast region of the world with much variation in language, customs, and even religion. For example, Iranians do not speak Arabic but Persian or Farsi. Furthermore, most Iranians are not “Arabs” but “Persians,” and many Iranians are quite adamant regarding this distinction. Persians converted from Zorastrianism (the ancient religion of Persia) to Islam over 1,400 years ago after what some consider the “Islamic invasion.” To the extent that members of these countries are Muslims, one must consider the many variations in Islamic thought, which are in some ways akin to the differences between Catholicism and Protestantism, for example. So labeling someone as Middle Eastern does not automatically provide information about his or her particular religious orientation, language, or political affinities. (For a detailed discussion of the confounding nature of the category “Muslim American” and its connection with “Middle Eastern American,” see U.S. Census Bureau, 1995).

Finally, a basic fact about the Muslim population in the United States, often ignored by politicians and laypeople alike, is that a substantial percentage of Muslims in the United States are in fact African Americans. In many mosques in the country, African Americans constitute about one third of the worshipers (Bagby, Perl, & Froehle, 2001). Conversely, as alluded to earlier, many Middle Eastern immigrants in this country are not Muslims. For example, many Lebanese and Syrian Americans, who historically composed the bulk of the first wave of immigrants from the Middle East, are in fact Christians and came to North America as early as the 1900s to escape religious persecution in their native lands. (For a discussion of the demographics and history of Muslim Americans, see the report from the Arab American Institute [AAI], 2003).

Thus, it appears that for law enforcement purposes, the common indicator for Muslim immigrants in the United States is the supposed “Middle Eastern” phenotype (i.e., appearance of swarthy skin tone and large facial features). This phenotypic characterization poses its own problems, however. First, not all Muslim
or Middle Eastern Americans are “swarthy.” In fact, depending on the region and the particular ethnic mix, skin tones and appearances vary from Black to Caucasian. Secondly, since other ethnic groups may share the phenotype (e.g., Mexicans), in public encounters, “ethnic or Arab-sounding” names are often added to the profile to further isolate members of this group from groups with a similar appearance. So, it is a combination of “Middle-Eastern-looking” appearance and “Middle-Eastern-sounding” name that informs the average police officer as to the identity of the suspect or complainant. Even then, the identification is far from being foolproof. For example, despite my Middle Eastern name, when residing in Florida, I was routinely mistaken for other ethnic groups such as Cuban Americans or Indians. The confusion with designating Muslim or Middle Eastern Americans in casual or formal encounters has been the source of numerous false alarms in public places such as airports. In August 2007, for example, a flight was stopped and seven “Middle-Eastern looking” men were pulled off the plane because a female passenger reported to the authorities that she heard them speaking in Arabic (Baker & Roth, 2007). As it turned out, the men were indeed Iraqi Arabs who were on their way to train American troops for service in Iraq. Similar incidents have become so common for Middle Eastern Americans and those fitting the vague phenotype of “Middle Eastern” that a folk expression has been created as a shorthand way to speak of problems faced by this group in air travel: “FWA” or “flying while Arab” (for further examples of such events, see Marvasti & McKinney, 2004). Aside from the unnecessary humiliation suffered by the targets of these false alarms, such incidents are no doubt a substantial waste of law enforcement resources.

In light of these observations, the first step in successful policing with Muslim or Middle Eastern Americans is the effective training of law enforcement officials regarding the range and diversity of this population. What we do know about the statistical profile of this group suggests that they have above-average education and income compared to other immigrants and U.S.-born citizens. According to the Center for Immigration Studies report (Camarota, 2002), Middle Eastern immigrants are two times more likely to have graduate or professional degrees compared to other immigrant groups and U.S.-born citizens. Some of this is due to a selection bias in immigration whereby those with educational and financial resources are more able to afford and risk the cost of relocating thousands of miles across the world.

Let us now consider some of the cultural characteristics of this group as they relate to law enforcement.

**Muslim/Middle Eastern Immigrants’ Perceptions of Law Enforcement**

Muslim/Middle Eastern Americans’ perceptions of policing seem to be informed by two competing paradigms (please note that I use these categories as a way of loosely framing the issues at hand and do not intend for them to be used as concrete and invariable labels). The first is a pessimistic view that originates from the immigrants’ experiences with policing in their homelands. Law enforcement corruption is a fact of everyday life in most Middle Eastern countries, and the fact that government officials expect and accept bribes and favor some groups over others is a painful but taken-for-granted reality for those who live in these countries. As these immigrants settle in their new homeland, some are suspicious...
of the claim that under American law everyone is entitled to due process and equal protection. As I later note, the post 9/11 realities of law enforcement has done little to challenge this negative view of policing. For these citizens, any encounter with the police is to be avoided at all cost. When, due to chance or circumstances beyond their control they find themselves face-to-face with a police officer, this group of Middle Eastern immigrants is obedient to the point of passivity and essentially accepts any outcome as inevitable and unalterable.

The other viewpoint of policing among Middle Eastern immigrants, especially those with higher education, is that the ideals of due process and equal protection under the law are indeed the norm of policing in the United States. In their citizen-police encounters, this group of immigrants is more vocal and more likely to actively demand explanations of their rights and the circumstances under which their cases or complaints are being considered. This group, in contrast with the other, is more likely to express outrage when they perceive a violation of their constitutional rights.

While the reality of policing in America may be somewhere between these two extremes, it is essential for law enforcement administrators and officials to understand the practical consequences of these two viewpoints among Muslim or Middle Eastern Americans. Specifically, if in their dealings with this group, they face complete obedience, they should not mistake that with willing compliance—the fact is that the citizen in question may just be submitting to the power of the police and the criminal justice system because he or she believes there is no possible alternative. On the other hand, a vociferous Middle Eastern suspect or complainant is not necessarily exhibiting defiance to the police, but, rather, the person in question may be operating under the assumption that he or she is behaving like an average citizen who is entitled to ask questions and expect fair treatment.

**The Effect of 9/11**

 Needless to say that the tragedy of 9/11 and its law enforcement aftermath have lent considerable support to the first viewpoint discussed above (i.e., the expectation of unfair treatment from law enforcement and government personnel). Indeed, during an interview, a Lebanese American college professor described the situation as one in which “the thin veneer of civility” has been peeled away after 9/11. In his words,

I for one imagine that every immigrant coming to this country comes with at least the impression that this is a country that has laws—laws which are civil. But suddenly to realize, as I have seen it, this is a veneer, a very thin veneer of civility. At the moment that something threatening happens, that veneer is gone. For instance, the Patriot Act is horrific. And, of course, the bigotry and the xenophobia that flooded the media is appalling. That again was disappointing to me because, as I said, all immigrants who are coming to America are coming to an America they have seen in the movies. And, in a sense, because that’s the only thing we know about America, we believe that. We come with these high values, discipline, honesty, hard work, and of course, the rule of law, justice, all these values. We have seen them in the movies, the good guys always winning at the end. . . . And suddenly when
something horrific happens, that veneer is gone. . . . So my faith is shaken.
(Marvasti & McKinney, 2004, p. 126)

Another respondent, a Pakistani American attorney, described the post 9/11 climate in similar terms:

My brother was assaulted three days after September 11th. It was part of the backlash. And I’m worried for my parents more than I am for myself. They’ve been here since 1968, longer than they ever lived in Pakistan. But they are still very much considered outsiders; and it’s because of their accents largely. I feel I’m even considered an outsider a lot of the times. I sound just as American as anyone else, and I was born and raised here. . . . [After September 11th] I think a lot of people thought that if you’re not going to consider me American, why am I going to consider myself an American? If you’re not going to protect me like other Americans, if you are going to create laws that are going to undermine me, then I shouldn’t be trying so hard to fit into a culture that consistently and perpetually rejects me. (Marvasti & McKinney, 2004, p. 123)

Sadly, such pessimistic views are supported by media reports. In recent years, we have seen numerous cases of profiling involving “Middle Eastern,” “Arab,” or “Muslim” looking men. Here is an example reported by Arsalan Iftikhar (2007), the national legal director for the Council on American-Islamic Relations:

Many Americans have heard of the recent case of six American imams (Muslim prayer leaders) who were summarily removed from a U.S. Airways flight from Minneapolis to Phoenix in November 2006. Notwithstanding that the imams had already cleared Transportation Security Administration security checkpoints, these imams were removed merely because some of them offered the evening Islamic prayers in the airport terminal before the flight. It should be noted that false media reports after the incident stated some of the following false claims: The imams were praying inside the plane, they were chanting pro-Saddam statements, and other silly accusations. The case of the imams’ ejection from an airliner highlights the growing politics of fear and how this hysteria is manifesting itself in our American social fabric.

As these cases indicate, in the aftermath of 9/11, profiling of Muslim Americans has become more common and enjoys public support. Indeed, a July 2006 USA Today/Gallup poll indicates that 41% of Americans support “Requiring Muslims, including those who are U.S. citizens, to undergo special, more intensive security checks before boarding airplanes in the U.S.” Additionally, 39% support “Requiring Muslims, including those who are U.S. citizens, to carry a special ID.” Finally, 30% reported that they would feel nervous if they were “flying on an airplane and you noticed that a Muslim man was taking the same flight as you” (USA Today/Gallup, 2006).

However, it is highly doubtful if such practices would increase the security of American citizens. On the contrary, in many instances, people who have nothing to do with Islam or terrorism have become targets of brutal policing tactics simply because of their appearance.
Some of my Middle Eastern respondents have reported that since 9/11 they feel it necessary to act like “model citizens” and reach out to their neighbors and communities to debunk the stereotype of Muslim terrorists. Here is how a Pakistani man describes this approach:

We need to act in a decent way. Even down to the most minute detail. Don’t walk across a “don’t walk signal.” We need to be a shining example, the city upon the hill. That’s the first thing. If you’re not a good person yourself, then it doesn’t matter what you talk to people about, it’s more showing than telling. (Marvasti & McKinney, 2004, p. 157)

Similarly, an Iranian American business man offers the following analysis and advice:

Most Middle Eastern Americans used to be, and still are, financial citizens of the United States. That means they go to their work, they take their money, they go home spend it and don’t want to be a part of the society. That is the worst thing that can happen to us. We have to become social citizens. By that I mean we have to participate in the board of our local hospitals, in the schools, and other associations. We didn’t do that in the past. I hope the current situation is going to get us [to] the point that we start participating and believe in the power of voting. (Marvasti & McKinney, 2004, p. 158)

In recent years, some Muslim communities have reached out to the law enforcement officials in their area—in some cases, for protection from hate crimes, and in others to proactively offer their support to fight terrorism. The Muslim communities’ motivations notwithstanding, these circumstances afford the police a unique opportunity to build bridges with Muslim Americans to both reinforce their sense of membership and belonging and to gather useful, reliable information about potential threats.

**Best Practices**

The following recommendations are offered for effective policing with Middle Eastern Americans. At their core, these recommendations echo the basic fundamentals of community policing, regardless of the ethnic makeup of the group in question.

*Effective communication* requires that police mandates, expectations, and need for cooperation are cast in a language that is sensible to the members of the community. This may mean literally translating the information into another’s language and also being sensitive to the way the information is communicated. For example, while the idea of becoming a police informant is not appealing and may indeed be considered a cultural taboo, the notion of active involvement in protecting one’s own home, neighborhood, and country might be a much stronger and more palatable message.

Similarly, *cultural rapport* can save the police the endless hours wasted on false reports. Much in the same way that the experienced officer has the skills to make a distinction between someone who has a slight limp versus a suspect who is intoxicated, it is possible through cultural rapport to develop the skills to tell apart
a devout Muslim who has to pray before his flight’s departure versus a malicious terrorist who is about to put thousands of lives at risk. The job is not an easy one, but it is very much doable. I am reminded of the experience of a hiker who has to survive in the wild by eating mushrooms. Some may indeed be poisonous and have to be avoided, but there are many varieties that are perfectly harmless if not a healthful delicacy. To treat every Middle Eastern person as the proverbial poisonous mushroom is both antithetical to the democratic foundations of this country and a waste of law enforcement resources.

Finally, nothing has the potential to win over the hearts and minds of Middle Eastern immigrants more than professional conduct and responsibility. As noted earlier, some Middle Eastern immigrants have the false impression that all government officials are corrupt and act out of self-interest. Professionalism counters this perception and reinforces the principle of equality under the law, which leads to further cooperation with and assistance to the police. Professionalism is especially crucial in cases where a necessary but potentially invasive search has to be conducted. It is essential that law enforcement officials communicate to those affected by such scenarios that no one is deriving personal pleasure from the operation and that every effort is being made to respect and protect the dignity of those involved. This is especially true in light of the fact that Middle Eastern cultures are generally more formal than U.S. culture, and manners/politeness need to be very much in place when invading people’s homes or personal privacy. Also, because some are Muslims or at least come from Muslim cultures, the level at which it is considered rude to do cross-gender searching may be a lower threshold than ours. In other words, whereas a female officer would surely be called to strip search any female suspect, in Middle Eastern cultures, a female officer should probably be called to deal with a female in any way at all.

The Dire Need for Prevention and Change in Tactics

The reality of terrorism requires better communication with groups that may be routinely the targets of surveillance and searches. Properly done, this task should create greater security for all Americans without further marginalizing a specific minority population. The risk is great at this juncture. We are at the verge of a historical development when we can prevent the birth of a new underclass population of deprived youth. Consider what happened in France in 2005, where thousands of Middle Eastern/Arab/African youths rioted on the streets after incidents that involved police discrimination and brutality. In France, years of exclusion and discrimination have created minority classes who live on the margins of mainstream society (Astier, 2005). For example, under French immigration laws, being born in France does not guarantee the right to citizenship. In order to be considered a French citizen, one’s parents have to be born French citizens or have acquired legal residency. In fact, children of foreigners, even if they are born in France, have to apply for citizenship; they are not automatically considered citizens by birthright (Stolcke, 1999). Such exclusionary practices are not common in the United States. However, if a pattern of discrimination and police harassment persists over time, a minority group with an otherwise lower than average crime rate could become a new underclass. It is therefore essential to improve all institutional practices, particularly law enforcement-related matters in which there is a great deal of discretion involved and decisions have lifelong consequences. Good citizens are not necessarily born that way, but they are created
through social institutions that encourage them to become part of mainstream America, to become invested in their homeland, and, finally, to live their lives according to the ideals of democracy and due process.

References


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The Risks of Business-Terrorist Group Liaisons and Lessons Learned

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Introduction

U.S.-headquartered Chiquita Brands International (CBI) admitted in 2007 to engaging in transactions with Colombian terrorist groups. The case provides an example of how unintended interactions may arise between terror groups and transnational corporations (TNCs) based in host countries.

This article provides an analysis of the CBI case and sheds lights on the challenges TNCs face doing business in politically unstable environs. It addresses the disparate steps global firms may pursue should they face similar circumstances. It then analyzes the multifaceted implications of such interactions for TNCs and various alternatives firms may undertake. The article concludes that terrorist activity injects another layer of complexity that TNCs must contend with while doing business abroad.

Chiquita Brands International Case

Background and U.S. Government Investigation of CBI

By all accounts, CBI (2007a) is an important transnational corporation: a New York Stock Exchange-listed “international marketer and distributor of high-quality fresh and value-added food products—from energy-rich bananas and other fruits to nutritious blends of convenient green salads,” with $4.5 billion in annual revenues. “The company markets its products under the Chiquita and Fresh Express premium brands and other related trademarks. Chiquita employs approximately 25,000 people operating in more than 70 countries worldwide,” including Colombia.

For over six years—from 1997 through February 4, 2004—CBI paid Autodefensas Unidas de Colombia (AUC) extortion funds in two banana-producing regions of Colombia: Uraba and Santa Maria. The hundred-plus payments made by CBI’s Colombian subsidiary, Banadex, totaled over $1.7 million (U.S. Department of Justice [DOJ], 2007). Banadex’s payments to the AUC were done in response to AUC threats of “physical harm to Banadex personnel and property” (p. 2). Banadex’s payments to the AUC were reviewed and approved by senior executives of CBI.

On September 10, 2001, the U.S. government designated the AUC a Foreign Trade Organization (FTO), and a Specially-Designated Global Terrorist (SDGT) on October 31, 2001. As evidenced above, prior to and subsequent to these dates, CBI made payments to AUC. Payments made subsequent to these designations became federal crimes (DOJ, 2007, p. 1).

From the date of the AUC’s designation as an FTO through February 4, 2004, CBI “made 50 payments to the AUC totaling over $825,000” (DOJ, 2007, p. 3). In February
2003, CBI’s outside counsel advised the firm to stop making the payments as they were improper under U.S. law. On April 24, 2003, CBI disclosed to the U.S. Department of Justice (DOJ) that it had made extortion payments to AUC. The DOJ informed CBI that such payments were illegal and should not continue. Nevertheless, from that date through February 4, 2004, CBI “made 20 payments to the AUC totaling over $300,000. Chiquita sold Banadex to the Colombian buyer in June 2004” (p. 3).

On June 24, 2004, CBI completed the sale of its banana-producing and port operations in Colombia to Invesmar Ltd., a holding company of a Colombia-based producer and exporter of bananas and other fruit products called C.I. Banacol S.A.

CBI’s (2004) operations in Colombia accounted for some 9% of its worldwide banana production. Under the terms of the deal, CBI received $28.5 million in cash, about $15 million in notes and deferred payments, and the buyer assumed some $8 million in pension liabilities. In order to ensure that CBI continued to have ample access to Colombian bananas, the transaction allowed for Chiquita to purchase 11 million boxes of Colombian bananas per year and 2.5 million boxes of Costa Rican golden pineapples per year—over an eight-year period—from the buyer’s affiliates.

The net book value of the assets and liabilities transferred in the deal was about $37 million. CBI (2004) expected to have an after-tax loss of some $5 million. According to CBI spokesman Michael Mitchell, the sale was made “in order to extricate ourselves from the legal dilemma that we faced in Colombia” (Otis, 2007).

On March 14, 2007, the DOJ indicted CBI for engaging in transactions with an SDGT, the AUC (United States of America v. Chiquita Brands International, Inc., 2007). In March 2007, Fernando Aguirre, CBI chairman and chief executive officer, admitted that “[i]n 2003, Chiquita voluntarily disclosed to the Department of Justice that its former banana-producing subsidiary had been forced to make payments to right- and left-wing paramilitary groups in Colombia to protect the lives of its employees. The company made this disclosure shortly after senior management became aware that these groups had been designated as foreign terrorist organizations under a U.S. statute that makes it a crime to make payments to such organizations” (CBI, 2007a).

On March 19, 2007, CBI pleaded guilty to undertaking transactions with an SDGT organization in the U.S. District Court for the District of Columbia. Under the terms of the plea agreement, CBI’s sentence included a $25 million fine, the need to implement and maintain an ethics and compliance program, and five years’ probation. Also, CBI pledged to cooperate in the ongoing investigation (DOJ, 2007).

On September 11, 2007, Aguirre announced that the DOJ supported the U.S. District Court for the District of Columbia’s approval of the March 2007 plea agreement. Also, according to Aguirre, the DOJ determined not to prosecute any current or former CBI executives in relation to the investigation. The $25 million fine “will be paid in five annual installments” (CBI, 2007b).

With reference to the future, Aguirre stated, “Chiquita looks forward to putting this difficult chapter behind it, and remains committed to the highest standards of corporate responsibility, ethical conduct and legal compliance, in the United States and around the world” (CBI, 2007b).
Other Potential Claims Against CBI

In addition to the U.S. government investigation of CBI, other potential claims might be in store for CBI from the Colombian government and private citizens. More specifically, on March 21, 2007, Mario Iguaran, Colombia’s Attorney General, stated that he would seek to extradite to Colombia Chiquita-connected individuals as the company paid extortion payments as well as allowed (via a Banadex ship) for the transfer of 3,000 AK47s and ammunition to the AUC (Baena, 2007). Attorney General Iguaran requested the U.S. government provide “the names of the Chiquita executives who approved or participated in the payments, which lasted from 1997 to 2004” (Marx, 2007).

Iguaran expressed that Chiquita’s activities were “not one of the extortionist [AUC] and the extorted [Chiquita] but a criminal relationship. It’s a much bigger, more macabre plan. Who wouldn’t know what an illegal armed group like the AUC does... by exterminating and annihilating its enemies. When you pay a group like this you are conscious of what they are doing” (Marx, 2007). On March 16, 2007, Colombia’s Interior and Justice Minister, Carlos Holguin, said “[t]he possibility exists that Colombia will request the United States to extradite the U.S. citizens” connected with CBI-AUC extortion payments (EFE, 2007).

Additionally, on June 7, 2007, 144 heirs of individuals allegedly killed by Colombian terrorist groups AUC and the Revolutionary Armed Forces of Colombia (FARC) sued CBI and ten CBI employees in the U.S. District Court for the District of Columbia under the Alien Tort Claims Act (ATCA), Torture Victim Protection Act (TVPA), and state tort law. In summary, the causes of actions alleged in the suit are as follows: the statutes ATCA and TVPA for extra-judicial killings, wrongful death, negligence, negligent hiring, negligent supervision, intentional infliction of emotional distress, battery, and assault (“Jane/John Does 1-144,” 2007).

More specifically, the suit claims that CBI provided material support “hired, armed, contracted with, or otherwise directed terrorist paramilitary security forces,” including the AUC (“Jane/John Does 1-144,” 2007, p. 2). The AUC allegedly “used extreme violence and murdered, tortured, unlawfully detained or otherwise silenced individuals believed to be interfering with” CBI’s business in Colombia or who resided “in the path of Defendants’ paramilitary agents” (p. 2). The plaintiffs also claim that CBI made payments to AUC and FARC (p. 2). According to the suit, the defendants “were aiding and abetting all acts of violence committed with the material support provided by Defendants to the terrorist groups they supported” (p. 44).

The suit claims that CBI’s subsidiary and “alter ego” in Colombia was Banadex, its subsidiary it sold in June 2004 (“Jane/John Does 1-144,” 2007, p. 36). “Although it no longer has a Colombian subsidiary, Chiquita remains one of the largest buyers of bananas in Colombia, purchasing bananas from Colombian companies” (p. 36). In addition to CBI, ten current (or former) employees, officers, and directors of CBI and Banadex were listed as defendants.

The plaintiffs also cited a November 7, 2001, Organization of American States report stating that in Colombia, a “shipment of arms [AK47s] and ammunition was unloaded by a shipping company called Banadex S.A., at the request of a [sic] the shipping agent Turbana Ltd, and the AUC took possession of the weaponry” (OAS, 2003, p. 18).
Difficulties Transnational Corporations Face in Politically Unstable Environments

As the CBI case illustrates, complying with terror group extortion in the forms of “revolutionary payments” or protection money may initially afford a TNC the opportunity to continue doing business. Ultimately though, such “defensive” measures—somewhat akin to bribery payments as a “cost of doing business”—may result in far-reaching operational, financial, and legal consequences. Other diverse challenges, including substantial economic and foreign policy implications, may also be a consequence of such acts.

Indeed, extortion tactics used to fund terror groups—whether undertaken by ETA in Europe, Abu Sayef in Asia, or narco-terror groups in Colombia—merit closer attention as they inject another layer of complexity that TNCs must contend with while doing business abroad (extortion may also occur in a TNC’s home country, including by domestic terror groups) (Alexander, 2004). In the face of extortion, a TNC must weigh, among several poor options, paying terrorists the extortion, refusing to pay them and possibly suffering physical damage to in-country assets, stopping operations temporarily, or selling operations, most likely at a loss. A TNC’s decision to make protection payments will undermine its status in its home and host countries while encouraging such conduct by terrorists against business worldwide.

Terror group extortion payment pressures may have diverse negative operational effects on TNCs: declining levels of production, often with poorer quality deliverables; higher costs of production due to heightened labor, security, and transportation costs; lower efficiencies; underutilization of assets; production stoppages and threats to business continuity; adjustments to and pressures on supply chains; and corporate governance complexities, including which entities (parent/subsidiaries) and executives (CEO/host-country manager) approved the illicit payments.

At the extreme, companies may forego doing business in a country or reduce exposure to that region by utilizing any of the following steps: licensing technology rather than greater investment commitments, establishing joint ventures instead of wholly owned approaches, or purchasing products from host country or suppliers based in third countries.

Concurrently, disparate, unhelpful financial implications may arise when terror extortion exists such as higher costs for labor, security, capital, inputs, and insurance; reduced profitability; loss of goodwill and declining stock price; financial penalties and/or liabilities arising from host and home country litigation that has been initiated by the government, private sector, employees, and/or other citizens.

Likewise, civil and criminal litigation against TNCs and its management may occur along the following lines:

- Host/home country government suits for collaborating/funding terrorists and accounting/tax fraud charges as often such “security payments” are not reported or are mischaracterized.
- Global business suits for breach of contract as production cannot be fulfilled due to business interruption and even claims of unfair trade practices.
• Host and home country suits by employees and citizens injured or killed through terror acts funded by extortion money.
• Investor suits against management for breach of fiduciary care.

Among other difficulties firms may face in politically unstable environments are having disparate parties perceive that the TNCs are favoring one group in a fractured political environment (e.g., government versus “rebels”), potentially resulting in victimization for the TNCs. Given a highly fractious and fluid political environment, it is possible for TNCs to be viewed as too aligned with particular power brokers, the military, labor, or opposition parties. Unwise TNC interactions in the host country may also result in undermining home country interests vis-à-vis the host country.

Steps Transnational Corporations May Undertake to Reduce Risks Under Such Conditions

Although substantial negative ramifications may arise when a TNC encounters terror extortion, risks can be lessened by following distinct steps. Initially, the entity must analyze whether it should do business in the host country. For example, what are the benefits for the TNC to do business in Country X? Does the country offer the TNC the following:

• Unique and/or competitive natural resources, land, or inputs?
• Attractive manufacturing or production variables due to lower labor, energy, and/or taxes?
• A strategic geographical location for supply chain or distribution?
• A large domestic market?

Next, what level of physical presence (and assets)—from a representative office, joint venture, portfolio investment to a wholly owned subsidiary—does the TNC need in the host country? The TNC’s industry sector and whether it will offer products, services, or both there relate to the degree of assets that should be put at risk. Other variables, ranging from the country’s political and economic stability, legal and business environment, infrastructure, and labor relations should be included in the TNC’s calculations as to whether (or how) to do business in a host country.

Once a determination to pursue business in the host country is made, it is useful to reduce the TNC’s own risks by exploring whether land grants or subsidized loans are available from the host country or development agency (e.g., World Bank or regional development bank), respectively. Political risk insurance covering war/civil disturbance/terrorism, expropriation, breach of contract, and inconvertibility of currency offered by commercial, governmental (e.g., U.S. government’s Overseas Private Investment Corporation [OPIC]), and nongovernmental (e.g., World Bank’s Multilateral Investment Guarantee Agency [MIGA]) organizations is worth considering.

OPIC

OPIC is a U.S. government agency that “helps U.S. businesses invest overseas, fosters economic development in new and emerging markets, complements the private sector in managing risks associated with foreign direct investment, and supports U.S. foreign policy” (OPIC, 2007a).
OPIC’s “[p]olitical violence coverage compensates for property and income losses caused by violence undertaken for political purposes. Declared or undeclared war, hostile actions by national or international forces, civil war, revolution, insurrection, and civil strife, including politically motivated terrorism and sabotage, are all examples of political violence covered by OPIC” (OPIC, 2007c). In fact, “[a]n investor may choose to insure for all these risks, or to exclude civil strife. Actions undertaken primarily to achieve labor or student objectives are not covered. OPIC pays compensation for two types of losses: damage to tangible assets, and business income loss caused by damage to tangible assets. An investor may purchase one or both coverages” (OPIC, 2007d). With an “off-site rider, OPIC also may compensate for income losses resulting from damage to specific sites outside the insured facility, such as critical railway spur, power station, or supplier” (OPIC, 2007d).

OPIC had several political risk claims for activities taking place in Colombia. In fiscal year 2004, OPIC paid Sector Capital Corp. three separate cash settlements of $114,426; $114,408; and $36,923 for compensation for “civil strife” coverage for its activities in Colombia. In fiscal year 2003, OPIC paid the same firm four separate cash settlements of $170,979, $114,565, $114,419, and $114,447 for compensation for “civil strife” coverage for its activities in Colombia (OPIC, 2007b). In fiscal year 2001, OPIC paid Sector Resources $2,430,759.59 for compensation for civil strife coverage for its activities in Colombia (OPIC, 2002). Clearly, firms that obtain political risk insurance may receive compensation should they experience problems in the host country.

**MIGA**

The Multilateral Investment Guarantee Agency (MIGA) (2007b) “provides non-commercial guarantees (insurance) for investments made in developing countries. MIGA’s guarantees protect investors against the risks of transfer restriction (including inconvertibility), expropriation, war and civil disturbance, and breach of contract.”

In addition, MIGA’s (2007e) participation in a foreign investment transaction can aid as follows:

- Assisting in resolving disputes in host country
- Aiding in obtaining project finance to otherwise risky projects
- Lowering borrowing costs as risk-capital ratings of projects often decline due to MIGA’s involvement
- Increasing length of loans due to extended insurance contracts
- Extensive knowledge of the host country

As a testament to its success, “[s]ince its inception in 1988, MIGA has issued 774 guarantees for projects in 91 developing countries, totaling $14.7 billion in coverage. 43 percent of MIGA’s gross outstanding portfolio is in IDA-eligible (world’s poorest) countries. MIGA’s gross exposure stands at $5.1 billion” (MIGA, 2007f).

During fiscal years 1997 and 2001, MIGA (2007g) provided political risk insurance relating to expropriation and transfer risk for Spanish (Banco Santander Hispano S.A.) and American (Citibank) entities, respectively, providing loans in Colombia. In fiscal year 1999, the Dutch company Dunriding Compan N.V. obtained $62.4 million in MIGA insurance, covering the risks of transfer restriction as well
as war and civil disturbance (including terrorism). The deal insured the firm’s “acquisition, expansion, and modernization of a 150-megawatt coal-fired thermal plant near Cucuta City, Colombia” (MIGA, 2007d).

Two years beforehand, the American firm Motorola and Dutch bank ABN Amro obtained MIGA insurance covering “$5 million and $30 million, respectively, of equity and loan investments in a wireless digital trunk communications system in Colombia” (MIGA, 2007c). The insurance covered the risks of “expropriation, transfer restriction, and war and civil disturbance” (including terrorism) (MIGA, 2007c).

Speaking of politically unstable countries, MIGA also established the Afghanistan Investment Guarantee Facility, which provides political risk insurance for “[n]ew investments associated with the expansion, modernization, or financial restructuring of existing projects” and “privatizations of state enterprises” (MIGA, 2007a).

**Other Steps**

As terror extortion may lead to the kidnapping of TNC personnel, the need for kidnapping and ransom insurance, along with other insurance products (e.g., property and casualty, business interruption, life, disability, and health insurance), should be contemplated. Integral, too, is the applicability of disparate security products, services, and methodologies—from risk and vulnerability assessments to business and risk intelligence data reports—that can aid in lessening the likelihood, frequency, and severity of terrorism, in general, and terror extortion, in particular.

Staffing potentially high-risk countries with seasoned expatriate employees, coupled with expert host country talent, will prove fruitful. Undertaking background checks and using contract workers are other steps that should aid in protecting TNC interests.

Developing alliances and gathering support from host country government, business, civic, and labor entities, along with home country representatives (e.g., U.S. embassy) and nongovernmental institutions (e.g., World Bank, MIGA, and the International Centre for the Settlement of Investment Disputes) are further steps to aid TNCs against terror extortion. Engendering support for bilateral economic and political relations between host and home countries (e.g., trade and investment agreements) will assist TNC efforts abroad as well.

**Implications for TNC Activities and Alternate Steps**

As noted above, there are many negative issues that may arise due to extortion-related entanglements between TNCs and terror groups. Among implications for TNCs are whether (or how) to invest and do business in an unstable host country. Given the risks, should the TNC avoid it completely or choose less risky operational, financial, and legal structures? Also, this episode allows for TNCs to have a greater appreciation of risks and possible victimization to their assets, including their employees.

**Consequences for TNCs**

If one TNC sets the precedent that paying terrorists is a permissible cost of doing business, then terror groups will approach other businesses in the future. This trend
would result in adding costs to all TNCs as well as risking their assets. If a TNC avoids doing business in Country X due to extortion threats, or reduces its level of activities in that country, then the TNC firm will generate less revenue overall. Concurrently, though, this lessened commitment to doing business in Country X will allow for new opportunities for other TNCs and local businesses in the home country. So, too, the TNC that otherwise would invest in Country X may pursue opportunities in another country or expand its efforts in its home country rather than risk terror extortion in Country X.

Ramifications for Host Country

Should terror extortion and concomitant violence rise to a noticeable level, it is highly likely that there will be less TNC investment there. As such, less economic development will take place there, including fewer jobs created. Worsening economic conditions may exacerbate an already risky political atmosphere while aiding terror groups in their quest for chaos.

In contrast, should a TNC prove able to refrain from paying extortion payments, coupled with weakening terror group power, then increases in foreign investment in the home country should occur. This, in turn, would aid the business climate, contribute to economic development and growth, increase stability, and further undermine terror groups. Also, lower levels of foreign investment would result in less transfer of technology and a slowing of the development of labor skills in the home country.

Foreign Policy Implications

TNC violations of host country law relative to contacting or aiding terror groups could undermine host/home country relations. For instance, the two countries may have complex counter-terrorism activities that might be weakened by a TNC funding—through extortion payments—a terror group.

Analogously, it will look odd for the home country to berate weak counter-terrorism efforts in the host country when a TNC from the former is aggravating stability in the latter. Another thorny issue that might take place would be calls for the host country to extradite senior management of the TNC based in the home country. Denial of such requests would appear to be hypocritical should the home country seek the extradition of terrorists based in the host country who undertook terror-related (including financing) activities in the home country.

Impact on Global Business

If terror activities, including extortion, cause TNCs to reduce their activities in high-risk areas, global business would be undermined. So, too, higher costs for inputs and final products would be expected as business activities would be less efficient. Bilateral, regional, and global trade and investment would be reduced. Lower levels of foreign investment would result in less transfer of technology and a slowing of the development of human skill sets in the home country.

Conclusion

As business prefers predictable, stable settings, complex, difficult environments are abhorred. Terrorist activity injects another layer of complexity that companies
must contend with while doing business abroad. And yet, the foregoing illustrates that while terror group extortion can have substantial pernicious operational, financial, and legal effects on TNCs, a variety of alternatives and instruments are available to lessen such occurrences. In doing so, TNCs can aid in enhancing global trade, investment, and business while contributing to the reduction of terrorism internationally by eliminating a source of terror funding. Given the globalization of terrorism, particularly since 9/11, any help along these lines will prove fruitful.

References


Otis, J. (2007, April 2). Critics question Chiquita’s claim that it was forced to pay Colombia’s paramilitaries. *Houston Chronicle.*


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Illinois Riverboat Gaming

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The legalization of riverboat gaming introduced a new era of gambling to most of the United States. It has created a huge profit for casino owners, and large tax revenues for states and the localities where the boats are docked. It has created such a high profit, in fact, that laws are being pushed to establish land-based casinos in large cities. Legalized riverboat casinos are, and will continue to be, an established presence into the future.

History

In the early 1800s, gambling was very pervasive and quite a problem in the South as men often would rather gamble than work. At this time, riverboats were a place where men could gladly get away from rules, regulations, and morality. The old-time riverboats were not floating casinos—gambling was something that happened informally between passengers passing the time or when the professional gamblers were driven from towns (Dunstan, 1997). Different classes and even races played together at the card tables, although women were not allowed (except for prostitutes). A woman who gambled was considered very unfeminine and immoral. African Americans were considered by white men more as property to be gambled; the African Americans usually had their own separate gambling areas. Probably most riverboat gamblers were frauds, and they often worked in teams and used disguises. But even they at times gambled away all their money (Lears, 2003, pp. 114-120). By 1835, the tradition of riverboat gambling was ingrained as an informal routine between travelers, and it reached its (illegal) peak in the years 1840 to 1860.

At different times and places, public sentiment toward gambling varied. Sometimes it turned against gambling, and many forms were made illegal. At other times, or in other places, it might enjoy public acceptance and would expand into new types of gambling, and into new areas. The Gold Rush in California replaced New Orleans as the gambling center, and with the advent of trains and airplanes, the need for riverboats declined, taking with it this informal type of illegal gambling.

In recent years, gaming interests have put increasing pressure on states to legalize different forms of gambling, offering the promise of large tax revenue to states that were dealing with declining tax income. In 1989, Iowa became the first state to legalize riverboat gambling on Mississippi River cruises. Although at first Iowa gamblers could only bet $200 per cruise and only $5 per bet, the limits were quickly dropped after Illinois, Missouri, Mississippi, and Louisiana legalized riverboat gambling. The cruises were originally intended as a way to regulate the time spent gambling and the amount of money lost by gamblers, as well as to keep gambling separated from surrounding communities. Illinois’s riverboat games were also originally supposed to have safeguards for gamblers, but these were never instituted, and there was no more mention of them.
The Present

To look more closely at the business side of riverboat gaming, the Riverboat Gambling Act of February 1990 made riverboat gambling legal in Illinois but with the promise of strict oversight. It set up the Illinois Gaming Board to control the gambling business, with members to be appointed by the governor, and to regulate and collect taxes from the casinos. The Illinois Gaming Board has a staff of 134 state police and Department of Revenue employees to oversee auditing, legal issues, enforcement, investigation, operations, and financial control to ensure the integrity of gaming in Illinois. They cannot themselves gamble at the casinos, nor may they have other improper ties to casinos during or after their employment. Currently, there are two judges, two business leaders, and a minister on the Board. The governor is entitled to appoint members to the Gaming Board within certain bounds, although in the past, the governor has removed members who opposed expansion of Illinois gambling (Dold, 2001; “Governor Replaces,” 2001).

The Riverboat Gambling Act allowed up to ten licenses for riverboat casinos in Illinois, and each license allowed up to 1,200 gaming positions (which are places for customers to gamble). Patrons must be 21 years old, and all bets must be made using tokens, chips, or vouchers.

The riverboat casinos must pay an application fee, an annual fee, and two taxes. The first is an admission tax of $3.00 per person (or $2.00 in Rock Island). Of the $3.00, $2.00 goes to the state (supposedly much of this to education) and $1.00 to the local community where the boat is docked. The second tax is a wagering tax based on how much money they take in, between 15% (for up to $25 million adjusted gross receipts [AGR], with AGR being the total money they take in minus the money they give out in winnings) and 50% (of proceeds over $200 million). The local government also gets 5% of its boat’s AGR (Illinois Gaming Board, 2006, pp. 7-8).

Of the ten licenses allowed in Illinois, one has since been revoked because of organized crime connections and false and misleading statements made to the Gaming Board. There’s always a danger that the Gaming Board will allow organized crime in because of not fully investigating the background of owners, suppliers, and workers at the casinos. And if lawmakers allow more licenses, it will be even more difficult to check the background of the thousands of people in this industry. In February 2007, Jim Wagner, the President of the Chicago Crime Commission, published his concern that there were not enough investigators to conduct background checks on the potential investors of the gambling operations, saying that even at then-current levels, the Gaming Board could not conduct thorough checks in a timely manner. He said, “As a former top investigator at the Illinois Gaming Board, I will tell you we have never had sufficient staffing to routinely review all vendor contracts that provide services to the gaming industry in Illinois. . . . Government must learn to live within its means and implement those sound funding mechanisms that will address its financial needs for the short and long term” (Pastuovic, 2007).

Beginning in 1991, the Alton Belle began operation in Illinois, near the St. Louis area. The Casino Map in Figure 1 shows the riverboat casinos in Illinois and also those in surrounding states. Note that four are clustered around Chicago and four more across the border in Indiana. In general, all the riverboats are located near
high population areas. Such locations enable the casino owners to recoup in just a few months the entire cost associated with licenses, fees, and taxes paid to the state, bringing in much more lucrative profits than other gambling operations.

Figure 1. Riverboat Casino Map

The types of games on the riverboat casinos are similar to the large casinos of Las Vegas in that there is something for every type of gambler. The card games are Blackjack, several variations of Poker, Craps, Roulette, Baccarat, and Texas Holdem. The electronic gaming devices (EGDs, commonly called slot machines) vary in currency from a penny to $100.00 and are most profitable in this order: 5¢, 1¢, 25¢, $1.00, 2¢, $5.00, 50¢, $25.00, $10.00, and $100.00. The slot machines take in 87.9% of the total profit (Illinois Gaming Board, 2006).

Tables 1, 2, and 3 show the amount of income from the Illinois riverboats in 2006 (Illinois Gaming Board, 2006).
### Table 1. Adjusted Gross Receipts of Illinois Riverboat Casinos in 2006

<table>
<thead>
<tr>
<th>Docksite</th>
<th>Total AGR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elgin Grand Victoria</td>
<td>$430,016,681</td>
</tr>
<tr>
<td>Joliet-Harrah’s</td>
<td>$347,537,343</td>
</tr>
<tr>
<td>Aurora-Hollywood</td>
<td>$265,688,563</td>
</tr>
<tr>
<td>Joliet-Empress</td>
<td>$253,766,059</td>
</tr>
<tr>
<td>East St. Louis Casino Queen</td>
<td>$174,279,291</td>
</tr>
<tr>
<td>Metropolis-Harrah’s</td>
<td>$160,446,240</td>
</tr>
<tr>
<td>East Peoria Pair-a-Dice</td>
<td>$130,986,242</td>
</tr>
<tr>
<td>Alton Belle</td>
<td>$121,690,377</td>
</tr>
<tr>
<td>Casino Rock Island</td>
<td>$39,117,613</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,923,528,409</strong></td>
</tr>
<tr>
<td>Other revenues</td>
<td>$1,700,979</td>
</tr>
<tr>
<td>Total admissions in 2006</td>
<td>16,180,360</td>
</tr>
<tr>
<td>AGR per admission</td>
<td>$118.88</td>
</tr>
</tbody>
</table>

AGR: Adjusted gross receipts = gross receipts minus the amount paid to winners


### Table 2. Local and State Shares of Gaming Taxes

<table>
<thead>
<tr>
<th></th>
<th>2006 Tax</th>
<th>% Increase over 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local share of tax</td>
<td>$112,358,413</td>
<td>6.72</td>
</tr>
<tr>
<td>State share of tax</td>
<td>$717,881,351</td>
<td>11.39</td>
</tr>
<tr>
<td><strong>Total Tax</strong></td>
<td><strong>$830,239,764</strong></td>
<td><strong>10.74</strong></td>
</tr>
</tbody>
</table>

*Source: Illinois Gaming Board (2006), p. 16*

### Table 3. Gaming Win by Jurisdiction

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Total Win ($ Billions)</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada</td>
<td>12.62</td>
<td>39.6</td>
</tr>
<tr>
<td>New Jersey</td>
<td>5.23</td>
<td>16.4</td>
</tr>
<tr>
<td>Indiana</td>
<td>2.58</td>
<td>8.1</td>
</tr>
<tr>
<td>Mississippi</td>
<td>2.57</td>
<td>8.1</td>
</tr>
<tr>
<td>Louisiana</td>
<td>2.05</td>
<td>6.4</td>
</tr>
<tr>
<td>Illinois</td>
<td>1.92</td>
<td>6.0</td>
</tr>
<tr>
<td>Connecticut</td>
<td>1.73</td>
<td>5.4</td>
</tr>
<tr>
<td>Missouri</td>
<td>1.59</td>
<td>5.0</td>
</tr>
<tr>
<td>Iowa</td>
<td>0.81</td>
<td>2.6</td>
</tr>
<tr>
<td>Colorado</td>
<td>0.78</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31.90</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Although the chart above lists Illinois as being sixth in gambling profits, Chicago is third among cities behind Las Vegas and Atlantic City (Illinois Gaming Board, 2006, p. 19).

### Politics and Laws

The federal laws which are used to monitor organized crime and gambling are the Gaming Devices Act of 1951 (Johnson Act, 18 USC, Sec. 1804), which “prohibits interstate transportation of gaming devices; the Racketeering Influenced and
Corrupt Organization Statutes (RICO, 18 USC & 1961 et seq.); and amendments made in 1985 to the Bank Secrecy Act (31 USC & 103), also known as the Currency and Foreign Transactions Reporting Act. The latter act requires several cash intensive businesses, such as casinos, to report cash transactions in amounts greater than $10,000. In addition, the Money Laundering Control Act of 1986 and the Treasury Department’s Financial Crimes Enforcement Network were enacted to “establish, oversee, and implement policies to prevent and detect money laundering” (U.S. Treasury Order No. 105-108) (“Gambling,” 2007).

Unfortunately, due to the lure of big money, some politicians in influential positions around the country have been found guilty of influence peddling, soliciting, or privately seeking a share of the casino’s profits to the point of accepting bribes to ensure the passage of favorable legislation (Hurst, 1999, p. 84). Politicians receive large contributions from gambling businesses to vote for gaming expansion in Illinois and to help the legislation get through the statehouse. Casinos do not just donate to a particular political party but to any politicians and party they think will win and have influence over their income (Cross, 2007; Hurst, 1999, p. 84). Since 2000, campaign contributions from the gambling industry to state lawmakers of both parties has become commonplace, and this undoubtedly has an effect on the successful passage of gaming legislation.

States now promote gambling to the very citizens they should be protecting, because of the tempting tax revenues to be had, even though Illinois voters oppose the expansion of gambling almost two to one. In this way, they do not have to formally raise taxes and risk losing the next election. The government should be regulating gambling operations, but it has become a partner to them, and a predator of citizens, encouraging more gambling. This is a dangerous shift in the role of government from regulator to promoter of vice (as some consider it) to its own citizens: “When government abandons its will to protect its people, everyone loses” (Goodman & Simurde, 1997). Close regulation only lowers the government’s portion of income, so violations tend to be punished only lightly or overlooked.

There is some political resistance against allowing more Chicago casinos but not for moral reasons. Every year, downstate lawmakers see most of their constituents’ tax dollars flow to Chicago and understandably refuse to vote for a casino in Chicago when smaller river communities are depending on their own casinos’ incomes to remain steady or increase. They hold their votes until they have secured some benefits for the areas they represent (Parsons & Long, 2005).

Longtime gambling fighter Tom Grey says that this year, opposition from horse track owners has been bought off in backroom deals. “They’re giving something to everyone who has stood beside us in opposition before,” Grey said. The casino tax money has been promised to pay for sorely needed and previously promised roads and bridges—money which had been earmarked but later was used for other purposes (Bechtold, 2006; Eaton, 2007). Although the gaming industry claims the money goes to educate children, the gambling tax revenue just goes to Illinois’s general fund, offsetting the amounts the state would have paid for those purposes (Shenk, 1999, p. 132).

States are altering their gaming tax rates in order to keep gamblers going to the Illinois riverboats and to compete with neighboring states. The regulations and restrictions on the amount of the bets have rapidly been repealed because they were hindering tax
revenue profits for the government. In 1999, the Riverboat Gambling Act was amended to permit all boats to be permanently moored at dock sites without conducting cruises. Casinos are also getting around the technical rules and looking for loopholes in the laws—for example, Harrah’s of Kansas City, which created a moat around its facilities so that the boat floats in a manmade pond (Hurst, 1999, p. 82).

The gaming industry wants Illinois to remove the limit of 1,200 gaming positions per riverboat so it will have less competition from Indiana, Iowa, and Missouri which have no limit. To get around this limit, the casinos will often increase the minimum bet amount during peak hours to increase the take on the positions they are allowed. At the same time that gaming concerns are making more casinos, they are also building them to be incredibly bigger and more luxurious. In November 2006, Indiana opened a new casino with 684 guest rooms, an 84,000 square-foot casino, along with a 42,000 square foot single-level gaming floor, 45 holes of golf, two full-service spas, and other dining and entertainment options (Illinois Commission on Government Forecasting and Accountability, 2006, pp. 17-19).

There are currently two bills, HB25 and HB2035, in process in the Illinois legislature, amending the Riverboat Gambling Act to allow three more casinos. A vote on this may be completed soon (95th General Assembly). One bill more than doubles the number of gambling positions and includes 4,000 gambling positions for Chicago; two additional casinos; and Account Deposit Wagering, which legalizes horse racing from any electronic device (e.g., computers, cell phones, PDAs) that can be used anywhere day or night.

According to David Smith (2007) in his Gambling Action Alert,

A casino in Chicago is ripe for corruption because it will have a perpetual license that can never be suspended or revoked. The bill establishes the Chicago Casino Development Authority with the authority to borrow money, make loans, acquire property, exercise eminent domain, enter into intergovernmental agreements with the State and City, issue bonds, receive and accept from any source contributions (such as organized crime), gifts, or grants of money or property, and require the removal or relocation of any building, railroad, structure, or facility. The Authority and all of its operations and property used for public purposes are exempt from all taxation of any kind.

HB25 would therefore include the first-ever license to a city, one to the City of Chicago. Chicago will also be given a special land-based casino license that cannot be suspended or revoked. Waukegan will receive a license as a southern suburb of Chicago, and the last new license will be to a casino only four miles from O'Hare International Airport. It will loosen a lot of the regulations of gambling casinos in Illinois, such as where they can purchase supplies, where they can be located, tax rates, and the admission cost (Zanoza, 2007). Other amendments sought for the Riverboat Gambling Act are amendments to allow more time to file the applications, the criteria for a license, the length of the cruises, and exceptions to the list of approved suppliers. Also, all the changes would take effect immediately upon passage by the 95th General Assembly.

Effects on Communities

Compulsive gambling not only affects the gambler’s family, but it also affects society as a whole. Secondary crimes are caused by the casinos such as personal bankruptcies,
suicide, divorce (up to 26% of compulsive gamblers), domestic violence, child abuse or neglect while a parent spends hours gambling, alcoholism, drunk driving, theft, and embezzlement. Other costs to society include unemployment benefits, welfare benefits, and physical and mental health problems. These are difficult to measure, however, because reporting procedures vary widely and due to the need for confidentiality (Stokowski, 1999, pp. 248, 251). The National Gambling Impact Study Commission’s (NGISC) final report in June 1999 found significant evidence of the long-suspected link between gambling and crime. Often, gamblers commit crime to finance their craving. Indebtedness tends to increase with gambling as does youth crime, forgery, credit card theft, and alcohol and drug offenses (pp. 7-13). From 2 to 10% of adults are problem gamblers and are estimated to cost states billions of dollars, with up to 75% committing a felony to support their habit as well as the cost of increased police services (Wagner & Tamayo, 2007). According to Hurst (1999), “Henry Lesieur, a criminal justice expert at Illinois State University, says that problem gamblers engage in $1.3 billion of insurance fraud yearly” and that the average problem gambler “has from $53,000-$92,000 in gambling-related debts” (p. 84). In addition to this, “Consumer credit counselors say one-fifth of their caseload is related to gambling debt, yet states solicit ever more gamblers through TV ads (pp. 84-86). To deal with the problem of gambling addiction, a self-exclusion for problem gamblers was adopted, and in 2006, 1,208 more people enrolled in this program for a total of 4,258 people. Other rules prevent casinos from cashing checks for these problem gamblers or sending pamphlets to them (Shenk, 1999, pp. 127-133). Studies of compulsive gambling consistently find that the number of people who are problem gamblers, who seek counseling, and who visit treatment centers all increase after casinos are introduced in a locale (Stokowski, 1999, p. 246). Interestingly, in a survey of 1,100 people in U.S. rescue missions, 18% cited gambling as a cause of their homelessness (NGISC, 1999). There is an increasing problem of underage drinking and underage gambling in casinos: “Government promotion of gaming, including almost $350 million spent by states advertising their lotteries, . . . communicates to the young people the subtly destructive notion that the work ethic is passé. . . . All that is needed is “a dollar and a dream” (Rudd, 1999, p. 210).

Casino gambling was pitched as the answer to economic troubles, with claims that the casino would bring new jobs to the economy, but it has always acted as a sinkhole, sucking in revenue from neighboring businesses. Local businesses often do not benefit from the people who come to casinos to gamble because the patrons prefer to spend all their money in the casino (Hurst, 1999, p. 83). John W. Kindt (2005), Professor of Business Administration at the University of Illinois, pointed out, “as far as jobs go, for every one job that the casino creates, one is lost in the 35-mile feeder market.”

Gambling can interfere with normal community business and social life. There are more traffic and parking problems due to greatly increased traffic on the roads leading to the casino—from customers, employees, service vehicles, and gambler shuttle busses:

Since many of the new riverboat and land-based casinos are located in rural areas . . . many of the smaller gaming communities . . . find themselves poorly equipped to handle huge traffic increases on rural roads, especially when casino-related alcohol problems are factored into the equation. . . . Disorderly conduct and arrests for DUI have increased . . . and prostitution, assaults, and robberies increased after riverboat casinos were opened in Biloxi and Gulfport, Mississippi. (Stokowski, 1999, pp. 237-238, 249)
Some families are moving out of gaming communities or neighborhoods, causing a decline in school enrollments, and church and civic group attendance. They sell their property because of the high profit from selling for casino development, or they move because rents have increased or they don’t want to live in a neighborhood that has a casino.

Sadly, the elderly are targeted by riverboat casinos through commercials and radio spots that show people (usually the elderly) having a great time together and laughing as they play casino games. The Elder Law Journal of the University of Illinois College of Law at Urbana-Champaign concludes that the casino industry targets its marketing to older people because they are reliable spenders with leisure time to visit casinos often (Gosker, 1999).

In the article, “Gambling with Our Future” (1997), the concern was raised, “Economic development has simply not happened on anywhere near the scale that was promised. Lottery revenues have not solved the funding needs of education. Indicators show that more available gambling leads to more problem gamblers . . . sadly, young gamblers represent the fastest-growing segment of the addicted gambling population” (p. 2)

We can look to Nevada to see the effects of long-term dependence on gambling tax revenue. The Governor of Nevada (2003) has said, “Our revenue system is broken because it has relied on regressive and unstable taxes. . . . [T]hree out of every four tax dollars are collected from sales and gaming taxes, which are vulnerable in the economy.” Nevada ranks near the bottom in per-pupil spending on education and ranks number one in gambling addiction, divorce, and high school dropouts. It is near the top for crime, bankruptcies, and alcohol-related deaths (Focus on the Family, 1999).

In May 2007, the Christian Science Monitor reported, “Anyone comforted by the idea that gambling is voluntary should spend a day with the casino staffs that segment local markets, track prospects’ and players’ observed worth, define their predicted value, and systematically maximize individual ‘share of wallet’ through targeted and customized promotional messages, limited-time cash offers, and carefully tracked time-to-response and spending analysis. This is highly sophisticated and systematic coercion—and it works” (Sanders, 2005, p. B1; see also Cross, 2007).

A study of Illinois gaming done by Bill Thompson, a professor of public administration at the University of Nevada–Las Vegas, said the vast majority of gamblers on riverboats came from a 25-mile radius (Reeder, 2002), while other studies measure this at 50 miles.

**Organized Crime**

The organized crime group that tried to gain control of the Emerald Casino, Inc. in Chicago also tried to control casinos in Las Vegas and California. They do not have to actually own the casino since they can get a great deal of money from operations behind the scenes, providing supplies and services at inflated costs or through extortion and the employment of their friends and relatives. The Chicago Crime Commission strongly believes that organized crime will do “everything in their power to influence and control any profits produced by legal and illegal gambling in Chicago. There is no confidence among law enforcement agencies
that the gambling casino currently being considered could be operated without infiltration by Organized Crime” (Wagner & Tamayo, 2007).

William Jahoda was a “made” member of the Chicago Outfit for 15 years, in charge of its gambling interests (Galloway, 1997). He said that there are three “cartels” that push gaming on the public: (1) organized crime, (2) corporate gambling interests, and (3) state governments who promote gambling. He said that organized crime and casino owners do not even have to advertise for customers because the states do this through all types of media. They even advertise to young people, making it seem exciting and entertaining. Jahoda claimed,

There always existed one solid and dependable constant to those of us in organized crime. Any new form or expansion of existing state-controlled licensed gambling always increased our market share. Simply put, the political dupes are stooges who approved riverboat gambling houses, lotteries, off-track betting sites, Las Vegas nights, et cetera, [and] became our unwitting pimps and front men. Of most benefit to us in the Chicago gambling underworld were: a) state-funded campaigns that virtually teach the younger generation how to place bets at race tracks; b) mass media advertising blitzes falsely promoting gambling as opportunity or entertainment; c) the resultant desensitization within the community about the reality of most forms of gambling. (Galloway, 1997, p. 8)

Other activities connected to casino gambling and organized crime are other types of illegal gambling and loan sharking. For casino owners, Illinois provides the desirable combination of a very large potential betting population and only a limited number of casinos. Former U. S. Senator Peter Fitzgerald (R-IL) stood firm against the expansion of gambling, warning against the huge amount of money state lawmakers would bestow on just the ten who owned licenses. He tried to have the license renewals put up for bid to make more money for the state but did not succeed. Casinos often lure lawmakers with the promise of joining them in the business as shareholders, though this fact is little known to citizens. Even the offer of a tiny percentage of the millions or billions generated can leave little resistance to voting in favor of the casino owners.

Predictions of Future Trends

The creation of new and improved riverboats in other states bordering Illinois may be the biggest factor in the success of Illinois’s riverboats. As is the case with many things in our culture, casino-like gambling is likely to move from real locations to the Internet. This will grow larger with an increasing percentage of the population familiar with using the Internet as well as the lack of taxation at present. Casino interests are pushing for video gambling in bars, restaurants, convenience stores, bowling alleys, and truck stops (Phu, 2007). Since patrons seem to come mostly from an area of just 25 to 50 miles surrounding the riverboat, those casinos now in small cities will likely close, even if they are profitable, because the companies can make more money by locating or relocating nearer a big metropolis. The casino owner’s excuses will probably be “Plans are on hold,” “It’s too much of a financial gamble to invest in a new facility at this time,” “The financial performance of the company has demanded that we put things on hold for a while, and stabilize, and take a look at things maybe down the road a bit, which I think will be at least two years,” “We’re holding that land for possible future development,” “No
immediate plans for the land,“ or “We’re in a phase where we’re going to need to reduce expenses, so time will tell” (No Casino, For Now, 2007).

There is likely to be a sharp rise in the corruption of politicians and local police, and a greater organized crime presence as more casinos open and profits increase. If this is possible, there will be less protection for citizens from overbearing ads and coercion, and more underreporting and hiding of profits and problems. There will likely be more tax evasion prosecutions, both to recover the money and to prosecute organized crime figures.

**Conclusion**

The ability of law enforcement to prevent the mutual cooperation of gaming interests, organized criminals, and politicians is constrained because all the cards are in the hands of the politicians. They vote for or against the expansion of casinos and increasing wagers and betting machines in the casinos. Future laws may be passed to lessen penalties for crimes associated with gambling. The public can let their wishes be known, but they will most likely be overruled by the gaming industry’s generous donations to politicians of every party and every location. Law enforcement can only be watchful for increases in compulsive gamblers and crimes related to this pastime. Police administrators should be alert for the underage gambling and underage drinking associated with the casinos, and the bribery of officers and local politicians, especially in large metropolitan communities. The millions of dollars flowing into government vaults is an addiction that will be almost impossible to break. Frank Fahrenkopf, the CEO for the American Gaming Association and a leading national spokesman for commercial casinos, when asked before the 2006 elections if he would want one of his casinos in his own hometown answered, “People have the right to go to the ballot box and determine what they want the quality of life to be in their own area. Now if someone were to come along and tell me that they were going to put a casino in McLean, Virginia, where I live, I would probably work very, very hard against it. I just don’t—that’s the old saying, ‘NIMBY, not in my back yard?’ Now I may be in favor of gaming, but I just don’t want it located in a particular area” (Bechtold, 2006).

**References**


David Forrester is an intern with the St. Louis Metro Police Department. He is also a student at Western Illinois University in the Department of Law Enforcement and Justice Administration.
Command Sequence in Police Encounters: Searching for a Linguistic Fingerprint

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Daniel D. Houlihan, PhD, Minnesota State University, Mankato
Liesa A. Klein, MA, Minnesota State University, Mankato
William Lewinski, PhD, Minnesota State University, Mankato
Jeffrey Buchanan, PhD, Minnesota State University, Mankato

The analysis of language and word use is a fledgling area growing rapidly in the field of psychology. Whether the focus of language research is on purported emotions, personality traits, or the context of dialogue, it is apparent that the language we use and the words we choose to use in a given situation can have a significant impact on others. With a general dearth of studies in the area of language use, it is not surprising that language research is almost entirely missing from the field of law enforcement.

Officers are required to issue commands to citizens within the context of their professional duties. Law enforcement officers use commands to demand compliance (suggestive of a motoric or verbal response from the citizen); question or interrogate a citizen; and/or request a citizen to engage in, refrain from, or cease a behavior. Command types used by officers can vary greatly. Further compounding the issue is the notion that within the structure of the command types themselves, there exists a dichotomous relationship between those issued explicitly (\(\alpha\)) and those issued implicitly (\(\beta\)). This provides further confusion in the citizen in terms of understanding the officers’ commands and in the range of potential responses expected from the citizen by the officer (Peed, Roberts, & Forehand, 1977). Subsequently, the use of commands by officers may and do produce mixed results, leading to both compliance and increased resistance on the part of the citizen.

It is difficult to estimate the number of violent encounters occurring between law enforcement officers and citizens due to complicating factors in the studies such as population, geographical location, and citizen and officer demographics, among other issues. Nonetheless, few individuals would argue that the use of violence and force in police/citizen interactions is always possible and will likely always be with us. What appears more important than the use of or the justification for the use of force in these situations, however, is the ability of an officer to effectively de-escalate a potentially violent event through means other than the use of force.

Communication and Law Enforcement Officers

Although some police departments support language instruction, surprisingly, most offer no formal language training for patrol officers (Allread, 1999). This is true despite the fact that inadequate communication exchanges between law enforcement officers and the public not only jeopardize the efficiency of procedures but can threaten justice (Gibbons, 2001). Further, a lack of good communication
skills can significantly increase an officer’s need to use force and subsequently increase the chance of injury for both the officer and the citizen.

With only a modicum of research in the area, it is difficult to do a diagnostic analysis to determine whether communication problems in these situations are due to honest mistakes, misuse of police power, personality types or behavior of the officer or citizen, or the nature and context of specific encounters.

Police officers are often required to force public compliance (Mastrofski, Snipes, & Supina, 1996). Officers using a more authoritative tone during interactions with the public tend to instigate the operations necessary for compliance behaviors (Sykes & Brent, 1983). However, it is also the case that at least some officers and departments receive training to be empathic toward citizens and deflect abusive remarks with professional behavior, allowing the officer to secure the citizen’s compliance through this means without the use of force (Johnson, 2004; Thompson, & Jenkins, 1993).

Frequently, law enforcement officers attempt to achieve the compliance of citizens simply through the issuance of various commands. Depending upon the situation, these commands may come very early or later in the encounter. There are several command types that have been identified and can be applied to linguistic exchanges between officers and citizens. These command types are regular, indirect, question, interrogation, stop, don’t, negative, and other (Bertsch, 1999). In addition, each of these command types can also be thought of as having an explicit (alpha) and vague (beta) counterpart within each category (Peed et al., 1977). Alpha commands contain descriptive components that adequately relay what type of compliance is being requested. For example, “Put your hands on the hood of your car” requests a specific motor response. Beta commands contain nondescriptive or incomplete components that do not sufficiently relay what type of compliance is being requested. For example, “Move” or “Knock it off” are vague and do not instruct the individual how to comply appropriately.

Although stress is something that affects everyone, law enforcement officers differ in that they are often under intense, negative pressures, including repeated exposure to pain, public hostility, threat of violence, and the constant presence of danger (Samaha, 1997). Operating under these high levels of stress might also have an effect on how officers react to and then communicate with the person they are addressing, subsequently having an effect on the nature and frequency of commands by the officer. It is known that individuals who are in distress choose how to participate in conversations with other people (Trees, 2005), all the while judging what they feel the other person wants and needs from them. Therefore, in order for there to be negotiations resulting in resolution, there must be mutual understanding and persuasion between the officer and the citizen which involves the induction of compliance (Emans, Munduate, Klaver, & Vandevliert, 2003). The psychological and cognitive adaptations that occur in high stress conditions might impair, in both the officer and the citizen, the underlying processes that facilitate this mutual understanding and, instead, generate a higher level of indiscernible commands by the officer.

Officers are expected to make split-second decisions, especially in the use of deadly force (Dunham & Alpert, 2001; Mastrofski et al., 1996) and also while engaging
in communications in stressful conditions. To do this, officers have to maintain a significant level of emotional control while simultaneously engaging individuals who are emotionally out of control and/or violent. For, although information must be acquired quickly in order to appropriately address the situation, officers must maintain a measured pace of communication in order to allow the interaction to de-escalate emotionally (Mastrofski et al., 1996). Officers who themselves have lost emotional control cannot do this and, subsequently, lose the “high verbal ground” and the ability to verbally control or influence the citizen.

In further evaluating police communication, several studies have found that a majority of citizen complaints involved inappropriate or disrespectful verbal behavior by police officers (Dugan & Breda, 1991; Lersch, 1998; Reiss, 1971). The predominant problems cited were related not only to the words themselves, but also to how the officers conveyed their message to citizens (Johnson, 2004). It is unknown whether the officers in these studies intentionally engaged in this negative behavior; did so unknowingly because of a lack of insight, training, or ability; or did not have the emotional control to manage their own communication and verbal strategy.

The sparse literature indicates a need for further investigation to allow for a greater understanding of the effectiveness and impact that a law enforcement officer’s language, word usage, dialogue, and command type and subtype have when issued in the context of a citizen encounter. The present investigation evaluated the pattern of command types unique to each individual officer during a violent encounter. The first hypothesis considered the specificity of command types used (whether alpha or beta) in an effort to assess the frequency of explicit and implicit commands from the time of the initial communication between an officer and a citizen. It was believed that the frequency of beta commands would increase closer to the occurrence of the violent event. The second hypothesis involved the frequency of beta subtypes within the dialogue structure of the interaction between an officer and a citizen during a violent encounter as occurring more often than those of alpha subtypes.

**Methods**

**Participants**

In order to evaluate linguistic patterns and the command types and subtypes used by law enforcement officers in the context of violent encounters with citizens, archival data were analyzed. The data were extracted from two sources: (1) visual and audio recordings taken from “dash cams” in law enforcement vehicles and dubbed onto VHS tapes and (2) recordings (both visual and audio) from a video camera for the television show “Cops . . . Shots Fired” in which all encounters between law enforcement officers and citizens resulted in violence. Each encounter was given a case number to allow for officer and citizen anonymity.

Overall, an archival pool of ten violent encounters between law enforcement officers and citizens was assessed in this study, with the total number of officers evaluated being 14. However, two encounters (and subsequently two officers) were not included in the analysis as the officer(s) involved issued few commands (< 10), leaving inadequate data for determining linguistic patterns.
Furthermore, several other cases also included inadequate data. For instance, there were three responding officers in violent encounter 1004 in which two of the officers uttered fewer than ten commands, leaving one officer evaluated in this case. Encounter 1009 also involved two officers, but only one of the officers issued ten or more commands during the dialogue, resulting in only that officer being included in further analyses. Therefore, the total number of violent encounters analyzed was eight, which included nine individual officers involved in the violent officer/citizen encounters being evaluated.

The officers were representative of law enforcement agencies across the continental United States and were employed by either a police department or sheriff’s department, or were employed as a state or highway patrol officer.

Procedure

Data was gathered for each law enforcement officer in each of the violent encounters. Citizen dialogue with the officer involved in the encounter was recorded in the same manner as officer dialogue but was not included in the results as the focus of this study was on the linguistic patterns and command types (subtypes) used by law enforcement officers in violent encounters with citizens. The dialogues between the officers and citizens were recorded using a paper-and-pencil method. The officer’s dialogue data, once in text form, was then coded by command type and subtype, allowing for qualitative and quantitative analysis.

Command types and definitions were taken directly from Bertsch (1999) and applied to fit a law enforcement context (see Table 1). Regular commands were orders that were stated directly. Indirect commands were suggestions not in question form (allowing for nonresponse) to respond physically or verbally. Interrogations were statements in question form to which the only appropriate response was verbal. Question commands were statements in question form to which a motor response was expected, even though a verbal response was available but inappropriate. Don’t commands were instructions to terminate an ongoing behavior or a future behavior, generally preceded with the word “don’t.” Stop commands were instructions to terminate an ongoing behavior, generally preceded by the word “stop.” Negative commands were orders consisting of instructions to terminate an ongoing behavior which does not begin with the words “don’t” or “stop.” Other commands were defined as any order that cannot fit with the above categories or a command that can fit into two or more categories at the same time. Each command type was classified as either alpha or beta. Alpha commands were precise, descriptive orders in which a motoric response was appropriate and feasible. Beta commands were orders in which compliance was difficult due to vagueness or interruption.

For the purposes of this study, a violent event constituted any event in which the officer or citizen engaged in physical contact, either by force or will, which could be achieved through direct contact with another individual, the use of a weapon (e.g., firearm, Taser®, night stick, or vehicle), or the use of an object in such a way that it is meant to inflict physical damage to another individual, as well as acts of self-defense or attempts at suicide. All violent encounters were witnessed, and encounters were defined as the initial contact made between an officer and a citizen to the final contact.
Table 1. Examples of the Eight Command Types Across Alpha and Beta Subtypes

<table>
<thead>
<tr>
<th>Command</th>
<th>Alpha</th>
<th>Beta</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular</td>
<td>Put your hands on your head.</td>
<td>Get back.</td>
</tr>
<tr>
<td></td>
<td>Drop the gun.</td>
<td>Give it up.</td>
</tr>
<tr>
<td>Indirect</td>
<td>Watch your mouth.</td>
<td>Move along.</td>
</tr>
<tr>
<td></td>
<td>Hitting her won’t solve anything.</td>
<td>There’s nothing to see here.</td>
</tr>
<tr>
<td>Interrogation</td>
<td>What is your name?</td>
<td>What is going on?</td>
</tr>
<tr>
<td></td>
<td>How old are you?</td>
<td>Where are you going?</td>
</tr>
<tr>
<td>Question</td>
<td>Would you step out of the vehicle?</td>
<td>Could you move?</td>
</tr>
<tr>
<td></td>
<td>Could you move away from the curb?</td>
<td>Could you calm down?</td>
</tr>
<tr>
<td>Don’t</td>
<td>Don’t leave your vehicle.</td>
<td>Don’t move.</td>
</tr>
<tr>
<td></td>
<td>Don’t say another word.</td>
<td>Don’t touch that.</td>
</tr>
<tr>
<td>Stop</td>
<td>Stop shooting.</td>
<td>Stop that.</td>
</tr>
<tr>
<td></td>
<td>Stop talking.</td>
<td>Stop screwing around.</td>
</tr>
<tr>
<td>Negative</td>
<td>Quit running.</td>
<td>Quit it.</td>
</tr>
<tr>
<td></td>
<td>Quit fighting.</td>
<td>Quit aggravating me.</td>
</tr>
<tr>
<td>Other</td>
<td>Why don’t you stop yelling and calm down.</td>
<td></td>
</tr>
</tbody>
</table>

Results

The accuracy of dialogue recording and command type/subtype coding was checked by a second rater to determine if there were any discrepancies between the dialogue from the VHS tapes or the DVD recordings and the command codes determined by the primary researcher. Using a percent agreement formula (agreements/agreements + disagreements × 100), there was 98% accuracy in dialogue text and 99% accuracy in command type/subtype coding when a random 30% of the cases were evaluated by the second rater.

The data from the VHS tapes and DVD recordings provided the main source of dialogue and command type and subtype data. The resulting texts were evaluated first by encounter, and then by individual officer (if there was more than one officer on the scene participating in active dialogue with the citizen, each officer was analyzed separately). The data were then further assessed by looking at the specific language and words used by the officer, the command types and subtypes issued during the encounter, as well as the command type and subtype used in both pre-violent and post-violent dialogue.

Violent Encounter 1000

In violent encounter 1000, the officer involved in the dialogue arrived immediately after the violent event, which involved both an officer and a citizen being shot. A total of 29 commands were issued by the officer in violent encounter 1000. Regular commands were the most dominant in this encounter, accounting for 55% of the total commands issued, followed by indirect commands, which were used by the officer in 19% of utterances.
The number of command types and subtypes used in pre-violent and post-violent events for all encounters are listed in Table 2. Of the command subtypes, beta commands were used by the officer 79% of the time. More specifically, regular beta commands were issued the most (51%), followed by the use of indirect beta commands (19%). Overall, beta subtypes were used by this officer in 85% of the commands issued to the citizen.

Table 2. Frequency of Command Type and Subtype for Pre-Violent and Post-Violent Events in Encounter

<table>
<thead>
<tr>
<th>Encounter</th>
<th>Regular Alpha</th>
<th>Regular Beta</th>
<th>Indirect Alpha</th>
<th>Indirect Beta</th>
<th>Interrogation Alpha</th>
<th>Interrogation Beta</th>
<th>Question Alpha</th>
<th>Question Beta</th>
<th>Total Alpha</th>
<th>Total Beta</th>
<th>Other</th>
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<tr>
<td>1000&lt;sup&gt;a&lt;/sup&gt;</td>
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<td>--</td>
<td>--</td>
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<td>--</td>
</tr>
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<td>5</td>
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<td>0</td>
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<td>4</td>
<td>23</td>
<td>2</td>
</tr>
<tr>
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<td>0</td>
<td>0</td>
<td>29</td>
<td>43</td>
<td>33</td>
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</tbody>
</table>

<sup>a</sup>Pre-violent event; <sup>b</sup>post-violent event

**Violent Encounter 1001**

In violent encounter 1001, two officers were involved in active dialogue with the citizen wherein the encounter resulted in the citizen being shot by the officers. Each officer’s language was evaluated separately.

Officer 1 issued a total of 33 commands, and officer 2 issued 31 commands. Regular commands dominated the command types issued by both officers. Overall, the first officer in violent encounter 1001 used regular commands in 66% of utterances (73% were of the beta subtype and 27% were of the alpha subtype), whereas the second officer issued regular commands 90% of the time of which 79% were of the alpha subtype and 21% were of the beta subtype.
Both officers’ alpha and beta subtypes were evaluated by looking at the number of command types and subtypes by pre-violent event and post-violent event. Officer 1 predominantly issued regular alpha commands (57%) and regular beta commands (43%) in the pre-violent event phase. This resulted in an overall total of beta commands being used 48% of the time by officer 1 in violent encounter 1001. Officer 2 in this encounter issued regular alpha commands 76% of the time and regular beta commands in only 21% of utterances, resulting in alpha commands being used 76% of the time in the pre-violent event for this officer.

During the post-violent event phase, officer 2 did not issue any commands, while officer 1 issued a total of four regular commands, 100% of which were of the beta subtype.

**Violent Encounter 1004**

In violent encounter 1004, three officers were involved in active dialogue with the citizen; however, only one officer issued ten or more commands and was therefore the only officer included from this encounter analysis, which resulted in the citizen attempting suicide.

Of the 20 commands issued, indirect commands were the most frequently issued (35%), followed by “other” commands (20%), regular commands (15%), interrogation commands (15%), and question commands (15%). All of the indirect commands were of the beta subtype (100%) as were the regular commands (beta subtype 100%) and interrogation commands (beta subtype 100%). Question commands were issued using alpha subtype in 67% of utterances (beta subtype 33%).

Looking at the pre-violent event and post-violent event phases, the officer in violent encounter 1004 issued six commands prior to the violent event, 83% of which were indirect commands. The beta subtype was also issued 67% of the time during the pre-violent event. In the post-violent event phase, the officer issued predominantly indirect commands, which were issued 29% of the time. Beta subtypes were issued 64% of the time. Overall, the use of beta subtypes by this officer during the entire encounter was 80%.

**Violent Encounter 1005**

Violent encounter 1005 resulted in a citizen being “Tasered” by the officer on two separate occasions during the encounter. Therefore, for this violent encounter, there is a pre-violent event phase, a first post-violent event phase, and a second post-violent event phase.

The officer in violent encounter 1005 issued a total of 77 commands. Regular commands occurred most frequently (62%), with other predominant command types issued being indirect commands (18%) and interrogation commands (12%). Of the regular commands issued by the officer, the beta subtype was used in 77% of utterances. The beta subtype was also used in 93% of the indirect commands issued. The most prevalent subtype associated with the interrogation commands utilized by this officer was also beta (82%).
During the pre-violent event phase, the officer used regular commands most often (47%). Beta subtypes in the pre-violent event phase accounted for 82% of utterances. During the first post-violent event phase, regular commands accounted for 80% of utterances. The officer also utilized alpha subtypes 80% of the time during the first post-violent event phase. However, the officer reverted back to issuing predominantly beta subtypes (81%) during the second post-violent event phase. Overall, the officer in violent encounter 1005 issued beta subtypes in 82% of utterances.

**Violent Encounter 1006**

Violent encounter 1006 resulted in a citizen being shot by an officer. Of the 12 commands issued, regular commands comprised 70% of the utterances, followed by “other” commands which were used 20% of the time.

During the pre-violent event, regular commands were issued 71% of the time and were issued in 100% of utterances in the post-violent event phase. In the pre-violent event phase, the officer issued beta commands 63% of the time and alpha commands only 13% of the time. During the post-violent event phase, the officer used alpha commands 100% of the time. Overall, the officer in this encounter issued predominantly beta subtypes (63%) and used alpha command subtypes only 30% of the entire encounter with the citizen.

**Violent Encounter 1008**

Violent encounter 1008 involved a citizen engaged in threatening behavior with a weapon. The encounter resulted in the citizen being shot by police officers. In this encounter, the officer issued a total of 82 commands. Regular commands were issued most frequently in this encounter, with total regular commands being issued 72% of the time. The next most frequently issued commands by the officer were indirect, which were issued 15% of the time, followed by commands that fall into the “other” category (12%). The beta command subtype was issued most frequently (61%) throughout the encounter. The alpha subtype was used in only 39% of the commands given.

During the pre-violent event phase, the officer issued regular commands most frequently (44%), followed by the use of indirect commands (12%), and finally “other” commands (6%). Beta subtypes (33%) were issued more often during the pre-violent event phase than commands with alpha subtypes (21%).

During the post-violent event phase, regular commands dominated all those issued (73%), while the beta subtype (36%) and alpha subtype (36%) were issued equally. Overall, the officer issued beta subtypes in 34% of the commands issued and used commands with alpha subtypes only 23% of the time.

**Violent Encounter 1009**

In violent encounter 1009, two officers engaged in active dialogue with the citizen; however, only one of the officers issued ten or more commands and is therefore the only officer included in the remainder of the analysis for this encounter. In this
encounter, the citizen used a vehicle (automobile) in an attempt to harm the officer included in the analysis.

Of the 11 total commands issued by the officer, 36% were that of the “other” category. Regular commands were issued a total of 36% during the entire encounter, followed by the use of indirect commands, which were issued 27% of the time.

During the pre-violent event phase, commands generated from the “other” category occurred 50% of the time, followed by the use of indirect alpha subtypes (27%). There was only one alpha subtype (regular command type) issued in the pre-violent event phase (13%). In the post-violent event phase, all commands issued were regular (100%) and alpha subtype (100%). Overall, the officer issued commands with the alpha subtype 36% of the time, while not issuing any beta subtype commands during the encounter.

**Violent Encounter 1010**

In violent encounter 1010, the citizen was shot while trying to flee arrest, but was apprehended after a short chase. Overall, the officer issued 128 commands, 30% of which were from the “other” category. Interrogation commands were also issued in 30% of the utterances. Regular commands were used 23% of the time during this encounter. Of the interrogation commands, the beta subtype accounted for 74% of those issued, while the regular commands were also found to have been dominated by the beta subtype (62%).

During the pre-violent event phase, the majority of the command types issued consisted of regular commands (35%), followed by interrogation commands (26%), and then “other” commands (22%). Beta subtypes (43%) were used more frequently than alpha subtypes (35%) during the pre-violent event phase as well.

In the post-violent event phase, “other” command types (31%) as well as interrogation commands (31%) were issued equally, followed by regular commands, which were issued 20% of the time. The beta subtype was dominant (41%) during the post-violent event phase, while alpha subtypes were only issued in 28% of the utterances. Overall, the beta subtype was used most in this encounter (41%), while the alpha subtype was only issued in 29% of all command types.

**Discussion**

The results of this study indicate a relationship between increased beta subtype commands used by police officers and the occurrence of a violent event. The data did not appear to be congruent with an increased frequency of officer-issued beta commands in relation to proximity of the violent event. As a result, there does not appear to be any support for the first hypothesis. However, in 75% of the violent encounters evaluated in this study, commands of the beta subtype were vastly predominant during officer dialogue with citizens. This was supportive of the second hypothesis. Of these violent encounters, there were six officers (67% of the nine total) who issued commands primarily of the beta subtype.

As indicated previously, implicitly stated commands (beta subtype) were issued most frequently within the context of the violent encounters between officers and
citizens, and this could be construed as a significant problem. Commands issued within this subtype are often difficult to comply with due to vagueness, interruption, or indirectness. It is important to note that officer use of beta commands during violent encounters does not appear to be an intentional behavior. In fact, officers did not seem aware they had issued implicitly stated commands and expected compliance. Although this study did not examine an individual’s understanding of the issued commands or an apparent “willingness” or “disinclination” to comply with commands issued by an officer, it does offer an opportunity for future officer training and educational development for improving communication skills.

Interestingly, several of the violent encounters appear to indicate an initial pattern within the command dialogue issued by an officer, which is followed by increasingly erratic command dialogue patterns, seemingly precedent to the violent event between the officer and the citizen. This is supportive of research by Pennebaker and Francis (1996) in which an individual is thought to have a linguistic “fingerprint” or a “style” of speaking that is unique from other individuals based on certain outcomes. Consequently, it may be the case that officers, like other individuals, have a “linguistic pattern” they are comfortable engaging in with others. According to the results of this analysis, it appears to be the case that when officers are in an encounter with a citizen that could potentially result in a violent event, they deviate from this “comfortable speaking” pattern and move toward a more inconsistent, variable pattern within the context of the dialogue. The more the officer appears to lose control of the situation, the more he or she seems to lose control of his or her communication skills.

Significantly more research needs to be conducted to determine the reasons why officers lose the ability to communicate effectively and control a situation that is already moving out of control. Further research on the effect of pre-event assessment, emotional control and empowerment training, and attentional training might also yield helpful information. What this could mean for law enforcement officers and agencies is that there appears to be a great need for further research and additional training in effective communication, which might have dire consequences if left ignored.

References


The Police Chief Selection Process in Illinois: An Exploratory Study

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Introduction

The position of police chief is one of the most important positions in a community, especially a municipality with a population between 5,000 and 11,000 residents. In this study, 154 questionnaires were mailed to Illinois police chiefs who were employed in municipalities with this population. The majority of the chiefs who responded (N = 112) were male, Caucasian, 40 to 59 years of age, and supervised a department with 5 to 14 officers with a population of 5,000 to 8,999 residents. Most of the chiefs had 21 or more years of experience but had served as a chief for less than ten years. A majority of chiefs were hired from inside the department and were selected by a mayor, city council, or city manager. Most municipalities did not employ an assessment center. The study provides several additional findings and includes recommendations for future police chief selection processes:

Selecting a police chief is among the most critical personnel decisions that a local government manager or elected body can make. Without minimizing the importance of other public executives, the actions and influences of a police chief not only can have ramifications across the entire public spectrum but also play a role in the well-being and vitality of both the residential and business sections of the community. (Bushey, 2002)

Communities hiring a police chief desire a successful leader who can make an easy transition to the position and form successful relationships with the agency and community leaders (Regoli, Crank, Culbertson, & Powell, 1990). However, the quality of leadership in police organizations varies tremendously. Many municipalities have a difficult time deciding what type of leader or supervisor they want. Should leadership positions in policing be filled with individuals who possess communication and supervisory skills? Should the village require that the chief have extensive street experience? Are policing skills or management skills more important? (McCamey, Scaramella, & Cox, 2003). Answers to these types of questions are critical in determining the criteria and the elements of the selection process for a police chief.

According to Hernandez (1993), “The identification, selection, and development process of desired capabilities for a police chief today are as varied and inconsistent as the results that are produced” (p. 2). Dantzker (1996) concluded that a police chief should be the best trained and educated officer in the police department. Couper and Lobitz (1993) identified a number of behaviors that they believed were essential for effective police leadership. For example, the leader must create and nurture a vision of the future, and he or she must live according to a set of values.
that can be shared with others. In addition, the leader must be a good listener and must hire for the future. Good leaders in policing must pay as much attention to perceptions as to reality, and they must continually strive to improve the quality of the organization. Hernandez (1993) agrees and believes the challenges and pressures affecting the police chief will continue to grow in the future. Individuals with the highest moral character and with solid intellectual ability will be required to lead law enforcement in the 21st century.

**Police Chief Selection**

Each municipality employs their own methods for the selection of a police chief. Some villages use the appointed Board of Police and Fire Commission, others assign members of the city council or charge the city manager or mayor with the responsibility of appointing the chief, and certain municipalities employ consulting organizations to conduct the selection process. Inherent in this variation of selection methods is the different expectations concerning the duties to be performed and the qualifications required for applicants.

Currently, there has been minimal research in Illinois concerning the hiring and selection process for police chiefs who serve populations between 5,000 and 10,000 residents. Dantzker (1996) concluded that the largest number of police agencies serve a population of less than 10,000 residents. Most of the research related to the hiring and selection process of chiefs has been focused on agencies serving over 25,000 residents. In general, the quantitative and qualitative research related to the selection of police chiefs is quite limited (Doerner & Dantzker, 2000). Chandler (1982), however, did conduct a survey for an unpublished thesis concerning the education levels of Illinois police chiefs who served a population of 25,000 to 100,000. He found that 47% of the respondents possessed a Bachelor’s degree and that as the size of the community increased, there was a corresponding increase in the education level of the chief. During 1996, the Illinois Association of Police Chiefs and Stanard and Associates conducted a survey of Illinois police chiefs. The authors of the study, Kitzman and Stanard (1996), concluded that

... the prototypical Illinois police chief is a white male in his forties; has had experience in patrol and investigative activities; has about 20 years of experience as a Certified Law Enforcement Officer, with about 7 years of experience as a police chief and has taken the equivalent of approximately 3 years of college course work.

The Police Executive Research Forum (1997) conducted a similar study in communities with a population of 50,000 residents or more. They concluded that most police chiefs had 16 to 20 years of experience. In regards to how they were selected, 57% were promoted from within the department, 39% were hired by a city manager, and 22% were hired by a mayor. A more recent study of police chiefs by Krull (2004), based on agencies with one to 500 staff members, reported that 83% of the police chiefs were appointed by a city manager and 17% by the city council.

As previously noted, the specific elements of the hiring process vary depending upon the community. For example, the selection requirements for a police chief in McHenry, Illinois, includes an application phase, review of résumés, interviews,
psychological testing, and an intelligence test (Schmitt, 1999). In Skokie, Illinois, the police chief selection process involves a résumé, survey, interviews, group tests and exercises, polygraphs, psychological tests, background checks, and the employment of an outside assessment organization. The Elgin, Illinois, selection process employed an application process, résumé, interviews, and televised question-and-answer time in which citizens could offer questions for the candidates. Elgin also had requirements related to minimum years of experience, command experience, and education (Schmitt, 1999). According to Schmitt, the key points shared by communities seeking a new chief include “cooperation (but not control) with the town government; communication with the community on desires and hiring the person with the most suitable (not necessarily the most total) experience” (p. 92). Similar requirements for a police chief were proposed by the Illinois Association of Police Chiefs. They concluded that Illinois municipalities are seeking chiefs who can improve employee morale, reduce paperwork, cultivate future leaders, enhance customer service, increase diversity, increase crime clearance rates, and create a more responsive department. In addition, communities are requiring a chief to be innovative, creative, customer-service oriented, an employee motivator, and to possess good ethical and moral standards (Nargelenas, 2004).

Methodology

This study focused on the hiring and selection process for Illinois police chiefs in municipalities with between 5,000 and 11,000 residents. A total of 154 questionnaires were mailed to every Illinois community with a population in this range. The distribution of the survey was publicized by electronic mail through the Illinois Association of Police Chiefs. The questionnaire was composed of several parts, including agency demographics, police chief demographics, selection process used by the community, and perceptions of qualifications and characteristics required for a police chief. A total of 112 surveys were returned for a response rate of 73%.

Data Analysis

The majority of the police chiefs in this study were male, Caucasian, 40 to 59 years of age, and supervised a department with 5 to 14 officers with a population of 5,000 to 8,999 residents. A large majority administered a budget of $1.49 million dollars or less. Most of the chiefs had 21 or more years of police service, had served as a chief for ten years or less, and reported ten years or less of management experience. A majority of the respondents indicated they were 40 years or older at the time of application for chief, held the rank of officer/detective before being appointed chief, and had completed an Associate’s or Bachelor’s degree. The characteristics of the sample are included in Table 1.
### Table 1. Characteristics of Police Chiefs

<table>
<thead>
<tr>
<th>Variable</th>
<th>N*</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Officers</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 to 14 officers</td>
<td>84</td>
<td>78</td>
</tr>
<tr>
<td>15 or more</td>
<td>24</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Population</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5,000 to 8,999</td>
<td>68</td>
<td>63</td>
</tr>
<tr>
<td>9,000 or more</td>
<td>40</td>
<td>37</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Budget</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1.49 million or less</td>
<td>81</td>
<td>76</td>
</tr>
<tr>
<td>$1.5 million or more</td>
<td>25</td>
<td>24</td>
</tr>
<tr>
<td>Total</td>
<td>106</td>
<td>100</td>
</tr>
<tr>
<td><strong>Total Years of Service</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 years or less</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>11 to 20 years</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>21 years or more</td>
<td>76</td>
<td>70</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Years as Chief</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 years or less</td>
<td>76</td>
<td>70</td>
</tr>
<tr>
<td>11 to 20 years</td>
<td>27</td>
<td>25</td>
</tr>
<tr>
<td>21 or more years</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>107</td>
<td>99</td>
</tr>
<tr>
<td>Female</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Age at Time of Application</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>39 or younger</td>
<td>53</td>
<td>49</td>
</tr>
<tr>
<td>40 or older</td>
<td>55</td>
<td>51</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Current Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20 to 39 years</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>40 to 59 years</td>
<td>87</td>
<td>81</td>
</tr>
<tr>
<td>60 or older</td>
<td>10</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
<tr>
<td><strong>Ethnicity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Caucasian</td>
<td>105</td>
<td>98</td>
</tr>
<tr>
<td>African American</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Hispanic</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>107</td>
<td>100</td>
</tr>
<tr>
<td><strong>Highest Rank Held</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Officer/detective</td>
<td>54</td>
<td>50</td>
</tr>
<tr>
<td>Sergeant/lieutenant</td>
<td>30</td>
<td>28</td>
</tr>
<tr>
<td>Captain/deputy chief</td>
<td>23</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>107</td>
<td>100</td>
</tr>
<tr>
<td><strong>Management Experience</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 years or less</td>
<td>57</td>
<td>53</td>
</tr>
<tr>
<td>11 to 25 years</td>
<td>44</td>
<td>41</td>
</tr>
<tr>
<td>26 or more years</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>107</td>
<td>100</td>
</tr>
<tr>
<td><strong>Education Level</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HS/some college</td>
<td>39</td>
<td>36</td>
</tr>
<tr>
<td>Associate’s/Bachelor’s</td>
<td>45</td>
<td>42</td>
</tr>
<tr>
<td>Master’s/Doctorate</td>
<td>24</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
</tbody>
</table>

*Differences in N by category due to missing data.*
Chief Selection Data

A majority (65%) of police chiefs in Illinois municipalities with populations between 5,000 and 11,000 were chosen from within the police department where they were already employed (see Table 2).

Table 2. Police Chief Hiring Location

<table>
<thead>
<tr>
<th>Location</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inside department</td>
<td>69</td>
<td>65</td>
</tr>
<tr>
<td>Outside department</td>
<td>38</td>
<td>35</td>
</tr>
<tr>
<td>Missing data</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>107</td>
<td>100</td>
</tr>
</tbody>
</table>

Next, chiefs were asked to indicate the form of selection process used by the municipality. In a majority (84%) of the communities, the mayor, city manager, or city council selected the chief. Only 10% of the Illinois municipalities used the Board of Police and Fire Commissioners or an outside agency (6%) in the police chief selection process (see Table 3).

Table 3. Selection Process Used by Municipality

<table>
<thead>
<tr>
<th>Selection Process</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor, manager, or council</td>
<td>88</td>
<td>84</td>
</tr>
<tr>
<td>Police and Fire Commission or Public Safety Board</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>Outside agency</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Missing data</td>
<td>(3)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>105</td>
<td>100</td>
</tr>
</tbody>
</table>

Police chiefs were asked several questions concerning the individual parts of the selection process used by their community. Table 4 indicates that a majority of chiefs (53%) were not required to file an application to apply for the position.

Table 4. Did You Have to File an Application?

<table>
<thead>
<tr>
<th>File an Application?</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>48</td>
<td>46</td>
</tr>
<tr>
<td>No</td>
<td>56</td>
<td>54</td>
</tr>
<tr>
<td>Missing data</td>
<td>(4)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>104</td>
<td>100</td>
</tr>
</tbody>
</table>

A majority (69%) were required by their municipality to submit a résumé when they applied for the position of chief (see Table 5).
Next, the chiefs were asked whether or not they participated in an oral interview. A majority of chiefs (77%) were required to participate in some form of oral interview as a part of the selection process (see Table 6).

A large majority of the chiefs in this survey (89%) did not participate in an assessment center during the selection process. The assessment center involves creating an accurate job description and employing a group of trained observers (experienced police chiefs) who observe applicants as they proceed through several job-related activities. These activities involve an oral presentation; dealing with incoming memos, phone calls, and e-mails; handling grievances; fielding questions at a press conference; and other job functions (McCamey et al., 2003) (see Table 7).

An overwhelming majority of the chiefs (94%) did not participate in any form of written exam during the selection process. Agencies that do implement written examinations often incorporate subject areas related to financial management, personnel management, information management, written communications, public relations and public speaking, community relations, and supervision of police personnel (City of Houma, Louisiana, 2001) (see Table 8).
Once again, an overwhelming majority of chiefs (92%) did not participate in any form of psychological testing during the police chief selection process (see Table 9).

Table 9. Did You Have to Submit to a Psychological Examination?

<table>
<thead>
<tr>
<th>Psychological Examination?</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>107</td>
<td>99</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
</tbody>
</table>

The final question on the survey asked the chiefs if they submitted to a polygraph examination during the selection process. Again, an overwhelming majority (99%) did not take a polygraph test before being hired as a police chief (see Table 10).

Table 10. Did You Have to Submit to a Polygraph Examination?

<table>
<thead>
<tr>
<th>Polygraph Examination?</th>
<th>N</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>107</td>
<td>99</td>
</tr>
<tr>
<td>Total</td>
<td>108</td>
<td>100</td>
</tr>
</tbody>
</table>

Findings

The majority of police chiefs in this study were male, Caucasian, 40 to 59 years of age, with 21 years of law enforcement experience but less than ten years of experience as a chief. Most commanded between 8 to 14 officers in a municipality with between 5,000 and 8,999 residents with a budget of less than $1.5 million per year. A majority of the Illinois chiefs were hired from inside the police department and were selected by a mayor, city manager, or city council. When they applied for the police chief position they were not required to complete an application but did have to submit a résumé. Most did not participate in an assessment center but were required to respond to oral board questions. The chiefs in this study did not complete a written examination, psychological examination, nor a polygraph examination.

Implications

As we have discussed, the importance of quality leadership in police organizations is imperative for a number of reasons. And, of course, the ability to hire quality leaders in policing is a function of the hiring process. Based on the survey used in this study, a majority of municipalities in Illinois with a population of 5,000 to 8,999 residents hire chiefs from inside the department and require a résumé and oral interview. Only 11% of the municipalities employed some form of an assessment center.

We recommend municipalities strongly consider an assessment center for the hiring of chiefs. According to the American Psychological Association (APA) (2004), the selection of executives used to be fairly haphazard and relied on
experience, hunches, and biases of the decisionmakers. Furthermore, APA concluded that the use of standardized written tests for executives are not widely accepted because of the gap between the simple skills measured by the tests and the complex skills (especially people-oriented skills) that are critical for executives. Hughes (2006) concluded that an assessment center is considered the most valid and reliable methodology to rank-order candidates using an objective technique that recognizes future potential (p. 2). The primary tools used in an assessment center are simulations of the real duties and responsibilities of a law enforcement executive. According to Hughes, assessors watch candidates perform these tasks in simulated environments and evaluate their performance.

Of course the cost and validity of the assessment center are issues that may deter many from utilizing this tool for selecting the position of chief. Bushey (2002) found, however, that appointing an unqualified or weak, marginally qualified chief ultimately influences retention and loss of personnel, the disciplinary process, police effectiveness in the community, and the credibility of the department in the criminal justice system. It also increases the potential for litigation. Furthermore, Ross (1980) reported that assessment centers for chiefs are capable of differentiating between effective and ineffective managerial performance as measured by a follow-up evaluation of personnel two years later. Her study also revealed that the dimensions of communication skills and interpersonal skills were the major determinants of assessment ratings.

There is little doubt that the future of policing will involve a continued expansion of the police-citizen relationship. Communication and interpersonal skills will be of utmost importance to municipal community policing and problem-oriented policing strategies.

**Conclusion**

The results of this exploratory study may assist municipalities in developing selection strategies for police chiefs. This could facilitate more effective police organizations as well as improve the interactive process between the police chief and the community. Further research is needed to confirm and expand the findings of this study.

**References**


Chief Thomas Piotrowski has been a member of the Geneseo, IL Police Department since 1991. He possesses a Master of Arts degree in Law Enforcement and Justice Administration from Western Illinois University and is a Certified Police Chief through the Illinois Association of Chiefs of Police.

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**Bonny M. Mhlanga** is an associate professor of Law Enforcement and Justice Administration at Western Illinois University. He possesses a PhD and MS from the University of Surrey in the United Kingdom. Prior to coming to Western, he worked as senior research officer in the Research, Development, and Statistics Directorate of the United Kingdom Home Office. Dr. Mhlanga has been a Research Fellow in the Department of Law at Brunel University and a juvenile justice practitioner. He received the Western Illinois University’s College of Education and Human Services 2006 Award for Scholarly and Professional Activities.
Decision Making in the Midst of Moral Dilemmas: Eight Steps to Ethical Decision-Making

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“The last temptation is the greatest treason: to do the right deed for the wrong reason.”
–T. S. Elliot

“Integrity without knowledge is weak and useless, and knowledge without integrity is dangerous and dreadful.”
–Samuel Johnson

Moral decision-making in the process of meting out justice is the application of moral principles to the administration of justice and the enforcement of the law. Whether it is guidelines to follow, standards to uphold, policies and procedures to pursue, regulations to comply with, or the law one is to abide by, making a just decision—determining what is moral—is often easier said than done (Khan, 2008). Such decision making has to be free from inaccuracies because the general public rightfully can and does expect that the enforcers of the law and those administering justice will not only do what is legal but what is also moral. Justice, as such, needs to be meted out not only as “substance” when people receive from the law what they deserve to receive, but also as a “process”—treating people under similar circumstances equally and fairly in accordance with the law (Perez & Moore, 2002).

This article explores a particular ethical/moral decision-making scenario in the military as a springboard for discussion. It reviews relevant codes and utilizes steps offered by the Josephson Institute of Ethics (n.d.) website and Joycelyln Pollock (2007) to provide an eight-step model to ethical decision-making.

Enduring Doctrines Do Not Guarantee Principles Practiced

 Expediences of life can bring about human behavior which may not always resonate moral ideals. Simply because people have long-established doctrine to conduct oneself morally, does not predict that all members of society will or do abide by these guiding principles. In fact, no part of existence or a vocation is free of moral predicaments, and the field of law enforcement and justice administration is not immune from its influences.

The modern military acknowledges a duty to train military personnel to be both ethical and effective (Wolfendale, 2008). Employees in entities enforcing the law and administering justice should be required to be familiar with how to evaluate ethical dilemmas and how to conduct oneself morally (Braswell, McCarthy, & McCarthy, 2002). Radical rethinking of military training and military culture, as well as the enriched constructive ethics education programs, is essential if
the development of good moral character is desired (Wolfendale, 2008). Such a professional’s decision-making practices should embrace concerns for all who are affected by such decisions (Khan, 1998).

Ethical decision-making models such as the one offered here, as elaborate as they may be, may not adequately portray the complexity of ethical dilemmas (Hansen & Goldberg, 1999; Schafer, 2002). Braswell et al. (2002) acknowledge that just the practice of encouraging people and officials to behave more ethically will not necessarily restrain many people from crime; however, by teaching them how to recognize moral dilemmas, the ability to assess the harmfulness of one’s acts and to anticipate consequences to moral and law-abiding conduct can be accentuated. Braswell et al. implied that with such predisposition, the skills and contexts likely to encourage ethical conduct can be specified.

Ethics, Values, and Morals: Ingredients of and for Professionalism

Ethics these days quite often imply recommended behaviors as they relate to a profession. The word ethics is derived from the Greek word ethos (Meese & Ortmeier, 2004), which has been translated to mean character, conduct, or custom. However, an understanding of ethics does not come easy because there does not appear to be a universal agreement on such “desirable” standards of integrity, behavior, or practice. As such, it is of the essence that we fall back on the study of criminal justice ethics, which, according to Reiman (2001), is a philosophical undertaking that seeks to understand and justify those moral standards that are appropriate to the occupations that make up the criminal justice system.

Any person in government service should follow the Code of Ethics for Government Service. As cited in the U.S. Office of Government Ethics (OGE) (n.d.) website, in a memorandum from Director Stephen Potts dated January 18, 1994, he emphasizes a renewed pledge to display ethics posters. It states that Public Law 96-303, 94 Stat. 855 (July 3, 1980) requires each agency (as defined by Section 105 of Title 5, USC), the Postal Service, and the Postal Rate Commission to display the Code of Ethics for Government Service in each federal building in which at least 20 individuals are regularly employed by an agency as civilian employees. The provisions of PL 96-303 took effect on October 1, 1980, and are still in effect.

According to Braswell, Miller, and Pollock (2006), ethics comprises the fundamental framework for how an individual lives his or her life and exists within society (p. 1). However, ethics, generally, is the study and analysis of right and wrong (Khan, 2006). It is an analysis or the study of what is proper, good, and right and is often rendered as a prescription for how a moral individual is supposed to conduct oneself. Morals and morality are depicted in the conduct itself; they refer to “what is judged as good conduct” (Pollock, 2007).

The value and norms that the officials enforcing the law and administering justice must strive for to be regarded as a professional, adds Khan (2006), are also derived from what is regarded as correct, adequate, humane, and therefore worth striving for (p. 10). Such principles, as outlined in the Josephson Institute of Ethics (n.d.) website, do not always give an individual a single “moral” course of action but, instead, it allows for additional means of evaluating and deciding among competing options.
Ethics is vital to administering justice and enforcing the law because morality is what differentiates right from wrong (Albanese, 2006). Albanese points out further, "Morals are good conduct; they constitute permissible behavior. Morals are the rules that prescribe proper action. Ethics is the study of morality, that is, the study and analysis of what constitutes good conduct (i.e., moral)" (p. 3).

Values concern ethics especially when an individual’s conduct highlights what is admired, merited, or considered meaningful. Our values are what we prize and our value system is the order in which we prize them (Josephson Institute of Ethics, n.d.). Ethical behavior, according to Meese and Ortmeier (2004), “relates to conduct that conforms to accepted principles of morality and good conduct” (p. 62). Quite often, the words ethics, values, and morals are used interchangeably (Khan, 2008; Pollock, 2007). Souryal (2003) acknowledges the interchangeable use of the terms, and he clarifies by expounding that “ethics is a philosophy that examines the principles of right and wrong, good and bad. Morality on the other hand, is the practice of these principles on a regular basis, culminating in a moral life” (p. 18). As Reiman (2001) asserts, “Only [by] being moral can criminal justice be distinguished from the very crime it condemns” (p. 2).

In An Analysis of Correctional Officer Training in the United States, Khan (2001) pointed out that the entry-level correctional officer’s greatest value need is honesty. Along with that, he cited other characteristics such as integrity, concern for good, and trustworthiness, closely followed by responsibility, fairness with respect for laws and due process, credibility, and truthfulness, keeping one’s words and not making false promises to be of utmost importance (p. 188). Similarly, Armed Forces Comptroller Diana Benoit (2006) explores the understanding of ethics by most military members and the Department of Defense (DoD) employees and expresses her satisfaction that “technically” the DoD and other military personnel comprehend the term ethics; however, the same employees may not be able to answer the question, “What are the DoD’s core concepts of ethics?” According to Benoit, the DoD has developed ten foundational ideas: (1) honesty, (2) integrity, (3) loyalty, (4) accountability, (5) fairness, (6) caring, (7) respect, (8) promise keeping, (9) responsible citizenship, and (10) pursuit of excellence. These notions shape the groundwork for all of the DoD’s ethical guiding principles and stratagem and are the building blocks of governmental ethical performance. Rion (1998), in the context of speaking about the correctional wing of the government, affirms that such organizations cannot be an exercise in expediency: “It must, by its very place in our societal structure, be value centered” (p. 131).

An ethical basis, as delineated by Coetzee (1997), is what is the highest, the most important, and the most noble. In order to generate and persuade behaviors critical to an organization, the establishment must train employees on what is or is not expected of them (Allen, Mhlanga, & Khan, 2006). Without such endeavors, Allen et al. assert, “individuals may not make reliable decisions, thus, opening the door for unethical, unprofessional, or improper actions” (p. 4).

**Impact of Unethical Behavior**

“In contemporary society, a growing theme you hear is ‘don’t sweat the small stuff,’ and claim that ‘its all small stuff’—This perspective on life encourages people not to take themselves or their actions seriously (Albanese, 2006, p. 53). According
to the State of Florida’s Criminal Justice Standards and Training Commission (1999), unethical behavior sneaks in via, if not ostensibly intentional, denial of responsibility (“It wasn’t my fault”), denial of injury (“It’s a victimless crime.” “Nobody was hurt.” “What is the big deal?”), denial of a victim (“She deserved it.” “He is a scumbag anyway.”), condemnation of condemners (“I didn’t do anything compared to what they did.” “If they think they are coming down on me on this, I am going to take them down with me.” “They don’t know what they are doing.”), appeal to higher loyalty (The Code of Silence; “Us boys have to stick together.”) (p. 7).

Goodman (2004) explores such issues in depth and offers the following acronym: ETHICS—E – Environment, T – Training Academy, H – Home Life, I – Individual Beliefs, C – Citizens, and S – Stress—to identify the contributing factors that affect an officer’s decision to behave ethically and appropriately or otherwise. Goodman elaborates that an officer’s “environment” can and does include the choices he or she makes around and with his or her family members and peers on and off the job. The “training academy” sets the tone of interactions and the expectations of the role/career the officer embarks on; “home life” instills values during the officer’s formative years; the officer’s own understanding of professionalism stems from his or her own “individual beliefs”; “citizens’” demeanor and respectability (or otherwise) toward officers affects an officer’s decision-making process; and, finally, “stress” needs to be managed effectively to remain emotionally, physically, and intellectually fit to perform professional tasks (pp. 152-153).

Ethical Issues and Dilemmas

Ethical issues are often faced in the course of an employee/officer doing her or his duty, especially when there is a wide range of discretion involved in such decision making. An ethical dilemma is a situation, according to Gaines and Miller (2003), in which law enforcement officers (1) do not know the right course of action, (2) have difficulty doing what they consider to be right, and/or (3) find the wrong choice very tempting (p. 242). There are and will be situations when the right thing to do is hazy, and the operations procedures and/or manuals may not have the perfect policy yet in place. Though a morally and ethically informed person who is capable of pursuing moral reasoning will fare better (Meese & Ortmeier, 2004), professional codes present a way through which professionals can measure their own conduct (Kleinig & Zhang, 1993).

According to Meese and Ortmeier (2004), “Whether they are referred to as canons, standards, tenets, credos, declarations, principles, or statements of professional responsibility, codes of ethics and conduct prescribe how professionals should pursue the ideals that are implicit in their activities” (p. 74). They further ascribe that codes of ethics and conduct are prevalent among deep-rooted professional groups.

One of these codes is provided in Figure 1, the Code of Ethics for Government Service, adopted as House Document 103, 86th Congress, 1st Session. The code was passed by the Congress of the United States on July 11, 1958, and is available online: www.lexrex.com/enlightened/laws/ethics.
Any Person in Government Service Should . . .

I. Put loyalty to the highest moral principles above loyalty to persons, party, or government department.

II. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day’s labor for a full day’s pay, giving to the performance of his duties his earnest effort and best thought.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accepting, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

VI. Make no private promises of any kind binding upon the duties of office since the government employee has no private word which can be binding on public duty.

VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Core Concepts of Ethics in U.S. Department of Defense

According to Benoit (2006), core concepts “are the basis of a common federal government culture. They form the foundation for meeting commitments, enhancing customer service, working to one’s fullest ability, and sustaining the trust of the public whom we ultimately serve. In addition, these core concepts reflect the standards and expectations for military personnel and federal employees throughout the DoD” (p. 1).

The following is an abbreviated (and recurrently rephrased) version of the DoD’s core concepts of ethics offered in Fall 2006 by Diana Benoit, Armed Forces Comptroller. It is used almost verbatim as it appears in Entrepreneur.com on February 19, 2008. The codes, which include Honesty, Integrity, Loyalty, Accountability, Fairness, Caring, Respect, Promise Keeping, Responsible Citizenship, and Pursuit of Excellence, do not seem to conflict with each other, but as obvious as it may be, there is no implied hierarchy of order or sequence in which the codes are to be followed. The details of the codes, as cited by Benoit (2006), are listed in Figure 2.
Honesty

_Honesty_ means being truthful and straightforward, regardless of grade or rank. Civil servants or military members are expected to be candid and trustworthy in all personal and business dealings in accordance with the letter of the law and the spirit in which laws, policies, and regulations were written. Dishonesty eventually is exposed and destroys credibility and undermines public confidence. Truths that remain untold, lies, and misconceptions promote ill will, hurtfulness, and distrust. Always work to our fullest capabilities and be honest in all endeavors.

Integrity

_Integrity_ is doing the right thing the first time and every time. “Respect own and other’s opinions and convictions,” maintaining an independent judgment, and “perform duties with impartiality” are examples of integrity within the work environment. Integrity also means avoiding conflicts of interest. The DoD does not condone inappropriate, deceptive, or unlawful acts. Conduct in such a manner will never damage an individual’s reputation or the reputation of the DoD. Integrity also means submitting a correct travel voucher and understanding how involvement in government work may affect personal and family financial interests. Employees and the family members should not accept lavish gifts, payments, or services or engage in activities that are considered—or could be perceived—as inappropriate.

Loyalty

_Loyalty_ is the cement that holds America together, especially in times of crisis. DoD personnel are responsible for remaining free from outside influences that may place an individual and the organization in jeopardy. Personal interests cannot be placed ahead of the organization’s interests when making business decisions. For example, federal employees may not hold a second job that could hinder or interfere with their positions in the federal government.

Accountability

_Accountability_ is setting an example for others to follow in their business affairs and personal lives. DoD personnel are accountable to the public, the Congress, and the President. This value creates trust and support in an open democratic society. DoD employees are required to accept the responsibilities and the resulting consequences for the decisions we make.

Records and other documents must be accurate, complete, and in accordance with applicable laws and regulations. Exercise discretion when discussing confidential or classified government information; a slip of the tongue could be misinterpreted and bring discredit upon an employee or a military service member, the federal organization, or family members. We must be careful not to disclose personal, confidential, or proprietary business information through public or casual discussions with the media, customers, family, or friends. It is expected that federal personnel are open, honest, and candid; however, conversations or observations must, at times, be limited by confidential requirements.
Fairness

Fairness includes being open-minded and impartial; it rejects prejudices, biases, conflicts of interest, and undue influences from others who may override our objective professional or business judgment. DoD personnel must be completely committed to justice in the performance of our duties. Fairness also includes not pursuing any competitive tactic or goal that might damage another’s reputation or is inconsistent with the vision or goals of the organization. Impartiality should be extended toward all groups, persons, and organizations and comply with all laws, providing equal opportunities to all persons, regardless of race, color, religion, sex, national origin, or age.

Caring

Caring means being a good neighbor and showing compassion to others. An individual’s actions affect others; therefore, respecting others is important. One should not cause intentional harm to others. Others observe DoD employees’ actions, not just because one is employed in the DoD but because the employees are American citizens. Through caring, people come before the task at hand, and the mission can be accomplished without destroying the dignity, personal integrity, or moral outlook of others.

Respect

Respect means treating all with dignity, fairness, and courtesy. The viewpoints, talents, and experiences of individuals and the effect they have on our federal organizations and society at large deserve value and respect. Discrimination, verbal and physical abuse, and sexual advances should not be tolerated by DoD personnel, agents, or clients. Individuals who receive such behavior should take the necessary and appropriate steps immediately to stop all inappropriate actions.

Promise Keeping

Promise keeping means following through on one’s commitments. Federal employees and perhaps DoD personnel in particular are held to a higher standard than that which private sector employees are normally expected to meet. DoD workers should not enter into any unauthorized commitments or promises binding the government; however, once committed to an authorized promise, responsibility to provide the services promised in the highest possible professional standard is imperative. One should strive to do not only what is legal but also what is right.

Responsible Citizenship

Responsible citizenship is taking one’s role in society seriously and realizing that the DoD workforce can make a difference in the world. Set the example as responsible citizens and the standard to live by through such actions as upholding the Constitution, voting in elections, paying our taxes, obeying the laws, and respecting the American flag.

Although one may not always agree with senior leaders, one should respect and support the hard decisions they make. In addition, support with devotion must be provided to the warfighters and those who volunteer to put themselves
Even as many lawful and officially recognized principles already prescribe, imply, or resonate similar themes, the codes are frequently produced because of a heightened sense of moral and social accountability (Meese & Ortmeier, 2004). They are commonly justified, according to Kleinig and Zhang (1993, cited in Meese & Ortmeier, 2004), because they explicitly describe desirable behavior. Meese and Ortmeier (2004) conclude by stating that “together with other moral principles based on rational grounds, codes of ethics can provide a compass to orient” a government officer’s “sense of moral direction” (p. 79).

Ethical considerations in the administration of justice can be either issues or dilemmas. Ethical issues are wide-ranging social matters, often pertaining to the government’s social control apparatus and the impact on those administered. Knowing what the right thing is is often a good start, and it gets better when a correctional officer ends up doing the right thing. However, dilemmas occur when the “right path” to pursue is not that straightforward. According to Pollock and Becker (1996), one faces an ethical dilemma when (1) one does not know the right course of action, (2) one has difficulty doing what they consider to be right, and/or (3) one finds the wrong choice very tempting.

As a way of exploring alternatives, the American Society of Public Administrators (1979) offers the following ethics self-survey (cited in Pollock, 2007, p. 56) (see Figure 3).
Figure 3. Ethics Self-Survey

- Do I confront difficult ethical decisions directly and attempt to think through the alternatives and the principles involved? Am I inclined to make decisions on grounds of convenience, expediency, pressure, impulse, or inertia?
- Do I systematically review my behavior as an administrator and question whether what I do is consistent with my professional values?
- If someone asked me to explain my professional ethics, what would I say?
- Have my values and ethics changed since I began working as a public administrator? If so, why and how have they changed? What are the primary influences that have changed my thinking?
- Looking ahead to the remainder of my career, are there particular areas of my ethical conduct to which I would like to pay closer attention?
- Do I ever find myself in situations in which providing equitable treatment to clients, members of my organization, or members of other organizations creates ethical conflicts? How do I handle such dilemmas? Can I perceive any consistent pattern in my behavior?
- Where do my professional loyalties ultimately lie? With the Constitution? The law? My organization? My superiors? My clients? The general public? Do I feel torn by these loyalties? How do I deal with the conflicts?
- Do I ever confront situations in which I feel that it is unfair to treat everyone in the same way? How do I determine what to do in those cases? How do I decide what is fair?
- When I am responsible for some activity that turns out to be inappropriate or undesirable, do I accept full responsibility for it? Why? How?
- Do I ever dismiss criticism of my actions with the explanation that I am only “following orders”? Do I accept any responsibility for what happens in these circumstances?


Steps to Making Moral/Ethical Decisions

The ethical decision-making process, according to Schafer (2002), consists of three questions: (1) What should I do? (2) What will I do? and (3) How does the decision I make comport with my personal orientation? (pp. 15-16). With a mission “to improve the ethical quality of society by changing personal and organizational decision making and behavior,” the Josephson Institute of Ethics website (www.josephsoninstitute.org) has been developed to provide resources on ethical decision-making online. The website offers an excellent guideline entitled, “The Seven-Step Path to Better Decisions.” Many of the following steps are taken from the above site in conjunction with juxtapositioning the steps Pollock outlined in the 5th edition of her text, Ethical Dilemmas and Decisions in Criminal Justice (2007), in order to clarify an ethical dilemma.

Major J. Carl Ficarrotta, United States Air Force (USAF), presented the following scenario, “The Case of Two Soldiers,” at the USAF Academy’s Joint Service Conference on Professional Ethics (JSCOPE). The case (see Figure 4) is analyzed to resolve a hypothetical dilemma:

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Heavy enemy pressure has resulted in orders for all units to move a mile to the rear to more defensible positions. LT Taggart’s platoon has packed up and is ready to move. Taggart has a special mission in the adjustment. He has been told to move directly to an ambush position in a defile that leads to a corps chemical unit providing early warning of the use of chemical munitions by the enemy forces. His ambush is critical because only he can reach the position in the thirty minutes he has been given—the thirty minutes that will allow him to ambush a small, fast-moving enemy column headed directly for the defile through the line of hills that constitutes the new line of defense. His ambush will be part of his mission to protect the chemical unit.

As Taggart prepares to give the order to move out, his platoon sergeant tells him that one of two reconnaissance patrols being pulled back to the platoon has just returned. The three-man patrol reports that they observed members of the other recon patrol, two soldiers, being captured by a squad of enemy soldiers. They followed the enemy squad on a trail into some dense vegetation and captured the man in the rear of the enemy column at a sharp bend in the trail. That prisoner revealed that the squad is on its way to a POW collection point, but the POW will not reveal its location.

The platoon sergeant says, “LT, we have got to get those guys back! You know what the enemy has been doing to prisoners! If they are lucky, they will just be shot! Give me five minutes with the guy the patrol brought back and I will have the exact location of their POW collection point. If it’s close, we can snatch them back in no time.”

A quick check of the distance to the ambush site convinces Taggart that he must leave within ten minutes to fulfill his protection mission. It is now 0900 and he has been ordered to establish the ambush not later [than] 0945. If the platoon sergeant does learn enough to mount a rescue mission, Taggart will probably have to split the platoon to try to accomplish both purposes. As he ponders, his RTO tells him that the company commander has passed the word to move quickly. Division is calling in a series of air strikes on the positions now being vacated, hoping to catch the enemy units in exposed positions moving forward.

Should LT Taggart allow the platoon sergeant to question the prisoner? Should he try to mount a rescue operation?

What would you do? What steps would you take in analyzing the ethical dilemma?

Based on ideas presented in the Josephson Institute of Ethics (n.d.) website and also in Pollock (2007), the following amalgamated steps (also known as SCDIIDIRM) could be utilized in analyzing and hopefully resolving this and other dilemmas:

- Stop and think
- Clarify goals.
- Determine all the facts.
- Identify all the potential values and concepts.
- Identify all possible moral issues for each party involved.
- Decide what is the most immediate moral or ethical issue facing the individual.
- Resolve the ethical or moral dilemma using an ethical system.
- Monitor and modify.
Using the “Two Soldiers” scenario, the SCDIIDIRM steps recommended here are elaborated as follows:

**Step 1: Stop and Think**

Better decisions can come from suspending the momentum of events long enough to allow cool, calm, and collected analysis. This requires restraint and can come from disciplining oneself to pause rather than to make a too quick and possibly a poor choice.

- Lt. Taggart and the platoon sergeant need to stop and think. Count to 10 when angry (or emotions equivalent to being angry) and to a 100 when very angry to make sure they are not being impulsive or rushing to judgment.

**Step 2: Clarify Goals**

Before the officer chooses, he needs to clarify his short- and long-term aspiration(s). Lt. Taggart has been given a special mission to move directly to an ambush position in a defile through the line of hills that constitutes the new line of defense that leads to a corps chemical unit providing early warning of the use of chemical munitions by the enemy forces.

- Lt. Taggart and the platoon sergeant need to prioritize “which of many wants and don’t-wants affected by the decision are the most important.” Lt. Taggart has been ordered to establish the ambush not later than 0945. Lt. Taggart’s ambush consists of his mission to protect the chemical unit. He may have to split the platoon (if the platoon sergeant learns enough) to embark on a rescue mission and to also fulfill his chemical unit protection mission. The platoon is expected to strike the forward moving adversary units in exposed positions.

**Note:** The huge risk is that “decisions that fulfill immediate wants and needs can prevent the achievement of our more important life goals.” A battle won may not be the end of the war; a mission disrupted doesn’t have to stray the vision away! Anger can lead to vindication; stress of enemy pressure can result in inflated or deflated perceptions of reality; and fear can lead to intimidation. To be able to do what’s right, not only in the short run, but what’s moral and the best choice in the long run needs to be determined.

**Step 3: Determine All the Facts**

A good decision cannot be made without sufficient information to support an intelligent choice. To determine the facts, first establish what is known and, then, what still needs to be known. Be prepared to get additional information and to substantiate assumptions and other doubtful information.

- Lt. Taggart needs to ensure that he has all the facts that are known—not future predictions, nor suppositions, nor probabilities. The officer should be predisposed to getting additional information to substantiate assumptions and other uncertain information.
Some Possible Areas to Probe for Additional Facts

- Heavy combat has put too much pressure on the platoon’s fighting capability.
- Received orders to fall back to the rear to a more defensible position.
- Received orders to set up an ambush for a small group of a fast-moving enemy column.
- Only Lt. Taggart can reach the position in the thirty minutes which may allow him to ambush a fast-moving enemy column, headed directly for the defile.
- The platoon sergeant reports that one of two reconnaissance patrols being pulled back to the platoon has just returned.
- The three-person patrol reports that they observed members of the other recon patrol, two soldiers, being captured by a squad of enemy soldiers.
- Reconnaissance patrol followed the enemy squad and captured the man in the rear of the enemy column.
- That prisoner revealed that the squad is on its way to a POW collection point.
- The POW does not reveal the collection point location.
- The platoon sergeant urges that they reclaim the two-man reconnaissance patrol.
- The platoon sergeant pleads to be given five minutes with the POW the patrol brought back to determine the location of the POW collection point to seize a possible opportunity to grab back those captured by the enemy.
- At 0900, a quick check of the distance to the ambush site convinces Lt. Taggart that to fulfill his protection mission he has to depart within ten minutes.
- RTO tells Lt. Taggart that the company commander has passed the word to move quickly.
- Division is calling in a series of air strikes on the positions now being evacuated.

What Other Facts Are Important to Know?

It may be wise to remember that assumptions, gossip, and hearsay are not the same as facts. Also, facts are those things that can be proven; however, it does not necessarily mean that the individual facing the dilemma has the proof.

First, Lt. Taggart needs to make sure he has all the facts by resolving what he knows and then ascertaining what more needs to be known. Part of making sound decisions involves making good judgments as to who and what to believe. The following are some supplementary guidelines offered by the Josephson Institute of Ethics (n.d.):

- Consider the reliability and credibility of the people providing the facts.
- Consider the basis of the supposed facts. If the person giving you the information says he or she personally heard or saw something, evaluate that person in terms of honesty, accuracy, and memory.
- Where possible, seek out the opinions of people whose judgment and character you respect, but be careful to distinguish the well-grounded opinions of well-informed people from casual speculation, conjecture, and guesswork.
- Finally, evaluate the information you have in terms of completeness and reliability so you have a sense of the certainty and fallibility of your decisions.

Step 4: Identify All the Potential Values/Value Exploration

Leadership involves values (Meese & Ortmeier, 2004). In this step, the officer might identify/examine the potential/relevant values of each party.
Values are “judgments of worth of attitudes, statements, and behaviors” (Albanese, 2006, p. 3); values are defined as elements of desirability, worth, and importance.

In this step, all potential values should be evaluated. Again, facts are capable of scientific proof; values and moral judgments may not be verified (Pollock, 2007).

Examples of Factual Judgments Which Can Be Proven

- It is raining.
- She is chatting.
- It’s below freezing.
- Macomb, Illinois, USA, is about 8,010 miles from Dhaka, Bangladesh.

Examples of Unverifiable “Value” Judgments

- He is a bad dude!
- She is a good lady.
- That was a fantastic day!

Ethically or morally undesirable behavior is easy to identify. In identifying all potential values, it is whether these values are impacting the ability to make decisions that needs to be explored and determined.Ascertain if this is an individual value that is being impacted, and then determine if it is subjective rather than objective. Albanese (2006) points out that there are circumstances when individuals assert one set of viewpoints, where, in reality, they endorse contradictory positions.

Mackie (1977) points out that values are not inevitably “the truth,” but more like an “opinion.” As such, no value from this perspective is more significant than any other value. Pollock (2007) shares that not all values are equal. Some may value education over athletics. Some may value integrity over pleasure.

- Lt. Taggart must consider all perspectives but be vigilant to take into account whether the source of the information has values different than his own or has a personal interest that could affect his perception of the facts. Another clarification that may be utilized is to ascertain if there are universal values. A universalist may advocate that the value of life is greater than money, or contributing to a charity is more valuable than seeking pleasure.

- Values and moral judgments may not be verifiable. Value judgments thus imply a carefully selected choice or judgment.

The Josephson Institute of Ethics (n.d.) put forward two additional approaches:

1. “Pillar-ize” your options. Filter your choices through each of the “Six Pillars of Character”: (1) trustworthiness, (2) respect, (3) responsibility, (4) fairness, (5) caring, and (6) citizenship. Will the action violate any of the core ethical principles? For instance, does it involve lying or breaking a promise; is it disrespectful to anyone; is it irresponsible, unfair, or uncaring; does it involve breaking laws or rules? Eliminate unethical options.
2. Identify the stakeholders and how the decision is likely to affect them. Consider your choices from the point of view of the major stakeholders. Identify whom the decision will help and hurt.

It is worth taking into account that values are the foundations upon which we come to decide what is right and wrong conduct. How we prioritize our values helps to determine how we make ethical decisions. Clarify: *What are some values that are relevant to the scenario?*

According to Benoit (2006, n.d.), examples of core ideals can vary. In addition to the DoD’s core concepts, each military service has a set of exclusive core concepts or values that convey a clear avenue to pursue for military members and civil servants. It is expected that individuals instilled with these fundamental values will operate and take steps with a stronger conviction and resolution. Figure 5 lists the core values of each military service.

**Figure 5. Core Values of Each Military Service**

<table>
<thead>
<tr>
<th>Army Core Values</th>
<th>Loyalty</th>
<th>Duty</th>
<th>Respect</th>
<th>Selfless Service</th>
<th>Honor</th>
<th>Integrity</th>
<th>Personal Courage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Force Core Value</td>
<td>Integrity First</td>
<td>Service Before Self</td>
<td>Excellence in All We Do</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Navy/Marine Corps Core Values</td>
<td>Honor</td>
<td>Courage</td>
<td>Commitment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coast Guard Core Values</td>
<td>Honor</td>
<td>Respect</td>
<td>Devotion to Duty</td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Applying Pollock’s (2007) exploration of Step 4 at this point, Lt. Taggart needs to identify all the potential values. In his situation, it is possible to identify the following values:

- Safety
- Loyalty
- Legality
- Protection
- Self-preservation
- Honesty
- Trust
- Professionalism
- Duty
- Integrity

Since the scenario examined involves activities of U.S. forces involved in a fight, besides the values of all the military services listed earlier, the abbreviated *Code of the U.S. Fighting Force* should certainly become handy in examining Lt. Taggart and his fellow soldiers’ ethical/moral decision-making process.

The following is an abbreviated version of the *Code of the U.S. Fighting Force*, which is outlined at the Center for the Study of Ethics in the Professions at Illinois Institute of Technology (CSEPIIT) website (http://ethics.iit.edu/codes/coe/dept.defense.code.fighting.force.html) and adapted here by this article’s authors. The statement of standard is retained here; the explanation of its principles and the code in its entirety is available as Appendix A at the end of the article.
Code of Conduct I: I am an American fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

Code of Conduct II: I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

Code of Conduct III: If I am captured, I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

Code of Conduct IV: If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Code of Conduct V: When questioned, should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

Code of Conduct VI: I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

Some of the Values that May be Palpable

- Duty to finish the assigned mission
- Obligation to “see” the “whole” along with the individual (micro versus macro perspective)
- Loyalty to the soldiers captured by the enemy
- Acknowledging the value to the enemy to lure more troops for an ambush and to kill as many as possible
- Responsibility to be humane toward the enemy soldier captured
- Safety and protection of the unit: Assessing the value of the two soldiers’ life versus the worth of successfully completing the ambush
- Winning/successful outcome of the battle/mission
- Prevention of potential damage/use by the enemy forces of chemical ammunitions
- Risk management: Value life? Outcome? Risk of being hit by air strikes coming into the area intended for the enemy
- Dependability: Lt. Taggart is accountable to his superiors and is answerable to his superiors; his subordinate officers and soldiers depend on him doing the right thing.
- Allegiance to the Code of the U.S. Fighting Force

Step 5: Identify Moral or Ethical Issues

Identify all possible moral or ethical issues for each party involved. Be aware that one’s own ethical or moral dilemma can be caused by the actions of others.
Pollock (2007) suggests that to address the elemental issue, it is helpful to see all the moral issue(s) for all involved. In such a situation, the person “seeks real goods in a morally correct manner” (Albanese, 2006, p. 16). For example, witnessing the wrongdoing of a fellow officer by another officer can be an issue that triggers a dilemma.

- Who ought to know about possible misuse of detainees?
- Is torture legal? Moral?
- Should one remain silent?
- Lie to cover up blame?
- Does it make a difference if the dilemma involves an enemy soldier (versus one’s own platoon member)?
- A particular soldier who has been captured by the enemy or a POW (who may be “liked” or “disliked”)?
- Involves more than one platoon member?
- Involves a noncommissioned officer (versus a commissioned officer)?

Some of the Ethical Issues Pertinent to “The Case of the Two Soldiers”

- From Lt. Taggart’s perspective: Complete mission on time and as originally planned or change strategies based on changed reality of the battlefield? Not send a rescue mission at all?
- What will happen if he doesn’t complete his mission? How will it impact him and others? Gamble on his platoon members being hit by “friendly fire”?
- Rescue two soldiers or endanger the lives of the remaining platoon members. Is the available time (or time constraints) realistic to achieve the desired (but possibly impractical) goal to mount a rescue attempt? Is time sufficient to set up an ambush for a new line of defense to protect the chemical unit?
- Divide/split forces/heighten risks and try to complete both tasks?
- The POW’s ethical issue is whether or not to answer the questions correctly if the platoon sergeant or Lt. Taggart questions him
- The two U.S. soldiers’ (captured by the enemy) ethical issue is whether or not to respond to enemy questioning, be tortured, or potentially be killed? What does the Code of the U.S. Fighting Force state? Require?

Step 6: Deciding the Most Immediate Issue(s)

According to Pollock (2007), Step 6 is always a behavior choice NOT an opinion. The most immediate ethical or moral issue facing the individual must be decided.

The most immediate ethical/moral issue(s) pertinent to “The Case of the Two Soldiers” may be said to include a trade-off between (1) continued ambush with time to spare for rescue maneuver to liberate the two soldiers and (2) endorsed use of “planned” force/interrogation (or potential torture?) of the captured enemy
soldier by allowing the platoon sergeant to “have his five minutes” to gather intelligence on the location of U.S. POWs who might potentially also be tortured and killed if not rescued.

In determining the most immediate issue(s), the following should be pondered:

- The moral issue of whether use of deadly force by a law enforcement officer should remain legal or not is different from the moral dilemma of whether I should use deadly force if I find myself in such a situation.
- Planned use of interrogation techniques may, depending on the situation, be considered appropriate. However, was force used in the scenario “planned”? Was interrogation potentially used in the scenario as outlined in the policy/code? What kind of force was utilized? What level? Was interrogation (torture?) utilized? Was it fruitful? Was it used in accordance with the code/law? Was it necessary? What alternatives could/should have been chosen?

**Step 7: Attaining Resolution or Making a Choice**

The final step of the proposed process hopefully leads to the attainment of a resolution. At a minimum, it should culminate in the making of a choice.

Deciding not to make a choice may mean that the preceding steps need to be revisited to ensure due exploration called for in the preceding steps. Many times, according to Josephson (1998), “The hardest part is not knowing what’s right—but doing it.”

**Pursuing “Good Will”: Intent to Do Good and Doing One’s Duty**

For this step, it is helpful to explore ethical systems to be followed, practiced, or believed. Some of the major ethical systems have been explored by Albanese (2006), Khan (2008), Meese and Ortmeier (2004, p. 65), Perez and Moore (2002), Pollock (2007, p. 62), and others. This can be thought of as talking to people whose judgment you respect.

As you seek out friends and mentors, visiting with sages and logicians of the past can provide a solid theoretical foundation for such decision making. For example, if you are letting your conscience be your guide, you are essentially thinking like Immanuel Kant (1724-1804), who in his influential manuscripts *Grounding for the Metaphysics of Morals* and *The Critique of Practical Reason* contended that the obligatory, the morally good, is determined by the intention that lies behind the action. It is possible that if Lt. Taggart did not make an attempt at rescue, the outcome might weigh heavily on his conscience if he himself survives the battle and long after the war is over. Kant believed in adopting a “deontological” perspective which emphasizes doing one’s duty and pursuing one’s “good will.” Once a moral principle is agreed upon, such a rule must be absolutely pursued and such canons applied in all circumstances. However, such an act is morally right if and only if its maxim is universalizable (Albanese, 2006).

Applying ethical formalism or looking at the case from a deontological perspective, an act is morally good if the decisionmaker is acting from duty and the act is in accordance with the maxim that “You can at the same time will that it should become
a universal law.” For Kant, it is not sufficient to do one’s duty; duty must be the motive (Dreisbach, 2008). The lieutenant also has his “duty” to address. It is the “intent”/motive Lt. Taggart has that also matters. If the motive is to command his troops in accordance with the rules of engagement to the best of his abilities and to be successful in dutifully pursuing his military efforts, he then has to exploit his efforts to ambush the small fast-moving enemy column ensuring that he doesn’t deviate from his duty—that is, their mission to protect the chemical unit. A rule has been set (he was commanded by his superior), and by the “imperative principle” (Krogstad & Robertson, 1979), a decisionmaker has to act in accordance with that unbending rule. Utilizing the more defensible position, he then can also pursue his duty to rescue POWs. Regardless of consequences, Kant would argue that “an act is morally good if it is done from good will.”

Also, if Lt. Taggart would want to materialize categorical imperative and would not want to make torturing of prisoners a universally accepted act, then any intention to pursue such effort portrayed by the platoon sergeant should not be condoned. As such, if Lt. Taggart or the platoon sergeant followed duty-based ethics (ethical formalism), they would individually or together find the answer once they (or he) determined their/his duty to resolve the dilemma.

**Watching Out for the Consequences**

On the other hand, the utility, determining what is right based on the desired consequences could be emphasized. Utilitarianism is a teleological ethical system (Pollock, 2007, p. 40). A major proponent of Utilitarianism is Jeremy Bentham (1748-1832) who believed that ends (consequences) justify means, and that the morality of an endeavor should be determined by how much it contributes to the good of the majority. The results could be judged based on the specific act performed or if it conforms to rules that are morally right.

*Purpose* or the Greek word *teleos* refers to “end justifying means.” From a teleological perspective, Lt. Taggart would be doing the right thing by allowing the platoon sergeant “five minutes with the guy the patrol brought back” so that he can find out “the exact location of their POW collection point.” The goodness of his choice will be determined by the end result. Teleology would dictate that Lt. Taggart pursue “greatest good for the greatest number” and, as such, would, based on this theory, do everything possible for the greatest benefits and would focus on the mission to protect the chemical unit.

From the perspective of act utilitarianism, the act of rescuing the two abducted soldiers may be considered minimally required compared to the possible consequences of not making it to the ambush on time or risking the whole platoon being hit by “friendly fire” when the air strike begins because teleology or especially utilitarianism would dictate Lt. Taggart pursue the moral conduct which would bring about “good” consequences.

Teleologically, if Lt. Taggart splits the troops to initiate a rescue mission for the two abducted soldiers, either of the missions could fail and could jeopardize the entire unit’s safety. Likewise, Lt. Taggart would be establishing a perilous precedent should he allow even the semblance of torture of prisoners under his custody to reveal information which would go against rule utilitarianism. Such an action or
inaction can be determined by applying the *generalization principle* (Krogstad & Robertson, 1979) by asking, “What would happen if all similar persons acted this way under similar circumstances?”

In summary, utilitarianists’ judgment bases the question of social good in terms of the total happiness they might produce (Albanese, 2006; Khan, 2008). If the officer was a utilitarian, he would weigh the utility (costs and benefits) for all concerned in making his decision(s).

**Following the “Golden Rule”**

Another rule-based deontological ethics theory is based on the principle of the “Golden Rule.” This rule is quite often associated with *Nichomachean ethics*, which were presented by Aristotle (384-322 BC) who was a Greek philosopher, a student of Plato, and a teacher of Alexander. This is commonly known as the ethics of virtue—that is, what is good is that which conforms to the Golden Mean where an officer would seek out what a virtuous person would do. Virtues would be the “excellences” (Pollock, 2007, p. 40) an individual can attain, and the clarification (of a dilemma) can come from asking, “What is a good soldier/office?” The choice a good soldier/office would make would be a decision which is the mean of excessive and defective responses (Perez & Moore, 2002).

The ethics of virtue prescribes that to be good one must do good by choosing virtues such as: moderation, humility, being courageous (rather than being a coward or a reckless person), being humble (rather than being apathetic or short-tempered), and being truthful (rather than being caught up with self-depreciation or being boastful). The time constraints, possibility of weakening the platoon in its main mission, potential loss of the chemical unit, etc., may be considered reckless and, as such, may not allow Lt. Taggart to split the troops or conduct an immediate rescue operation. Virtue of patience may call for him to pursue the rescue later.

**Caring and Practicing Human Relationship Skills**

The ethics of care expounded by Carol Gilligan suggest determining what is good based on the needs of those concerned. By applying such a concept, also known as peacemaking justice, feminine justice, or restorative justice, it could be determined if mercy and compassion or mediation was appropriate for the situation. Pollock (2007) points out that Gilligan does not permit “sacrificing one person for the other” and emphasizes looking into the “needs of all individuals” in any ethical situation(s). An attempt then should be made by Lt. Taggart to resolve the situation through practicing human relationship skills—that is, “decisions should come from compassion rather than attention to rights or duties” (p. 51).

This still may not give a clear-cut choice; Lt. Taggart should not only care for the two captured soldiers but also for the remaining troop members. Ethics of care also will dictate that Lt. Taggart supervise the humane interrogation of the POW they captured in accordance with the Geneva Convention and the *Code of the U.S. Fighting Force*. 
Doing Good Which Just Benefits Me: Is that Good?

As expected, situations faced by a soldier/officer may not always be “black” or “white.” Egoism is “What is good is that which benefits me” (Pollock, 2007). According to Rand (n.d.), the individual “must exist for his own sake, neither sacrificing himself to others nor sacrificing others to himself. The pursuit of his own rational self-interest and of his own happiness is the highest moral purpose of his life.” From an egoistic perspective, it is tempting to give in to self-gratification or immediate pleasure. Pollock (2007) expounds that such an extreme position assumes that they can do whatever benefits themselves. Others then become the means to ensure happiness and, thus, have no meaning or rights as autonomous individuals.

According to Dreisbach (2008), “the reasonable egoist knows that life is better with friends and community support than without” (p. 35). Should Lt. Taggart or the platoon sergeant choose to interrogate the POW they have captured to acquire credible information to pursue splitting the platoon in order to carry out the original mission and the rescue efforts simultaneously, it could only be because either or both of them may really expect that their colleagues would do the same (come for their rescue). In this scenario, they could be pursuing enlightened egoism. Egoism maintains that the morally germane consequences are the results “for me.” Enlightened egoism states that one should treat others as one wishes to be treated.

Faced with a “grey” issue or dilemma, specifically an ethical dilemma, others beyond self should be considered, and they should fall back on a person they know “or know of (in real life or fiction) who has the strongest character and best ethical judgment. Then ask yourself: What would that person do in your situation? Think of that person as your decision-making role model and try to behave the way he or she would” (Josephson Institute of Ethics, n.d.).

Seeking Guidance: Modeling Role Models

The reality of whether one practices a structured religion or not can have an impact on how one decides what is right or wrong. If an individual officer/soldier is religious (or values religious dictates), depending on the religious influences on his or her life, he or she could examine “What would Abraham, Jesus, Muhammad, Confucius, Buddha do?” This is basically referencing a role model the officer/soldier might look up to. The question could be reworded to, “What would God want me to do?” The officer/soldier could, depending on his or her background, check what the Gita, the Bible, the Quran, the Torah, the concepts of Tao, or what one’s Dharma would prescribe.

One could be a humanist, a non-theist, or a secular individual. For example, an officer/soldier could ponder, “What would Secretary of Defense Gates do?” or “What would his or her Captain/Major/Colonel/Brigadier/Generals do?” An officer/soldier could contemplate “What would General Custer or Sherman do?,” “What would General Ulysses Grant do?,” “What would Mother Teresa or Mahatma Gandhi do?,” or “What would Abraham Lincoln or Martin Luther King, Jr., do?” Then the officer/soldier needs to ask, “What would that person do in my situation?,” and then think of that person as his or her decision-making role model and try to behave the way he or she would. Ultimately, though, once opinions and advice have been gathered, the responsibility is still absolutely the officer/soldier’s. He or she needs to empower him- or herself to make the best professional judgments in all he or she does.
Attaining Resolution: Is There an Easy Way?

Step 7 is about attaining resolution. An easy solution is not necessarily the desired or the right outcome. Going through the steps recommended by the Josephson Institute of Ethics (n.d.), Pollock (2007), as well as others and incorporating all of their insights can only assure that a decision made as a result of such a filtering process stands on solid ground.

As outlined in Josephson Institute of Ethics (n.d.), a way to decipher an ethical choice would be to ask, “What would I do if I were sure everyone would know?” Some of the self-clarification questions that Benoit (2006) suggests be asked when faced with an ethical decision include the following:

- Is my action legal?
- Am I being truthful, fair, and honest?
- Will I bring shame upon my family, my organization, or myself?
- Am I harming someone?
- Could my action appear inappropriate?
- Is my action consistent with my personal ethical principles?
- If everyone found out about my decision, would I be proud and comfortable?

Choices that only look good if no one knows are often bad choices. Good choices make us worthy of admiration and help to build good reputations. The Josephson Institute of Ethics (n.d.) submits that character is revealed by how we behave when we think no one is looking and strengthened when we act as if everyone is looking.

All dilemmas may not require extensive scrutiny. In such cases, tests such as the “Media Test,” “Bell, Book, and Candle Test,” and the “Ethics Check Questionnaire,” which are offered in Figure 6 from the State of Florida Criminal Justice Standards and Training Commission’s (1999) Criminal Justice Officer Ethics training lesson plan (pp. 13-14), may be sufficient.
Figure 6. Ethical Dilemma Tests

• Ask yourself, “Would I do what I am about to do if my actions were to become public knowledge?” For example, on the front of the local newspaper, lead story on the 6 o’clock or 10 o’clock news.

Bell, Book, and Candle Test

• Bell – Does it sound right?

• Book – Does it violate any written law, rule, or policy?

• Candle – Does it hold up to the light of day, that is, public scrutiny?

Ethics Check Questionnaire

• Legal – Is it legal? (Does it violate rules, law, or policy?)

• Balanced – Is it balanced? (Is it fair to all concerned? Short term? Long term?)

• Feel – How will I feel about myself? (If this were made public? If my family finds out? Do I believe that I can satisfactorily and without guilt explain my reasons/action or inaction to others?)


• Ethical judgments always have some rationale behind them (Pollock, 2004).
• These rationales tend to be consistent with traditional and historical ethical systems.
• Each of the ethical systems discussed attempts to answer the question, “What is good/moral/right/ethical?”

Step 8: Monitor and Modify

According to the Josephson Institute of Ethics (n.d.), since most hard decisions use imperfect information and “best effort” predictions, some of them will inevitably be wrong. Ethical decisionmakers monitor the effects of their choices. If they are not producing the intended results or are causing additional unintended and undesirable results, they reassess the situation and make new decisions.
Conclusion

Most of us try to behave morally based on the ethical standards we follow. Making the wrong choice can cost a career—if not a life! The eight ethical steps (see, also, Figure 7) are just a few ways to address ethical dilemmas that might be faced in an officer/soldier’s career. The concepts explored emulate the indispensable expectations for all employees enforcing the law of the land or fighting for their country (Benoit, 2006). They shape the foundation for all moral and ethical values and standards requisite in upholding citizens’ confidence.

It may also be wise to acknowledge that depending on the role we are to play in an organization (or in other areas of our lives), there will be limits to what we may be able to do individually (or even as a group), and all the problems or dilemmas in the world may not be solvable. Anyone with such in-depth knowledge of multiple ways to attain resolution to ethical dilemmas will more often than not be acting as competent professionals (Perez & Moore, 2002). Albanese (2006) asks, “What will be said about you in your obituary?” He concludes, as we do, that “As it was once said, if you want to know how to lead your life, think about what you’d like people to say about you after you die—then live backward” (p. 145).

If you haven’t got the time to do it right, when will you find the time to do it over?
—Jeffrey Mayer

As a member of the Armed Forces of the United States, you are protecting your nation. It is your duty to oppose all enemies of the United States in combat or, if a captive, in a prisoner of war compound. Your behavior is guided by the Code of Conduct, which has evolved from the heroic lives, experiences and deeds of Americans from the Revolutionary War to the Southeast Asian Conflict.

Your obligations as a U.S. citizen and a member of the armed forces result from the traditional values that underlie the American experience as a nation. These values are best expressed in the U.S. Constitution and Bill of Rights, which you have sworn to uphold and defend. You would have these obligations—to your country, your service and unit and your fellow Americans—even if the Code of Conduct had never been formulated as a high standard of general behavior.

Just as you have a responsibility to your country under the Code of Conduct, the United States government has an equal responsibility—always to keep faith with you and stand by you as you fight for your country. If you are unfortunate enough to become a prisoner of war, you may rest assured that your government will care for your dependants and will never forget you. Furthermore, the government will use every practical means to contact, support and gain release for you and for all other prisoners of war.

To live up to the code, you must know not only its words but the ideas and principles behind those words.

This pamphlet contains the code, an explanation of its principles and a statement of the standards expected of you.

The Code of Conduct is an ethical guide. Its six articles deal with your chief concerns as an American in combat; these concerns become critical when you must evade capture, resist while a prisoner or escape from the enemy.

Experiences of captured Americans reveal that to survive captivity honorably would demand from you great courage, deep dedication and high motivation. To sustain these personal values throughout captivity requires that you understand and believe strongly in our free and democratic institutions, love your country, trust in the justice of our cause, keep faithful and loyal to your fellow prisoners and hold firmly to your religious and moral beliefs in time of trial.

Your courage, dedication and motivation supported by understanding, trust and fidelity will help you endure the terrors of captivity, prevail over your captors and return to your family, home and nation with honor and pride.

The Code of Conduct for members of the Armed Forces of the United States was first promulgated by President Dwight D. Eisenhower on August 17, 1955. The code, including its basic philosophy, was reaffirmed on July 8, 1964, in DoD Directive No. 1300.7. In March 1988, President Ronald Reagan issued Executive Order 12633, amending the code with language that is gender-neutral. The code, although first expressed in written form in 1955, is based on time-honored concepts and traditions that date back to the days of the American Revolution.
**Code of Conduct I**

I am an American fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

All men and women in the Armed Forces have the duty at all times and under all circumstances to oppose the enemies of the United States and support its national interests. In training or in combat, alone or with others, while evading capture or enduring captivity, this duty belongs to each American defending our nation regardless of circumstances.

**Code of Conduct II**

I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

As an individual, a member of the Armed Forces may never voluntarily surrender. When isolated and no longer able to inflict casualties on the enemy, the American soldier has an obligation to evade capture and rejoin friendly forces.

Only when evasion by an individual is impossible and further fighting would lead only to death with no significant loss to the enemy should one consider surrender. With all reasonable means of resistance exhausted and with certain death the only alternative, capture does not imply dishonor.

The responsibility and authority of a commander never extends to the surrender of a command to the enemy while the command has the power to fight and evade. When isolated, cut off or surrounded, a unit must continue to fight until relieved or able to rejoin friendly forces through continued efforts to break out or evade the enemy.

**Code of Conduct III**

If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

The duty of a member of the Armed Forces to use all means available to resist the enemy is not lessened by the misfortune of captivity. A POW is still legally bound by the Uniform Code of Military Justice and ethically guided by the Code of Conduct. Under provisions of the Geneva Convention, a prisoner of war is also subject to certain rules imposed by the captor nation. When repatriated, a prisoner of war will not be condemned for having obeyed reasonable captor rules, such as sanitation regulations. The duty of a member of the Armed Forces to continue to resist does not mean a prisoner should engage in unreasonable harassment as a form of resistance. Retaliation by captors to the detriment of that prisoner and other prisoners is frequently the primary result of such harassment.

The Geneva Convention recognizes that a POW may have the duty to attempt escape. In fact, the Geneva Convention prohibits a captor nation from executing a POW simply for attempting escape. Under the authority of the senior official (often called the senior ranking officer, or SRO), a POW must be prepared to escape whenever the opportunity presents itself. In a POW compound, the senior POW
must consider the welfare of those remaining behind after an escape. However, as a matter of conscious determination, a POW must plan to escape, try to escape and assist others to escape.

Contrary to the spirit of the Geneva Convention, enemies engaged by U.S. forces since 1950 have regarded the POW compound as in extension of the battlefield. In doing so, they have used a variety of tactics and pressures, including physical and mental mistreatment, torture and medical neglect, to exploit POWs for propaganda purposes, to obtain military information or to undermine POW organization, communication and resistance.

Such enemies have attempted to lure American POWs into accepting special favors or privileges in exchange for statements, acts or information. Unless it is essential to the life or welfare of that person or another prisoner of war or to the success of efforts to resist or escape, a POW must neither seek nor accept special favors or privileges.

One such privilege is called parole. Parole is a promise by a prisoner of war to a captor to fulfill certain conditions—such as agreeing not to escape nor to fight again once released—in return for such favors as relief from physical bondage, improved food and living conditions or repatriation ahead of the sick, injured or longer-held prisoners. An American POW will never sign nor otherwise accept parole.

**Code of Conduct IV**

*If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.*

Informing or any other action to the detriment of a fellow prisoner is despicable and is expressly forbidden. Prisoners of war must avoid helping the enemy identify fellow prisoners who may have knowledge of particular value to the enemy and who may, therefore, be made to suffer coercive interrogation.

Strong leadership and communication are essential to discipline. Discipline is the key to camp organization, resistance and even survival. Personal hygiene, camp sanitation and care of sick and wounded are imperative. Officers and non-commissioned officers of the United States must continue to carry out their responsibilities and exercise their authority in captivity. The senior, regardless of service, must accept command. This responsibility and accountability may not be evaded.

If the senior is incapacitated or is otherwise unable to act, the next senior person will assume command. Camp leaders should make every effort to inform all POWs of the chain of command and try to represent them in dealing with enemy authorities. The responsibility of subordinates to obey the lawful orders of ranking American military personnel remains unchanged in captivity.

The Geneva Convention relative to treatment of prisoners of war provides for election of a “prisoners’ representative” in POW camps containing enlisted personnel but no commissioned officers. American POWs should understand that
such a representative is only a spokesman for the actual senior ranking person. Should the enemy appoint a POW chain of command for its own purposes, American POWs should make all efforts to adhere to the principles of Article IV.

As with other provisions of this code, common sense and the conditions of captivity will affect the way in which the senior person and the other POWs organize to carry out their responsibilities. What is important is that everyone support and work within the POW organization.

**Code of Conduct V**

When questioned, should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

When questioned, a prisoner of war is required by the Geneva Convention and this code to give name, rank, service number (Social Security number) and date of birth. The prisoner should make every effort to avoid giving the captor any additional information. The prisoner may communicate with captors on matters of health and welfare and additionally may write letters home and fill out a Geneva Convention capture card.

It is a violation of the Geneva Convention to place a prisoner under physical or mental duress, torture or any other form of coercion in an effort to secure information. If under such intense coercion, a POW discloses unauthorized information, makes an unauthorized statement or performs an unauthorized act, that prisoner’s peace of mind and survival require a quick recovery of courage, dedication and motivation to resist anew each subsequent coercion.

Actions every POW should resist include making oral or written confessions and apologies, answering questionnaires, providing personal histories, creating propaganda recordings, broadcasting appeals to other prisoners of war, providing any other material readily usable for propaganda purposes, appealing for surrender or parole, furnishing self-criticisms and communicating on behalf of the enemy to the detriment of the United States, its allies, its Armed Forces or other POWs.

Every POW should also recognize that any confession signed or any statement made may be used by the enemy as a false evidence that the person is a “war criminal” rather than a POW. Several countries have made reservations to the Geneva Convention in which they assert that a “war criminal” conviction deprives the convicted individual of prisoner-of-war status, removes that person from protection under the Geneva Convention and revokes all rights to repatriation until a prison sentence is served.

Recent experiences of American prisoners of war have proved that, although enemy interrogation sessions may be harsh and cruel, one can resist brutal mistreatment when the will to resist remains intact.

The best way for a prisoner to keep faith with country, fellow prisoners and self is to provide the enemy with as little information as possible.
**Code of Conduct VI**

*I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.*

A member of the Armed Forces remains responsible for personal actions at all times.

A member of the Armed Forces who is captured has a continuing obligation to resist and to remain loyal to country, service, unit and fellow prisoners.

Upon repatriation, POWs can expect their actions to be reviewed, both as to circumstances of capture and conduct during detention. The purpose of such review is to recognize meritorious performance as well as to investigate possible misconduct. Each review will be conducted with due regard for the rights of the individual and consideration for the conditions of captivity; captivity of itself is not a condition of culpability.

Members of the Armed Forces should remember that they and their dependants will be taken care of by the appropriate service and that pay and allowances, eligibility and procedures for promotion and benefits for dependants continue while the service member is detained. Service members should assure that their personal affairs and family matters (such as pay, powers of attorney, current will and provisions for family maintenance and education) are properly and currently arranged. Failure to so arrange matters can create a serious sense of guilt for a POW and place unnecessary hardship on family members.

The life of a prisoner of war is hard. Each person in this stressful situation must always sustain hope and resist enemy indoctrination. Prisoners of war standing firm and united against the enemy will support and inspire one another in surviving their ordeal and in prevailing over misfortune with honor.

**Bibliography**


Dr. Emran Khan earned his Bachelor in Social Sciences (BSS) with Honors and an MSS in International Relations from the Dhaka University, Dhaka, Bangladesh, in 1979 and 1980, respectively. He obtained an MBA (Marketing and Management) from Central State University, Edmond, Oklahoma, in 1985. His third master’s, an MA in Criminal Justice Management and Administration (1986), is also from the CSU. He earned his Doctoral degree (EdD) in Occupational and Adult Education (OAED) in 2001 from Oklahoma State University in Stillwater, with an emphasis in HRD. His research focused on correctional officer training in the USA.

Prior to teaching at Western, Dr. Khan was a professor at Fort Valley State University in Georgia for two years and an instructor at the Employee Training
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He has published articles in refereed and non-refereed journals, is a co-author and the editor of the *Moral Dilemmas and Decisions in Law Enforcement & the Administration of Justice* textbook, and has served as a consultant to various agencies in Oklahoma. He has also presented his research at numerous local, regional, national, and international conferences.

**Colonel Stephen Reinhart** is the past chairperson of the Department of Law Enforcement and Justice Administration (1997 to 2006) at Western Illinois University. He has 30 years of teaching experience. He is a retired Lieutenant Colonel with the U.S. Army Military Intelligence/Aviation. At Western, Colonel Reinhart also served as chairperson of the ROTC program for four years; two years as the chairperson of the Department of Educational Administration and Supervision; and interim chairperson of the Department of Instructional Technology and Telecommunications and the Department of Dietetics, Fashion Merchandising, and Hospitality. He also served as interim director of the College of Education and Human Services Advising Center and as assistant dean in the College of Education and Human Services for five years.

Colonel Reinhart has a background in counter-intelligence, espionage, security, investigations, terrorism, special operations, and administration. He has also worked operations with the FBI, DEA, NSA, DIA, Border Patrol, and numerous foreign police agencies in Europe. He is a 1975 graduate of Western Illinois University, where he received a BS in Law Enforcement Administration. He received his MA in International Studies at Troy State in Alabama in 1983.

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