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# Table of Contents

**Editorial** ................................................................. i  
Thomas J. Jurkanin

**Improving the Response to Individuals with Mental Disorders:**  
**Creating Valid Training Specifications for Law Enforcement** ........................................ 1  
Wayne R. Carlson

**Critical Issues in the American Criminal Justice System:**  
**HIV/AIDS Among Prison Population** ............................................................................. 15  
Becky Kohler da Cruz  
José de Arimatéia da Cruz

**Perpetrators of Child Abuse: Conceptualizing Culture as a**  
**Way of Assisting Intervention** ........................................................................................ 26  
Tony A. Barringer  
Belinda E. Bruster

**Understanding Black Adolescent Male Violence: A Critical Issue** ................................. 37  
Barry S. McCrary

**Countering Criminal Street Gangs: Lessons from the**  
**Counterinsurgent Battlespace** ......................................................................................... 43  
John A. Bertetto

**Use of Force**  
**Analyzing Perceptions and Misperceptions of Police Officers in Lethal Force**  
**Virtual Simulator Scenarios** ............................................................................................ 53  
Darrell L. Ross  
Randall L. Murphy  
Michael H. Hazlett

**Teaching 4th Amendment-Based Use of Force** ............................................................... 74  
James Marker

**Evaluation of Rubber Ball Grenades: Applications for Law Enforcement**  
**and Corrections** .............................................................................................................. 80  
Charlie Mesloh  
Jennifer James-Mesloh  
Lindsey Medley  
Ross Wolf

**The First Three Minutes After the Cuffs Go On** ............................................................. 90  
John R. Schafer
Tom “Tad” Hughes

The Coroner/Police Relationship: Perceptions from the Coroners ........................................... 106
Jennifer M. Allen
Joseph S. Morgan

Perspectives of Legal Liability Issues and Trends in Coping with Legal Liability Demands Among County Sheriffs: A Preliminary Analysis ......................................................... 114
T. Casey LaFrance
Jonathan Day
Kimberly J. Rice

Security
Radicalization in North America: A Strategic Approach to Prevention .................................................. 120
Rick Parent
James O. Ellis III

Contemporary Security Threats Impact on the Travel Destination Choice ......................... 134
Bojan Dobovšek
Bojan Kurež
Iztok Podbregar

Organized Crime
The Influence of Transnational Crime in the World: Current Status and Challenges of Combating It ................................................................. 147
Alexander N. Sukharenko

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Editorial

Remembering a Leader, Colleague, and Friend

Albert Schweitzer once said, “I don’t know what your destiny will be, but one thing I know: The only ones among you who will be really happy are those who have sought and found how to serve.”

Last month, we lost a valued member of the Forum editorial team, Dr. Gene Scaramella. Gene, by Schweitzer’s definition, achieved true happiness in life; he found how to serve as a police officer; educator; author; friend; colleague; and loving son, husband, brother, and uncle. Gene led by example. He was dedicated to his chosen profession, and he always strove to impact the lives of others in a positive and sustained manner. From his early days as a young Chicago Police Officer to his position as Dean of Graduate Studies at Ellis University, his professionalism and strength of character served as an inspiration to all who were lucky enough to cross his path.

Gene was proud of who he was and comfortable in his own skin. His friends will always remember fondly the late night sessions wherein Gene would “hold court” over dinner, with drinks and laughter. Gene was blessed with a marvelous sense of humor, and he had a genuine love for people and life.

It is impossible to fully calculate the many lives and careers that were positively impacted by Gene Scaramella. But we do know one thing: Gene (”Geno”) found how to serve, embraced it with enthusiasm, and was happy in doing so. This edition of the Forum is dedicated to our friend and colleague, Gene Scaramella. We will always cherish the memories.

Thomas J. Jurkanin, PhD
Senior Editor

Reference

Improving the Response to Individuals with Mental Disorders: Creating Valid Training Specifications for Law Enforcement

Wayne R. Carlson, Manager, Career Development Section, Michigan Commission on Law Enforcement Standards

Introduction

In December 2003, Governor Jennifer M. Granholm of Michigan convened the Michigan Mental Health Commission, which was charged with making specific recommendations for the improvement of Michigan’s mental health system (Executive Order 2003-24). In October 2004, the commission presented a final report to the Governor, which contained several recommendations for making the system more responsive to the needs of those with mental disorders (Michigan Mental Health Commission [MMHC], 2004). One of the recommendations addressed the interface between the mental health and criminal justice systems, including alternatives to arrest and incarceration and training for law enforcement officers as first responders. During public hearings, experts from mental health and criminal justice testified that individuals with mental disorders are overrepresented in county jails and state prisons, and they urged the commission to promote meaningful jail diversion programs and structured assessment protocols during intake (MMHC, 2004). They testified that treatment should be preferred over punishment, when possible, and jails should not become de facto mental institutions.

With the commission report as a backdrop, and in light of state budget cuts to community mental health programs, State Senators Liz Brater (D-Ann Arbor) and Alan Cropsey (R-Ionia) appropriated legislative funding to the Michigan Commission on Law Enforcement Standards (MCOLES) through an interdepartmental grant from the Michigan Department of Corrections to create mental health awareness training for active duty law enforcement officers (2007 PA 130). The appropriation supported instructor stipends, participant and instructor materials, facility costs, and other operating and administrative expenses directly associated with the delivery of training. We at MCOLES agreed to create valid training objectives (a curriculum), select instructors, provide resources, and administer training sessions statewide.

MCOLES is authorized by statute to promulgate rules establishing compulsory standards for the selection, employment, and training of law enforcement officers in the State of Michigan (Michigan Compiled Laws [MCL] 28.609 et seq.). The commission’s statutory responsibilities include the authority to put into action medical and nonmedical standards for the law enforcement profession in Michigan. The commissioners all serve either by virtue of their position or by appointment to a term of office by the Governor. The commission membership is diverse. It consists of representatives from the Michigan Association of Chiefs of Police, the Michigan Sheriff’s Association, labor organizations, prosecution, defense, the State Police, the Detroit Police Department, and the Attorney General’s Office. In support of this, see MCL 28.621 (Executive Order No. 2001-5), which gave increased responsibility to the commission in the area of inservice training and continuing education.

The purpose of this paper is to document evidence of validity and reliability for the mental health training curriculum, which supports training content, performance outcomes, and classroom delivery techniques. To establish content and construct validity, we linked the training objectives to patrol officer job tasks, the theoretical and applied research in mental
health, professional best practices, and state and federal legislative mandates. Herein, we considered what Sherman (1998) refers to as “evidence-based policing,” which connects the art and science of policing to empirical scientific research. We combined the theoretical and the practical to create a set of behaviorally based training objectives, which are supported by the professional research. The curriculum focuses on the nature and dynamics of mental disorders, nonclinical behavioral interpretation, negative stereotyping, alternatives to arrest, and the community coordinated response.

The MCOLES mental health training project began in January 2008 with an initial meeting with Senator Brater and her legislative aide. The original plan was to fund a competitive grant program whereby officers from selected agencies could participate in an intensive training program and become law enforcement specialists in mental health crisis intervention. But as the planning progressed, we ultimately decided that awareness training for the wider patrol officer population would have a greater impact, particularly if we assembled crossdisciplinary audiences to improve mutual understanding of roles and responsibilities. Contacts between law enforcement officers and individuals with mental disorders are infrequent, yet they can be challenging and time consuming, calling upon refined competencies in interpersonal communication and behavioral observation. Training for such encounters must be contemporary and accurately reflect the content domain of the law enforcement profession. Additionally, the training must be delivered in an abilities-based learning environment where teaching techniques are linked to real-world context. To ensure the training objectives remain evidence-based, we used established organizational protocols and procedures to guide our research activities.

A Note on Terminology

Classifications of mental disorders in the professional literature are not absolute, and definitions sometimes lack consensus. In the curriculum, and in this paper, we use the term mental disorders to include both mental illnesses (psychotic disorders) and developmental disabilities (mood disorders). We consider mental illnesses as a group of psychotic disorders characterized by disturbances in thinking, feeling, and relating. The onset of mental illness may occur at anytime during a person’s lifetime. Symptoms include social withdrawal, severe depression, delusions, hallucinations, continuous hyperactivity, or inactivity. Examples of mental illnesses include paranoid schizophrenia, bipolar disorder, delusional disorders, and post-traumatic stress disorder (American Psychiatric Association, 1994).

We consider developmental disabilities as life-long mood disorders based on mental or physical impairments, generally manifested early in life. In the mental health literature, developmental disabilities are also referred to as intellectual disabilities or mental retardation. Symptoms include sub-average intellectual development and functioning, substantial physical or mental impairment, or other substantial functional limitations. Examples of developmental disabilities include autism spectrum disorder, cerebral palsy, attention deficit hyperactivity disorder, and other similar cognitive and intellectual disorders (American Psychiatric Association, 1994).

We use the term consumer to refer to an individual with a mental disorder who comes in contact with the criminal justice or mental health system, typically through an encounter with a law enforcement officer or mental health first responder. Consumers can be of any race, age, socioeconomic class, or occupation. They may be victims of a crime or an accident, may call for law enforcement assistance, or may be the subject of a police emergency response. We purposely avoid such terms as idiot, retard, mental, moron, or even the mentally ill as such labeling may contribute to the stigma associated with mental disorders.

Validating Training—An Evidence-Based Approach

Validity is another word for job-relatedness and can be considered a subset of evidence-based policing theory. The American Psychological Association (APA) prescribes three types of validity: (1) content, (2) construct, and
criterion (American Educational Research Association [AERA], 1999). Although the APA standards primarily address cognitive testing and measurement, the mental health training specifications must be based, in pertinent part, on the essential job functions and core job responsibilities performed by Michigan law enforcement officers in today’s environment. Any professional training standard (competency) established by a state regulatory agency such as MCOLES must be supported by evidence of validity and reliability (Birch, 1993).

Content validity refers to evidence that the training specifications (curriculum objectives) are linked to a defined universe or a professional behavioral domain from which one can make valid and reliable inferences about performance and behavior (Mehrens & Lehmann, 1984). To maintain validity, the behavioral domain and the training that emerges from the domain must be based on relevant job functions, empirical research, and best policing practices. Specific core tasks associated with mental health interventions are essential components of the wider behavioral domain of the law enforcement profession in Michigan. This conceptual connectivity ensures the requirements for working in the profession are essential for functioning as a minimally competent law enforcement officer when responding to mental health situations. In a larger sense, the citizens of Michigan must be confident that responses to their calls for service will be answered by an officer who possesses basic knowledge, skills, and abilities.

Construct validity refers to the linkages among the underlying constructs of law enforcement performance and the standards, training, and testing established at the local or state level. A construct is a characteristic or trait that underlies successful behavior on the job (AERA/APA/NCME, 1999; MCOLES & Performance Based Selection, Ltd., 2006; Overton, 1999). From a law enforcement perspective, constructs include theoretical variables, such as problem solving or creativity, which often are not directly measurable or immediately apparent through independent observation. When asked, citizens indicate they want their local law enforcement officers to possess basic cognitive abilities and mechanical skills. But they also want them to be competent in problem solving, communicating, and decisionmaking when responding to calls or providing services to the community (Bittner, 1990; Brown, 1979; Radelet, 1986; Watson, Stone, & DeLuca, 1998).

Criterion validity refers to measurements structured on a stated set of variables (criteria), which includes the ability to predict work-related performance based on those variables (AERA/APA/NCME, 1999; Mehrens & Lehmann, 1984). Although criterion validity typically involves predicting future success or failure on the job, in reality, law enforcement performance is influenced by a wide variety of inter-related and intervening variables. For example, the quality of field training at an agency, its organizational culture, community expectations, and even an officer’s “emotional intelligence” may significantly influence the nature and quality of decisions in any given situation (Bittner, 1990; Brown, 1979; Goleman, 1995; Salovey & Mayer, 1990). Although this paper does not document evidence of criterion validity, we recognize the necessity to act responsibly regarding the potential risks to officers and the public when setting training specifications in this area (Birch, 1993).

Methods
As a first step to establish evidence of content validity, we explored the essential job functions required of active duty law enforcement officers as they appear in Michigan’s job task analysis (JTA) (MCOLES & Performance Based Selection, Ltd., 2006). The mental health training specifications must be linked to an officer’s ability to perform certain core functions of the job, not only for the initial response to those with mental disorders but also for potential high risk activities that may arise from such encounters. The core job tasks represent the knowledge, skills, abilities, and underlying behavioral constructs required for minimum competency as a law enforcement officer. In addition, the JTA provides us with a conceptual “snapshot” of the law enforcement profession in Michigan. Herein, we rely on Michigan data rather than
national statistics to support the mental health curriculum and the desired behavioral outcomes. MCOLES completed its first JTA in the late 1970s (Michigan Law Enforcement Officers Training Council [MLEOTC] & Personnel Research Consultants, 1979), updated it in 1996 (MLEOTC & Stanard & Associates, 1996), and updated it again in 2006 (MCOLES & Performance Based Selection, Ltd., 2006). These formal updates ensure that the resulting job description remains comprehensive, current, and useful for defining performance standards for entry into the profession, continuing education initiatives for active duty officers, and specifications for academy (recruit) training.

The MCOLES JTA is a comprehensive questionnaire that identifies specific law enforcement job tasks rated by frequency and criticality. During the formulation of the 2006 JTA, we identified a stratified random sample of active duty patrol officers (n = 3,231) and first-line supervisors (n = 706) across the state and asked them a series of questions about their job responsibilities. One hundred fifty agencies of all sizes and types are represented in the data, and the response rate was 88% for officers and 92% for supervisors. Respondents rated an extensive inventory of job tasks (N = 459) on a scale of 1 to 5, where “1” represented low frequency or low criticality and “5” represented higher ratings. Patrol officers indicated how frequently they performed each task, and patrol supervisors rated the relative importance of each task. A weighted formula was used to identify a list of core job tasks, or essential job functions, for the position of law enforcement officer in Michigan.

As part of the mental health project, we isolated the tasks believed to be closely associated with the response to those with mental disorders, regardless of the reason for the initial call to the police (see Table 1). For example, Task #53 on the inventory states, “Detain a person based on reasonable suspicion,” which emerged as an essential job function (MCOLES & Performance Based Selection, Ltd., 2006). The courts allow officers to conduct a brief investigatory detention of any citizen to determine existing or potential criminal activity, assuming adequate legal justification (Terry v. Ohio, 1968). Often, field encounters with consumers begin as calls to the police to investigate disorderly conduct, trespassing, loitering, or other nuisance complaints. This item has an average frequency rating of 2.70 and an average criticality rating of 3.19, which reflects all agency types and sizes across the state for this task. In Table 1, all but one criticality rating is higher than its corresponding frequency rating, which indicates that these tasks are crucial components of an officer’s job responsibilities regardless of how often they occur.

Patrol officers also rated how often they respond to a wide variety of complaints and incidents. Table 2 presents the complaints that are closely associated with situations involving those with mental disorders, although any complaint could potentially require the services of the mental health system. What may be particularly challenging are the responses to calls when consumers are the victims of crime—for example, domestic violence or criminal sexual conduct—which often require higher-order interpersonal communication skills and

<table>
<thead>
<tr>
<th>Task</th>
<th>Frequency</th>
<th>Criticality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforce court-issued orders</td>
<td>2.40</td>
<td>3.29</td>
</tr>
<tr>
<td>Detain a person based on reasonable suspicion</td>
<td>2.70</td>
<td>3.19</td>
</tr>
<tr>
<td>Interact with those with communication impairments</td>
<td>2.12</td>
<td>2.55</td>
</tr>
<tr>
<td>Interact with a person who is autistic</td>
<td>1.71</td>
<td>2.48</td>
</tr>
<tr>
<td>Refer individuals to social service agencies</td>
<td>2.42</td>
<td>2.48</td>
</tr>
<tr>
<td>Subdue persons in non-arrest situations</td>
<td>2.38</td>
<td>3.62</td>
</tr>
<tr>
<td>Investigate crimes with a family relationship or dating relationship</td>
<td>4.48</td>
<td>3.58</td>
</tr>
<tr>
<td>Determine specialized needs at scene</td>
<td>2.47</td>
<td>3.41</td>
</tr>
</tbody>
</table>

n = 3,937
investigative abilities. The complaints listed in Table 2 provide a broader contextual picture within which these situations occur. Note “Person requiring treatment” (PRT) at 94.0% performing. In Michigan, protective custody of a consumer is civil in nature and is not considered a criminal arrest (MCL 330.1427a). Officers must reasonably believe the individuals pose a danger to themselves or others.

The JTA asked patrol officers to think about their basic recruit training. In Michigan, the basic training academies across the state deliver mandated training in a wide variety of state-mandated subjects. For instance, there is a three-hour training module in the response to individuals with mental disorders. Successful completion of academy training is required before licensure as a law enforcement officer. Table 3 displays the amount of attention the respondent officers believe should be devoted to certain subjects during basic training. About half of the respondents felt that “Criminal investigative procedures” (54%), “Report writing” (49%), “Decisionmaking” (47%), and “Legal matters” (49%) need additional attention, which offers support for including specific training delivery methodologies in the mental health curriculum. Note the rating of “Officer safety” at 65% more.

### Best Practices

To further establish evidence of content validity, we facilitated an interactive meeting with a professional advisory panel in order to identify professional best practices and to discuss overall project planning and outcomes. Input from content specialists is an important component.

### Table 2. Reported Responses to Complaints—During Career

<table>
<thead>
<tr>
<th>Incident</th>
<th>Percent Performing</th>
<th>At Least a Few Times per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amber alert</td>
<td>62.8</td>
<td>8.30</td>
</tr>
<tr>
<td>Check on welfare of citizen</td>
<td>97.0</td>
<td>11.7</td>
</tr>
<tr>
<td>Criminal sexual conduct</td>
<td>92.5</td>
<td>29.3</td>
</tr>
<tr>
<td>Domestic violence</td>
<td>97.8</td>
<td>31.0</td>
</tr>
<tr>
<td>Drug overdose</td>
<td>90.3</td>
<td>28.2</td>
</tr>
<tr>
<td>Loitering</td>
<td>85.5</td>
<td>27.9</td>
</tr>
<tr>
<td>Person requiring treatment</td>
<td>94.0</td>
<td>36.4</td>
</tr>
<tr>
<td>Suspicious persons</td>
<td>98.2</td>
<td>33.3</td>
</tr>
<tr>
<td>Suicide attempt</td>
<td>93.6</td>
<td>33.3</td>
</tr>
<tr>
<td>Civil rights</td>
<td>61.1</td>
<td>13.3</td>
</tr>
<tr>
<td>Vulnerable adult</td>
<td>54.9</td>
<td>8.10</td>
</tr>
</tbody>
</table>

*n = 3,231*

### Table 3. Percent Indicating Amount of Attention that Should Be Devoted to Academy Training Topics

<table>
<thead>
<tr>
<th>Training Topic</th>
<th>% More</th>
<th>% Right</th>
<th>% Less</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal matters (arrest, search &amp; seizure, etc.)</td>
<td>49</td>
<td>49</td>
<td>2</td>
</tr>
<tr>
<td>Criminal investigative procedures</td>
<td>54</td>
<td>41</td>
<td>5</td>
</tr>
<tr>
<td>Report writing</td>
<td>49</td>
<td>42</td>
<td>9</td>
</tr>
<tr>
<td>Patrol operations</td>
<td>46</td>
<td>46</td>
<td>8</td>
</tr>
<tr>
<td>Officer safety</td>
<td>65</td>
<td>33</td>
<td>2</td>
</tr>
<tr>
<td>Use of force</td>
<td>49</td>
<td>48</td>
<td>3</td>
</tr>
<tr>
<td>Traffic and driving</td>
<td>35</td>
<td>59</td>
<td>6</td>
</tr>
<tr>
<td>Communication skills</td>
<td>38</td>
<td>51</td>
<td>11</td>
</tr>
<tr>
<td>Problem solving</td>
<td>41</td>
<td>53</td>
<td>6</td>
</tr>
<tr>
<td>Decisionmaking</td>
<td>47</td>
<td>48</td>
<td>5</td>
</tr>
<tr>
<td>Cultural diversity</td>
<td>19</td>
<td>55</td>
<td>26</td>
</tr>
</tbody>
</table>

*n = 3,231*
of an overall strategy to maintain the validity of standards, training, and testing. By using a participatory process, we hoped to promote an effective and meaningful dialog among the requisite practitioners who can offer practical advice and guidance as we develop the training specifications (Huff, 1990; Novak & Gowan, 1984). We invited professionals and practitioners from law enforcement, mental health, the legal sector, advocacy, and criminal justice training—those who possessed the requisite experience, expertise, and insight into law enforcement occupational standards and training—to participate in the discussions and provide recommendations. We hoped to generate creative ideas that reflected the priorities of the group (Huff, 1990; Novak & Gowan, 1984). In this manner, we could ensure the continued conceptual connectivity between the relevant job tasks of a patrol officer, as identified in the JTA, and the contemporary best practices of professionals and practitioners across the state (Huff, 1990).

At the first meeting, group members shared their thoughts from their individual perspectives. Initially, they talked about the skills and abilities needed to adequately respond to situations involving those with mental disorders, but they also provided advice about overall training content, alternatives to incarceration, and even potential training delivery methodologies. Several participants talked about improving interpersonal communication skills. Others emphasized the importance of responding appropriately to the unique needs of the consumer by working with partners in the community. They also felt officers needed a more complete conceptualization of the underlying nature and dynamics of mental disorders, and the impact of mental disorders on others, to better identify appropriate interventions during field encounters. The group members reached a consensus and made several recommendations for the mental health curriculum, including safety, alternatives to incarceration, behavioral cues, organizational policies and procedures, and community partnerships.

After the first meeting, we wrote draft training specifications in the form of behavioral outcomes and a facilitator guide (lesson plan) for the instructors. We distributed these documents to the group for a final review, obtained their feedback at a subsequent meeting, and made the appropriate modifications and refinements to the materials as directed by the group.

**Literature Review**

We next turned our attention to the professional literature to ensure the curriculum would reflect relevant research findings in criminal justice and mental health, which included the theoretical and conceptual underpinnings of mental disorders and their connection to law enforcement as a resource. We narrowed our inquiry to mental health behavioral typologies and underlying etiologies in order to connect theory with law enforcement practice and policy. We then isolated the ideas deemed essential for formulating a conceptual framework, or a common professional narrative, for proper police performance. Some common concepts emerged in the research, which we include in the training specifications as core objectives, including behavioral manifestations, effective mental health interventions, negative stereotyping, training delivery methodologies, and legal precedent.

Mental disorders and psychopathologies can be difficult to classify precisely, even for mental health professionals, and definitions in the psychological research tend to overlap. Yet training for law enforcement officers must be straightforward (although not simplistic) and provide “bright line” rules of behavior. Officers need to know what is expected of them and what actions to take when working the street. As a result, the mental health curriculum is not meant to be a diagnostic manual, and officers are not expected to be mental health clinicians or diagnosticians. We instead emphasize the importance of nonclinical behavioral observation and interpretation during field encounters. Daniel (2004) believes law enforcement officers should not diagnose behaviors and that clinical relationships should be left to mental health clinicians and practitioners. Cordner (2000) supports mental health training that improves an officer’s ability to recognize basic behavioral
manifestations, indicators that may suggest an individual has a mental illness or a developmental disability, and respond accordingly. Recognizing behavioral cues and interpreting them correctly can affect the quality of the initial response in a positive way (Monahan et al., 2001; National Council of State Governments, 2002). For example, officers must not mistake a mental disorder for intoxication or disorderly conduct. The initial encounter may also determine the nature and effectiveness of subsequent interventions as the consumer moves through the criminal justice and mental health systems. Perhaps more importantly, using refined observational skills may allow an officer to act more deliberatively thereby creating additional opportunities to weigh alternative choices and formulate behaviorally based resolutions and interventions. We therefore include effective stabilization and destabilization strategies in the training to improve an officer’s ability to read a situation accurately and identify appropriate resolutions.

Based on the social model of intellectual disabilities, consumers must be afforded the same dignity and respect as any other citizen requiring police services (Oliver, 1990). This may be particularly true during a consumer’s initial contact with law enforcement officers. Mental health theorists believe intellectual disabilities are more than inherent medical conditions that severely limit major life activities (Siebers, 2006). Psychotropic medications are often essential to manage behavior or enhance potential recovery, but the social interplay between a consumer and society at large should not be overlooked (Carlson, 2010; Oliver, 1990). The research tells us that the stigma of mental disorder can manifest itself as extreme shame, guilt, or low self-esteem due in part to the way society collectively marginalizes or isolates those with intellectual disabilities (Carlson, 2010; Foucault, 2006). This “profound otherness” (Carlson, 2010, p. 147) often feeds into an insidious cycle of dehumanization and stigmatization resulting in community exclusion. Officers must be trained to recognize the dignity of consumers as valued members of society. They must understand the importance of respect and justice and acknowledge some of the wider societal influences that may have precipitated observed behaviors. Communicating with a consumer in crisis requires honesty, patience, and understanding; extra care should be taken by officers to open individualized lines of communication.

According to Teplin (1985), the general public believes most consumers are out of control, commit violence, or are extremely aggressive. These misconceptions are reinforced by negative depictions in the movies or on television where consumers are often portrayed as dangerous serial killers or sadistic sexual offenders. But Marzuk (1996) reminds us that “violent and criminal acts directly attributable to mental illness account for a very small proportion of all such acts in the United States. Most persons with mental disorders are not criminals, and of those who are, most are not violent” (p. 485). Although officer safety is extremely important, many encounters can be more violent for the consumer than for responding officers (Cordner, 2006; Marzuk, 1996). But the research also shows that a subset of consumers, typically those who go untreated, are psychotic, or use drugs (dual diagnosis disorders), are at very high risk for aggressive behavior. Significant relationships between some psychopathologies and violent behavior do exist (Asnis, Kaplan, Hundorf, & Saeed, 1997; Monahan et al., 2001; Mulvey, 1994; Stuart, 2003; Wolff, 1998). These fine distinctions only increase the need for nuanced decisionmaking and creativity at the scene. Officers must minimize potential physical harm to themselves or others by interpreting symptomatic behaviors accurately. Encounters with consumers are dynamic and evolving, and they often unfold rapidly one step at a time. In training, we do not overestimate the risk for violence, yet we recognize that officer safety and the safety of the public should never be jeopardized or compromised. Our challenge is to maintain an acceptable balance between officer safety and meeting the needs of the consumer, without sacrificing community expectations.

A variety of response strategies based on the mental health research and recommendations
from members of the advisory panel are included in the curriculum. Officers must use calm tones, speak clearly, and offer unambiguous choices to the consumer at the scene. They must recognize that if a consumer ignores their commands, it is probably a symptom of the underlying disability rather than a challenge to their authority. Officers should ask straightforward questions but avoid making continuous eye contact. Consumers may even misinterpret tactical positioning or the flashing overhead lights of the patrol vehicle as personal threats rather than officer safety strategies. During field encounters, officers should not “play along” with hallucinatory or delusional conversations and should not debate consumers, even if they become loud or argumentative. Situational awareness is crucial. Although consumers must be held accountable for their criminal actions, officers must recognize that arrest, incarceration, or getting them “out of sight” are not always the answers (Wolff, 1998). Consumers must not be arrested for “being mentally ill.” Instead, officers should consider diversion programs such as voluntary hospitalization, outpatient treatment, residential programs, or counsel and release when possible (Teplin, 1984).

Law enforcement officers must have the legal authority to act. In fact, court precedent and state statutes require them to maintain settled constitutional principles as they perform their duties. In the training, we include relevant criminal law and legal procedures, which form the conceptual foundation upon which a proper response to those with mental disorders can be structured. Michigan’s mental health statutes (MCL 330.1401 et seq.), Michigan’s Persons with Disabilities Act (MCL 37.1101 et seq.), and the federal Americans with Disabilities Act (ADA) (42 USC 12010 et seq.), define the outer parameters of an officer’s legal authority during the initial stages of the response and thereafter. The federal ADA prohibits discrimination against individuals with disabilities and seeks to ensure that everyone is treated fairly, which is consistent with the social model of intellectual disabilities. More importantly, consumers at the scene are often in crises and may not fully understand the implications of detention, arrest, the Miranda warnings, or the potential impact of statements given to the authorities.

An appropriate response to mental disorders requires appropriate decisionmaking capabilities. In a behavioral context, decisionmaking involves an officer’s intervention in a situation and formulating appropriate actions thereafter (Bittner, 1990; Brown, 1979; Davis, 1969; Linn, 2008). Some decisions can be task oriented, through which the officer has time to systematically work through an issue, or it can take the form of an immediate reflexive decision during a high stress/high risk encounter (Bittner, 1990; Brown, 1979; Goleman, 1995). Long-term problem solving may come into play as well in situations in which an officer has an opportunity to formulate meaningful resolutions in partnership with other community members and support systems, particularly mental health professionals, family members, or specially trained law enforcement personnel (Cordner, 2006; Daniel, 2004; Linn, 2008; Radelet, 1986).

Ideally, the system’s response will work the best if responding officers have the ability to work collaboratively with other professionals in the community (Cordner, 2006; Finn & Sullivan, 1989; Watson et al., 1998); however, such an approach may not work in all jurisdictions. Each community will be unique in its ability to offer relevant services, depending on socioeconomic demographics, the availability of emergency psychiatric resources, local practices, and organizational policies and procedures (National Council of State Governments, 2002). Cordner (2000) believes that community partnerships may have more of an impact on meeting the needs of the consumer than any other component in the system. Working collaboratively with other professionals is consistent with the community policing and problem-oriented policing philosophies embraced by many law enforcement agencies in Michigan and across the nation (Kaukinen & DeMaris, 2009; Lejins, 1967; Murdaugh, 1976; Trojanowicz & Bucqueroux, 1989; Wilson, 1993). To perform effectively within these frameworks, officers must be competent in problem solving,
decisionmaking, planning, and interpersonal communication. Unquestionably, officers and mental health professionals will be working in a variety of environments and with a variety of individuals (Daniel, 2004; Linn, 2008; Wolff, 1998). Officers must be prepared for this context.

Construct Validity

Insofar as problem solving and decisionmaking are necessary for effective mental health interventions, we examined the nature of these characteristics in more detail and from the law enforcement perspective. Brown (1979) tells us that an officer’s street-level performance is directly influenced by underlying behavioral constructs or underlying characteristics that affect performance on the job. Behavioral psychologists define constructs as qualities, traits, or attributes that have broad applicability to behavior and performance (Krathwohl, Bloom, & Masia, 1964; Overton, 1999). We conceptualize underlying constructs as supporting basic knowledge by influencing what an officer does, not necessarily what an officer knows. Constructs include problem solving, decisionmaking, creativity, leadership, communication, ethics, etc.—essentially the higher-order cognitive abilities. In the training environment and on the job, content (knowledge) and constructs (knowing) work together to produce effective performance (Carlson, 2007; VanderKooi, 2006).

Based on these considerations, we revisited the JTA and explored the constructs deemed essential for adequate performance. In the 2006 JTA, the respondents selected the single most important construct needed by patrol officers to perform their job responsibilities effectively, regardless of the type of call or situation. They selected just one characteristic from a list of constructs (see Table 4). Essentially, the list represents the “construct domain” of the law enforcement profession in Michigan. Note that “Communication skills” and “Decisionmaking” were rated the highest, which is consistent with our theoretical research (Bittner, 1990; Kaukinen & DeMaris, 2009; Knowles, 1984; Sims, 2006; Wilson, 1993).

For example, consider the ability to communicate, which is the highest rated construct. Officers often interview witnesses and complainants, and interrogate suspects during on-scene preliminary investigations. Uncertainty in performing these tasks could potentially compromise the integrity of an ongoing investigation or negatively impact due process. The ability to articulate a position, write an investigative report, or clearly inform others are essential underlying constructs of an adequate response (Daniel, 2004). We address these underlying characteristics in training by selecting classroom teaching techniques that improve both knowledge and judgment.

Classroom Training Techniques

As we continued to refine and edit the training curriculum, we next set about identifying an appropriate training delivery methodology for classroom instruction. Identifying content is only the first step in building core competency. Equally important is the manner in which the content is delivered (Post, 1992; Sims, 2006; VanderKooi, 2006). The learning environment must produce positive behavioral change once officers return to their work responsibilities. Since the research tells us that higher-order thinking is an important component of an effective mental health crisis intervention, we selected a classroom training technique known as problem-based learning (PBL), which specifically targets the underlying constructs of the profession (Cherryholmes, 1988). The methodology is structured on adult learning and interactive teaching.

Table 4. The Construct Domain for Effective Job Performance

<table>
<thead>
<tr>
<th>Characteristic (Constructs)</th>
<th>n</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication skills</td>
<td>867</td>
<td>26.8</td>
</tr>
<tr>
<td>Decisionmaking</td>
<td>858</td>
<td>26.7</td>
</tr>
<tr>
<td>Job experience</td>
<td>445</td>
<td>13.7</td>
</tr>
<tr>
<td>Multi-tasking</td>
<td>329</td>
<td>10.2</td>
</tr>
<tr>
<td>Problem solving</td>
<td>286</td>
<td>8.9</td>
</tr>
<tr>
<td>Legal knowledge</td>
<td>220</td>
<td>6.8</td>
</tr>
<tr>
<td>Ethics</td>
<td>97</td>
<td>3.0</td>
</tr>
<tr>
<td>No response</td>
<td>67</td>
<td>2.0</td>
</tr>
<tr>
<td>Physical fitness</td>
<td>62</td>
<td>1.9</td>
</tr>
</tbody>
</table>

n = 3,231
theory (Woods, 1994). PBL is an approach to learning that can be defined as knowledge acquisition through the resolution of real-world problems (Poikela, 2004; Woods, 1994). From the PBL perspective, learning occurs when officers acquire basic knowledge by solving authentic, real-world problems, typically in the form of table top scenarios or relevant case studies. By using PBL, instructors (facilitators) can generate problem-solving competencies at the same time they improve an officer’s knowledge (Knowles, 1984; Mager, 1973; Poikela, 2004; VanderKooi, 2006; Woods, 1994). PBL is designed to make the acquisition of knowledge more meaningful and relevant to the participants.

Officers engage in purely discretionary acts every day on the job—particularly when responding to those with mental disorders—and performing adequately requires a combination of knowledge (content) and sound judgment (constructs). We include both as part of the mental health training regimen. We include detailed instructor notes and commentaries in the Instructor Manual to help trainers become facilitators in the classroom and to enhance their ability to develop higher-order thinking through reality-based scenarios and contemporary case studies.

The applied research offers further support (Post, 1992; VanderKooi, 2006; Weinblatt, 1999). Educational theorists believe professional competency can best be developed in an interactive (adult) learning environment, particularly if practitioners are the audience (Brookfield, 1986; Sims, 2006). Poikela (2004) tells us that experiential learning and interactive training can enhance discretionary decisionmaking on the job; herein, the very competencies needed for an appropriate response to those with mental disorders. Moreover, cognitive theorists believe that memory works best, and that details will be retained longer, if learning conditions mimic real-life situations (Medina, 2008). This offers support for the use of case studies, report writing exercises, and reality-based scenarios as training strategies in the classroom.

If instructors gradually shift from traditional teaching approaches to more interactive training methodologies, as we want them to do, it may be necessary to shift their understanding of competency as well (Carlson, 2007). Knowledge acquisition and static skill development are important components of any training, but if improved performance on the job is the ultimate goal, as we believe it is, the conceptual shift for training should be from knowledge to knowing, wherein competency is based on the ability to use information to resolve real-life issues (Carlson, 2007; Poikela, 2004). Real accountability exists. Contrived scenarios in the classroom eventually give way to authentic calls for service with real consumers and real victims. Thus, officers must be adequately prepared. In a more fundamental sense, officers must know how the training will pay off for them and how it might connect to their job responsibilities. They must also understand that there are consequences to their learning, consequences that may surface later when working the job.

The Instructor Manual contains four major sections. Section One contains the module specifications, or training objectives, for the course. The objectives appear as behavioral outcomes, through which performance is seen as the demonstration of competency, although actual behavior on the job will be influenced by a variety of factors, including organizational culture and local best practices. The objectives appear in a format that supports critical thinking and decisionmaking. Section Two includes training delivery methodologies. Instructors must understand the importance of teaching decisionmaking and problem solving as part of an overall conceptual approach to learning. This section contains sample learning exercises and classroom activities all based on interactive adult learning theory. Section Three is a facilitator guide for instructors, which is essentially a sample lesson plan for the delivery of the training objectives. It is based on the student-centered principles of adult learning theory and the PBL model. The guide requires the instructors to generate facilitated discussions and create interactive dialogs in the classroom, all within the context of experiential and abilities-based
learning. Section Four contains resource materials for both the instructors and the participants.

Conclusion

The research findings provided support for the mental health training specifications and instructor resources. As we developed the training materials, our challenge was to isolate relevant information from the professional research, evaluate input from the advisory panel and the results of the JTA, and synthesize all relevant information into behaviorally based training objectives. After completing the final version of the instructor materials, the first training session took place at the Berrien Springs-Oronoko Township Police Department in southwest Michigan.

The legislative appropriation for the project ended on September 30, 2011; however, we continue to review and update the curriculum to ensure project outcomes remain contemporary and that they accurately reflect the increasing complexity of law enforcement work in this area. During the life of the project, we administered several hundred training sessions to thousands of multidisciplinary participants across the state. Although patrol officers were the primary audience, we very quickly expanded the program to include participants from mental health services, local jails, state corrections, and advocacy groups. We also made corresponding updates to the recruit training curriculum so officers coming out of the academy have the latest information regarding mental health issues. Once on the job, their understanding can improve through subsequent street experience, field training programs, and continuing education.

To maintain credibility and perspective, a team of instructors consisting of a law enforcement practitioner, a mental health professional, and a healthy consumer delivered each session. The consumers did exceptionally well during the training sessions, and their testimonials brought a human face to the participants’ conceptualizations of mental disorders. This also gave law enforcement officers an opportunity to interact personally with a consumer in a setting other than an emergency call or nuisance complaint.

The appropriation did not allow for a comprehensive evaluation of program goals and objectives or peer-reviewed research into its effectiveness. Instead, we documented formal and informal feedback from the instructors and the participants after each session. We also conducted on-site visits to maintain proper administrative oversight. Overall, we experienced a positive reaction to the training, and the interdisciplinary nature of the audiences was particularly well received. Many officers referenced the need for additional training while others expressed gratitude for addressing the issues associated with the mental health response.

The mental health training will not produce long-term behavioral change in the profession without a firm commitment from agency administrators and supervisors. Administrative buy-in is essential. Over time, many departments develop a unique organizational culture that starts at the top and eventually permeates throughout the rank and file. This produces an individualized style of policing often supported by departmental policies and procedures (P&P) and community norms and expectations (Brown, 1979). We urge law enforcement officials across Michigan to use the mental health training materials and the model policy to reevaluate their crisis response protocols and to include community-based interventions and diversion programs when appropriate.

Based on the steps taken to establish valid, evidence-based training, the MCOLES staff believes it has established a legitimate connectivity between the mental health training specifications and the essential job functions of a patrol officer in Michigan. We also believe we have established a legitimate connectivity among the underlying constructs of the profession and the required training delivery methodologies. Ultimately, the responsibility of a state regulatory agency such as the Michigan Commission on Law Enforcement Standards is to address the safety of its citizens by ensuring all officers possess minimum core competencies when performing their duties.
Maintaining evidence of validity and reliability can ensure that the system for producing such competencies functions as intended.

References


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Critical Issues in the American Criminal Justice System: HIV/AIDS Among Prison Population

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The United States will become a place where new HIV infections are rare and when they do occur, every person, regardless of age, gender, race/ethnicity, sexual orientation, gender identity or socio-economic circumstances, will have unfettered access to high quality, life-extending care, free from stigma and discrimination.

–National HIV/AIDS Strategy for the United States (July 2010)

Introduction

Writing at the close of the 14th century that a third of the world had died from the Black Death, the French poet and chronicler Jean Froissart was astounded how little medieval medicine had to offer in its fight against epidemic diseases (Inciardi, Surratt, & Tellas, 2000). At the dawn of the 21st century, the world fights another pandemic with no sign of abatement. The 21st century pandemic is HIV/AIDS. Since the virus was first diagnosed by the medical community nearly 35 years ago in 1981, every 9½ minutes another U.S. citizen is infected with the human immunodeficiency virus (HIV) (National HIV/AIDS Strategy for the United States, 2010). This translates to an estimated 1.7 million people in the United States to have been infected with HIV, including nearly 600,000 who have already died and more than 1.1 million estimated to be living with the disease today (Centers for Disease Control and Prevention [CDC], 2010).

The HIV/AIDS virus does not discriminate. It attacks the elderly, the young, the rich, and the poor without distinction. The virus does not differentiate between sex, sexual orientation, religion, ethnicity, or socioeconomic circumstances. Anyone can contract this deadly virus that has wreaked havoc on communities around the world and is a major health-care concern in our own backyard. Although anyone can become a victim of this deadly infection, there are certain groups within society more likely than others to contract the virus. This essay focuses on one critical segment of the U.S. population: prisoners within the state and federal penitentiaries.

Prisoners are a high-risk group for contracting the HIV virus not only because many prisoners engage in high-risk behavior outside of prison, like sharing needles and engaging in sexual intercourse with multiple partners, but also unprotected anal sex and tattooing are common activities while in prison. The risky behaviors that lead to HIV infection do not necessarily stop once a person is behind bars (Polonsky et al., 1994). Prisons and jails contain perhaps the highest concentrations of persons infected with HIV, and HIV is far more prevalent among the world’s 30 million penitentiary inmates than in the general population (MacDougall, 1998).

Prison Population and HIV/AIDS

According to the Joint United Nations Programme on HIV/AIDS (UNAIDS) (2009), in its latest epidemic update, the number of people living with HIV/AIDS is staggering. The number of people living with HIV worldwide at the end of 2008 totaled 33.4 million people. It is estimated that 31.3 million are adults.
Women constitute 15.7 million of the infected cases, while children under the age of 15 years old total 2.1 million (p. 6). In the U.S., the rate of HIV/AIDS infection closely resembles the pandemic worldwide. In their essay “AIDS in American—Forgotten but Not Gone,” El-Sadr, Mayer, and Hodder (2010) argue that within some U.S. populations, the prevalence of HIV/AIDS infection rivals that of some sub-Saharan African countries (e.g., Ethiopia, Nigeria, and Rwanda). Yet, despite the fact that the U.S. incarcerates the greatest number and the highest proportion of people than any other country in the world (Beckwith, Zaller, & Rich, 2006), most Americans do not see the HIV/AIDS pandemic as a major healthcare crisis.

According to the Kaiser Foundation’s 2009 Survey of Americans on HIV/AIDS, the share of Americans naming HIV/AIDS as the most urgent health problem facing the nation has dropped precipitously between 2006 and 2009, from 17% to just 6%. The disregard for the seriousness of this pandemic is concerning given that HIV/AIDS is among the leading causes of death in the U.S. among the incarcerated. The Bureau of Justice Statistics in its 2007 Data Brief states that between the years 2001 and 2004, heart disease (27%), cancer (23%), liver disease (10%), and AIDS-related cases (7%) combined were responsible for two-thirds of all state prisoner deaths. For minority groups, especially the Black and Hispanic populations, HIV/AIDS is a death sentence given that HIV/AIDS infects white inmates at a lower rate (10 per 100,000) compared to Black (26 per 100,000) and Hispanic (18 per 100,000) inmates in state prisons (Mumola, 2007). According to Maruschak (2009), nearly two-thirds (65%) of AIDS-related deaths were among Blacks.

The U.S. prison population has reached record numbers compared to other industrialized nations. At the yearend of 2009, state and federal correctional authorities had jurisdiction over 1,613,656 prisoners, an increase of 0.2% (3,897 prisoners) from yearend 2008 (West, 2010). Despite the increase in U.S. prison population of 0.2%, West (2010) explains that this marked the third consecutive year of slower growth and the smallest increase during the decade. According to Maruschak (2009), 1.5% of the total incarcerated population in both state and federal prisons in the U.S. were HIV positive or had confirmed AIDS in 2008—more than two times the rate in the general population. At yearend 2008, a reported 5,174 inmates in state (4,561) and federal (613) prisons had confirmed AIDS. States in the South held more than twice the number of prisoners who were HIV positive or had confirmed AIDS than those states in the Northeast (11,003 compared to 5,484). Another interesting caveat when examining the data at yearend 2008 is that the rate of HIV infection among female inmates is declining, while the rate among male inmates continues to increase or remain stable: “Among states reporting data in both 2007 and 2008, the number of males with HIV/AIDS increased by 186, and the number of females decreased by 214. Between 2007 and 2008, the percent of male inmates with HIV/AIDS remained stable at 1.5%, while the percent of females who were HIV positive or had confirmed AIDS decreased from 2.1% to 1.9%” (Maruschak, 2009, p. 2).

Finally, some states are more likely than others to have a larger incarcerated population with HIV/AIDS; therefore, the geography of HIV/AIDS is unequally distributed throughout the U.S. According to Maruschak (2009), nine states (Alaska, Maine, Montana, Nebraska, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming) held less than 20 prisoners who were HIV positive or had confirmed AIDS. On the other hand, Florida (3,626), New York (3,500), and Texas (2,450) reported the largest number of prisoners who were HIV positive or had confirmed AIDS. These three states account for 25% of the total state custody population, but 46% of the state custody population who were HIV positive or had confirmed AIDS.

**High-Risk Groups and HIV/AIDS**

For the purpose of this essay, a risk group is defined as “those individuals belonging to
the set with the characteristic that is associated with increased relative risk or relative odds. They are ‘core’ or ‘super-transmitters’” (Barnett & Whiteside, 2002, p. 81). Obviously not all risky behavior contributes to HIV/AIDS infection. According to Blankenship, Smoyer, Bray, and Mattlocks (2005), structural explanations are more promising for understanding race differences and high-risk behavior in HIV/AIDS. These structural explanations focus on the social and contextual factors that determine health.

The incarcerated population in the U.S. is among those most heavily impacted by HIV/AIDS (Arriola, 2006). Maruschak (2009) points out that the rate of confirmed AIDS cases has been higher among prison inmates compared to the general population since 1991 (p. 2). According to the National HIV/AIDS Strategy for the United States (2010), some groups within the U.S. population are at a greater risk than others when it comes to being infected with the HIV/AIDS virus. These groups include gay and bisexual men of all races and ethnicities; Black men and women; Latinos and Latinas; people struggling with addiction, including injection drug users; and people in geographic hot spots, including the Southern and Northeastern portions of the U.S. The above-mentioned groups are also the same ones who overwhelmingly and disproportionately comprise the HIV/AIDS prison population in the U.S. As McBride and Inciardi (1990) have argued, “the criminal justice system is more likely to come into contact with those who are members of minority groups, who have less education and limited occupational skills, who have less stable and fewer long-term family and other personal relationships, and are more frequent users of a wide variety of drugs” (p. 269).

African Americans are disproportionately affected by the AIDS pandemic as compared to any other group in the U.S. They also account for the highest rate of incarceration in U.S. prisons. According to West, Sabol, and Greenman (2010), Black, non-Hispanic males had an imprisonment rate (3,119 per 100,000 U.S. residents) that was more than six times higher than that of white, non-Hispanic males (48 per 100,000), and almost three times higher than Hispanic males (1,913 per 100,000). Although African Americans make up only 12% of the U.S. population, they account for 45% of all new HIV infections and 46% of people living with the HIV disease (HIV/AIDS Policy, 2011a). The AIDS diagnosis rate per 100,000 among Black adults/adolescents was nine times that of whites in 2009. The AIDS diagnosis rate for Black men (78.0%) was the highest of any group followed by Black women (35.1%). The rate of new infections is also highest among Blacks and was seven times greater than the rate among whites in 2006. There are approximately 1.1 million people living with HIV/AIDS in the U.S. today, including more than 500,000 who are Black (HIV/AIDS Policy, 2011a). According to Arriola (2006), among African American men between the ages of 25 and 44, AIDS is the leading cause of death, and over one half of these deaths are due to drug-related transmissions of the virus.

The rate of HIV/AIDS infection among the Latino/Hispanic population in the U.S. also shows that this minority group is disproportionately impacted by this deadly disease. While Latinos represent 15% of the U.S. population, they account for 17% of new HIV infections and 18% of people living with HIV disease (HIV/AIDS Policy, 2011b). In 2009, Latinos/Hispanics accounted for 21% of new AIDS diagnoses. As of December 31, 2009, Latinos/Hispanics also accounted for 303,500 of the prison population under state and federal jurisdiction. HIV was the leading cause of death for both Latino men and Latinas, ages 25 to 44, in 2007. The largest Latino/Hispanic population under state and federal jurisdiction also happens to be those between the ages of 20 to 44 (HIV/AIDS Policy, 2011b). Krebs (2006) has shown in his groundbreaking research on HIV/AIDS transmission in prison that “the younger the inmate, the more likely they are to contract HIV inside prison” (p. 127). Krebs also calls our attention to the fact that “nonwhite inmates are more likely
to contract HIV inside prison suggest[ing] nonwhite [inmates] may also be more likely to become involved in activities that increase HIV transmission risk” (p. 127).

Traditionally, HIV/AIDS was portrayed as a white, gay, male disease since the first cases of HIV/AIDS were among homosexual men, therefore resulting in the disease being first referred to as Gay-Related Immune Deficiency Syndrome (GRID). HIV/AIDS infection in the U.S. has become neither Black, white, gay, nor male. It impacts and infects everyone equally regardless of age, gender, race/ethnicity, sexual orientation, gender identity or socio-economic circumstances (emphasis added).

One group that does not fit in with the traditional groups most affected by HIV/AIDS is women. The impact on women has grown since the beginning of the pandemic. For instance, women represented 8% of the AIDS diagnoses in 1985, 20% in 1995, and 27% in 2000. Today, approximately 1.1 million people are living with HIV/AIDS in the U.S., including nearly 200,000 women (HIV/AIDS Policy, 2011c). Today, females both within the general U.S. population and state and federal prisons are becoming a high risk group. According to the Bureau of Justice Statistics, women today account for 113,462 of the prison population both in state and federal prisons which represents 7% of the general U.S. population. Of the total population held in state and federal prisons, 1,912 women (1.9%) were HIV positive or had confirmed AIDS. For federal prisons, there were 78 cases of HIV/AIDS (0.7% of the female prison population), while state prisons accounted for 1,834 cases (2.0% of the female prison population). This increase in the rate of infection among women has led scholars to point out that in the 21st century, we are beginning to witness a feminization of the HIV/AIDS pandemic (da Cruz, da Cruz, & Hammers, 2007; Dworkin & Ehrhardt, 2007; Polonsky et al., 1994).

High-Risk Behavior, Structural Explanations, and HIV/AIDS

This section addresses some of the risk behaviors and structural explanations that have been put forth as explanations for the increased rate of HIV/AIDS within the prison population. Those risk behaviors and structural explanations are not exclusively associated with prisons. Most are commonly practiced among the prison’s population while they were outside of prison and continue within the prison’s walls. The only difference in the practice of those high-risk behaviors is that, while incarcerated, there is a prohibition of the act. However, as Arriola (2006) has pointed out, “any serious attempt to control intraprision HIV transmission must include ways to reduce individual risk transmission. . . . [S]imply because a behavior is prohibited does not mean that it does not occur” (p. 142).

Krebs (2006) documents that HIV is transmitted inside prison walls thus challenging the commonly held proposition among correctional officials that HIV and other infectious diseases are not transmitted inside correctional facilities. Homosexual contact is common among inmates, thus contributing significantly to the HIV transmission while in prison. Anal intercourse is considered to be a significant vector of HIV/AIDS transmission among the prison population (Krebs, 2006, citing Schoub, 1995). According to Schoub, the mucosal lining of the rectum is significantly more delicate than both the vaginal and the oral linings and, therefore, more susceptible to rupture, thus making HIV transmission more likely (p. 114). Cargill and Stone (2005) further explain that “the presence of a sexually transmitted infection increases that risk of HIV transmission, in part because of the presence of genital lesions and mucosal surface disruption” (p. 899). Since it has been established that sexual intercourse among prison inmates does occur despite its prohibition, and that most intercourse takes place without condom protection, prisons have become a haven for HIV/AIDS and a high-risk setting for the transmission of HIV/AIDS due
to both the prevalence of HIV among inmate populations and the high-risk activities that occur inside the prison walls (Blankenship et al., 2005, p. 147). In addition to unprotected sexual intercourse, other behaviors contribute to the spread of HIV/AIDS among the U.S. prison population. HIV/AIDS is heavily concentrated in groups that engage in high-risk sexual behavior—commercial sex workers (CSWs), men who have sex with men (MSM), and injecting drug users (IDUs) (da Cruz et al., 2007, p. 57). El-Sadr et al. (2010) have argued that it is now evident that among men who have sex with men, the use of drugs such as crystal methamphetamine has contributed to the risky behavior and the acquisition of HIV. The authors also pointed out that “other dis-inhibiting substances, including alcohol and cocaine, are also associated with increased risk taking in the most vulnerable segment of the United States population” (p. 967).

Risky behavior is only one piece of the puzzle contributing to the proliferation of HIV/AIDS among the U.S. prison population. There are also structural factors that should be taken into consideration when assessing the HIV/AIDS pandemic since this deadly pandemic disproportionately affects racial and ethnic minority populations in the U.S. (Cargill & Stone, 2005). Given the economic inequality in the U.S. between the “haves” and “have-nots,” access to health care is a problem contributing to the spread of HIV/AIDS, especially among the poor and destitute. For many inmates, going to prison becomes their first and perhaps only chance of receiving medical treatment since inmates are the only segment of the U.S. population with a constitutional right to adequate medical care.

Several scholars (Blankenship et al., 2005; Cargill & Stone, 2005; da Cruz et al., 2007; El-Sadr et al., 2010; Gaiter & Doll, 1996; Hughes, 2007) have argued that poverty, unequal access to health care, racism, substance and alcohol abuse, limited infrastructure and capacity, stigmatization, social apathy, homophobia, community disintegration, homelessness, and belonging to a certain ethnic or minority group is a death sentence when accompanied with being HIV/AIDS positive. For example, there is increasing evidence that poverty plays an enormous role in the HIV/AIDS pandemic since there is a correlation between belonging to a low socio-economic status and HIV/AIDS (Diaz, Chu, & Buehler, 1994). As Hughes (2007) points out, “poverty’s role in HIV is not limited to facilitating viral transmission; HIV/AIDS also impoverishes affected individuals, communities, countries, and continents” (p. 4). Hughes further argues that, “poverty disproportionately affects women, children, the elderly, racial and ethnic communities that have experienced marginalization and racism, refugees, persons with HIV/AIDS, and others who are physically or mentally ill” (p. 4). As da Cruz et al. (2007) pointed out, HIV/AIDS intensifies the feminization of poverty, particularly in hard-hit countries, where women are disempowered and have few options in the labor market. When their husbands/partners die from HIV/AIDS or complications from the disease, many females fall into the poverty trap. Therefore, anytime poverty increases among females, so, too, does the rate of HIV/AIDS infection among the population.

**HIV/AIDS and the Law: Protecting the Unprotected**

Corrections administrators and staff have the responsibility to ensure the safety of inmates as well as the safety of the general population from threats posed by those who are incarcerated. This responsibility results in the inmates’ legal right to a minimal standard of care while incarcerated (Hanser, Rush, Mire, & Kuanliang, 2007). Hanser et al. (2007) remind us that once an inmate is infected with HIV/AIDS, a serious risk of spreading the virus to the rest of the inmate population, correctional staff, and the larger community is present. The Corrections Officers Health & Safety Act of 2008 (18 USC § 4014) reinforces the concern for the risk posed to corrections officers when dealing with HIV-infected inmates. This law requires HIV testing if a corrections officer or staff member has been exposed to the virus
by an inmate. The difficulty in responding to the health threat is the competing requirement of corrections administrators and staff to respect the privacy rights of the infected inmate. Hence, a balance between the two interests must occur. The test to determine the appropriate balance has been established by the legal system.

Section 1983 of Title 42 of the U.S. Code establishes civil liability for correctional administrators and staff for the deprivation of an inmate’s constitutional right such as reasonable medical care in addition to protection from brutality, sanitary living facilities, and adequate food. Corrections officials are legally obligated to provide at least minimal care to inmates in their facility. Prison inmates would only be successful in a civil lawsuit against corrections officials if they can prove the constitutional violation under the Eighth Amendment that the corrections officials were “deliberately indifferent” to the serious medical needs of the inmate (Estelle v. Gamble, 1976). The Court in Taylor v. Barnett (2000) explained that deliberate indifference is established when the medical staff at the prison knew of the serious medical need of the inmate and intentionally disregarded that need, constituting cruel and unusual punishment under the Eighth Amendment. For example, in Maynard v. New Jersey, an inmate died while in custody suffering from health issues indicative of HIV/AIDS and was only provided acetaminophen and throat lozenges as medical treatment. The correctional facility was found liable due in part from the repeated requests for HIV/AIDS testing and the treatment provided being inadequate to address the serious nature of the symptoms (Taylor v. Barnett, 2000). However, generally, if prison administrators and staff demonstrate that they followed correctional policy and/or made reasonable efforts to provide access to medical attention, they will not be found liable by the courts (Hanser et al., 2007).

Two areas in which correctional administrators and staff are more likely to be held civilly liable under 42 USC § 1983 is (1) testing for HIV/AIDS and (2) the inmate’s right of confidentiality of the medical diagnosis. Pope (2009) reports that due to the prevalence of HIV/AIDS in U.S. prisons, which is three to five times higher than within the general public, and the 2006 HIV/AIDS testing guidelines by the Centers for Disease Control, a majority of correctional facilities perform either voluntary or mandatory HIV tests on inmate entry into or prior to release from the correctional facility. Twenty-four states require mandatory testing which implicates the inmate’s right to autonomous medical decisions (Pope, 2009). The inmate’s privacy becomes an issue after either voluntary or mandatory testing has occurred. The question becomes whether to keep the HIV-infected inmate’s status confidential.

The argument that the dissemination of an inmate’s HIV infection status is a protected privacy right is drawn from the implied right of privacy from the seminal case of Griswold v. Connecticut (1965). Zuck (2007) advocates that the inmate’s right to privacy is unjustly denied due to the resulting stigmatization and loss of dignity that tends to follow the inmate’s HIV diagnosis. The stigmatization results from the informal practice of corrections officials leaking the inmate’s infection status to other inmates. However, the Court has not found an absolute right of privacy as it pertains to inmates. In fact, the U.S. Supreme Court has consistently distinguished the rights of the general population from the lesser rights of the incarcerated. A case in point is Whalen v. Roe (1977) wherein the Court decided that in regards to the right of privacy, personal information could be released when it benefits a reasonable state interest such as health and safety. According to Hanser et al. (2007), identification of inmates who are HIV positive is in line with public safety principles to ensure that the infected inmate is not engaging in the risky behaviors that led to their infection as well as spreading the disease to other inmates.

Hanser et al. (2007) argue that the courts “have adopted a narrow stance in the interpretation of inmate rights in general and
associated safeguards with HIV/AIDS in particular” (p. 11) since courts have adopted the rational basis test to analyze the deprivation of the right. Hence, in cases in which the inmate seeks to avoid HIV/AIDS testing or demands privacy in the diagnosis of HIV/AIDS, for example, the court would justify denying the inmate’s right if the deprivation is reasonably related to a legitimate penological interest (Turner v. Safley, 1987). The passage of the Stop AIDS in Prison Act (HR 1429) in the House of Representatives illustrates the attention the federal government has devoted to this critical issue in our prisons. While the Senate has not approved this Act and it is therefore not law, it would provide for testing as part of routine health screenings and allow testing upon inmate request. Unfortunately, it also permits voluntary opting-out of the testing by any inmate regardless of their risk factors or length of sentence.

There are a number of policy implications in housing HIV positive inmates, including whether to segregate or isolate HIV positive inmates, educating the inmate on an HIV diagnosis, and post-release treatment. Most state correctional facilities will only segregate inmates when it is medically necessary, such as when the inmate poses a high risk of transmitting HIV to other inmates, while other states specifically prohibit the isolation of HIV positive inmates (Pope, 2009). Pope (2009) explains that most inmates are provided information on HIV upon being admitted to prison, in part to encourage the inmate to opt for testing in those optional testing states. Policy providing treatment to HIV-infected inmates when released is lacking. Typically, if an inmate is known to be infected with the HIV virus, he is released with a 30-day supply of medication, a medical referral, and counseling. Jordan (2006) compares the U.S. to other countries like Canada and boldly states that the U.S. either “ignores or do[es] not care about the spread of HIV within prison walls” (p. 324) or about the community since many of the inmates cycle back out after serving their sentence. Larsen (2008) agrees by noting that it is appalling that the U.S., the country with the largest prison population, is “one of only four [countries] that did not have a national policy for HIV management in prison” (p. 261).

In evaluating the practices the U.S. has adopted in treating HIV-infected inmates and the extent to which corrections administrators and officers are held accountable, it is likely we will see new constitutional challenges by inmates. Instead of using the Eighth Amendment as the basis of a §1983 claim for mandatory HIV testing or loss of privacy, we will more aptly witness inmates arguing that they suffer from cruel and unusual punishment from the failed prevention of HIV infection in prison—particularly in light of the testing policies and liability that can attach to knowing who is infected and leaving those infected individuals in the general prison population (Jordan, 2006). Jordan (2006) and Larsen (2008) demonstrate that there are proven ways of dramatically reducing the risk of exposure to HIV. For example, Canada, along with 23 other countries, discretely provides condoms to inmates; bleach to sterilize needles between drug users; and professional tattoos artists, with inmates paying $5 per session. The holistic approach is a concession that illegal behavior does occur behind prison doors and demonstrates a true preference for the health and safety of inmates. Without similar methods implemented in U.S. prisons, a criminal sentence could likely be a death sentence.

**U.S. Challenges Facing the Pandemic of HIV/AIDS**

HIV/AIDS among the U.S. prison population is a fact that can no longer be ignored by healthcare practitioners, correctional officials, and the government. As the President’s National HIV/AIDS Strategy for the United States (2010) has pointed out, the U.S. spends more than $19 billion in annual funding for domestic HIV prevention, care, and research, and there are constraints on the magnitude of any potential new investments in the federal budget. Although $19 billion may seem like a huge amount of money to be investing in HIV/AIDS given the country’s current...
budget constraints and uncertain economic future, government non-intervention could be even more costly to taxpayers and the overall future of the U.S. as a superpower. Again, the National HIV/AIDS Strategy for the United States (2010) is instructive in the consequences of non-intervention. According to the President’s plan, allowing the number of new infections to rise or remain the same imposes costs on the country because the lifetime cost of treating HIV is estimated to be approximately $355,000 per person or between $3,000 and $7,000 monthly. So what must the U.S. do to fight this deadly pandemic of the 21st century? The President’s National HIV/AIDS Strategy for the United States (2010) as well as a number of scholars (Arriola, 2006; Blankenship et al., 2005; Cargill & Stone, 2005; da Cruz et al., 2007) have recommended the following:

- Like the Americans with Disability Act, the Fair Housing Act, and the Rehabilitation Act, the U.S. must establish an environment where people will feel safe in getting tested and seeking treatment.

- A reform of drug policy must include a major HIV/AIDS prevention intervention since U.S. drug policy has been associated with an increase in incarceration since the beginning of the War on Drugs campaign.

- The U.S. must institute HIV/AIDS prevention education within the prison system, ranging from, but not limited to, HIV counseling and testing, and comprehensive treatment and care.

- The U.S. must implement a harm reduction HIV/AIDS strategic policy. Although controversial with correctional officials, this type of policy would include a distribution of condoms to inmates as well as bleach availability, provision of sterile needles, and injection equipment (Arriola, 2006). Despite their denial, correctional officials must recognize that sex takes place within the prison’s walls despite its prohibition.

- The U.S. must establish in its National HIV/AIDS Strategy for the United States an intervention aimed at easing the burden of reentry (Blankenship et al., 2005). HIV/AIDS prisoners once released into the general population must be counseled and provided with adequate employment or housing programs in order to prevent those individuals from engaging in the same risk behaviors which landed them in prison. As McBride and Inciardi (1990) have pointed out, “within the confines of the prison the infected prisoner is likely to suffer from harassment and psychological pressures. Beyond the prison’s walls the person suffering from AIDS is often the subject of discrimination” (p. 495).

- The U.S. must intensify its HIV/AIDS educational program measurements toward the general population. In spite of the fact that the U.S. spends more than $19 billion in annual funding for domestic HIV prevention, care, and research, a number of Americans continue to be ignorant regarding how HIV/AIDS is transmitted.

Conclusion
The HIV/AIDS pandemic and its devastating social consequences can no longer be ignored by academicians, policymakers, healthcare professionals, prison administrators, nor pundits. As has been shown herein, HIV/AIDS disproportionately impacts minority groups and the poor. Minority groups and the poor are segments of the population already forgotten in the political process and in the allocation of scarce resources by those in power. Therefore, being a member of these populations with HIV/AIDS is tantamount to a death sentence. According to Barnett and Whiteside (2002), over the years, a few academicians and policymakers have debated whether HIV/AIDS has social and economic impacts and what those impacts might be. Yet, they continue to deny that the epidemic of HIV/AIDS affects not only the health of the individuals but also the welfare and well-being of households, communities, and society as a whole.
If the United States is serious about combatting HIV/AIDS in prison, it can no longer ignore its social, economic, and political impact. And, if “the United States will become a place where new HIV infections are rare and when they do occur, every person, regardless of age, gender, race/ethnicity, sexual orientation, gender identity, or socio-economic circumstances will have unfettered access to high quality, life-extending care, free from stigma and discrimination,” those incarcerated can no longer be ignored.

In conclusion, HIV/AIDS among inmates remains a hidden and politically taboo topic, but it is one that has crucial implications for the course of the HIV epidemic and for the larger public health system (Hammett, 2006). Preventing HIV transmission inside prison is a correctional health issue and a public health concern (Krebs, 2006).

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Perpetrators of Child Abuse: Conceptualizing Culture as a Way of Assisting Intervention

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Introduction

Child abuse is any type of mistreatment of a child, and it can be in an emotional, physical, sexual, or neglectful form. It is considered a complex and serious public health issue and, according to numerous experts, child maltreatment is associated with symptoms of psychopathology and health problems (Boxer & Terranova, 2008; Hahm, Lee, Ozonoff, & Wert, 2010; Mersky & Reynolds, 2007). The Child Abuse Prevention Treatment Act (CAPTA) of 2007 defined child abuse as “any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, exploitation, or an act or failure to act which presents an imminent risk of serious harm.” There has not been much controversy on what constitutes child abuse in regards to the legal statute; the controversy involves the quandary of what is accepted as child abuse among different ethnic groups and cultures. This article will highlight the issue of culture, and it will address and analyze its influence as it relates to perpetrators of child abuse.

Defining Culture

Brislin (1990) offered that a culture could be identified or recognized when the following could be specified: (1) aspects of a way of life made by a group of people, (2) ideas transmitted from generation to generation, (3) group-related childhood experiences resulting in internalized values, (4) group practices for socializing children into adulthood, (5) consistent group-related patterns of behaviors or ways of conceptualizing events, (6) cultural patterns that are maintained despite mistakes and oversights in the system that generates them, and (7) a feeling of helplessness and bewilderment among group members that results when cultural patterns are changed (pp. 9-33).

As a way to demonstrate the complexity of defining culture, Hofstede (1980) identified several dimensions by which cultures could be differentiated. The primary dimensions are as follows:

- **Individualistic** – Culture favors self-definition based on gratification of the individual’s personal needs and desires.
- **Collectivistic** – Cultures value survival and maintenance of the group over enhancement or fulfillment of the individual. Therefore, a person’s own behavior is governed by what is best for the group rather than what is best for that person.

If the offerings of Hofstede (1980) were to be considered, it would be understood that a person’s actions or behaviors can be governed and/or regulated by the quest for personal fulfillment and self-interest at the expense of group advancement or both. This understanding goes a long way to explain how a person could commit an act that is totally foreign to
his or her group. This explanation also brings into focus the importance of commitment to oneself or the broader society. A weak attachment toward society would likely yield a stronger propensity for a person to satisfy his or her own desires and wishes. This could be paramount in understanding why individuals get involved in child abuse.

Hirschi (1969) offered that four social bonds promote socialization and conformity: (1) attachment, (2) commitment, (3) involvement, and (4) belief. The stronger these bonds, he claimed, the less likelihood there would be for criminal deviance. Again, this would suggest that the more grounded one is in conventional activities, the less likely the individual is to commit an act which violates what is considered appropriate/ethical behavior.

Before the authors indulge you in more specifics regarding the occurrence of child abuse and the prevalence of perpetrators, an overview should be presented of national statistics as they relate to child abuse in the United States.

The Prevalence of Child Abuse

The U.S. Department of Health and Human Services (2008) reported that there were 772,000 perpetrators of child abuse and neglect reported for all of 2008. The department offered that those numbers have remained somewhat consistent over the past several years. As a way to give an accurate account of the prevalence of abuse and neglect, it is important to note that in the reporting process, a perpetrator is counted once for each child in each report, meaning that a perpetrator may be counted multiple times if he or she abused/maltreated more than one child. Caution needs to be used when looking at the total number of perpetrators as to not give an inaccurate or skewed accounting of the actual number of perpetrators based on the overall figure given for abused and neglected victims.

The National Child Abuse and Neglect Data System (NCANDS) (National Data Archive on Child Abuse and Neglect [NDACAN], 2010) reported the following profile of perpetrators: (1) 80.1% of the perpetrators were parents of the victim(s), (2) 61.1% of perpetrators were found to have neglected children, (3) 56.2% of the perpetrators were women, (4) 42.6% of the perpetrators were men, (5) 1.1% of the perpetrators were of unknown sex, (6) 45.3% of the female perpetrators were younger than 30 years of age, and (7) 35.2% of the men were under 30 years of age.

NCANDS (NDACAN, 2010) reported that, in general, the racial distribution of perpetrators was similar to the race of their victims. In 2008, 47.8% of perpetrators were Anglo American, 19.6% were African American, and 19.5% were Hispanic. This trend seems to be pretty consistent as the numbers for 2007 were 48.5%, 19%, and 19.8%, respectively, as reported by the U.S. Department of Health and Human Services (2009, p. 69).

Perpetrator Risk Factors and Predictors

There is no single known cause of child maltreatment. Child maltreatment occurs across socioeconomic, religious, cultural, racial, and ethnic groups. According to Goldman, Kennedy, Salus, and Wolcott (2003), research has recognized a number of risk factors or attributes commonly associated with maltreatment. Families with these risk factors have a higher probability of being abused. The authors state that just because these factors may exist in a household does not mean the parents will abuse or neglect their children, and it should be noted most people residing in poverty do not harm their children.

The following risk factors and predictors are prevalent in the cultures outlined herein. Please note: There is currently a significant gap in research in regard to perpetrator risk factors and predictors within the Latino community compared to the Anglo- and African-American communities.

- Environment/Community—Children residing in neighborhoods where violence is a daily...
occurrence are found to be at greater risk for child abuse and neglect. Children who witness violence excessively may begin to think that it is an acceptable response when they become angry or have a disagreement with someone.

- **Economic Stressors** – There is a strong association between economic stressors and child maltreatment. A perpetrator’s income is related to whether or not they would commit child abuse.

- **Substance Abuse** – There is a correlation between substance abuse and child maltreatment. It often co-occurs with other problems such as mental illness, HIV/AIDS, domestic violence, poverty, and prior child maltreatment. The use of drugs and alcohol can interfere with a parent’s judgment, which can cause neglect.

- **Family Structure** – Children living with single parents may be at higher risk of experiencing physical abuse, sexual abuse, and neglect than children residing in two-parent homes.

- **Dysfunctional Childhood** – There is a significant relationship between a person’s childhood and their parenting style. Research varies in regards to this subject, but the literature supports the fact that children who are abused may be residing with a parent and or guardian who was the victim of abuse. (Child Welfare Information Gateway, 2003; Straus & Smith, 1990)

### African Americans

#### African Americans and Child Abuse

In order to capture the essence of what it means to be African American/Black in America, the U.S. Census Bureau (2008) reported the following statistics: (1) Black residents made up 13.5% of the U.S. population; (2) 24.7% of Blacks lived in poverty; (3) 19.1% of Blacks lacked health insurance; (4) 56% of the households were unmarried; and (5) 1.2 million grandparents lived with their own grandchildren younger than 18 and, of this number, 50% were also responsible for their care. (One point to keep in mind when considering the data is that when the Census Bureau reported the data, the estimates for Blacks, including African Americans, refer to the population that is either single-race Black or Black in combination with one or more other races.)

To help show how the above figures could factor into child abuse, NCANDS (NDACAN, 2010) made the following assertions about African Americans: (1) the racial distribution of perpetrators was similar to the race of their victims, (2) unmarried partners of parents accounted for 4.4% of the reported cases, and (3) other relatives accounted for 6.5% of the reported cases (including extended family members living in the home).

#### African-American Culture

The far-reaching challenges facing many African-American families continue to puzzle counselors, social workers, educators, policymakers, clergy, and other professionals. These challenges include factors such as economic stressors, the perceived or actual lack of social support, problems in the neighborhood (e.g., poverty, unemployment, high rate of illegitimacy, drugs, crime, and dysfunctional family dynamics such as spousal abuse or fighting among family adults and other family members, and child rearing practices). Several of these contentions have been supported in the literature. Morrison and Hines (2004) asserted that a lack of resources within a community can trigger abuse. Hampton (1987) tied perpetrators’ income toward the propensity to abuse. Garbarino and Kostelny (1992) offered that perpetrators shared common characteristics such as residing in poverty, lacking employment, and failing to graduate high school. The research states that “parents who were abused as children are more likely than other parents to abuse their own children. Lack of parenting skills, unrealistic expectations about a child’s capabilities, ignorance of ways to manage a
child’s behavior and of normal child development may also contribute to child abuse” (Gerdes, 2003, p. 459). Although many of these challenges may be found in nonminority ethnic communities, the interpretation and analysis of the constructs are often based on the perception and gauge of the dominant culture. This risky approach was highlighted years ago by Ridley (1995) who found that it was imperative for traditionally trained counselors (those trained to work with the majority population) to recognize their own biases or they would impose their own values on the minority client. Garretson (1993) asserted that until clinicians became more knowledgeable about African-American culture, the long history of misdiagnosing African-American clients would continue. It is reasonable to assume that this cultural awareness would be important for effective services for all groups that might be serviced in the helping profession(s). Smith (1977) contended that until professionals overcome stereotypical assumptions of African Americans, they would continue to fail in providing effective and meaningful services to African-American clients.

**Child Maltreatment**

There is substantial evidence linking child maltreatment in African-American communities to stressors on every level. These stressors are directly related to an ongoing history of racism and discrimination that burden African-American families who have a high level of poverty, unemployment, anger, and despair (Morrison & Hines, 2004). There is evidence that the above risk factors can be linked to harsh discipline and child abuse in the African-American community.

According to Morrison and Hines (2004), a major problem in estimating the rate of child maltreatment within the African-American community is the extent to which there are differential reporting tendencies based on race—that is, the extent to which the label of abuse is given to persons of color but not to Anglo-American families. A reporting bias based on race and SES may be especially pronounced among physicians. In one vignette study, physicians judged the situation on three variables: (1) social class, (2) ethnicity, and (3) level of injury (Nalepka, O’Toole, & Turbett, 1981). Frequently, young, female Anglo-American social workers are responsible for investigating child maltreatment in cultures with which they are unfamiliar. This often affects their judgment on whether the home is safe for the child. Stereotypes and prejudices by Anglo-American social workers are regularly used to justify the “rescue” of children from environments they judge as unwholesome (Weinberg, 2006).

**Case Example**

**Doris and the Emergency Room**

Doris, a single, African-American parent, begins her day like most parents in the United States; she prepares her children for school, she gets ready to tackle another eight-hour day at work, and, while doing so, she also thinks about what to cook for dinner and who has extracurricular activities that they must attend. One particular day at work her supervisor approaches her at 11:30 AM and asks if she can work overtime. She states, “Let me see if I can get a babysitter.” In her mind, this will not be a problem. She is certain Mildred, her sister, who just moved to the area, would be more than happy to assist her. So she calls Mildred and tells her how much she could use the extra money; Mildred agrees to watch the children. Doris states, “I will be home by 9:00 PM; I did not take out anything for dinner. If you purchase McDonald’s (her children love McDonald’s) for the children, I will reimburse you when I get home.” Doris thanks her sister and tells her how glad she is that she moved closer to them; they will be a great support system for each other, and she knows her children will be safe with family. Doris thinks of that old saying “If you can’t trust family, who can you trust.” Doris calls her supervisor and confirms the overtime.
As promised, Doris arrives home at 9:00 PM. Her children have been fed, homework completed, and they are asleep. She takes a deep breath and thanks God for her sister. Doris and Mildred chat for a few minutes, and then Mildred goes home. Doris decides she better straighten up the front room before going to bed. While cleaning up, she hears her daughter crying. She enters her room and asks what’s wrong. Her daughter states, “Aunt Mildred whipped me.” Doris pulls back the cover to check out her daughter, and finds her daughter’s legs and back are bleeding. She asked, “What did she hit you with?” Her daughter replied, “An extension cord.” The bleeding scares Doris, and she decides to take her to the emergency room. Upon entering the emergency room, Doris takes a quick observation of the staff; they are all White. She takes a deep breath (taking deep breaths keeps her calm) to prepare herself for a whole lot of unnecessary questions. She just hopes they don’t call Child Protective Services (CPS). When called back to the examination room, she explains what happened. They also ask her daughter. Their stories are the same. Medical treatment is administered. While waiting to be released, Patricia, a White counselor, comes to speak to Doris. Immediately Doris notices the counselor is very young, and she is talking down to her. Doris takes another deep breath, focuses her mind on the counselor’s questions, and answers them respectfully. Doris knows that if this questioning does not go well, CPS will be called and a removal could occur. Doris is extremely upset with her sister and realizes that her anger could be displaced on the counselor. If that happens, a removal is sure to occur. After answering all the questions, Patricia is satisfied that Doris did not injure her daughter but states, “I don’t think you exercised good judgment when you asked your sister to babysit. She abused your daughter, and I don’t understand why you choose to work overtime. Your children must not be important to you if you put work first.” Doris explains she needed the extra money. Her son’s birthday is next month, and she wanted to give him a “real” birthday party, maybe at Chuck E Cheese. She also stated she thought the children were safe with her sister; nothing like this had ever happened before. Patricia stated, “I understand, but due to your lack of good judgment, I’m mandated to contact CPS. I have already phoned them, and they should be here shortly. If you leave without speaking to them, you will be in trouble. You know that, don’t you?” Out of fear, Doris does not comment because she knows Patricia does not understand the African-American culture or how tough it is for African-American families to “make ends meet” and how family is her only support system. Supportive social networks may be particularly important to young and/or single working mothers in Black communities (Morrison & Hines, 2004) As a result of these factors, many communities of color view child welfare agencies as a threat to their families’ well-being rather than a support.

Doris knows she is a responsible, nurturing parent, and she hopes the CPS worker is a person of color. She feels that that would be her only chance of leaving the hospital with her daughter. A counselor outside of one’s culture and/or ethnic group may overgeneralize on certain situations and start to form biased opinions that may not be real (Morrison & Hines, 2004). According to Rolock and Testa (2002), African-American children are reported to CPS at three times the rate of White children. Medical personnel have a higher rate of reporting African Americans than Whites. African Americans were viewed as irresponsible and with more suspicion than their counterparts. This could easily cause inflation in the number of African-American
perpetrators reported and investigated even if the injury was a legitimate accident.

When Alice, the CPS worker arrives, Doris was relieved that she was a person of color. To Doris, she looked mixed. Doris really did not care; she was just glad she was not White. Doris repeated her story as did her daughter. Alice confirmed the report she was given, and then asked for Doris’s sister’s telephone number. Doris asked Alice if she was going to remove her baby. She told her how scared she was and that she was glad she was not White because two of her friends who had brought their children to the same emergency room had their children removed from their home, and they had not done anything. Alice thanked her for cooperating, assured her that her daughter was going home with her, and then told her some interesting statistics regarding child abuse. She stated “Doris, believe it or not, in the United States, 54% of child abuse victims are White and 26% of child abuse victims are African American (Morrison & Hines, 2004), and that, yes, sometimes the system is not fair, in particularly to those of low socioeconomic status, but to rest assured, people who abuse children come from all different backgrounds.”

Anglo Americans

Anglo Americans and Child Abuse

Anglo Americans make up 79.8% of people residing in the United States, and in 2000, 50.6% were victims of child abuse and neglect. They are considered the majority population group. The majority of the research which has been conducted on this topic has been performed on Anglo Americans.

Anglo-American Culture

In the U.S., Anglo American is often used interchangeably with Caucasian American and White American. According to the 2000 Census, most Anglo Americans have origins in Europe, the Middle East, and North Africa. Sociologist Steven Seidman (2004), a scholar in the area of Anglo Americans, states, “White culture constitutes the general cultural mainstream, causing non-White culture to be viewed as deviant, in either a positive or negative manner. Moreover Whites tend to be in powerful positions, controlling almost all of political, economic, and cultural institutions” (p. 327). Seidman reports that most Anglo-American people are unaware of their privilege and the manner in which their race/culture dominates the U.S. Therefore, they do not feel the need to identify as members of a specific racial group because they view their culture as one everyone should identify with and embrace.

Anglo Americans have the second largest median household income and personal income levels in the nation. Anglo-American males have the highest incomes. They also excel educationally—one-third have a Bachelor’s degree. Finally, the poverty rates are the second-lowest with 10.8% individuals living below the poverty line. Due to the following statistics, some Anglo Americans do not view their population as having abuse or neglect issues.

Child Maltreatment

Families within the U.S., including Anglo-American families, are imbedded in a macro culture in which violence is a pervasive and acceptable means of behavior. According to the U.S. Census Bureau (2000), Anglo Americans account for 79% of the population, and 50.6% of Anglo-American children were victims of child abuse and neglect. In a 1999 national longitudinal survey of youth, 59.5% of Anglo-American parents spanked their children; and in 2002, 34% of child abuse cases in California were of Anglo-American children.

In 1996, Sedlak and Broadhurst examined National Incidence Studies (NIS) and found no significant differences in overall incidence of child maltreatment between African Americans and Anglo Americans when
taking into account overall representation in the general society. Sedlak and Schultz (2001) examined the third wave of this same NIS and found that when various risk factors were controlled, child maltreatment rates were found to be significantly higher among Anglo Americans than African Americans. Results such as this dispel any biological predisposition assumption(s) that may suggest that African Americans are inherently more violent or less caring than their counterparts in society. To be fair to the discussion, a number of other studies have found higher rates of child maltreatment among African Americans than Anglo Americans (Lauderdale, Valiunas, & Anderson, 1980; Spearly & Lauderdale, 1983).

Latinos

Latinos and Child Abuse

Since researchers do not differentiate among ethnic or cultural groups, the term Latino will be used to refer to people under the broad cultural term Hispanic. Research on child sexual abuse over the past decade has paid little attention to Latinos. Many researchers fail to include Latinos or do not report the ethnicity of their sample (Hornberger, Rosenthal, Biro, & Stanberry, 1995). Only a handful have attempted to document the prevalence and circumstances of childhood sexual abuse and even fewer have examined the characteristics of the perpetrator (Lindholm & Wiley, 1986; Mennen, 1994; Russell, 1986; Stein, Golding, Siegal, Burnam, & Sorenson, 1988). Consequently, because of the paucity of research, scholars have not established consensus about the prevalence and circumstances of the person who commits the abuse. Failure to systematically investigate the prevalence of child abuse among Latinos, and the nature of its circumstances, including the relationship to the alleged perpetrator, foretells adequate responses from public health and social service agencies in effectively addressing the issue (Romero, Wyatt, Loeb, Carmona, & Solis, 1999).

Latino Culture

Latinos come from various countries that make up Central and South America and from islands such as Cuba and Puerto Rico. Latino families have been in the United States for generations, and others are continuing to arrive (Morrison & Hines, 2004). Currently, Hispanics are the largest minority group in the U.S. with 15% of the population (U.S. Census Bureau, 2007). They are a population which people are just beginning to study and thoroughly understand.

In order to understand Latinos, it is important to become familiar with their values and thoughts regarding the family unit. The Latino community has numerous values such as familism, machismo, and marianismo. Familism or Familismo, which may be the strongest value, refers to attitudes, beliefs, behaviors, and family structure operating within an extended family system and is believed to be the most important factor influencing the lives of Latinos. Identification with the family is so strong that this unit is their source of self-esteem, self-confidence, pride, and strength. Family needs override the wants and needs of individuals; family is where they find their strength and emotional support. Extended family and friends are also very important in the Latino community; godparents or close friends become honorary family members (Coohey, 2000; Fontes, Cruz, & Tabachnick, 2001; Morrison & Hines, 2004).

Machismo has both negative and positive connotations (Morrison & Hines, 2004). In the positive sense, it denotes the man as head of the household for an entire extended family, and it encompasses the nurturing, caring, and protective role that is necessary to be effective within the family unit (Mayo, 1977). The negative side of machismo is a sexually hot-blooded womanizer, who is drunken and harsh with children (Mayo, 1977). Numerous men who subscribe to this stereotype have problems within their family unit (Perilla, 1999). They may feel like they can do whatever they wish to their wives sexually without any resistance.
**Marianismo** is the female counterpart of machismo. It states that females emulate the Virgin Mary’s moral integrity and spiritual strength (Comas-Diaz, 1995; Morrison & Hines, 2004). This term connotes that women are spiritually superior to men and are capable of handling all suffering by men; therefore, a wife should tolerate her husband’s bad habits, no matter what or how deep they be (Campbell, Masaki, & Torres, 1997). Young Latinos are often taught that husbands have the right to physically discipline and make demands on wives and still have unquestioning loyalty. The bigger problem related to marianismo is the culture’s beliefs about girls who have been sexually abused being no longer pure. Therefore, many do not disclose sexual abuse in their families, even to their mothers, because they are afraid they will not receive the emotional support they need.

**Child Maltreatment**

Latino children are at a higher risk for sexual abuse than other children from other races (Doll et al., 1992; Kercher & McShane, 1984). The average age of abuse for Latino girls is between 9.23 and 11 years old. The majority of abuse appeared to occur in private by males whom the victim knew. A study by Romero et al. (1999) examined the prevalence and circumstances of child sexual abuse in a population of 300 Latino women, ranging in age, education, level of acculturation, citizenship, and marital status. The study results showed that 48% were victimized by family members: 96% males and 4% females. Sixty-eight percent did not disclose their abuse to anyone and stated the following five reasons for nondisclosure: (1) 25% did not disclose because they did not want anyone to know about the incident, (2) 35% anticipated a negative response, (3) 31% stated they had no one to tell or they did not want to think about it, (4) 25% wanted to protect others, and (5) 8% reported that they forgot about the incident or could not remember what had happened. Latinos had a high rate of sexual abuse. Study respondents reported the long-lasting effects from the abuse such as problems with their own sexuality, difficulty with cognitive functioning when reminded of the abuse, difficulty forming close relationships, anger, embarrassment, shame, hurt, and sadness.

**Implications for Practice**

- In order to provide effective clinical services to perpetrators, their culture must be taken into consideration, and there must be a thorough understanding of risk factors and predictors.
- Agencies providing services to perpetrators should report the abuse to child protective services, and mental health services should be provided to the perpetrators as well as the victims.
- Group therapy is a proven effective form of treatment for perpetrators and should be mandated by the courts. (U.S. Department of Health and Human Services, 1994)

**Conclusion**

This article focused on the cultural characteristics of perpetrators who abuse children. The literature allowed for a cross-sectional examination of the prevalence of sexual abuse as well as the examination of social and cultural factors that could be considered risk factors for being sexually abused and for being a perpetrator of sexual abuse. The information in the article also discusses the importance of cultural competence for individuals who find themselves in helping professions providing therapeutic intervention(s) and who are enforcing the laws against child abuse. The research supported the authors’ assertion(s) that cultural incompetence can skew the statistics in regards to the actual number of abuse cases as well as hinder the intervention process for the victim and the perpetrator. The authors assert that cultural misinterpretation and misapplication is detrimental to the intervention process and that this anomalous discord must be arrested in order to provide accurate and effective intervention to all clients. The topics discussed herein can assist clinicians, teachers, law enforcement, and policymakers by helping them recognize...
and appreciate the unique challenges that are faced by individuals who represent the many cultures in society.

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Understanding Black Adolescent Male Violence: A Critical Issue

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Alarming Black Male Violence Statistics

According to Harms and Snyder (2004), the Federal Bureau of Investigation (FBI) puts out a *Supplementary Homicide Report* (SHR) on each murder that is reported from local law enforcement agencies. The following is a national estimate from the report on juveniles that were murdered:

Between 2005 and 2010, the murder rate for juveniles ages 15-17 for blacks was 15.6% compared to 11.8% for whites. These are very alarming numbers to be concerned about, especially [for] black youth.

<table>
<thead>
<tr>
<th>Ages 12-17</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
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<tbody>
<tr>
<td>White males</td>
<td>212</td>
<td>175</td>
<td>139</td>
</tr>
<tr>
<td>Black males</td>
<td>349</td>
<td>308</td>
<td>331</td>
</tr>
</tbody>
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*Source:* Puzzanchera, Chamberlin, & Kang (2012)

Errol Louis (2009), in his article “Growing Violence Among Young Black Males Demands Action Now,” cites a study conducted by James Allen Fox, a sociologist from Northeastern University. Fox’s study explored Black males and guns, stating that it is time to reinvest in prevention and crime control (p. 1).

The study highlighted some murder rate numbers for Black males that continue to be alarming. The murder rate for Black male youth from 2002 to 2007 rose by 31%, and the number for male perpetrators of murder jumped 43%. The study found this trend to be true and consistent across every region of the country (Louis, 2009, p. 1).

Mr. Fox cited the City of New York from 2009 as an example, stating “148 souls between the ages 16-24 were murdered; 94 of them—about two-thirds—were black. Only eight, about 5% were white” (Louis, 2009, p. 1).

Steven Levitt, an economist at the University of Chicago, noted “that the increase in young black murder victims was accompanied by a bump in the overall population of black kids” (Louis, 2009, p. 1).

According to the National Adolescent Health Information Center’s (2007) Fact Sheet on Violence, “In 2004, 5,292 adolescent and young adults’ ages 10-24 were victims of homicide, resulting in a homicide rate of 8.4 per 100,000. Homicide accounted for 14.2% of all deaths for adolescents and young adults, making it the second leading cause of death for this age group after motor vehicle accidents” (p. 1).

This article seeks to understand Black adolescent male violence; however, the author is not blinded by the true overall concern of youth violence. The question of why violence continues to be the topic of concern in Black communities has always been an issue that some feel has not truly been addressed by our government. As a result, this article will attempt to discuss socialization and the role of unfavorable ethnic socialization or negative Black male stereotypes along with what we call culturally responsive outcome as a factor in Black adolescent male violence. Some questions to consider are as follow: Are Black males frustrated by restrictions placed on their masculine possibilities?, Is our training for positive
manhood inadequate or nonexistent?, Are Black males confused about what it means to be a man in today’s society?, and Have Black males, under oppression, accepted an incomplete, distorted, self-defying, self-destructive definition and expression of masculinity?

**What Is an Afrocentric Perspective?**

According to Asante (1988), Afrocentricity is the true sense of destiny based upon the facts of history and experience. Dr. Asante further points out that the psychology of the African without Afrocentricity has become a matter of great concern because instead of looking out from one’s own center, the non-Afrocentric person operates in a manner that is negatively predictable. This point begins to explore what we also call unfavorable ethnic socialization. According to Asante, if a person’s images, symbols, lifestyles, and manners are contradictory, they are destructive to personal and collective growth and development. So, as we begin to explore Black adolescent male violence, our suggestions would be to examine the issue concerning unfavorable ethnic socialization. According to Asante, if a person’s images, symbols, lifestyles, and manners are contradictory, they are destructive to personal and collective growth and development. So, as we begin to explore Black adolescent male violence, our suggestions would be to examine the issue concerning unfavorable ethnic socialization. According to Asante, if a person’s images, symbols, lifestyles, and manners are contradictory, they are destructive to personal and collective growth and development. So, as we begin to explore Black adolescent male violence, our suggestions would be to examine the issue concerning unfavorable ethnic socialization.

According to Baldwin (1992), the Afrocentric approach derives from the African worldview, while the non-Afrocentric approach derives from the European worldview, which further explains that non-Afrocentric theories begin with a negative energy assumption because they concentrate on describing and explaining the negative psychological impact of racism and/or racial oppression on African functioning. According to this line of thinking, when theory begins to explain Black adolescent male violence, the explanation is more often than not generated by a responsive position to external factors as opposed to Afrocentric theories and a position that concentrates on describing the natural and normal condition of African psychological functioning and behavior, independent of European domination or racism and racial oppression. As we move this explanation from a reactive position of explaining Black male violence to an Afrocentric perspective, we must suggest the natural and normal individual and collective cultural thrust for power. The normal quest for power is a self-defining position that takes place, and when African people naturally claim power, such as by defining reality for themselves, others react to the claim, and as a result, others attempt to oppress the quest for power. From an Afrocentric perspective, this quest for power is a thrust to define a people’s images, symbols, lifestyles, and manners. So what is true power? According to Nobles (1986), power is the ability to define reality and have others accept it as if it were their own. To further the advancement of power, the idea of reclaiming a culturally based perspective to define reality, such as understanding Black adolescent male violence, is needed. One way to define reality is to explore Black and African psychology. At this juncture, this is a question to consider: Have Black males, under oppression, accepted an incomplete, distorted, self-defying, self-destructive definition and expression of masculinity?

**Black Psychology**

According to Karenga (1993), in his book, *Introduction to Black Studies*, Black psychology has its origins in the 1920s when Francis Sumner became the first Black PhD in Psychology in 1920. Subsequently, Blacks began to publish research to disprove racists’ charges of Black inferiority, to push for stronger departments of psychology in Black schools, and to attempt to provide better psychological services to the Black community. This era in American history would highlight a continuous push to discuss socialization and the role of unfavorable ethnic socialization or negative Black male stereotypes along with what we call culturally responsive outcome as a factor in currently defining Black adolescent male violence. Also, this is an example of how the quest for power begins to take shape in terms of defining reality for oneself.

**African Psychology**

According to Baldwin (1992), in his book, *The African Personality in America*, in increasing numbers, African social scientists in so-called Western society have begun to recognize the
existence of fundamental differences in social realities between Africans and Europeans—that is, they have begun to recognize the distinct cultural and sociopolitical conditions of these two racial groups. The different social realities reflect their different racial-cultural histories and, ultimately, fundamental differences in their basic natures. These differences are also being recognized as reflecting their distinct approaches to the maintenance of their survival or their distinct survival thrusts. This insightful analysis seems to stand out based on new issues being brought to the forefront as a result of having the first Black Commander and Chief, which will be a discussion at another point. However, this issue of defining reality and having others accept it as if it were their own can further explain unfavorable ethnic socialization concerns and result in responsive outcomes that seem to be a natural retort for survival.

According to Anthropologist Marimba Ani (1994), the secret Europeans discovered early in their history is that culture carries rules for thinking, and that if you could impose your culture on your victim you could limit the creativity of their vision, destroying their ability to act with will and intent and in their own interest. So, if we were to explain responsive outcomes from unfavorable ethnic socialization we would have to entertain the idea that Black adolescent male violence depends partly on non-Afrocentric perceptions. According to Wade Nobles, in his book, *African Psychology*, he states “Western Psychology is due, in part, to the legacy of its basic assumptions and narrow perception of what it means to be human” (p. 2). Poussaint (1972, pp. 118-120), in his work *Black Rage*, points out that White academicians and/or theorists create self-serving theories about Black people.

Dr. Akbar, in his 1984 book, *Chains and Images of Psychological Slavery*, makes the argument that Clark, in his monumental piece published in 1972, argues that slavery, more than any other single event, shaped the mentality of the present African Americans.

According to Akbar (1984), the list of attitudes and reactions which we have inherited from slavery is probably quite extensive. In order to methodically understand the various dynamics of Black adolescent male violence, we propose an Afrocentric perspective. Also, as we discuss the relevance of African psychology, we also want to look at European psychology for the purpose of understanding Black male adolescent violence.

### European Psychology

Royce (1908), a Harvard University professor, asserted that the negro has so far shown none of the great powers of the Japanese. Let us then provisionally admit at this stage of our discussion that the negro is in his present backward state as a race for reasons which are not due merely to circumstances, but which are quite innate in his mental constitution.

Carl Guster Jung (1950), Freud’s star pupil, believed that certain psychological maladies found among Americans were due to the presence of Black people in America. Jung noted that “The cause for the American energetic sexual repression can be found in the specific American complex namely to living together with lower races, especially with Negroes” (p. 29). These are a few comments that demonstrate how the foundation of European psychology is problematic as a helping tool for Black adolescent males. According to Lemelle (1997), in his book *Black Male Deviance*, the problem with the social understanding of Black males in the United States is that the theories which inform our understanding of them are unrealistic and our goals are equally unrealistic. Further, Lemelle believes that the standard theories of Black male deviance obscure the historical reality of Black males being forced into criminality. Wilson (1992) asserts that, psychoanalytically speaking, criminality as a societal neurotic symptom does not necessarily affect all segments of society in the same way. He further states that for some there are gains, both primary and secondary, and for others losses. The criminal activities of one or more segments of a society
may be used by other segments to achieve identity, dominance, wealth, and prestige. We think this is worth examining because this exposes the possibility of benefits from criminality which translates to prisons for profit. According to Ward (2001), in his book, *Race and Juvenile Justice: The Positive School of Thought*, crime was believed to be a sickness that could be treated, and houses of refuge and other institutions were built in order to treat delinquent youth. Ward states that such facilities were open only to Whites until there developed a need for someone to perform the household duties. As a group, Black children were seen as undeveloped adults who could perform the menial task of adults but were incapable of thinking or acting as developed adults in society. Oshinsky (1996, as cited in Ward, 2001) explains that saving wayward Black youth was viewed as a waste of money because there was no use trying to reform them. In the 1960s, this system would be called into question in the Kent case of 1966 and the Gault case of 1967, as well as in several other cases. This attitude and societal depictions of Black males continue, in our opinion, to be a related causal factor in Black male adolescent violence. So, another question to consider is are Black males provoked by their oppressive circumstance into what we may call a *reactionary masculinity* (Wilson, 1992, p. 33).

**Disproportionate Minority Confinement of Black Youth**

According to Ward (2001), the study of disproportionate minority confinement (DMC) became a significant federal policy issue in 1988 when an amendment was made to the Juvenile Justice and Delinquency Prevention Act of 1974. DMC is defined as a situation in which

\[ \text{the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lock up . . . whose members are of minority groups . . . exceeds the proportion of such groups represented in the general population. (Devine, Coolbaugh, & Jenkins, 1998)} \]

According to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) (2002), a branch of the U.S. Department of Justice, an estimated 2.27 million juveniles (people under the age of 18) were arrested in 2001. As in adult arrest rates, minorities are disproportionately represented in juvenile arrests. While Black youths make up roughly 15% of the total juvenile population, of some 1.5 million juvenile arrests in 2001, 410,668 (26.4%) of those arrested were Black and 1.1 million (70.9%) were White. The overall rate of arrest for Black youths between 1980 and 2000 rose by 10%, compared to a rise of 6% for Whites and 2% for Native Americans during the same time period.

**Black Youth and Juvenile Justice Workers**

According to Frazier and Bishop’s (1995) interviews of justice officials, the differences experienced by Black youths once inside the juvenile justice system can be partially explained by race. Their research revealed that nearly two-thirds of the 31 juvenile judges, prosecutors, public defenders, and intake supervisors believed that race of youth influenced disposition once the individual was in the system.

**Overall Critical Questions to Consider**

To begin the process of understanding Black adolescent male violence, critical questions such as the following must be asked:

1. Are Black males frustrated by restrictions placed on their masculine possibilities?
2. Is our training for positive manhood inadequate or nonexistent?
3. Are Black males, confused about what it means to be a man in today’s society?
4. Have Black males, under oppression, accepted an incomplete, distorted, self-defying, self-destructive definition and expression of masculinity?
5. Do Black males feel they are successfully defying authority by expressing their independence and masculine prerogatives?
6. Are these independent and masculine prerogatives misled or misdirected into violently attacking and corrosively undermining the peace, stability, and the very viability of the African-American community?
7. Are Black males provoked by their oppressive circumstance into what we may call a reactionary masculinity?
8. Does the current system’s policies embrace, validate, and affirm African life, its cultural integrity, and authenticity?

Conclusion

The purpose of this paper was to explore an Afrocentric perspective for understanding Black adolescent male violence. To move prevention work forward, systems must legitimize and validate different cultural groups and provide a balance of funding and resources that normally are allocated toward correctional institutions for prevention programming. It is imperative that the juvenile justice system recognizes the importance of meeting the needs of youth from a variety of cultural backgrounds. It is also of paramount importance that prevention programs begin to acknowledge and help children cope with various issues, including discrimination, prejudice, and oppression, which translate to hopelessness.

Reference


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Countering Criminal Street Gangs:
Lessons from the Counterinsurgent Battlespace

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A Shared Culture of Criminal Behavior

Criminal street gang members are not insurgents, and street gangs are not insurgencies. Law enforcement agencies are not the military, and our cities are not legitimate battlefields. However, insurgent fighters operating in countries around the globe and domestic street gang members engaged in criminal behavior share more in common than we often care to openly admit. The most obvious similarities between the two groups can be described based upon what we overtly note:

- Ability to easily blend into the population, making initial detection and apprehension difficult
- Activities that hold the population they operate within “hostage”
- Furtherance of activities based upon population response, be that response supportive, coercion through fear or reprisal, or acquiescence
- Attempt to expand operations through recruitment of local population
- Operations executed under no legitimate “Rules of Engagement”—that is, open hostilities and use of force against any other person within the population

The similarities, however, extend much deeper than just the above surface treatment. According to the U.S. Army’s (2006) publication, *FM 3-24 Counterinsurgency*, an insurgency is “an organized, protracted politico-military struggle designed to weaken the control and legitimacy of an established government, occupying power, or other political authority while increasing insurgent control” (p. 1.1). The manual goes on to define counterinsurgency as “military, paramilitary, political, economic, psychological, and civic actions taken by a government to defeat insurgency” (p. 1.1). These definitions can easily be rephrased to apply to criminal street gang activity: “an organized, protracted criminal endeavor that weakens the control and legitimacy of government and civic authority while increasing gang control over the community”; and law enforcement efforts against the criminal street gang: “legal, procedural, economic, psychological, and civic actions taken by a government to defeat the criminal street gang.”

Several studies have specifically addressed the concept of legitimacy in law enforcement (Kelling & Coles, 1996; Sampson, Raudenbush, & Earls, 1997; Sunshine & Tyler, 2003; Tyler & Huo, 2002). Sunshine and Tyler (2003) examined perceptions regarding police legitimacy in New York residents and found that citizens are more apt to openly and actively support the police when they perceive the police to be a legitimate authority, and the perception of the police as a legitimate authority is dependent upon the fairness of the procedures applied by the police.

The perception of legitimacy places the population on a tipping point and makes the struggle, as David Kilcullen (2010) writes in his book *Counterinsurgency*, one of “contested governance” (p. 1). For the criminal street gang, the struggle for control is *de facto*; they have no legitimate governance, but their criminal actions, intimidation, and use of violence have allowed them to gain a margin of control over the local community. It may also be argued that their willful disregard for the law is itself a manner of contested governance; they categorically reject the legitimate authority through their criminal actions.
The military and law enforcement communities have recognized the similarities between insurgent fighters and street gang members for some time. In preparing for counterinsurgency operations, the military has trained directly with domestic law enforcement agencies (Calese, 2005; Musa, Morgan, & Keegan, 2011; Watson, 2010). Calese (2005) examined the similarities between insurgent organizations and criminal street gangs and determined five shared characteristics: (1) leadership within the organization, (2) organizational structure, (3) culture within the organization, (4) recruitment, and (5) finances. He concludes by suggesting five concepts that the Army should adopt from law enforcement for use against insurgent organizations: (1) a “cultural shift” from killing the enemy to winning popular support in the local population; (2) the need to accurately determine the identity of members within the population; (3) a use of intelligence software to track insurgents and manage crime data; (4) a “community policing” style of operations aimed at working with local civic leaders; and (5) the development of “street knowledge,” learning the motivators and cultural mores for the local population. These suggestions are included within the Army’s (2006) FM 3-24 Counterinsurgency and are distilled succinctly early on in the manual’s 13 principles for counterinsurgency:

1. Legitimacy is the main objective.
2. Unity of effort is essential.
3. Political factors are primary.
4. Counterinsurgents must understand the environment.
5. Intelligence drives operations.
6. Insurgents must be isolated from their cause and support.
7. Security under the rule of law is essential.
8. Counterinsurgents must prepare for a long-term commitment.
9. Manage information and expectations.
10. Use the appropriate level of force.
11. Learn and adapt.
12. Empower the lowest levels.
13. Support the host nation. (pp. 1.20-1.26)

Major Michael L. Burgoyne (2011), U.S. Army, examined how each of these principles might be applied to law enforcement operations against criminal street gangs in his study “The Right Tool for the Job: An Evaluation of the Effectiveness of Counterinsurgency Principles Against Criminal Insurgency.” Burgoyne examined the favela gangs of Rio de Janeiro and the Medellin and Cali Cartels of Colombia, comparing each of the 13 principles outlined in FM 3-24 (U.S. Army, 2006) against the law enforcement operations utilized against them. Burgoyne (2011) found that both efforts used several of the 13 principles with differing rates of success. In Rio’s operations against the favela gangs, 11 of the 13 principles were used successfully, and the overall operations against the favela gangs were vital in breaking apart the criminal organizations. In Colombia, six of the 13 principles were used successfully, with three specifically noted as not achieved or failed. These three principles were (1) Government Legitimacy, (2) Rule of Law, and (3) Information Operations (p. 33). Burgoyne reasons that because narcotrafficking organizations have as a center of gravity financing operations and do not rely on local popular support in order to be effective, counterinsurgency principles that focus on establishing government legitimacy (population-centric strategy) are not effective. Rather, a focus on high-ranking individuals within the organizations and the appropriate financing centers of gravity (enemy-centric strategy) is more successful (pp. 33-34). Burgoyne notes that the counterinsurgency strategy is not simply “plug-and-play” but that the principles of counterinsurgency as described in FM 3-24 (U.S. Army, 2006) should be included as part of operational analysis and planning:

The development of a more comprehensive analysis framework that integrates tools used for gangs, organized crime, terrorism, and insurgency would be a valuable tool for policymakers and practitioners. An insurgency framework alone is insufficient. Insurgency and COIN (counterinsurgency) insights should remain part of threat analysis and campaign design. (Burgoyne, 2011, p. 55)
A Manner of Strategy

Within the counterinsurgency debate, there are two commonly contested strategies: (1) enemy-centric and (2) population-centric. Enemy-centric strategies focus on direct action against insurgent fighters, using raids and sweeps to actively seek out and eliminate enemy combatants. Proponents argue that it is through the elimination of these malefactors in the population that the insurgency is brought to a close. Detractors argue that direct action and raids threaten the local population through collateral damage and the alienation of local people. Population-centric strategies put the bulk of the operating energy toward establishing host nation government legitimacy, working to bring the local population onto their side through increased security and service restoration, thereby cutting off the insurgents from access to support. Proponents argue that this approach is more effective because it cuts insurgents off from needed resources, prevents new insurgents from being created, and allows the counterinsurgency to establish legitimacy in the eyes of the local population. Detractors argue that the strategy is wholly ineffective; local residents are not “fence-sitters” trying to decide with which group they will side.

Another counterinsurgency strategy that continues to draw traction is leadership-centric strategy, which asserts that the outcome between insurgents and counterinsurgents is wholly dependant upon which side has better leaders. In A Question of Command, Dr. Mark Moyar (2009) describes these leaders as not only being strategically and tactically proficient but as being charismatically superior to their enemies. The side that has the strongest leadership personalities and can rally its fighters and the population around them will be the victor.

FM 3-24 (U.S. Army, 2006) is written with a population-centric strategy. The effectiveness of this strategy in counterinsurgency warfare is an active subject for debate within the military, but for policing, it provides a thoroughly tested application of community policing against aggressive and armed groups who would actively seek to do violence against authority. As violence perpetrated by criminal street gang members against each other and the police continues to intensify, law enforcement has more than a passing interest in examining the lessons learned through the application of population-centric counterinsurgency strategy as described in FM 3-24.

The 19 Articles of Policing Criminal Street Gangs

The creation of guiding principles in counterinsurgency warfare is not a new one. T. E. Lawrence wrote his Twenty-Seven Articles in 1917, describing what he believed were the necessary requirements for any counterinsurgency leader or advisor operating in an Arab-populated region. The most recent doctrinal principles were written into the FM 3-24 (U.S. Army, 2006) and listed earlier in this document. Dr. David Kilcullen (2006) provided his own, modern rendition of Lawrence when he wrote “Twenty-Eight Articles: Fundamentals of Company-Level Counterinsurgency.” Like Lawrence, these articles were based upon his own observations of what worked in counterinsurgency operations. Unlike Lawrence, however, these Articles had the benefit of being field-tested and compared to an established counterinsurgency doctrine.

By using what has been written into population-centric counterinsurgency theory and strategy and combining it with both the lessons learned through their application and with lessons learned through years of community policing in urban locations with entrenched criminal street gang problems, it is possible to create a similar list of field-tested “Articles” for policing street gangs. Utilizing the structural format offered most recently by Kilcullen (2006), what follows are those principles. These principles are described individually, but experience indicates that their application as a well-integrated whole offers the best chance of success. As principles, they serve to create a firm foundation upon which
specific strategies and operations should be built.

First Do No Harm. Do nothing to tarnish your integrity, your agency’s integrity, or your profession’s integrity. Your primary purpose is to protect the residents of your area and to impartially enforce the law. A reputation as a fair and just officer will increase your public legitimacy. Citizens are more likely to actively assist you by providing information if they know you will treat them and others fairly.

Know Your Turf. Know the streets, the alleys, and the parking lots. Know which streets dead-end and which alleys end in “T” intersections. Know how to get from one place to another in multiple ways. Know the gangsters and the dealers. Know the drug corners, the gang hangouts, and the location where gangs recruit new members—including the schools. Know the gang members by name and by face; recognize them at each contact you have so you know with whom you are speaking. Know which gangs operate in your area and what their territorial boundaries are. You should know where you are at all times and what gang territory you are in at all times. When conducting a vehicle stop, you should instantly know if the occupants are gang members and if they are in a rival’s territory. Learn the gang identifiers: the graffiti, the colors, the manner of dress, and the hand signs. Know the individual members and what they do in the gang: you should recognize enforcers, dealers, and higher-ranking members by name and sight. Know who the “good guys” are: the businesspeople, the families, and the kids. Be able to identify when they might need your help and be able to call them by name. If you don’t know the turf, you can’t effectively police it.

Diagnose the Problem. How widespread is the gang problem? How many members are in the gang(s)? What is their purpose? Are they concerned only with territory, or are they invested in illegal narcotics trade? Who is in competition or conflict with whom? Why? How aggressive are they with recruitment?

Once these questions are answered, you begin to get an accurate picture of the problem. If you are in command, sit with your field supervisors and field commanders. Ask them what they see or how they have been dealing with the problems. Solicit opinions, find out what has worked, and design new operations. Work the problem as often as is necessary.

Organize for Intelligence. Create methods of intelligence gathering within your own command. Ask your field supervisors to bring in information from the street. Encourage the collection of intelligence from your officers on the street—they have the direct contact with the community and the gang members. If your command has units designated for street-level anti-gang, anti-narcotics, or plain-clothes operations, ensure that the information they gather is shared with patrol officers and vice versa. Task someone in your command or a small group in your command to collect, maintain, and disseminate the intelligence. Intelligence must be useful and it must be timely, so encourage the regular updating and dissemination of it. Set aside a regular time to meet with your field supervisors and ensure that operations are driven by the most recent and relevant intelligence. Resist the temptation to leave intelligence gathering and distribution to units outside your command that have those functions as their primary purpose. No one knows your streets like your own people, and they will know it better when you put a premium on their own intelligence-gathering efforts. Remember that you are responsible for your own area of operations, so gather your own intelligence and design your operations around it.

Organize for Intra- and, When Possible, Inter-Agency Operations. You are not the only law enforcement unit in your region and, if your agency is large enough, you may not be the only unit from your own agency operating in the area. Be sure that your command is speaking with other commands about operations in your area. If they are working on something in your area, you have a stake in the outcome. You should at least be aware of the basics of
those operations. Whenever possible, seek direct input in these operations or be included in the planning and execution. Understand that at certain times your inclusion may not be warranted or complete. Nevertheless, be sure that your command continues to speak across open lines of communication with your own agency’s assets. Do not neglect agencies outside your own, including other municipal agencies, nongovernmental organizations, and local civic or business agencies. If they are in your area, they have a stake in your area. Meet regularly to share information and pool resources. The eradication of criminal street gangs is not just a law enforcement problem, it is a civic problem and it is a community problem. A holistic approach that coordinates law enforcement operations with civic needs is required. Clean, well-lit neighborhoods with basic civic services, well-populated with local residents and shoppers, is as much a part of the solution as search warrant service and open-air drug market closures.

Find and Build Trust with Local Community Advisors. These advisors may be clergy, business owners, or vocal community residents. They may be several of each. Find these local people and include them in your operations. Give them a forum in which to speak, and include as many of their suggestions as possible. Understand that it may not be possible to accomplish all that they want, and that the wants of certain people may be contrary to the wants of others in the group. Seek the common ground and work to resolve those issues. For your operations to be successful, you need to win the trust of these people. They, in turn, will go out into the community and win you the trust of those who trust them. This will affirm your legitimacy as the authority in the area, and intelligence will begin to make its way back to you. Remember that the first Article is “First, do no harm.” Your officers must consistently behave in a manner that is fair and respectful to local residents. Any inappropriate actions will undermine your efforts to build trust with your community advisor(s).

Develop Your Field Supervisors—Then Trust Them. If you are in a position of command, the development and training of your supervisors rests on your shoulders. Set a standard, train to that standard, and hold your supervisors accountable to that standard. If you have successfully developed your supervisors, you must then give them the room to operate. If their strategic vision is aligned with your own, you must empower them with the authority to make the critical, minute-by-minute tactical decisions. A constant command oversight—micromanaging—signals that you do not trust them. If you must micromanage your supervisors, you have not adequately developed them. Step back. Their success is a product of your successful development of them.

Push Operational Decisionmaking Down the Chain. At first glance, this sounds very much like “Develop your field supervisors—then trust them,” but it is much more. The nature of all bureaucratic organizations with a defined rank structure is to centralize approval authority. As accountability rises through the chain of command, so does operational control. This is a mistake. Requiring field commanders and supervisors to constantly seek approval up through the chain of command takes time, stifles creativity, and kills initiative. Developing field supervisors and granting them the authority to act is part of the solution. You must organize for intelligence and plan for operations at this level. Many law enforcement agencies centralize this as well, holding monthly accountability and intelligence-sharing briefings at the upper-most command levels. While this may be beneficial in understanding the overall picture and ensuring that the mission of the agency as a whole is being maintained, it offers little help to field commanders and field supervisors who are confronted with daily operational needs. Organize your intelligence and operational efforts around these field units and allow them to make the operational decisions they need to make on a daily basis.

Rank Is Important—Talent Is More Important. Respect for rank must remain, but the
simple fact of the matter is that some people are better at policing than others. Certain officers have a “nose” for certain aspects of policing. These people should be actively sought out in your command and moved into positions in which their talents can be fully developed and utilized. If this means that a police officer reports directly to a commander, so be it. The goal is to develop strategies and operations that significantly impact crime in your area and eliminate criminal street gangs and the violence associated with them. Do not let rank prevent you from putting the best people in the best spots.

**Stability in Strategy; Agility in Operations.** Too many agencies vest their interests in a single theory of policing: Broken Windows, Community Policing, Pulling Levers, Intelligence Led, etc. For a strategy to have the best chance at success, it must be implemented for a long enough period of time to deliver demonstrable results, and it must be designed to allow for adaptation as the environment adapts around it. This means that, at any time, elements from one or more of the policing theories may need to be utilized. Do not let any theory or doctrine lock you into a singular course of action. Have the built-in ability to evolve in strategic design as the operational environment requires. Use adaptive strategies—strategies that have at their core a cycle of understanding the environment as it currently exists, designing strategies to affect relationships in the environment, influencing those relationships to change the environment in an intended manner, and evaluating the environmental response. Strategies that adapt to the environment by design are stable; the desired end state remains the same throughout, but the tactics used to reach that end state are as fluid as the situation on the ground dictates. It is this fluidity that necessitates agility in operations. The area you operate within is a complex environment. It is affected by relationships within it. These relationships include those that exist between members of any one gang, between different gangs, and between your operations against them. The complexity added by how your actions and the actions of the criminal street gangs affect local residents and businesses also cannot be ignored. What results is a complex web of relationships in which actions by any one player affect the others in the web. Because of this complexity, operations must be tailored to fit the environment as it exists at that time. When any operation is concluded, the environment within which it has been executed changes. This change may necessitate new types of operations to be successful. Use your intelligence gathering to assess your impact on the environment after each operation. Ask, “Based upon what we have done, how have things now changed? What must we now do to keep pressure on the gang?” Your strategy has a determined goal; your operations must remain agile enough to constantly evolve but must always drive you toward the determined strategic conclusion.

**Avoid the Vacuum.** In traditional Maneuver Warfare theory, it is advised to locate and eliminate an enemy’s center of gravity. Doing so eliminates leadership or command and control, throwing the opposing force into confusion and collapse. For policing, however, this approach is problematic. The apprehension of gang leaders often results in a power vacuum within the gang that leads to internal violence for control of the organization and/or external violence from rivals who recognize vulnerability. In counterinsurgency operations, there is a similar difficulty in destroying the insurgent center of gravity, though for differing reasons. To combat insurgent groups, special operations forces have created joint special operations task forces (JSOTF) that combine multidisciplinary intelligence, surveillance, and operations (Faint & Harris, 2012; Flynn, Juergens, & Cantrell, 2008). Working in concert, the JSOTF uses a targeting model known as Find, Fix, Finish, Exploit, and Analyze (F3EA). Utilizing a decentralized, mass intelligence-gathering capability, operators are able to find the enemy, fix their location, and quickly move in to finish that enemy off. Information gathered on-scene is exploited for new intelligence and then analyzed to drive the next operation. This cyclical
pattern has proven tremendously effective in dismantling insurgent networks by targeting and eliminating mid-level planners and operators. This type of counternetwork operations is ideal for combating criminal street gangs because it prevents a power vacuum and the resultant violence created when an organizational center of gravity is removed. Granted, the most ideal operations result in the simultaneous apprehension of gang leaders and mid-level operators, but such large-scale sweeps are difficult to accomplish and take time to execute. The F3EA model allows for immediate operations against the street gang, resulting in immediate results. Once the mid-level operators and rivals for power within the gang are removed, the leader(s) may be apprehended with decreased opportunity for either increased violence or overall gang resurgence.

**Be There.** There is no substitute for physical presence. Get out and be seen. Meet with your local advisors at their locations. Be seen by the population. Make sure your officers are seen. Encourage them to get out of the car and talk with people. Information is gathered when questions are asked, so encourage officers to speak with people. Let everyone know you are there and are interested. Don’t expect arrests alone to raise your public profile. You must show the local residents that you are there for them, too—that you are interested in their well-being. As your public profile rises and people begin to know and trust you, information will begin to flow in.

**Prepare for Your Handover from Day One.** No command lasts indefinitely. Ensure that the strategies you have in place, the organizational culture, and the operational practices you have implemented last longer than you do. Lead by example, cultivate buy-in, and ensure that any transition in command is as seamless as possible.

**Maintain Proactive Patrolling.** Be sure your officers are not static. Constant movement raises perceptions of officer presence and keeps officers alert. Utilize tactics that supplement regular patrol presence with periods of heightened presence, or double up cars into tandem patrol units. Do not wait for spikes in criminal activity to do this. Rather, do it on a regular basis on an irregular schedule. Remain unpredictable and keep the initiative.

**Be Prepared for Setbacks.** Crime will still occur on your watch, people will still be shot, and the public’s confidence in your efforts may become strained. These are realities in law enforcement. Do not let these things convince you that your strategic plan has failed or that your supervisors and officers are not worthy of the strategic plan. Organize your intelligence, debrief your people, adapt the strategic plan, and carry on your operations.

**Develop Meaningful Metrics and Evaluate Them Regularly.** Quantitative data is most often preferred because the figures are often unambiguous. As a result, the common belief is “the more quantitative data the better.” The result is that success is measured by a large number of easy-to-collect data. Progress is measured in number of traffic citations issued, arrests made, street stops conducted, etc. The problem with these types of measurements, however, is that they encourage the type of increased activity that can lead to rights abuses and detract from your legitimacy. As your legitimacy is compromised, so are your intelligence-gathering capabilities and your operational efficacy. Develop more useful metrics, such as the number of successful tips voluntarily reported to police or rates of gang-upon-gang violence. Develop qualitative metrics with your trusted community advisors and rate public perception of safety and law enforcement efficacy. It is counter-intuitive that the common goal of almost all community policing-styled theories is to focus officer activity toward enforcing “quality of life” offenses yet utilize no qualitative data to measure success. Law enforcement agencies are naturally averse toward using qualitative data because the belief is that they are difficult to accurately measure; opinions vary on this. The problem, however, is not one of accuracy but one of perspective. When the opinion
of your officers and your trusted community advisors are aligned, then your qualitative data is meaningful and useful. This alignment is a direct result of building your relationships with your trusted community advisors and designing a strategy that addresses their concerns in a manner that both fulfills their needs and accomplishes your law enforcement goals. Develop these metrics and measure your progress against them regularly to ensure you are moving toward the strategic goal.

Keep Local Initiatives Small. Part of your strategy should include programs that directly connect your officers with the community. These efforts should seek to establish rapport, build trust, and create understanding between your officers and local residents. Programs may also be developed that encourage local youth to work with police, be these programs law enforcement related or be they agency participation in community-sponsored sports programs or similar activities. Keep these programs or your involvement in them small, inexpensive, and highly sustainable. It erodes public confidence when police participation is missing or subtracted due to time or budgetary constraints. Create positive engagement with the community in a manner that is built to last.

Put a Premium on Leadership. Develop your own leadership capabilities and the leadership capabilities of all of your field commanders, supervisors, and officers. Leadership development should be an organizational imperative, and agencies should create internal leadership development programs. If such programs simply are not a reality in your agency, encourage your people to develop their own leadership capabilities by offering whatever support and developmental programs you can. Lead by example, mentor subordinates, and encourage participation in outside programs. Create a leadership and command “library,” and encourage your people to read the materials. Moyar (2009) argues that leadership is not only the single greatest determining factor in success between combating groups, he offers ten leadership attributes that he believes history has consistently shown to be most important for leadership success:

1. **Initiative** – The ability to act without specific guidance from above and the propensity to act energetically and aggressively
2. **Flexibility** – The ability to switch rapidly from one thought or action to another
3. **Creativity** – The ability to solve new problems or the ability to create new solutions to existing problems
4. **Judgment** – The use of logic and intuition to evaluate information and make sound decisions
5. **Empathy** – The ability to appreciate the feelings and opinions of others
6. **Charisma** – The collection of personal factors that draws others to you
7. **Sociability** – The ability to connect with others in a one-on-one interaction
8. **Dedication** – The wherewithal to put in hard work and remain consistent and focused in any endeavor
9. **Integrity** – Acting in accordance to what is right, even at personal cost; maintaining ethics and principle
10. **Organization** – The ability to maintain personal discipline, coordinate people and actions, and accurately account for resources (pp. 8-11)

Maintain the Initiative. We use phrases like proactive patrolling and visible deterrence to imply that we maintain the initiative, but the reality is that much of what we do in regard to criminal street gangs is reactionary. Operations targeting drug sales and investigations following shootings are reactionary measures to what the gangs are doing. We must do a better job at grabbing the true initiative. To do this, we must develop adaptive strategies that evolve as the environment in which we operate does, we must use our intelligence to drive our operations, and we must put a constant pressure on the criminal street gang that disrupts, destabilizes, and dismantles their organization. As organizations, gangs are adept at adapting to law enforcement efforts. Our strategy and our operations must not allow...
for any adaptation to occur. A constant, destabilizing series of law enforcement operations puts the street gang in a reactive posture and, thus, directly affects their ability to coordinate their criminal endeavors and to conceal those endeavors from law enforcement. Inefficiency leads to chaos; chaos leads to collapse. The successful employment of each of the above Articles creates and allows for the continuation of the initiative.

A Strategy Already at Work

The adaptation of counterinsurgency strategy to policing criminal street gangs has already taken place. In 2009, Massachusetts State Police troopers Michael Cutone and Thomas Sarrouf, two Green Berets and Iraq War veterans, initiated what would become Counter Criminal Continuum (C3) Policing in Springfield, Massachusetts (Hibbard, Barbieri, Domnarski, & Cutone, 2011). Using lessons learned from time spent working with residents in Iraq and their knowledge of counterinsurgency strategy, the troopers created a set of eight guiding principles and focused their community-collaborative efforts on an eight-block section of gang-infested neighborhood in northern Springfield (Goode, 2012). Nearly three years into the strategy, results show decreases in violent crimes, property crimes, and weapons offenses (Massachusetts State Police, 2012). The program has expanded in scope from its initial eight blocks to 30 blocks. Calls for police service have risen in the area where the strategy has been implemented, something proponents say indicates increased community involvement, a greater willingness to report crime, and stronger perceptions of police legitimacy (Goode, 2012).

Most interestingly, Cutone and Sarrouf provide a direct comparison between C3 Policing principles and those of traditional community policing. They note that community policing is a “philosophy and organizational strategy” that requires the inclusion of additional resources to put into operation. By comparison, C3 Policing is an operational strategy that uses existing resources to “work smarter” (Massachusetts State Police, 2012).

C3 Policing and the results observed thus far show that the principles inherent to successful counterinsurgency strategy can be implemented in domestic municipal law enforcement efforts with success.

Conclusion

The similarities between criminal street gangs and insurgent fighters are recognized by both military and law enforcement. For law enforcement agencies, the need to create and maintain legitimacy in procedural justice is backed by a growing body of study and underpins the need to maintain crime control strategies that include the local community. The current population-centric approach to counterinsurgency warfare closely resembles contemporary community policing efforts and provides law enforcement with the opportunity to look to counterinsurgency operations for lessons learned. The adaptation and application of these lessons learned, combined with what law enforcement already knows about policing criminal street gangs, allows for the creation of general principles, or “Articles,” used for guiding operations against criminal street gangs. Intelligence must drive operations and operations must develop intelligence. These operations must be executed by highly agile teams whose decisionmaking capabilities have been pushed down to a command immediately above their operational level. This does not preclude the need for strategic oversight by higher command or for passing all intelligence up the chain for further analysis. However, tactical operations must be fused directly to intelligence gathering and analysis at the team level in order to yield the most robust results. When taken in summation, these articles provide for the creation of strategic planning and tactical operations that are capable of effectively disrupting, destabilizing, and dismantling criminal street gangs.
References


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Analyzing Perceptions and Misperceptions of Police Officers in Lethal Force Virtual Simulator Scenarios

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Introduction and Purpose

Making a decision to use lethal force is one of the most critical decisions a law enforcement officer will ever make. Determining whether an officer made a reasonable and justifiable decision to use force is assessed in accordance with the Fourth Amendment and requires careful balancing of the nature and quality of the intrusion of an arrestee’s rights against the countervailing governmental interests. In Graham v. Connor (1989), the U.S. Supreme Court acknowledged the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat to affect it.

In order to evaluate the reasonableness of an officer’s use of force, the Court established criteria to analysis a claim of excessive force, which is made up of four major components. First, the Court ruled that an officer’s use of force must be assessed by examining the facts and circumstances of the incident. Second, the behaviors of the suspect must be taken into consideration, including the severity of the crime at issue, whether the suspect posed an immediate threat to the safety of the officers or others, and whether the suspect was actively resisting arrest or attempting to evade arrest by flight. Third, the Court assesses the human factors impacting decisionmaking and performance, including the perception of a reasonable officer on scene, not from hindsight, and the need to make split-second decisions under rapidly evolving circumstances. Finally, the Court examines the environment of the confrontation by incorporating the totality and unpredictability of the circumstances of the arrest incident facing the officer. These four major components and their elements comprise the framework for assessment in accordance with the standard of objective reasonableness. The question in each case before a court is whether the officer’s actions were objectively reasonable in light of the facts and circumstances confronting him or her without regard to the underlying intent or motivation.

The criteria are helpful in providing guidance in determining the reasonableness of an officer’s decisions and actions to use force particularly when the facts, the suspect’s behaviors, and environmental circumstances are considered. The human factors component of the assessment criteria of objectively reasonable force underscores the officer’s perception of the incident, and full application to an incident frequently poses more potential problems than the other components.

In order to effectively evaluate an officer’s use of reasonable force, a greater understanding is needed about the various factors which play a role in impacting the officer’s perception leading to the decision to use a level of force (Artwohl, 2002; Artwohl & Christensen, 1997; Honig & Lewinski, 2008; Klinger & Brunson, 2009).

Presently, there is limited research that has been performed and published on the human factors that impact an officer’s perception when faced
with a lethal decision under a stressful or rapidly evolving circumstance. Previous research published on the topic has been derived through officer interviews or surveys (Artwohl, 2002; Honig & Klinger, 2003; Klinger & Brunson, 2009; Ross, 2008; Ross & Siddle, 2003). In order to obtain a clearer picture of the human factors influencing perceptions, researchers have recommended that future research address police officers’ use of force and perceptual responses to stress by performing studies using a force simulator or laboratory experiment (Engel & Smith, 2009; Klinger & Brunson, 2009; Novak, 2009).

The purpose of this article is to examine the perceptions and misperceptions of experienced police officers who encountered a lethal force situation in a virtual simulation scenario. The research findings presented are part of a larger study that examined the stress responses of 150 veteran police officers when confronting a lethal force scenario. Officers were randomly assigned to one of two scenarios (the second scenario was subdivided) in order to assess what factors may influence their perceptions and misperceptions regarding the scenario. Officers’ responses to stressors induced during the scenario were measured by assessing physiological factors and the salivary biomarkers of each participant. Since a primary component of determining objective reasonableness from the Graham standard includes consideration of human factors by assessing an officer’s perception, a segment of the larger study was designed to analyze factors which impact perception formation during a stressful lethal force simulation scenario. The findings of the research and the implications for instructors, officers, simulation training, and investigators are presented.

Stress and Perception

The Stress Response

Stress has been described as both an environmental variable and an emotional response to a specific situation (Gould, Petlichkoff, Simons, & Vevera, 1987; Selye, 1959). McGrath (1970) designed a four-stage model to explain the process of how stress interacts with a person’s response. The process involves a sequence of events that begins with an environmental demand on the person, his or her perception and placing value to the event, the mental response (decisionmaking), and the physical response. Martens (1977) defined stress as a substantial imbalance between (environmental) demand and response capability, under conditions where the demand has important consequences. Combining McGrath’s model and Martens’ definition of stress, stress may be viewed as positive or negative, but the emphasis is placed on the situational environment, the individual’s perception of the situation, and the ability to respond physically or mentally.

Cannon (1929) explained that the body’s response to stressful stimuli is through a process known as fight or flight. This automatic response is an adaptive response mechanism alerting an individual’s body to danger and begins to prepare the body to mentally and physically respond. The process is virtually uncontrollable, and it dominates all voluntary and involuntary systems until the threat perception has been eliminated or avoided. Cannon was the first to recognize that the brain was the center for interpreting (perceiving) a dangerous stimuli and responding to it (reaction and movement).

Selye (1936) first termed external pressures on the body as stressors and biological response as stress. Selye defined stress as the non-specific response of the body to any demand made upon it. He believed that eustress (positive) and distress (negative) produced the same initial response in the body. Further, individual responses to stress initiate a sympathetic nervous system (SNS) discharge (Cannon, 1929; Selye, 1978). An environmental demand will be first processed through the brain, and it will evaluate the degree of threat through an integrated network of regions in the brain involving the thalamus, amygdala, hypothalamus, hippocampus, and frontal lobes of the cortex. During a stress event, information from the perceptual senses is routed to the thalamus, and emotion is attached to the perception of the level of the threat through the amygdala, the body’s alarm system (Carter, 1998; Ratey, 2001). In a nonspontaneous threat situation, the threat is processed cognitively...
and physically, normally without difficulty. In a spontaneous, startled, fearful situation, however, the amygdala, which is hard-wired for survival, primes the body with adrenaline for an automatic response. The triggering of the amygdala is directly responsible for what many consider (post-incident) as irrational responses: panic, flight, freezing in place, aggressive actions that utilize untrained skills, repeating an action time and again (a motor skill feedback loop), or an inappropriate physical response. Generally, the response to stress and activation of an SNS discharge results in a release of adrenaline; increases in heart rate, blood pressure, breathing rate, pupil size, perspiration, and muscle tension; and improved blood flow to the brain, heart, and large muscles. Fine motor skills begin to deteriorate as resources are shifted to the larger muscles necessary to carry out gross motor skills. A reduction in full scope of vision also occurs, and the other four senses as well as the cognitive system are also affected.

Perception

The brain is constantly receiving information from the senses about its current state, seeks to maintain homeostasis amidst a changing environment, and is constantly interpreting all incoming stimuli (Howard, 1999). Perception is the mental process by which the brain interprets and gives meaning to information received from the sensory organs. It depends on both the psychological and physiological characteristics of the perceiver in addition to the nature of the stimulus. Perception is the condition of being aware and the product of careful mental activity (Gibson, 1950, 1966; James, 1890). The senses of vision, touch, taste, smell, and hearing all assist in developing perceptions of the world.

Cognitive processing impacts perception (Artwohl, 2002; Honig & Lewinski, 2008; Kandel, 2006). A person’s response to the perception formed from the senses is directly related to their performance (LeDoux, 1996; Ratey, 2001). When a person perceives a high-level stress situation, the brain transfers from thinking to reacting (McGaugh, 1990). The stress response of flight, flight, or freeze is involuntarily activated as part of the survival response hard-wired into the brain. Epstein (1994) and Artwohl (2002) concluded that individuals have two distinct modes of processing and interpreting stimuli and information. First, under the rational thinking model, which applies to low to moderate levels of stress, a person generally is able to calmly engage in conscious, deliberate, and analytical cognitive processing which underscores rational thinking. Second, when an individual experiences and perceives a high stress situation requiring quick decisionmaking, the cognitive processing of information in the brain automatically transfers to experiential thinking. The interpretation and perception of the information processed by the person automatically speeds up the cognitive process based on the urgency, life threatening capacity, or survivability of the stimuli or situation, requiring an immediate response. This rapid cognitive process is characterized by intuitive and holistic processing rather than logical or analytical, is focused on immediate action rather than reflection, is seized by emotion and rapid thinking rather than slow and deliberate thinking, and reflects fragmented memory of the event.

Varying degrees of stress can significantly affect perception (Dror, 2007; Lewinski, 2008). Perception is influenced by several factors, including intensity, physical dimensions of the stimuli, the person’s past experiences, attention factors, stress levels, and the person’s readiness to respond to the stimulus. Vision is influenced from perceived patterns, the ability to perceive completed figures, and ability to distinguish important figures from the background. In a stressful situation, vision can be affected, and the brain directs the focus of attention to that stimuli requiring immediate attention while excluding peripheral stimuli. This tunneling effect is known as selective attention, occurring involuntarily and in response to an SNS discharge. Selective attention (or misperception) explains how a person may miss observing something that is in his direct sight of vision or not hearing something because the brain has focused the vision directly on the immediate stressor that requires attention. Peripheral vision then may be narrowed by as much as 70% (Breedlove, 1995; Easterbrook, 1959). This response is also referred to as inattentional blindness or visual noise which is
an unconscious rejection of competing visual input. It can occur across all of the senses but primarily effects vision (Honig & Lewinski, 2008; Willems, Allen, & Stein, 1999). Accordingly this phenomenon occurs from an overload of visual sensory input or from focusing primarily on the task at hand. Environmental factors, such as low lighting, may also intensify selective attention as vasoconstriction of the retina occurs. This can explain why a person may misperceive a situation and actually be blind to seeing the obvious.

Intentional blindness may result in a Type I or Type II error impacting perception, recall, and performance. A Type I error, or a false negative, involves rejecting something that is apparent or obvious. For example, a person may miss obvious cues while driving a car and strike an object. Conversely, a Type II error, or a false positive, is when a person incorrectly perceives a phone to be a weapon. Type I or II errors are at risk of occurring and can increase as stress levels increase, affecting perception and further impacting a response.

The effects of stress on performance include the accuracy of task performance as well as the speed at which they are performed. The stress of noise appeared to affect not only cognitive processes but motor skills as well (Thackery & Touchstone, 1983). The effects of stress can impact a person’s perception and the ability to recall details of the event (Driskell & Salas, 1996; Kandel, 2006; Research Board, 2008; Schwartz & Begley, 2003). De Quervain, Roozendaal, and McGaugh (1998) and Violanti et al. (2007) report that cortisol hormone released under stress inhibits memory retrieval. The World Health Organization (1998) reveals that the effects of acute stress reaction, including temporary memory loss, may subside after hours or may last several days.

Hearing diminishes causing auditory exclusion. If hearing is the dominant source of information, when a loud sound occurs, visual exclusion may occur. Other senses may be tuned out which can impair performance and recall. Activation of the SNS can alter reaction time significantly, which is defined as the process of perceiving a threat and initiating a survival response. Reaction time comprises four stages (Ratey, 2001; Siddle, 1995): (1) perception of the threat, (2) analyzing and evaluating the threat level, (3) formulating a response selection, and (4) initiating a motor response. Each stage must be completed in sequence, and each stage is dependent on the former. These stages align with the effects of SNS and vision. As perception of the threat commences, vision narrows, and the brain’s ability to evaluate the threat level also diminishes. If impairment occurs in the first two stages, response selection and motor response may also be impaired.

**Stress and Perceptual Distortion in Policing**

Confronting a lethal force situation is not only a dangerous proposition for police officers, but the stress of the encounter can impact perception, decisionmaking, and human performance as well (Artwohl, 2002; Artwohl & Christensen, 1997; Burrows, 2007; Honig & Lewinski, 2008; Lewinski, 2002; Ross & Siddle, 2003; Siddle, 1995). Prior research on stress and officer performance identified various perceptual distortions an individual may experience while engaged in a stressful lethal force encounter. Artwohl and Christensen (1997) found in a survey of 72 police officers who had survived a lethal force encounter that 88% experienced auditory exclusion, 82% experienced tunnel vision, 65% indicated visual clarity, 63% reported slowness in time, while 17% stated time increased. Honig and Roland (1998) studied 348 shootings of the Los Angeles Sheriff’s Department and found that 45% of the officers experienced tunnel vision and 62% reported slowness in time, while 20% stated time increased and 51% indicated sounds were quieter. Klinger (2001) found in 80 officer-involved shootings that 51% experienced tunnel vision, 56% reported visual distortions, and 56% stated time slowed down, while 23% stated time increased, 82% indicated sound intensified, and 37% had a sense of heightened detail during the encounter.

Further, Klinger and Brunson (2009) found in interviewing 80 officers involved in 113 police shootings that officers experienced visual
distortions prior to and after shooting (31/27%), auditory distortions (42/70%), and time distortions (43/40%). They found that correlations existing between sound distortions (r = 0.24) while firing their weapon (r =0.25), tunnel vision and reduced sound while firing their weapon (r = 0.29), slow motion and auditory blunting prior to firing (r = 0.28), and tunnel vision with increased visual acuity while firing their weapon (r = -0.27) were less likely to occur together.

SNS activation creates important tactical implications for the officer. The effects of survival stress on vision create a perceptual narrowing or tunnel vision, and peripheral vision is reduced by approximately 70% (Breedlove, 1995). This can cause threat cues to be missed. SNS activation also inhibits the ability to maintain near vision, the ability to focus, the loss of depth perception, the loss of night vision, and the loss of monocular vision (Godnig, 2001; Siddle & Breedlove, 1995). All of these factors are significant in that they are likely to cause inaccuracy of shooting skills, limitations with physical skills, altered reaction time, and the inability to be aware of environmental surroundings, which may pose additional threats to the officer. Perceptual distortions or selective attention can significantly impede the brain from processing threat information correctly, impeding an officer’s appropriate survival response. Driskell and Salas (1996) found that cognitive effects of stress may include narrowing of attention, tunnel vision, increased errors, longer reaction time to peripheral stimuli, and memory defects. Perceptual distortions, which involve cognitive processing, can include tunnel vision, visual clarity, auditory problems, color distortion, decisionmaking, and time factors surrounding the incident.

Ross and Siddle (2003) found in a survey of 165 officers who were involved in an officer shooting incident that 65% experienced tunnel vision. The officers reported that between 30 to 40% did not recall experiencing tunnel vision or recall the time duration of the event. Over one-third of the officers experienced auditory exclusion, while 41% of the lethal force officers and 59% of the physical force officers reported not recalling auditory problems.

**Stress and Physiological Responses**

Physiological reactions to stress may include an increase in pulse rate, heart rate, heart rate variability, blood pressure, and respiration; palms sweating; muscle tension; an increase in cortisol and glucose levels; and other measures (Asken, Vonk, & Sterland, 2009; Driskell & Salas, 1996; Violanti et al., 2007). The HeartMath Research Center (1999) measured the heart rate of officers after they had completed threat-based scenario training. On average, it was shown that heart rate remained elevated well above baseline for more than one hour after the scenario debriefing. Klinger (2001) found that 89% of the officers experienced some form of physical response after involvement in a lethal force incident. Ross and Siddle (2003) found that 41% of officers reported experiencing difficulties in hearing, their heart racing, and feelings of nausea after the event, and they were likely to experience a dry mouth and sweaty hands.

Prior studies on police officer reactions to stress when engaged in a lethal force encounter have measured the impact of stress on thoughts, emotions, and memory. Artwohl and Christensen (1997) found 60% of the officers experienced memory difficulties, 36% reported distracted and intrusive thoughts, and 39% felt a sense of disassociation during the incident. Honig and Roland (1998) reported that 22% of the officers experienced memory loss. Klinger (2001) found that 30% of the officers revealed they felt a need to survive the encounter, 41% experienced fear for self, and 33% did not know the number of rounds they had fired.

Ross and Siddle (2003) found about one-third of the officers experienced memory loss after the event. For a majority of the officers reporting memory loss, it took two sleep cycles (20/17%) to recall the event. More commonly, memory was restored between a few hours and one sleep cycle. About 42% of the officers reported a triggering event assisted in the memory of the event, the most significant being a visual
trigger. Klinger and Brunson (2009) concluded in their assessment of 80 officers involved in 113 shooting incidents that officers’ reactions during shootings may adversely affect their ability to recall facts and circumstances surrounding the event accurately when they are questioned by investigators. Specifically, they reported that one or a combination of perceptual distortions may cause officers to offer accounts of shootings that are inconsistent with the physical evidence and/or witness statements. This finding has been confirmed in other research (Artwohl & Christensen, 1997; Grossman & Siddle, 1998; Honig & Roland, 1998; Lewinski, 2002; Ross, 2008).

This physiological event occurs in situations in which an officer believes that there is an immediate threat of serious personal injury or when the officer is responsible for protecting him- or herself in a potentially life-threatening situation. It can be marked by an officer’s lack of confidence in his or her skill level to respond to the threat. Moreover, the SNS discharge is compounded when the officer’s perception to respond to the threat is minimal. In law enforcement, survival stress can have a significant, diminishing impact on task performance in life and death encounters. It can diminish an officer’s hearing (auditory exclusion), vision (tunnel vision and loss of near vision), thinking process (cognitive displacement), and physical response (loss of motor control).

The impact of stress has been shown to effect motor performance (Ratey, 2001). Yerkes and Dodson (1908) proposed that arousal (stress) and performance were associated. Creating a model known as the Inverted-U hypothesis, they explained that as arousal increased, performance also increased to a certain point, but that a continued increase in arousal would lead to a detriment in performance (noting a curvilinear relationship). Gould et al. (1987) found anxiety to have a curvilinear relationship with pistol-shooting performance, supporting the Inverted-U hypothesis. Artwohl and Christensen (1997) found that only 7% of the officers froze during the encounter, and 78% responded automatically. Ross and Siddle (2003) found that about 75% of the officers reported that they were able to identify the nature of the threat and its seriousness, were able to execute a complex motor skill, and did not lose eye/hand coordination. In 66% of the events, the officers were required to respond with no warning or within a few seconds to the altercation. Only 20% reported that they were caught off-guard, observing the threat but not believing it.

**Stress Research in Lethal Force Simulation Scenarios**

Although simulator systems have been primarily used for educational and training purposes, their use for research purposes in policing has been limited (Bennell, Jones, & Corey, 2007; Boyd, 1992; Schar, 2001). Research related to driver assessment by using simulators has been performed by several researchers. Szlyk, Severing, and Fishman (1991) used a driving simulator to study respondents’ visual abilities during driving scenarios. They found lane deviation and reaction time accounted for a large amount of variance in real-world accidents and in simulator crashes. Szlyk, Alexander, Severing, and Fishman (1992) evaluated the driving performance of subjects with partially blocked vision and found that visual field loss is a primary correlate of automotive accidents in individuals with retinitis pigmentosa.

Lewinski (2008) studied 48 officers from London’s SWAT team through attaching heart rate monitors to them. A simulator system was not employed but officers participated in a lethal force scenario using Simunition blanks. The officers were placed into groups of three and responded to a hospital lobby where they encountered an armed gunman with a hostage, who shot his weapon and then pointed it at the team of officers. Officers were interviewed after the scenario, and heart rate information was analyzed. The researchers reported that officers’ heart rates spiked twice the normal heart to 160 BPM. During the post-scenario interviews, heart rates of the participants increased again through just reliving the experience. The interviews revealed that full recall of the scenario was missing. The researchers emphasized the need of using scenario simulation-based
training with police officers in lethal force situations and discussed the need for investigators of officer-involved shootings to understand the effect the stress of a shooting incident may have on investigations. They also concluded that such scenario-based training can produce emotional and physiological responses that can be expected in an actual shooting which could be used for research and/or continued training purposes.

Lethal force encounters experienced by police officers provides an area that is ideally suited for simulator training and research. Previous limited studies underscore the need to conduct ongoing research in this area as it requires insertion of stress inoculation principles, attention to suspect body language and contextual cues, addressing threat assessment, hand-eye coordination, skill enhancement and skill proficiency, shoot-don’t shoot decisionmaking, proper performance under stress, comprehending how the body responds under stress, transferring the application of learning and policy to field situations, building confidence and expertise with officers to decrease human error, practicing the principles of escalation-deescalation of force, practicing how to multi-task under stress, increasing situational awareness to practice principles of reaction time and cover, handling firearms properly, and practicing spatial orientation. The following discussion presents findings of an experimental design in which a simulator was used to research the perceptions of stress of 150 officers exposed to a lethal force scenario.

Methodology

Protocols/Respondent Officers

Using a new simulator designed by the Meggitt Corporation (Suwanee, GA), 150 veteran police officers participated in one of two different lethal force scenarios. Working with Meggitt and medical researchers from the University of Southern Florida (USF), we developed a randomized experimental design and secured human subject research authorization. Respondent officers volunteered, were paid for their participation, and were randomly assigned to a scenario. Upon arrival at the experiment site, respondents were provided with an overview of their participation, and they reviewed and signed informed consent forms. They were administered a questionnaire regarding their demographic, family, and personal lifestyle history.

Baseline physiological information was obtained from each respondent, including resting heart rates, blood pressure, thoracic capacity, and measurement of waist circumference. Saliva biomarkers were taken from each participant to assess their stress responses to the events encountered during the scenario. Salivary cortisol is related with various psychological and physiological effects of stress (Hellhammer, Wust, & Kudielka, 2009; Skosnik, Chatterton, Swisher, & Park, 2000). Saliva provides an effective mechanism to measure the degree of the stress response and provides a non-intrusive method for collecting the samples. Saliva biomarker samples using the drool method into polypropylene tubes was taken pre-scenario and at 10 and 30 minutes post-scenario. Saliva biomarker samples were refrigerated immediately. Researchers from USF transported the samples on ice back to their lab and later analyzed them. Highlights of their findings are included in this paper.

Participants were outfitted with a wireless harness device (Biograph Infinity) that tracked the following physiological data: respiratory rate, electrocardiographs, skin temperature, heart rate, and heart rate variability. Respondents were fitted with Mobile Eye tracking glasses to monitor eye movement. Each participant was provided with a police uniform shirt, a portable two-way radio, and a Blue Fire® Glock simulator weapon with the officer’s department gun belt system. Officers were dispatched in real time to the call using two-way radios and their agency’s own 10-code system. Post-information on the participant’s perceptions and memory of the scenario were collected within 30 minutes of scenario completion, and they also completed and submitted the same questionnaire within 48 hours of the experiment. Return rate of the second questionnaire was 100%. From time of arrival to the training to departure was about 1.5 hours per respondent.
The research was conducted in the Tampa, Florida, area in 2009. The 150 participants were veteran police officers from three county sheriff departments and five municipal police departments located in the Tampa area. Over 93% of the departments employed from 151 to 500 officers. Of these officers, 80% were males, 20% were females, 75% were Caucasian, 10% were African American, and 8% were Hispanic. The mean age of the officers was 37; and over 87% had either taken college courses, possessed a college degree, or held a graduate degree. Participants had from three to 20 years of law enforcement experience. About 35% had previous training exposure to a lethal force simulator within three years of the date of the experiment.

Research Questions

The following research questions guided the study:

1. Does a lethal force virtual simulator create a measurable stress response in participants?
2. Will the virtual simulator scenarios produce a high percentage of reported perceived stress as induced stressors intensify?
3. To what degree did participants misperceive events during the scenario?
4. Were there specific subgroups of respondents more likely to misperceive a significant amount of manifest content as the stress within the scenario was increased?

Simulator Scenarios

Two scenarios were developed to measure the impact of stress on officer perception. The scenarios were filmed using live actors and were shown to the officers in a testing lab housing a new stress induction system. The lab was about 20 feet by 18 feet with all but one of the walls black. The scenario was projected on a white wall in the lab which was about 16 feet wide and 10 feet high. To perform the experiment, the respondents were randomly assigned to one of three groups as follows:

Group 1: Motorcycle (n = 52/150 participants) – The duration of the scenario was about two minutes and involved a traffic stop of a person on a motorcycle. Upon being stopped by the officer, the driver dismounts from the bike, faces toward and confronts the officer verbally while standing next to the bike. Within a few seconds, the driver reaches over the bike with his right hand, grabs a firearm, and brings it around quickly, firing at the officer. No induction of stressors were added to this scenario.

Group 2: Workplace Violence/Limited Stressors (n = 25/150 participants) – Officers are dispatched via a real-time dispatcher to a building and informed by a security officer that a gunman is inside. The officer makes contact with employees in offices and in the hallways. The officer observes a person standing facing him from about 20 feet away. The subject observes the officer and flees further into the building. The officer continues to pursue the subject and makes contact with an employee who directs him down another hallway. The officer observes the subject push a female to the floor who begins screaming, and the subject continues to flee. The subject opens a back door of the building, runs into the street, attempts to hijack a vehicle, continues to run into a wooded area, and turns and fires a handgun at the officer from chest level. Two back-up officers arrive, one toward the back of the subject (about 15 feet) and the other officer arrives at a right oblique angle to the subject’s position. These position alignments place the subject in the middle of the pursuing officer and one back-up officer as he fires at the respondent officer. The scenario duration is about five minutes. Limited inducement of stressors throughout the scenario was employed.

Group 3: Workplace Violence with Stressors (n = 73/150 participants) – The same scenario as explained for Group 2 was used with the infusion of high intensity stressors; the scenario duration was also about five minutes. High intensity stressors included several blasts of air from two vortex cannons directed at the officer; a shoot back cannon of pellets directed at the officer at an appropriate time to simulate hostile fire; a phone book thrown at the officer by
an employee; changes from moderate lighting in the building to extreme sunlight when leaving the building; a truck passing close by with a loud horn honking, with a blast of air from the vortex cannons; and distracting sounds of a beating heart rhythm, with sound increasing throughout the scenario.

**Questionnaire and Statistics**

We designed a questionnaire to examine the perceptions and misperceptions of the respondents. The questionnaire contained self-reported items regarding their perceptions of stress and unobtrusive items/observed content (not directly linked to direct questions of stress or feelings about the scenario) in order to examine each respondent’s perception of the clearly present events in the scenario. In order to further examine the respondent’s perceptions of the events in the scenario, unobtrusive items were included within the questionnaire which went beyond merely self-reporting about their perceptions. Approximately 30 minutes after an officer completed one of the randomly assigned scenarios, officers were administered the questionnaire. After 48 hours, respondents completed the same questionnaire at home and submitted it back to the researchers for assessment.

Data from the questionnaires were evaluated using Pearson’s Correlation Coefficient between reported stress and less obtrusive item percentage of correct perceptions of the scenario. The officer’s reported stress items were compared with the unobtrusive item percentage of correct perceptions. A multivariate procedure of analysis of co-variation was used to assess a subset of respondents. This procedure allowed for the relationship of perception of manifest events (percent correctly observed) to be compared across the increasingly stressful scenarios—controlling for particular subpopulations of respondents who may show a significant decline in perception of events using linear regression as the control. These parametric tests of difference (Analysis of Variance and Analysis of Covariance) reported F-Ratios between the interaction of the control variables (officer characteristics) and the independent variable (scenarios increasing by level of stressors). Descriptive statistics were also used and are reported.

**Study Limitations**

There are limitations with this research. The researchers did use randomization of assigning respondents to a particular scenario but did not have control over the background, experience, and training of the officer who voluntarily participated. The scenarios were designed from actual field incidents but were shown in a lab using the simulation system; thus, completely replicating the field incident in a research environment was not fully achievable. The use of a self-reported 14-point scale of stress may have been influenced by the Hawthorne Effect, wherein officers may have been encouraged to report levels of stress by the nature of the scenario or the researchers. Such officers may have guessed at some of the research questions and may have attempted to please the researcher regarding reported stress.

**Study Findings**

**Saliva Biomarkers**

Analysis of the saliva biomarkers revealed that the workplace scenario with stressors produced the largest responses in biomarkers, with significant rises in cortisol, alpha-amylase, and Interleukin (IL-6) (Groer et al., 2010). Cortisol, alpha-amylase, and IL-6 are major enzymes contained in saliva; and during acute stress, they will show elevated rises in secretion. While each scenario showed some levels of elevation in the stress response, Group 3 produced the most statistically significant correlation between alpha-amylase and IL-6 at 10 minutes \( r = 0.47, p < 0.001 \) and at 30 minutes \( r = -0.34, p < 0.001 \) (see Figures 2 & 3). These data results show the connection between an SNS response and elevated levels of alpha-amylase and IL-6 secretions. Self-reported perceptions of respondents (i.e., a stressful scenario, safety, fear, need to apprehend, and felt threatened) were correlated with alpha-amylase at 10 and 30 minutes \( r = 0.25, p < 0.001 \). Biomarkers or any of their changes over time did not differ by gender.
ethnicity, or marital status. The most experienced respondents showed the highest levels of baseline (at 10 and 30 minutes) alpha-amylase, suggesting that years of police experience did not abate adrenergic responses to the stressors. These data affirmatively answered the first research question that a virtual simulator did produce significant measurable stress associations, most noticeably in Group 3.

**Self-Reported Perceived Stressors**

After each scenario, respondents answered a series of questions regarding their perceptions of the scenario. Table 1 reveals the differences in self-reported perceptions by scenario as reported by the participants. Percentages of each variable are reported reflecting whether the respondent experienced the identified stressor.

Table 1 shows percentage responses to 14 self-reported respondent perceived stressors completed within 30 minutes of exiting the scenarios. After completing either scenario, the biomarker results showed that all respondents incurred associated levels of stress. Overall, Group 1 respondents reported the least amount of perceived threat during their two-minute scenario. All respondents reported that they were able to cope during either scenario. A significant percentage of all of the respondents reported the concern for personal safety ($r = 0.45$, $p \leq 0.001$) and that the scenarios were stressful ($r = 0.34$). Respondents in Groups 2 and 3 reported the need to apprehend the subject, believed the subject presented a threat to themselves and others, experienced perception of fear, and believed that the scenario was demanding throughout the scenario ($r = 0.41$, $p < 0.001$). Only a small percentage of respondents reported experiencing difficulties
in thinking or moving throughout either scenario.

Respondents in Group 3 reported that they experienced an increase in heart rates during the scenario (58 and 68%, respectively). A small percentage of respondents in all three groups reported experiencing difficulties in vision, hearing, or breathing during the scenario.

Figure 3 shows a linear graph of the distributions of the mean scores for each scenario. The graph illustrates a linear scale of the 14 stress variable measures researched as perceived by the respondents. Perception responses show a perfect linear pattern of experience for each scenario which indicates that as scenario stressors increased and intensified, so, too, did their perceptions. These perceptions are statistically significant at the 0.001 level of confidence. Both the data in Table 1 and Figures 1 through 3 affirmatively answer the second research question that as stressors and intensity of stressors increase, reported perceptions of stress also increased.

Misperceived Items

Table 2 reveals selected items that should have been observed during each of the scenarios but were missed by the officer and/or the officer had no recollection of the occurrence of the item during the scenario.

Each of the items in Table 2 can be categorized into seven broad perception distortions: (1) circumstance of the scenario, (2) environment of the scenario, (3) information pertaining to the subject, (4) vision difficulties, (5) auditory difficulties, (6) time distortions, and (7) reaction time. For example, in Group 1, many respondents missed observing what the subject was wearing, the nature of the traffic stop, the subject reaching across the bike for the firearm, the number of rounds fired by the subject at the officer, and the comments/
Figure 3. Linear Trend

EXPERIENCE STRESSORS (0-14) COMPARED ACROSS SCENARIO TYPES (Post-test)

Table 1. Self-Reported Perceptions of Selected Experienced Stressors – Post-Scenario (%)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Group 1 – Motorcycle</th>
<th>Group 2 – Workplace Violence/Limited Stress</th>
<th>Group 3 – Workplace Violence/Stress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety–Self</td>
<td>40</td>
<td>72</td>
<td>82</td>
</tr>
<tr>
<td>Safety–Others</td>
<td>24</td>
<td>68</td>
<td>80</td>
</tr>
<tr>
<td>Need to apprehend</td>
<td>21</td>
<td>84</td>
<td>84</td>
</tr>
<tr>
<td>Threatened</td>
<td>34</td>
<td>58</td>
<td>71</td>
</tr>
<tr>
<td>Fear</td>
<td>22</td>
<td>35</td>
<td>40</td>
</tr>
<tr>
<td>Demanding</td>
<td>24</td>
<td>59</td>
<td>66</td>
</tr>
<tr>
<td>Stressful scenario</td>
<td>40</td>
<td>66</td>
<td>86</td>
</tr>
<tr>
<td>Able to cope</td>
<td>95</td>
<td>94</td>
<td>96</td>
</tr>
<tr>
<td>Thinking</td>
<td>12</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Moving</td>
<td>9</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Increased heart rate</td>
<td>13</td>
<td>58</td>
<td>68</td>
</tr>
<tr>
<td>Breathing difficulty</td>
<td>10</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>Vision distortion</td>
<td>12</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Auditory distortion</td>
<td>10</td>
<td>16</td>
<td>18</td>
</tr>
</tbody>
</table>
threats made to the officer by the subject. Officers reported experiencing auditory difficulties with the subject when he spoke to the officers and when he threatened them. Group 1 respondents misperceived about 29% of the 28 items contained within the scenario.

In Groups 2 and 3, the percentage of items misperceived by reporting respondents increased as stressors intensified. Common items misperceived included the actual number of persons encountered during the scenario, failing to observe blood on the floor from a male that had been assaulted by the subject, difficulty recalling statements made by occupants in the building, difficulty in recalling the position from which the subject pointed the weapon, experiencing auditory difficulties, perception that the subject fired his gun in the building when he actually fired outside, and failure to note that they had fired at the subject with a back-up officer standing directly behind the subject. Group 2 and 3’s respondents reported experiencing difficulties with perceived lighting during the scenario, experienced time distortions regarding the duration of the scenarios, could not recall how many individuals they confronted inside the building, and were unaware that they fired at their back-up officers as the subject positioned himself in between the back-up and the respondent.

Using an Analysis of Variance participant average, self-reported scores were compared across all three scenarios revealing a statistically significant difference in combined perceptions of stress. Based upon an F ratio of 26.904, the between-group differences in combined stress were slightly statistically significant from any within-group variation caused by the way participants were randomly assigned. Overall, the additive scale of stress of a participant can be predicted in about 30% of the 150 participants and, as

**Table 2. Misperceptions of Selected Stressors Encountered by Scenario**

<table>
<thead>
<tr>
<th>Variable</th>
<th>Group 1 – Motorcycle (n = 52)</th>
<th>Group 2 – Workplace Violence/Limited Stress (n = 25)</th>
<th>Group 3 – Workplace Violence/Stress (n = 73)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject’s clothes</td>
<td>61% Incorrect</td>
<td>36% Incorrect</td>
<td>47% Incorrect</td>
</tr>
<tr>
<td>Traffic stop</td>
<td>30% Incorrect</td>
<td>65% Incorrect</td>
<td>67% Incorrect</td>
</tr>
<tr>
<td>Verbal threats</td>
<td>65% Incorrect</td>
<td>76% Incorrect</td>
<td>83% Incorrect</td>
</tr>
<tr>
<td>Perception of subject initially</td>
<td>39% Incorrect</td>
<td>53% Incorrect</td>
<td>61% Incorrect</td>
</tr>
<tr>
<td>Subject reached across bike</td>
<td>65% Incorrect</td>
<td>76% Incorrect</td>
<td>82% Incorrect</td>
</tr>
<tr>
<td>Rounds fired by subject</td>
<td>72% Incorrect</td>
<td>50% Incorrect</td>
<td>Elderly man said “Gun”</td>
</tr>
<tr>
<td>Subject had two weapons</td>
<td>79% Incorrect</td>
<td>83% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Duration of the scenario</td>
<td>36% Incorrect</td>
<td>60% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Threatened to cut throat</td>
<td>59% Incorrect</td>
<td>65% Incorrect</td>
<td>72% Incorrect</td>
</tr>
<tr>
<td>Subject fired from chest level</td>
<td>65% Incorrect</td>
<td>72% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Zero rounds fired by responding officers</td>
<td>67% Incorrect</td>
<td>68% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Recall # rounds fired</td>
<td>75% Incorrect</td>
<td>89% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Duration of scenario</td>
<td>64% Incorrect</td>
<td>68% Incorrect</td>
<td></td>
</tr>
<tr>
<td>Mean (8/29 Items)</td>
<td>27% Incorrect</td>
<td>Mean (12/40 Items)</td>
<td>Mean (14/44 Items)</td>
</tr>
<tr>
<td>27% Incorrect perception</td>
<td>30% Incorrect</td>
<td>32% Incorrect</td>
<td></td>
</tr>
</tbody>
</table>

Law Enforcement Executive Forum • 2012 • 12(3)
stressors increased, misperceptions between groups slightly increased (deteriorated). The chance of sampling error explaining these group differences in stress is less than one chance in one-thousand \( (p < 0.001) \). The third research question was answered affirmatively as respondents did misperceive a moderate percentage of items in the scenarios.

Further, 48 hours after completing the scenarios, all of the respondents resubmitted their questionnaires. The overall analysis revealed that recall of the misperceived events improved by about 21% in all three groups \((r = 0.29; p < 0.05)\).

**Respondent Perceptions by Subgroups**

Using an Analysis of Covariance, we tested the perceptions of respondents by controlling for age, gender, experience in law enforcement, and type of experience. A linear decline in the percentage of respondent perceptions was noted as the intensity of the simulation increased for those subgroups of officers 30 years and under, and 51 years and older. The subgroup Pearson’s correlation for respondents 30 years and under was \( r = -0.27 \), which showed a decline in perceptions for that particular group as simulator stress increased. Further, the correlation for older officers (51 years and older) was \( r = -0.71 \), which showed an even stronger decline in perceptions as the scenario intensified by introduced stressors. When gender was controlled, there was no significant decline in respondent perceptions among scenarios. When controlling for ethnicity, there was also no significant decline in respondent perceptions among scenarios as stressors increased.

Respondents with five years of experience or less \((r = -0.306)\) showed a decline in perceptions as scenario stressors increased. The overall differences across respondents’ experience with lethal force simulators did not influence a decline in officer perceptions among scenarios. Respondents with less street experience declined in their perceptions as stressors increased during a scenario \((r = -0.45)\). However, a linear decline in the percent of officers’ perceptions was noted as the intensity of the simulation increased for those subgroups of officers with under five years of experience in the field \((r = -0.36)\). Respondents who had never received any simulator training before the experiment declined in their perceptions as scenario stressors increased. Such lack of simulator experience is consistent with the similar correlations with younger patrol officers who experienced lower perceptions during a scenario. There was a significant decline in perception of scenario events for officers who performed only patrol duties as the intensity of the simulation increased. The overall percent of manifest content perceived declined significantly across all participants regardless of assignment \((F = 4.003, p < 0.05)\). More revealing was a linear decline in the percentage of respondent perceptions as the intensity of the simulation increased \((r = -0.245, p < 0.05)\). For respondents who had never received simulator training, a linear decline was noted in the percentage of officer perceptions as intensity of the simulation increased \((r = -0.331, p < 0.05)\). The fourth research question was affirmatively answered as a subset of respondents’ perceptions declined when controlled by years of experience, age, assignment, and simulator experience.

**Discussion**

This research has shown that a use-of-force virtual simulator can induce stress during a lethal force scenario. This study is the first and largest study to date which examined the effects of stress on human factors, including physiological biomarkers, psychological indicators, perceptions, and misperceptions of 150 law enforcement respondents by using a virtual simulator for research purposes. Using a virtual simulator provides a degree of control over the stressors but mimics world stressors that a law enforcement officer may experience. In a time in which realistic police training is advocated by educators, police practitioners, private vendors, and the courts (i.e., *City of Canton v. Harris*, 1989), this research showed that the use of a virtual lethal force simulator can indeed produce stressors replicating field encounters requiring a lethal force response.
The results of this study showed an affirmative answer to each research question posed. An important finding in this study was the elevation in the salivary cortisol concentrations (alpha-amylase and IL-6) over a 30-minute period, illustrating that the brain did perceive the scenario as significantly stressful and activated a measurable Sympathetic Nervous System (SNS) discharge in the respondents. Respondents in Group 1 did not experience as high a cortisol release as the other two groups as the scenario’s duration was only two minutes. Moreover, a significant finding of the study overwhelmingly showed that perceptions of respondents in Groups 2 and 3 were effected throughout the scenario as they reported developing a strong concern for their own and others’ safety, that the scenario was actually threatening, they felt the need to actually apprehend the suspect, they believed that the scenarios were demanding, and a moderate number of respondents reported experiencing a perception of fear.

Respondents misperceived a collective total of about 29% of the activities within the scenarios. It was shown that perhaps due to the Hawthorne effect, respondents self-reported experiencing varying physiological effects of stress, such as an increase in heart rate, vision, and auditory distortions. When these self-reported perceptions are compared with the unobtrusive measurements, the degree of misperceptions increased over self-reported perceptions. The findings of this research reveal that there are varying levels of stress experienced across all three groups, but as scenario stressors intensified, Group 2 and 3’s respondents’ perceptions deteriorated. There was no significant difference between gender and race of the respondent officers in misperception of the scenario regardless of the scenario and the induced stressors.

When controlling for the respondent’s age, length of street experience, duty assignment, and his or her having completed prior simulator training experiences, misperceived items were more likely as the intensity of the stressors increased. The findings indicate the likelihood of the type of officer who may be at a higher risk of misperceiving events when faced with a stressful lethal force encounter on four levels. First, officers under age 30 and officers over 50 showed significant deterioration in their perception of the scenario events. Second, officers with less than five years of street-level experience were more likely to experience perception distortions. Third, respondent officers assigned to patrol duties were more likely to experience perception difficulties. Finally, officers with no prior training experience in a use-of-force simulator also experienced perceptual distortions.

A significant three-way association was evidenced among the respondent’s self-reported perceptions during the scenarios, with the biomarker results, and among the misperception results (Groer et al., 2010). These findings indicate that respondents were immersed in the scenario. They are significant, support prior research, and reveal that performance and recall are related to perception. They also show that as the intensity and the frequency of stressors increased, perception deteriorated.

The misperception or perceptual distortion findings also show that in high stress situations, officers are commonly responding behind the reactionary curve. When an officer is faced with a time pressure decision in response to a subject’s motions and actions, it will take a moment to form a perception, process it, and respond. These factors have a direct bearing on the officer’s reaction time. The faster the dynamics of a situation unfold, the more likely the officer may form the misperception of the events. In some cases the officer may not see the action at all. For example, Group 1 respondents reported that the motion the suspect made to reach across the motorcycle was so fast that many of them missed observing the firearm shot at them. Respondents in Groups 2 and 3 reported missing seeing that the suspect possessed a second weapon and reported that the suspect fired in the building when he actually had not.

The operating environment of the officer combined with confrontational circumstances can also impact the formation of perceptions and misperceptions. In the workplace violence scenario, the respondents experienced
changes in lighting on four occasions as well as sounds. The officer entered the building from the outside, pursued the subject through the low lighting of the building, encountered red flashing and clanging security lights, and then abruptly exited the darkened building into glaring sunlight. As the respondent continues outside, a passing truck blasts its horn. A significant number of the respondents reported that they experienced misperceptions about the incident activities when the lighting of the scenario was considered.

Additional important misperceptions can also be experienced under high levels of stress that can impact descriptions of individuals or a suspect, cause misperceptions of information provided by others, create an inability to recall certain components of the encounter, and cause misperception of elements of distance and depth perception. For example, a number of respondents in Groups 2 and 3 misreported the actual description of the suspect, experienced problems in recalling the number of shots the suspect fired or that they fired, experienced difficulty in recalling the number or gender of the occupants in the building, and experienced difficulty in recalling the number of offices and doors checked. In their collective totality, the respondents experienced distortions of misperceptions, including time, sensual distortions (e.g., visual, auditory), ambiguity of processing information, time distortions and time pressures needed to cognitively process the information, environmental condition variables, and recall of important elements of the scenario. These misperceptions were associated with the respondent’s self-reported perceptions of the encounter and with the salivary biomarker findings.

The findings of this study further illustrate that respondents were so immersed within the scenario that they developed inattentional blindness. The scenarios were continuously flowing, dynamic, and injected with frequent stressors, and they forced the respondents to make judgments quickly. A significant number of respondents in Groups 2 and 3 reported they experienced the actual belief to apprehend the subject, developed the need to protect themselves and others, and believed that the suspect presented a threat of harm personally and to others. A moderate number of respondents in these groups experienced a sense of fear during the scenario. Respondents were so focused on the threat that the subject posed, misperceptions of some of the events developed, underscoring the principle of selective attention and Type I errors. This narrowing of focus allowed the respondents to concentrate on the salient components of the scenario (to apprehend the subject) and effectively respond to the actions of the subject. Respondents missed observing or hearing several of the scenario events in all groups which centered on many of the surrounding environmental stressors and continuous fluid actions of the subject, and they subsequently misreported their occurrence. A significant majority of the respondents in Groups 2 and 3 encountered a friendly fire situation as they fired at the subject outside when there was a back-up officer directly behind the subject, reporting that they had not seen the back-up officer.

After a traumatic event or life-threatening situation, it can be expected that detailed recall of the encounter may be fragmented (Research Board, 2008). The findings of this research are consistent with prior studies as perceptual distortions were experienced by a significant number of respondents, demonstrating that the SNS was activated, thus impacting their recall. The perceptual distortions and misperceptions experienced impaired the respondents’ ability to correctly recall certain events during the scenario. These reported perceptions and misperceptions were common across the three groups. They were not just endemic of a specific respondent, but based on the situational factors contained within the scenarios. Respondents’ recall of reported misperceptions did improve by 21% after 48 hours.

Situations of high stress in which the SNS is activated, as experienced by these study respondents, can impact the perceptions, misperceptions, and decisionmaking of officers. Activation of the SNS does not always result in creating misperceptions or errors in decisionmaking. The stress of perceiving that
they were in a life-threatening situation can affect the way information is processed because stressors inhibit the time needed to gather as much information about the situation, reduce the time to make sense of the situation, create ambiguity of sensory stimuli, disrupt the ability to use working memory to sort things out, distract an individual’s attention from the task at hand and his or her ability to multi-task, and, under time pressure, inhibit an individual’s ability to sample as many cues necessary to process all of the fastly paced incoming stimuli.

Implications

There are several implications which emerge from these findings. One of the most revealing findings shows that a lack of training with simulators increased misperceptions of the respondents. Use-of-force simulators provide an important training mechanism in which important skills can be honed, and they are important in transferring trained judgment and firearms skills from the classroom and the firing range to actual field encounters. The use of simulator training should not replace firearms range training, but agency administrators should consider providing officers with regular training by using a use-of-force virtual simulator with varying scenarios and various intensities of stressors in the scenarios.

Based on the findings, simulator training should be offered frequently and integrated with high intensity stress inoculation components. This study has shown that as the intensity of the stressors in the scenario increased, obvious items were missed by respondents. Hence, modalities of training should incorporate intense stressors so that officers receive ongoing training about keying in on subject behaviors, pre-assault cues, threat cues, and actual threats. Frequent training that addresses these issues can assist officers in forming an appropriate perception of the incident and can increase their field performance when time pressures are experienced. Simulator training can provide meaningful feedback to an instructor and student officer in correcting misperceptions, can assist in improving perceptions of officers, can improve decisionmaking, and can improve reaction time.

Second, because simulators can provide high intensity training, officers can key into threat cues and patterns (physical and auditory) which will improve their assessment/perception abilities and actions, and will improve their competence and confidence for real-world stressful field encounters (Artwohl, 2002; Honig & Lewinski, 2008; Lewinski, 2002). Exposing officers to virtual simulator training stressors works to inoculate officers to a host of possible factors in order for them to understand how their own bodies respond to stress so that a street experience is not the first exposure to such stressors.

Third, perceptual distortions were noted, and respondents showed that they were not able to recall a number of important items throughout the scenarios. Frequency and intensity of training therefore are important components to improving memory in reporting incident facts, writing a report, and testifying in court. Officers are not superhuman, and they respond as normally as other humans when faced with a stressful, life-threatening situation. As evidenced in this study, officers will miss some items, and it should not be automatically inferred that an officer is lying or purposely being evasive in an investigation. Errors will never be totally eliminated. That said, training of officers can lead to improvements in forming perceptions and recall. Respondents’ misperceptions on several details of the scenario were incomplete within 30 minutes of completing the questionnaire, but their recall did improve regarding scenario events after 48 hours.

Fourth, the study findings underscore the need for more training and changes in training methods. Increasing the frequency of exposing officers to stress-induced training by use of simulators and other modalities will enhance officer safety, which is the primary goal of all training. Training of this nature can be life-saving and provides officers with critical strategies to understand how to formulate a response strategy and respond physically. It is important for officers to be exposed to threat stressors during
training in order for them to create winning and survivor mindsets. Efforts should be made not to “overexpose” officers to such training, and a balance should be maintained. Officers should not only be exposed to training aimed at just improving physical skills, but also to training which is directed toward conflict resolution in situations commonly encountered in the field. Frequent and balanced training is an important investment in enhancing the occupational safety and survival of officers.

Fifth, agency policymakers should consider adopting the practice of allowing officers to view dash-cam videos of taped incidents. Further, officers also should be allowed to walk through the environment where the shooting occurred. As discussed, the effects of being in a high stress traumatic encounter can impair the perceptions, increase perceptual distortions, and cause the recall of the events to be problematic. Visual, auditory, and smell triggers are important components to assisting in the recall of an event. Being able to mine data from viewing videos and from performing a walk-through can assist in improving recall and reducing ambiguity of the stressful event.

Sixth, investigators should be fully instructed on the effects of stress on human factors, perceptual distortions, and performance. Investigators should be trained in virtual simulators like other agency personnel to experience the training and how their body functions under stress. Investigators who are tasked with investigating an officer-involved shooting should have a fundamental understanding of the relationships between the formation of perceptions under stress, individual responses to it, field performance, and recall of traumatic events. Further, armed with this knowledge regarding human factors, officer perception, and performance will enhance the overall investigation. Consistent with the findings of this research, officers should also be allowed to provide a short preliminary public safety statement of the incident to a supervisor, and then be provided with one to two sleep cycles prior to performing further interviews. Allowing 24 to 48 hours to pass before conducting a formal interview provides an officer with a period of rest which can enhance his or her recall of more details of the incident and improve an officer-involved shooting investigation (Artwohl, 2002; Geiselman, 2010; Grossman & Siddle, 1998; Honig & Lewinski, 2008; Lewinski, 2008). Recall of stressful events must be considered in terms of the interactions between the circumstances of the event, the environmental surroundings, time pressures, details of the event, the ability to retrieve event details, and timing of the interview.

This study underscores the fact that the objective reasonableness standard established in the Graham decision is supported by examining an officer’s perception of the confrontational circumstances. When assessing an officer’s use of force, police administrators and investigators must take into consideration that the officer on the scene will most likely experience a range of perceptual distortions, including misperceptions which will influence cognitive processing, decisionmaking, physical response, and recall of the events. Police officers are human, and errors in perceptions under a stressful confrontation will be common. This does not suggest that an officer who purposely acts outside the scope of justifiable use of force and legal parameters should be exonerated. However, the relationship between objective reasonable force, formation of perceptions, and resultant officer response must be taken into account, which will ensure the most complete and detailed investigation is performed.

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Teaching 4th Amendment-Based Use of Force

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Developing an amendment-based use-of-force training program takes a lot of work, insight, collaboration, and foresight. Critics of the amendment-based approach believe that “Graham’s direction to be objectively reasonable in light of the totality of the circumstances cannot be transferred straight from the law book to the street” (Fridell, Ijames, & Berkow, 2011). While this is procedurally correct, it is the substantive approach that makes the amendment-based approach viable.

To date, there has been limited direction on how to train and teach the reasonableness standard. Most often, only the discussion on the legal standard is presented and, oftentimes, the trainer only focuses upon the 4th Amendment standard, even though his or her agency may also need training on the 8th and/or 14th Amendment standards. In 2000, the Wyoming Law Enforcement Academy (WLEA) began developing how to teach an amendment-based use-of-force training program for peace officers, detention officers, and corrections.

WLEA formally launched the new training program in January 2001. Approximately 2,000 officers have gone through training there since the program’s inception. The program has since evolved, with the latest revisions occurring in 2011. Following the inception of WLEA in 2005, at the federal level, the Federal Law Enforcement Training Center (FLETC) transitioned to an amendment-based use-of-force program using a similar methodology (Bostain, 2009). Based on the WLEA model, the purpose of this article is to provide insight for transitioning from a continuum to an amendment-based use-of-force training center and to offer a trainer’s perspective for developing and teaching a 4th Amendment use-of-force training program.

“Clearly Established Federal Law” Establishes Training

In the mid-1970s, Professor Gregory Connor (2012) created the first force continuum as an instructional aide; it was designed to assist criminal justice trainers throughout the country. LAPD then developed the “Force Continuum Barometer,” which was published in their 1978 training bulletin.

In 1980, longtime international trainer, Kevin Parsons, PhD, developed the “Confrontational Continuum.” According to Parsons, “The concept of the continuum was to explain to officers ‘when’ to use force options as opposed to the traditional defensive tactics class which dealt only with ‘how’ to use force options. Thus, the continuum was designed to be a training tool” (Peters & Brave, 2006).

John C. Desmedt (1982) of Protective Safety Systems, Inc. developed a “Use of Force Model” concept in 1981. According to Desmedt, “In order to produce a valid model, it would have to be organized essentially as our original model.” Years later, in 2003, the use-of-force “Sector Model” was created by Ken J. Good of Strategos International and was described as “an evolution in Use of Force models” (Nicholson, 2009). Historically, agencies and training providers developed their own use-of-force programs, more than 50 different models, generating a variety of contemporary continuums consisting of stair steps, ladders, barometers, matrices, etc.

Through the years, continuums increased in complexity for no other reason it seems than to reinvent the wheel, producing several differing standards to explain to a jury. So why have varying use-of-force continuums been accepted by law enforcement trainers and the legal community without debate for so many years?
The general concept of use of force is, “A law enforcement officer may use that amount of force upon a person that the law allows. A law enforcement officer may not use more force upon a person than the law allows” (Brave, 2010, Slide #69). As the Tenth Circuit Court of Appeals stated, “Clearly established law dictates training, not the other way around” (Weigle v. Broad, 2008). Thus, an understanding of clearly established federal law is imperative for a use-of-force trainer. Clearly established federal law is defined as “the governing legal principle or principles set forth by the Supreme Court at the time the state court renders its decision” (McClish v. Evans, 2009).

Historically, from 1952 to 1985, the U.S. Supreme Court applied a 14th Amendment substantive due process analysis to excessive force claims against police (Rochin v. California, 1952; Tennessee v. Garner, 1985). It was not until 1972 when the Second Court of Appeals provided a four-part test and a definitive statement to further define the shocks-the-conscience standard: “force that is brutal and offensive to human dignity” (Johnson v. Glick, 1973). In 1985, the U.S. Supreme Court’s landmark case, Tennessee v. Garner, began a slight shift in clearly established federal law away from 14th Amendment substantive due process analysis.

The Court ruled, “the use of deadly force to apprehend a suspect is a seizure under the Fourth Amendment objective reasonableness standard.” A police officer may not seize an unarmed, nondangerous (fleeing felon) suspect by shooting him dead (Tennessee v. Garner, 1985). The Court went on to provide guidance for lower courts conducting judicial analysis of officer’s decisions in this particular circumstance.

In 1989, in Graham v. Connor, the Court moved the judicial analytical focus from the long used 14th Amendment substantive due process to the 4th Amendment objective reasonableness standard. The Court expanded post-incident analysis to include all uses of force.

The notion that all excessive force claims brought under § 1983 are governed by a single generic standard was rejected: “Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force and then judge the claim by reference to the specific constitutional standard which governs that right” (Graham v. Connor, 1989).

To say the years from 1985 to 1989 created a change in clearly established federal law is an understatement. Tennessee v. Garner and Graham v. Connor changed the post use-of-force analysis process for the courts and indirectly provided an opportunity for change for the law enforcement community and their use-of-force trainers. Some argue it mandated change via clearly established federal law.

**Teaching the 4th Amendment Reasonableness Standard**

Since 1989, multiple use-of-force training courses and conferences around the country presented the legal points of the Graham v. Connor case and the reasonableness standard. Many of these were presented by former or retired law enforcement officers who are now attorneys. However, a critical missing link between the legal world and the law enforcement community and their trainers was created. There was very limited direction on HOW to train the reasonableness standard; there was only discussion on the legal standard.

As previously stated, the Garner and Graham decisions were directed toward the legal profession in the context of use-of-force post-incident analysis, making the Court-provided guidelines very appealing for use-of-force investigators at all levels. However, when developing a decisionmaking use-of-force training program for the officer, which includes report writing and testifying guidance, the substance and the training methodology are critical variables to ensure there is not a casual transferring of legal principles to the law enforcement classroom.

The basic concept of amendment-based use-of-force training is to move the post-incident analysis factors forward to the pre-incident
decisionmaking process. Doing this takes a change in traditional training concepts. Use of force is not a team event; it is an individual decision which is judged individually. Traditional continuum-style training focuses on suspect behavior as a variable and the officer’s predetermined response as the constant. In contrast, amendment-based use-of-force training focuses on each officer as an individual and the suspect’s behavior cues as the constant.

For example, at the WLEA, each individual officer must make a solo arrest in a dynamic force-on-force scenario. The scenario has specific elements to be acted out to test the individual officers’ tactics, use-of-force options, and ability to articulate his or her actions. The scenario is performed 36 times for 36 officers.

Because the officer walking through the door is the “variable,” with differing heights, weights, strength, and abilities, there is potential for 36 different outcomes, with different force options, and they all could be reasonable. This is where the traditional force continuum has limitations by not addressing the officer as an individual and as a variable in a confrontation. Reasonableness is “not capable of precise definition or mechanical application” (Bell v. Wolfish, 1979).

The Court provided directive guidance in the Tennessee v. Garner (1985) case, providing factors to aid in describing the totality of the circumstances. Along with these factors, new guidance was given to fact finders (courts) analyzing uses of force:

1) Proper application requires careful attention to the facts and circumstances of each particular case.
2) Must be judged from the perspective of a reasonable officer on scene not 20/20 hindsight.
3) Must embody allowance for split-second decisions in tense, uncertain, and rapidly evolving situations.
4) An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of force constitutional. (Graham v. Connor, 1989)

Teaching the Tennessee v. Garner Standard

In 1985, the Supreme Court established rigid preconditions for using deadly force (shooting with a firearm) in the context of preventing the escape of a violent fleeing felon. In 2007, the Supreme Court further stated in Scott v. Harris (2007) that “Garner did not establish a magical on/off switch that triggers rigid preconditions whenever an officer’s actions constitute deadly force.”

Garner was simply an application of the 4th Amendment’s “reasonableness” test, and Graham was to “the use of a particular type of force in a particular situation” (Scott v. Harris, 2007). In the Tenth Circuit, as recently as 2010, lower courts continue to use the Tennessee v. Garner standard to judge officer’s use of deadly force (shooting with a firearm) to prevent escape (Brooks v. Gaenzle, 2010).

For these reasons, the Garner standard is currently included in the WLEA use-of-force curriculum. Garner provided several factors: “[If the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given” (Tennessee v. Garner, 1985).

When teaching the first factor, “probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm,” emphasis is placed on the probable cause standard. Differing from reasonable suspicion, probable cause is the standard for making an arrest without a warrant. Thus, if an officer does not have articulable information to place the person under
arrest for a violent crime, the factor cannot be satisfied, resulting in a no-shoot situation.

The second factor is “deadly force may be used if necessary to prevent escape”; however, the Garner court did not clearly define what “necessary” means. In 1997, the Ninth Circuit Court of Appeals further defined necessary as “The necessity inquiry is a factual one. Did a reasonable non-deadly alternative exist for apprehending the suspect?” (Forrett v. Richardson, 1997, citing Brower v. County of Inyo, 1989). If the suspect is fleeing with a gun in hand, tackling the suspect, using OC Spray or a baton to prevent his escape, would certainly not be reasonable.

The final factor is “give a warning of the imminent use of force, if feasible.” There are two inquiries to be answered by an officer in determining when it is both feasible and appropriate to issue a warning prior to using deadly force to apprehend a fleeing suspect:

1) An officer first should consider whether the suspect is aware that the police are trying to apprehend him, such that he has knowledge that he should stop.
2) If an officer reasonably believes, based on the suspect’s prior conduct, that such a warning would not cause the suspect to surrender, but rather would provoke the suspect to engage in violent and life-threatening behavior, or to increase his or her efforts to flee, then a warning is not feasible. (Ridgeway v. City of Woolwich, 1996)

In the training environment, officers will at times passionately debate the reasonableness of using deadly force in the context of a fleeing felon. In the legal world, most all decisions are debatable. The goal in training Garner’s rigid guidelines is to encourage the officer to make the least debatable use-of-force decision in the context of using a firearm to prevent escape.

Teaching the Graham v. Connor Standard

The Graham v. Connor (1989) use-of-force post-analysis factors included, but were not limited to, “the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” Using the Graham factors for decisionmaking and a report-writing template for training purposes requires an adjustment in the alignment of the original factors.

The first and most important factor for an officer in decisionmaking as well as report writing is threat assessment. In 2002, FBI Special Agent Thomas D. Petrowski, JD, stated, “The cornerstone of use-of-force training should be threat assessment” (p. 28). Petrowski further explained, “officers must be trained to respond to the threat of violence and not to the actual violence itself, guarding against the inherent presence of hesitation. When training [for] threat assessment, elements of ability, opportunity, and intent can help train officers to reasonably come to their conclusions” (p. 28). As stated in Deorle v. Rutherford (2001), “[A] simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern.”

The second is active resistance. Given the officer’s presence and verbal commands, the suspect is left with the decision to comply or actively resist. Several definitions from which to choose are available. The WLEA (2011) defines active resistance as “Some physical or mechanical means willfully used to resist” (Slide #34), which is based on the premise that resistance is an act of the subject’s will.

The Ninth Circuit has even provided guidance: “Resistance, however, should not be understood as a binary state, with resistance being either completely passive or active. Rather, it runs the gamut from the purely passive protestor who simply refuses to stand, to...
the individual who is physically assaulting the officer” (Bryan v. McPherson, 2009; rehearing en bane denied, 2009).

In Graham, the Supreme Court gave the directive to post-analysis fact finders: “Reasonableness of particular use of force must be judged from [the] perspective of [a] reasonable officer on the scene, and the calculus of reasonableness must allow for [the] fact that police officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving, about [the] amount of force that is necessary in a particular situation.” Although not a factor, the pacing of the event for an officer making a decision to use force can determine the difference between an imminent threat versus an immediate threat.

For example, depending on the totality of circumstances, a suspect walking toward an officer with a baseball bat versus a suspect running toward the officer is a significant element in making a decision. After all, the fact finder must allow for split-second decisions as it provides a means to articulate the totality of the circumstances for the written report.

The final decisionmaking factor is the severity of the crime at issue. It is important to keep this factor in context as it is the crime that is causing the officer to use force at the moment. For example, the officer is dispatched and arrives on scene to a disturbance without known weapons. As the officer investigates, a suspect escalates the situation by drawing a knife and threatening the officer. The latter is the crime at issue, not the disturbance that brought the officer on scene.

Conclusion
Choosing to adopt the amendment-based approach to use-of-force training that includes a correlating policy is the decision of the agency administrator. There is another viable way of utilizing use-of-force training versus the traditional continuum style. The courts do not recognize a force continuum when analyzing the reasonableness of an officer’s use of force under the 4th Amendment.

The amendment-based approach to use-of-force training provides the officer and agency with a unified methodology for use in the adjudication process. With product risk and safety warnings directing officers to their agency policy for when to use force options, there is potential municipal liability if there is no operational plan for an agency’s use-of-force training program in place. Policy guides the officer’s decisions, and municipalities act through official policymakers. If a person has proof their deprivation of constitutional rights was caused by a policy that approved an unconstitutional practice, or a policy that is deliberately indifferent to a known risk, liability attaches (Klotter & Kanovitz, 1999).

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Evaluation of Rubber Ball Grenades: Applications for Law Enforcement and Corrections

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Introduction

Popular culture, including movies, television shows, and other forms of entertainment, routinely shapes the public’s perception of law enforcement technology and less-lethal weapons. One of the most inaccurate perceptions is that of diversionary devices, or flash bangs, which are depicted with almost mythical characteristics and allow entire rooms of individuals to be subdued simply by the application of bright light and a loud noise (i.e., Assault on Precinct 13). Based on perceptions from television science fiction, like Star Trek, the public expects phaser-like weapons that result in immediate incapacitation but do not cause permanent harm or death (Heal, 1999). In reality, these devices simply create a temporary sensory overload and mild disorientation which allow an entry team sufficient time to breach and secure a room. The devices also carry a substantial risk of fire and the potential for secondary objects to be propelled when activated.

Although a variety of less-lethal weapons have been the focus of considerable research, including electronic control weapons, there has been minimal research on the types of diversionary devices that generate light and sound as pain compliance or distraction. This paper will review these weapons and will include an assessment of the potential shortcomings which must be considered before application in the field. At the core of this study, as in previous research on less-lethal technology, is the premise that law enforcement and corrections agencies utilize the right tool for the right job.

Literature Review

Diversionary devices are used in a wide range of law enforcement operations (Sandia National Lab, 2003) as their deployment allows operators to enter and secure an area with decreased risk of resistance (Bozeman & Winslow, 2005). These devices create a sensory overload, which is intended to inhibit the suspect from correctly interpreting stimuli and causes disorientation for six to eight seconds (Heal, 1999). The proximity of the device to the target has a direct impact on its effectiveness, and as the distance from the flash bang is doubled, the effects from sound and pressure waves are halved.

Over the last 20 years, there has been an evolving body of case law regarding the use of flash-bang devices in law enforcement and corrections. Early cases tended to provide guidance toward acceptable deployments, while more recent cases tend to place more limitations on their use. The following cases represent the major challenges to flash-bang deployments as a violation of 4th and 8th Amendment protections.

Langford v. Superior Court, 43 Cal. 3d 21, 729 P.2d 822 (Cal. 1987) – Flash bangs did not
pose an unacceptable threat to property and persons after officers had seen fully into a targeted room.

*United States v. Stewart*, 867 F. 2d 581, 584-85 (10th Cir. 1989) – The court found that the exigencies put forth by the government did not justify this entry, wherein (1) all the claimed exigencies were known at least 24 hours before the entry; (2) most of the facts used to justify the mode of entry were “generalities that bore no relation to the particular premises being searched or the particular circumstances surrounding the search”; and (3) of the two specific facts known to the officers, one was stale and an isolated incident, and the other was an improper consideration (the suspect’s ethnicity).

*Commonwealth v. Garner*, 423 Mass 735, 672 NE 2d 510 (1996) – The court recognized that the “unreasonable execution of a warrant may violate the Fourth Amendment” and found that the police knew the defendants to be armed and vicious and that the risk to the child (present in the room where a flash-bang device was deployed) was less than that posed by a gun battle between police executing a warrant and armed, dangerous criminals.

*Richards v. Wisconsin*, 520 U.S. 385, 137 L. Ed. 2d 615, 117 S. Ct. 1416 (1997) – This case rejects an argument that drug dealers are invariably so dangerous that no-knock entries are proper.

*United States vs. Green*, 1994 U.S. App. LEXIS 11087 – There is no evidence that use of a flash-bang device in the present instance was excessive force rendering the search unreasonable. No one was injured. No children were present. Without some evidence to the contrary, the court could not say that the force was unreasonable in light of information known to officers.

*United States v. Myers*, 106 F. 3d 936 (10th Cir. 1997) – The use of a flash-bang device is neither *per se* objectively reasonable nor unreasonable. The reasonableness of its use depends on the facts and circumstances of each case.

*Mitchell v. Kansas City*, 2000 U.S. Dist. LEXIS 19195 (D. Kan. 2000) – Because the officers believed that drugs and weapons were located within the home, the use of a diversionary device was reasonable to effectuate the safest entry possible.

*United States v. Jones*, 214 F. 3d 836, 837 (7th Cir. 2000) – Police cannot automatically throw a bomb into drug dealers’ houses, even if the bomb goes by the euphemism “flash-bang device.”

*United States v. Folks*, 236 F. 3d 384 (7th Cir. 2001) – The court suggested that a sufficiently careful (or perhaps reasonable) use of a flash-bang device occurs when officers take a moment to look inside a residence or a room to ensure that no one would be injured by the device before tossing it and when officers carry a fire extinguisher to quickly extinguish any fires resulting from deployment of the device.

*Kirk v. Watkins*, WL360704 (10th Cir. 2002) – Plaintiff homeowners filed suit after a flash-bang device burned them when it landed on their bed during the execution of a no-knock search warrant. The judgment of the lower court that denied qualified immunity to the defendant officer was reversed because the defendant did not violate clearly established law when he threw the flash-bang device into the plaintiffs’ bedroom.

*Molina v. Cooper*, 325 F. 3d (7th Cir. 2003) – The use of flash-bang devices during the execution of a “high risk” search warrant was reasonable because of the suspect’s violent criminal history and access to a stash of weapons. However, the court expressly stated that “we in no way suggest that the use of flash bang devices is appropriate in every case (or even most cases).”

*Estate of Smith v. Marasco*, 318 F. 3d 497, 515-518 (3rd Cir. 2003) – This case discussed the use of flash-bang devices to enter an individual’s home for which the purpose was not to arrest him and wherein the individual was not
threatening, mentally unstable, nor suicidal. The court determined that a reasonable jury could find that the defendant officers’ conduct was unreasonable and excessive under the 4th Amendment.

*United States v. Buchanan*, 78 Fed. Appx. 933, 935 (5th Cir. 2003) – The knock-and-announce requirement is not an abstract requirement that officers utter the talismanic word “Police” at some point prior to entry, but a requirement that law enforcement officials afford residents “an opportunity to respond to and cooperate with the police presence in lieu of having to face an unexpected and threatening intrusion.”

*United States v. Dawkins*, 83 Fed. Appx. 48 (6th Cir. 2003) – An officer’s use of the flash-bang device was viewed to be objectively reasonable when the suspect possessed an assault rifle and had previously been convicted of a crime of violence. No one in the residence was injured by the flash bang. Although some property damage from the device’s use occurred (e.g., a shattered penny jar, a dented file cabinet, and burn marks on the floor), this damage does not create a 4th Amendment violation. Rather, the appropriate remedy, if any, for this damage lies in tort. The fact that the flash bang’s detonation caused an injury to one of the officers is irrelevant to the inquiry into whether the device’s use violated 4th Amendment rights.

*United States v. Morris*, 349 F. 3d 1009 (7th Cir. 2003) – This case emphasized the dangerous nature of flash-bang devices and has cautioned that the use of such devices in close proximity to suspects may not be reasonable.

*Boyd v. Benton County*, 374 F. 3d 773, 777-79 (9th Cir. 2004) – The use of a flash-bang device is an unconstitutional use of excessive force in situations in which police deployed it without either looking or sounding a warning when there were innocent individuals in a room as well as suspected robbers.

*Spradley v. State*, 933 So. 2d 51 (Fla. Dist Ct. App 2nd Dist. 2006) – The police had a search warrant, and there were no exigent circumstances to enter the home without knocking and announcing. As soon as an officer finished knocking and announcing, the police set off an explosive detonation device and used a battering ram to break down the two doors. The time elapsed was approximately 15 seconds. The appellate court held that the defendant had standing to challenge the violation of Florida Statutes § 933.09 (“The officer may break open any outer door, inner door, or window of a house, or any part of a house or anything therein, to execute the warrant, if after due notice of the officer’s authority and purpose he or she is refused admittance to said house or access to anything therein”) as his property was damaged.

Under the circumstances, a reasonable, law-abiding person might delay more than a few seconds to respond to the door, to orient themselves, to make certain that the explosive device posed no danger, and to determine that it was safe to invite the person knocking to enter. It seemed particularly unreasonable to expect an occupant to open the door in the seconds within which it is being hit with a large object on the other side. By intentionally detonating the distraction device during the few seconds that the occupants had to go to the front door and open it, the police could not reasonably expect the occupants to accomplish that which was expected of them.

*Escobedo v. Bender*, 600 F. 3d 770 (7th Cir. 2010) – Based on pre-existing case law, it was clearly established at the time of the incident (2005) that throwing a flash-bang device blindly into an apartment where there are accelerants, without a fire extinguisher, and where the individual attempting to be seized is not an unusually dangerous individual, is not the subject of an arrest, and has not threatened to harm anyone but himself, is an unreasonable use of force.

*Jackson v. Gerl*, 622 F. Supp 2d 738 (Dist. Court WD, 2009) – Detonating a Stinger grenade inside a prison cell could not be considered *de minimis* (minimal amount of force as described in *Hudson v. McMillian*). The court
was unable to determine if deployment of the grenade was in a good-faith effort to maintain discipline or used maliciously and sadistically to cause harm.

*Rush v. City of Mansfield* (Dist. Court, ND Ohio 2011) – The court did not accept argument that a “grenade-and-announce” is sufficient to comply with knock-and-announce, particularly in situations in which the police combine the grenade with “blinding beams” that prevent their visual identification as police. Grenade-and-announce does not give occupants the opportunity to cooperate “in lieu of having to face an unexpected and threatening intrusion.” The grenade is the “unexpected and threatening intrusion” (as discussed in *U.S. v. Buchanan*).

Although the term *stingball grenade* appears in both literature and case law, a more accurate generic description would actually be rubber ball grenade as “Stingball” is a registered trade name of Combined Tactical Systems® (CTS). A similar product, “Stinger,” is produced by Defense Technologies®. Rubber ball grenades are a type of diversionary device used in crowd control and corrections environments. While this category of munitions is categorized as a diversionary device, there are significant differences from a standard flash bang.

First, rubber ball grenades can only be used one time, whereas a number of flash-bang models utilize nonbursting canisters and can be repeatedly reloaded. Second, the composition of the flash bang is steel and utilizes vents to release the blast wave. Unlike flash bangs, rubber ball grenades intentionally propel hard rubber pellets that may cause injury to people in close proximity to the device when it ignites. Additionally, Stingball and Stinger grenades have a rubber exterior and break apart in a fashion similar to that of a military grenade. As a result, there is a risk of causing severe injuries or death from flying projectiles (Bozeman & Winslow, 2005; Ijames, 2005; Sandia National Labs, 2003) as rubber balls tend to ricochet (Heal, 1999). However, even standard flash bangs are not without risk as fragmentation and fire have been documented in prior studies (Elabs, Inc., 2004). Due to the extreme temperatures generated, fire is a legitimate concern, and suspects who are too close may have injury patterns that resemble those caused by fireworks (Feier & Mallon, 2010).

Over the years, several companies have launched their own form of rubber ball grenades that generate heat, light, sound, and fragmentation. Surprisingly, with applications in both law enforcement and corrections, there was very little literature regarding these devices.

**Methodology**

This current study focused on the Stingball brand of rubber ball grenades and focused on the model 9590 from CTS. This brand was chosen as a convenience as the principle investigator held an instructor certification in this diversionary device, which was required by Alcohol, Tobacco, Firearms and Explosives (ATFE) in order to acquire this category of destructive device.

When a Stingball device is released by the operator, the bouchon disengages and initiates the Model 201 precision delay fuze, which, in turn, initiates an ejection charge. The fuze then separates and kicks the body of the grenade away and proceeds to deflagrate. This action reduces the likelihood of the heavy fuze being projected as an additional form of shrapnel.

Each Stingball grenade contains approximately 105 rubber balls (.31 caliber) that are released in all directions as a form of less-lethal shrapnel. The delay for almost all distraction devices and rubber ball grenades varies from .7 to 2 seconds, with the most common delay being between 1.5 and 2 seconds (Heal, 1999).

In riot situations, Stingballs are considered to be effective diversionary devices and are most effective when deployed in volleys as more suspects are impacted simultaneously.
(Heal, 1999). According to CTS (2009), these devices generate three primary effects: (1) heat (2,700 °F), (2) light (6 to 8 million c.d.), and (3) sound (165 to 180 dB). The environment where the device is deployed can impact these effects in that pressure waves and projectiles can be reflected off barriers and other obstructions.

Two initial concerns formed the basis of this analysis. First, the dispersion pattern of the Stingballs is frequently described as 360° of coverage similar to the one shown in Figure 1, illustrating an equidistant and equal dispersion in the delivery of payload. Regardless of initiating source (explosion or deflagration), it is unlikely that universal coverage could be achieved as some projectiles would be propelled upward.

![Figure 1. 360° Diagram Coverage](image)

Second, unlike other less-lethal weapons that target “safe” zones of the body (see Mesloh, Wolf, Henych, & Thompson, 2008), the trajectory of the Stingball fragments cannot be controlled by the user and could potentially strike unintended portions of the target’s body. This creates a concern for eye safety and soft tissue damage, and the potential that the projectiles may become lethal.

A total of 100 Stingball grenades were detonated to identify the area of Stingball coverage and to perform some type of trajectory analysis. Since there is a dearth of rubber ball grenade literature, a modification of the grounded research approach was employed (Glaser & Strauss, 1967; Strauss & Corbin, 1990) to create or modify variables based on observations made during the data collection process.

However, there were two immediate problems: (1) the rubber body of the grenade (when thrown) performed in a similar fashion to a child’s “crazy ball,” never bouncing in the same manner consecutively, and (2) after several bounces, the separating fuze of the munition created a unique problem by propelling the grenade a considerable distance. After observing a number of deflagrations and noting a substantial variance in the distances travelled, it was determined that these data would also be captured for analysis. It was then measured how far the body traveled away from the bouchon to its point of deflagration.

Because this was a separating fuze munition, the methodology could not control the exact location of the Stingball deflagration. This effect was minimized, however, by placing the grenade at a designated deflagration point and holding it in place with a bang pole (which had to be designed and constructed since none existed for separating fuze munitions).

To document whether 360° coverage was obtained, the research team constructed a 16’ × 16’ × 8’ cardboard box comprised of witness panels to measure the number of projectile impacts. The size of the test box was modified numerous times during the initial pretests, and this size consistently captured the greatest amount of data. An eight-foot section of cardboard was replaced with transparent Lexan to allow researchers the ability to view the action in real time or through the review of multiple video recordings.
The grenade was remotely detonated while attached to the bang pole, and cardboard panels were marked where grenade pieces and rubber balls penetrated the surface of the cardboard. The data from each deployment was mapped onto a data collection form and collated for later analysis. Photographs and videos of testing made it possible to reconstruct the results of each deployment.

In addition to rubber ball projectiles, the amount and type of shrapnel was documented. To collect the various components, each grenade was initiated within a metal shipping container that served as a test chamber. After each deployment, the container was swept out and its contents inventoried prior to the next test.

**Findings**

In order to measure the effect of the separating fuze, a total of ten Stingball grenades were deployed from a standard point inside the testing area, and the distance was measured between where the Stingball pin was pulled to the location that the device deflagrated.

The shortest distance was only 22 inches (1.83 ft), and the furthest distance was 203 inches (16.92 ft). It was found that the average distance that the grenade body traveled from the fixed initiation point was 83.2 inches (6.93 ft). Consequently, if the user somehow managed to accurately deliver the grenade (after it bounced several times erratically), the action of the separating fuze would propel it almost an additional 7 feet prior to deflagration.

As stated, Stingball grenades are comprised of a fuze mechanism, a hard rubber outer body, and a number of .31 caliber rubber balls that are held inside the outer body. The rubber balls are dispersed in all directions upon deflagration, and they serve as a diversion in addition to the light and sound effects. It was discovered during testing, however, that far more projectiles were released than just rubber balls. The entire body of the grenade had the possibility of becoming shrapnel. Consequently, the variance in the number of possible projectiles per grenade made predictive modeling impossible.

Eleven grenades were deflagrated inside a metal test chamber and pieces were collected. The number of rubber balls varied considerably from grenade to grenade (103 to 117) with an average of 110 balls. The body of the
A grenade broke into a wide range of pieces (7 to 93) with an average of 35 pieces.

As shown in Figure 3, some grenade bodies remained somewhat intact, while others nearly disintegrated, creating a shower of shrapnel. As the number of rubber balls and the fragmentation of each Stingball varied, the number of projectiles varied substantially from grenade to grenade (110 to 210; m = 145; SD = 29.3).

Some grenades fragmented into a few large pieces, while others fragmented into dozens of smaller pieces. The researchers categorized shrapnel from the grenades into three size groupings: (1) 0 to 20 mm, (2) 21 to 40 mm, and (3) greater than 40 mm. As shown in Table 3, the majority of the shrapnel fell into the smallest category.

According to multiple vendors (including the vendor used in this study), Stingball grenades were advertised to provide 360° coverage of the area upon deflagration. However, our observations did not support this claim. Ten grenades were tested for this variable. Each grenade was centered in the 16’ × 16’ × 8’ cardboard box and manually initiated. After each deflagration, the research team counted and marked each area of impact (defined as piece of the grenade or rubber pellet that struck the cardboard witness panels). Figure 4 shows the number of times a section of the test chamber was impacted (with separate scores for the top and bottom half of each witness panel).

**Table 2. Summary of Rubber Balls and Components**

<table>
<thead>
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<th></th>
<th>Range</th>
<th>Median</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rubber balls</td>
<td>103-117</td>
<td>109.7</td>
<td>4.9</td>
</tr>
<tr>
<td>Grenade body pieces</td>
<td>7-93</td>
<td>35.2</td>
<td>25.4</td>
</tr>
<tr>
<td>Total projectiles</td>
<td>110-210</td>
<td>144.9</td>
<td>29.3</td>
</tr>
</tbody>
</table>

**Table 3. Shrapnel Sizes**

<table>
<thead>
<tr>
<th>Trial</th>
<th>0-20 mm</th>
<th>21-40 mm</th>
<th>&lt;40 mm</th>
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<tbody>
<tr>
<td>1</td>
<td>5</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>29</td>
<td>11</td>
<td>5</td>
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<td>3</td>
<td>1</td>
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<tr>
<td>4</td>
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<td>24</td>
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<tr>
<td>8</td>
<td>31</td>
<td>11</td>
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<tr>
<td>9</td>
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<td>0</td>
<td>3</td>
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</tr>
<tr>
<td>11</td>
<td>13</td>
<td>1</td>
<td>3</td>
</tr>
</tbody>
</table>

**Figure 3. Different Fragmentation in Two Stingball Grenades**
Of the ten grenades deployed, there were a total of 512 impacts on the witness panels. Of this number, 80% (410) struck above 4’ or higher, while 20% (102) fell at 4’ or below. Additionally, one individual panel showed the most activity with 93 rubber ball hits (80 hits on the lower panel, 13 hits on the upper), making up 18% of the coverage. The west wall seemed to have the most activity, receiving 42% of the rubber ball impact. The pattern of the grenades tended to travel in this direction for each deployment while other quadrants of the test box received considerably fewer impacts. Since all of the grenades were initiated from a fixed position, it was possible to identify this distribution which would have appeared random had the grenade landed haphazardly. It was theorized that the grenade’s design caused it to break apart along specific seams on its body and release the rubber balls in that direction.

**Conclusion**

Evaluation of the Stingball grenade identified a number of factors that potentially impact its deployment in law enforcement and corrections. Two factors were identified that negatively affect the accurate placement of the grenade. The first was the fact that the rubber exterior causes the grenade to bounce unpredictably. The second factor was that the separating fuze moves the device an average of 7 feet prior to deflagration. These factors may...
not be consistent with the application visualized by existing case law, and they greatly limit the type of applications in which the Stingball grenade could be deployed.

It was also found that the grenade body broke into various-size fragments that each became additional pieces of shrapnel. While the small mass of the rubber balls tended to pose a minimal risk, the larger (and harder) components of the grenade appear to be more problematic. A number of these components passed completely through the panels used for the experiments and became imbedded in the wall of the research lab.

Finally, while Stingball coverage may encompass a 360° area, that coverage tends to focus the payload in specific “hot spots” based upon the orientation of the grenade at the time of deflagration. Coverage is further impacted by the number of rubber balls which varies from grenade to grenade. However, coverage issues may be overcome by deploying in volleys (as suggested by Heal, 1990) and projecting additional projectiles into the target area.

Key Terms

Bouchon – Modern fuze system in hand grenades and flash bangs usually consisting of a safety pin, safety “spoon,” and percussion ignition device

Deflagrate – Subsonic (slow) expansion or explosion (from low explosives such as black powder, flash powder, etc.)

Detonate – Supersonic (fast) expansion or explosion (from high explosives such as TNT, PETN, etc.)

Flash bang – A diversionary device which, when ignited, emits a loud bang and bright flash; also known as a flash/sound device or a distraction device

Fuse – Pyrotechnic initiator for a device

Fuze – Mechanical initiator for a device

Rubber ball grenade – A less-than-lethal device which uses an explosion or other method to propel or fling pellets or other similar objects which intend to cause pain but not serious injury

Stingball grenade – Proprietary name (by Combined Tactical Systems©) for a type of rubber ball grenade

Separating fuze munition – Fuze assembly separates from the body, which contains the explosive charge to prevent fragmentation of the fuze

References


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The First Three Minutes After the Cuffs Go On

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The interview process begins the moment suspects are cuffed. Suspects are then interviewed to obtain admissible confessions or actionable intelligence. What happens during the first three minutes after an arrest is critical because it sets the tone, attitude, and framework for the interview. This article examines the psychological mindset of suspects during the first three minutes after they are arrested and provides interview strategies that will psychologically predispose suspects to cooperate with law enforcement officers.

Fight/Flight/Freeze Response

When suspects realize they are about to be apprehended by police, their fight/flight/freeze response activates. They either try to escape capture, freeze and allow themselves to be arrested, or make a decision to submit to law enforcement officers. The greater the intensity of the fight/flight/freeze response, the less the brain can logically process information; in other words, suspects are in automatic response mode.

Stimuli enter the brain through the five senses. The thalamus processes the incoming signals and splits them into two signals (Arnsten, 2009; Debiec & LeDoux, 2004). One signal goes to the amygdala (Arnsten, 2009), which is the storehouse for emotional memories (Mirolli, Mannella, & Baldassarre, 2010). The other signal travels to the prefrontal cortex, which is the reasoning part of the brain (Arnsten, 2009). The pathway from the thalamus to the amygdala is shorter than the pathway from the thalamus to the prefrontal cortex; therefore, the amygdala processes the incoming signal first (Arnsten, 2009). If the incoming signal matches or is closely associated with a negative past experience, the amygdala sends a signal to the nearby hypothalamus, which secretes a cascade of hormones that trigger the fight/flight/freeze response (Debiec & LeDoux, 2004). Using associative properties, the amygdala also has the capability to recognize behaviors and situations that portend threats, further increasing survivability (Mirolli et al., 2010). One of the hormones that is released weakens or cuts off the signal from the thalamus to the prefrontal cortex (Carter, 2010). The fight/flight/freeze response prevents the prefrontal cortex from processing incoming stimuli (Carter, 2010; Goleman, 2005). During this response, the brain is in automatic response mode (Goleman, 2005).

The fight/flight/freeze response is not an all or nothing response. The intensity of this response depends in part on the suspects’ past experiences with law enforcement. Suspects with little or no past involvement with law enforcement tend to have more intense fight/flight/freeze responses, while experienced suspects exhibit less intense responses. The more information suspects have about the arrest process, the less likely they will be to perceive being arrested as a threat. In either instance, the suspects’ cognitive abilities are impaired to some degree.

When the threat has passed, enzymes break down the hormones that initiated the fight/flight/freeze response (Robertson, Biaggioni, Burnstock, Low, & Paton, 2012). In the full fight/flight/freeze condition, this process takes about 20 minutes. This means the suspect will not be able to logically process information for about 20 minutes after being handcuffed. Police officers should not present suspects with critical information until the fight/flight/freeze response disengages. Suspects who are in full fight/flight/freeze response will not remember what was said or done until this response subsides because their brains will not logically process incoming information. To accelerate disengagement, police officers should satisfy the suspects’ immediate psychological needs, build rapport, and diffuse...
anger when necessary. Many police officers feel that they relinquish administrative authority when using compliance techniques that subtly influence rather than intimidate. Gaining voluntary compliance through affirmative influence not only enhances administrative authority but also reduces the probability that an arrest will go awry. Using the following psychological techniques, police officers will be able to satisfy the suspects’ physical and psychological needs without relinquishing administrative authority.

**Back to the Present Technique**

According to Maslow’s (1948) hierarchy of needs, basic needs must be met before higher cognitive functions can occur. Based on this psychological principle, the arresting officers must meet the basic needs of the suspects before any meaningful exchange of information can take place. Suspects want to know about their present status and usually ask questions that pertain to the present. Among the questions they might ask include “What’s going to happen to my car?”, “What’s going to happen to my kids?”, and “What about the frozen pizza that’s in the oven?” The arresting officer should answer the suspects’ questions: “Your car is going to be towed and stored in a secured parking lot”; “We called your mother, and she is going to take care of your kids”; and “We turned off the oven.” Once the suspects’ present needs are met, the next questions they typically ask pertain to the future. These questions might include “What is going to happen to me?”; “Am I going to jail?”; and “When will I be able to come home?” Again, the police officer should address the suspects’ future needs, “You are going to be transported to the police station to be fingerprinted and booked”; “Yes, you will be in jail until you see the judge”; and “The judge will decide when you can return home.” Once the suspect’s present and future needs are addressed, then, and only then, can the police officer go to the past and have the suspect account for his or her actions that led to the present. A good place to start is at the beginning. Only the suspect knows the starting position. Police officers should ask open-ended questions or imperatives such as “Tell me how this whole thing started”; “What was the first step you took that led you to today?”; and/or “Start from the beginning and tell me everything.”

*Figure 1. Back to the Present Technique*

The Back to the Present Technique is effective because it addresses the suspects’ immediate and future psychological needs. Suspects feel as though they have regained limited control of their lives. A predictable world reduces anxiety and reduces the effects of the fight/flight/freeze response, allowing suspects to think more logically. Once the ability to conduct higher-order cognitive functioning returns, suspects are predisposed to talk about the past events that led to the present.

**Building Rapport**

Building rapport is the key to successful interviews. Suspects will not willingly reveal secrets unless they like the person interviewing them (Holmberg & Christianson, 2002). Rapport building starts the moment the suspects are cuffed. The following technique quickly builds rapport, reduces anxiety, and sets the foundation for successful interviews. This technique can be applied at the time of the arrest or shortly thereafter.

**Empathic Statements**

Empathic statements are the foundation for effective communication. Empathic statements require police officers to listen not only to what suspects say but to capture the essence of their communication. Police officers then reflect the same message back to the suspects using similar language. Police officers often say something to the effect of “I understand how you feel.” Suspects automatically think, “No, you don’t know how I feel because you are not me.” The basic formula ensures that the focus of the conversation remains on the suspects. Avoid repeating word for word what the suspects have said. Parroting can sound patronizing and condescending.
The reflected communication sends the powerful message that the police officers are not only listening to the suspects, but they understand what the suspects said. Some police officers may be reluctant to use empathic statements for fear the suspects will see through their strategy. This is not the case. In the real world, people think others should listen to them and, consequently, no one listens to anyone. When police officers make the effort to actively listen to suspects, rapport builds quickly.

The format for constructing empathic statements is “So you . . . .” The “So you . . . .” construction keeps the focus of the conversation on the suspects rather than on the police officers. As police officers become more comfortable keeping the focus of the conversation on the suspects, more sophisticated empathic statements may be constructed by dropping the “So you.”

The following exchange demonstrates the use of basic and sophisticated empathic statements:

- **Suspect:** (As handcuffs are being applied)
  My life is over. (sigh)
- **Police Officer:** So you feel like this is the end of the world for you. (Basic empathic statement)
- **Suspect:** Yeah, I’m gonna lose everything I worked so hard to get.
- **Police Officer:** It’s hard to lose everything you have in the blink of an eye. (Sophisticated empathic statement)
- **Suspect:** I lost everything because a 14-year-old girl had a crush on me.
- **Police Officer:** Because of a 14-year-old girl, you lost everything. (Sophisticated empathic statement)
- **Suspect:** She’s the one who came on to me first.

The police officer used a series of basic and sophisticated empathic statements to convey respect, reduce the suspect’s anxiety, and to let the suspect know that the police officer was listening. Suspects, especially sexual predators, are more likely to confess when they feel that they are respected and treated humanely (Holmberg & Christianson, 2002). Building rapport quickly diminishes the effects of the fight/flight/freeze response.

### Controlling Angry People

Occasionally, a few suspects will become angry at the time of their arrest. Learning a few simple techniques can quickly defuse angry suspects without diminishing the police officers’ authority.

### Anger

Anger triggers the fight/flight/freeze response, which mentally and physically prepares the body for survival. During this response, the body automatically responds to a threat without conscious thought. As the threat increases, a person’s ability to reason diminishes. Angry people experience the same phenomenon because anger is a reaction to a real or perceived threat. Angry people talk and act without thinking. The level of cognitive impairment depends on the intensity of the anger. The more angry people become, the less likely they are to logically process information. Angry people are not open to solutions because their ability to think logically is impaired. They need time to calm down before they can think clearly again, and they will not completely comprehend explanations, solutions, or problem-solving options until they can think logically. Allowing for this refractory period is a critical part of any anger management strategy. The first strategy for breaking the Anger Cycle is “Never try to rationally engage angry people.” Anger must be vented before offering problem-solving solutions.

### Provide an Explanation

In many instances, providing a simple explanation can assuage mild anger. People want to feel they are in control. Angry people seek order in a world that no longer makes sense to them. The inability to make sense of a disordered world causes frustration. Anger expresses this frustration. Providing an explanation will often induce voluntary compliance. The following exchange between a police officer and a suspect demonstrates the use of this technique:

- **Suspect:** Why did you put handcuffs on me in front of my family? That’s just wrong! It must make you feel like a big man!
• **Police Officer**: I had no choice, sir. The department policy mandates that we cuff everyone we arrest. (Providing an explanation)

• **Suspect**: Come on. Give me a break.

• **Police Officer**: It has to do with officer safety. (Providing an explanation)

• **Suspect**: All right, but there’s got to be a better way. I’m really embarrassed. (Voluntary compliance)

From the suspect’s perspective, the police officer’s actions did not make sense. By providing an explanation, the police officer gave the suspect a wider perspective. Anger tends to dissipate if police officers provide an explanation for their actions. Once suspects understand why police officers act as they do, suspects often comply, although many times reluctantly.

### Breaking the Anger Cycle

If minimally angry suspects do not accept simple explanations, the potential for verbal and physical escalation significantly increases. Anger needs fuel. Police officers can intentionally or unintentionally fuel anger, which, in turn, increases the intensity of the suspects’ anger. Increased anger provokes a more intense response from police officers, which provides additional fuel to angry suspects. If this anger cycle continues, at some point, the police officers’ fight/flight/freeze threshold is crossed causing a reduction in his or her ability to think logically. Problem solving becomes impossible when both the suspects and the police officers are caught in the anger cycle. Breaking the anger cycle controls anger and redirects angry suspects toward voluntary compliance.

There are three components to the Breaking the Anger Cycle: (1) empathic statements, (2) venting, and (3) presumptive statements.

#### Empathic Statements

Empathic statements capture a person’s verbal message, physical status, or emotional feeling, and the use of parallel language reflects that verbal message, physical status, or emotional feeling back to that person. The unique features of empathic statements are (1) they do not fuel anger, (2) police officers do not have to agree with the angry suspects, and (3) they merely reflect the suspects’ message back to them. With practice, mastering the construction of empathic statements becomes second nature.

The following exchange between an angry suspect and a police officer demonstrates the basic empathic statement:

• **Suspect**: Why did you put handcuffs on me in front of my family? That’s just wrong! It must make you feel like a big man!

• **Police Officer**: So, you’re embarrassed because I arrested you in front of your family. (Empathic statement)

To people who are not angry, empathic statements might seem patronizing, but this is not the case for angry people for two reasons. First, the fight/flight/freeze response is engaged, and angry people do not logically process information at this point. They do not comprehend what is being said, resulting in an automatic response. Second, people naturally think that the others should listen to them, especially when they are angry.

#### Venting

Venting is a critical component of Breaking the Anger Cycle because venting reduces frustration. Empathic statements portray the target of the anger as nonthreatening, which reduces the impact of the angry person’s fight/flight/freeze response. Once angry people vent their frustrations, they become more open to solutions because they think more clearly when they are not angry. Venting is not a singular event, but, rather, a series of events. The initial venting is typically the strongest. This allows angry people to “burn off” most of their anger at the onset of the exchange. Subsequent venting becomes increasingly less intense, unless fuel is added to reignite the anger. This is especially true if angry people are allowed to expend most of their anger during the initial venting.
A natural pause occurs after each venting event. During this pause, police officers should construct empathic statements. Since empathic statements encourage venting, the angry suspects will likely continue venting, although with less intensity. After the next natural pause, police officers should construct another empathic statement. Police officers should continue constructing empathic statements until the suspects’ anger is spent. Sighs, long exhales, slumping shoulders, and downward glances signal spent anger. At this juncture, police officers should introduce the presumptive statement.

**Presumptive Statements**

Presumptive statements direct angry people to take a course of action that leads toward conflict resolution. Presumptive statements are constructed in such a fashion that angry suspects have difficulty not following the directed course of action. Constructing presumptive statements requires critical listening skills and practice. A presumptive statement should be constructed in such a manner that it forces an angry suspect into a position of acquiescence. The presumptive statement turns the force of the anger against the angry suspects and directs them toward anger resolution. If an angry suspect rejects the presumptive statement, police officers should begin the Breaking the Anger Cycle again with an empathic statement.

The following exchange between a police officer and an angry suspect illustrates the Breaking the Anger Cycle:

- **Suspect:** Why did you put handcuffs on me in front of my family? That’s just wrong! It must make you feel like a big man!
- **Police Officer:** So, you’re frustrated because I arrested you in front of your family. (Simple empathic statement)
- **Suspect:** Yeah I didn’t do anything, and you’re chaining me up like an animal. You’re gonna be sorry when you find out that I didn’t have anything to do with this! (Venting)
- **Police Officer:** So you’re embarrassed by the way you’re being treated. (Simple empathic statement)
- **Suspect:** You’d be embarrassed, too, if you were treated like an animal when you didn’t do anything wrong! (Venting)
- **Police Officer:** So you don’t like the way you’re being treated because you think you didn’t do anything wrong. (Simple empathic statement)
- **Suspect:** Yeah . . . . (Shoulders droop accompanied by a sigh)
- **Police Officer:** Let’s get you to the station as soon as possible so you can tell your side of the story. If you didn’t do anything, you will be home in a few hours. (Presumptive statement)
- **Suspect:** Okay, just get me out of here.

In this exchange, the police officer used a series of empathic statements to allow the suspect to vent his anger. When the suspect showed signs of exhausted anger, the officer used a presumptive statement that directed the suspect to take a course of action with which he would be able to comply. Noncompliance would mean that the suspect wanted to remain where he was and continue to be embarrassed, which would not make sense.

**Re-Entering the Anger Cycle**

In the event angry suspects do not accept the presumptive statement and remain angry, police officers should simply reenter the Breaking the Anger Cycle by constructing another empathic statement. The following exchange demonstrates reentry into the Breaking the Anger Cycle:

- **Suspect:** Why did you put handcuffs on me in front of my family? That’s just wrong! It must make you feel like a big man!
- **Police Officer:** So you’re frustrated because I arrested you in front of your family. (Simple empathic statement)
- **Suspect:** Yeah I didn’t do anything, and you’re chaining me up like an animal. You’re gonna be sorry when you find out that I didn’t have anything to do with this! (Venting)
- **Police Officer:** So you’re embarrassed by the way you’re being treated. (Simple empathic statement)
that I didn’t have anything to do with this! (Venting)

- **Police Officer**: So you’re embarrassed by the way you’re being treated. (Simple empathic statement)
- **Suspect**: You’d be embarrassed too, if you were treated like an animal when you didn’t do anything wrong! (Venting)
- **Police Officer**: So you don’t like the way you’re being treated because you think you didn’t do anything wrong. (Simple empathic statement)
- **Suspect**: Yeah . . . . (Shoulders droop accompanied by a sigh)
- **Police Officer**: Let’s get you to the station as soon as possible, and you can tell your side of the story. If you didn’t do anything, you will be home in a few hours. (Presumptive statement)
- **Suspect**: Okay, just get me out here.

In this exchange, the police officer used a series of empathic statements to allow the suspect to vent his anger. When the suspect showed signs of exhausted anger, the officer used a presumptive statement that directed the suspect to take a course of action that he would have difficulty not complying with. Noncompliance would mean that the suspect wanted to remain where he was and continue to be embarrassed, which would not make sense.

**You Choose**

If re-entering the Breaking the Anger Cycle does not reduce anger, police officers should develop two options and then allow angry suspects to choose one of them. Giving angry suspects two options to choose from creates the illusion that they are in control. The following exchange illustrates the You Choose technique:

- **Police Officer**: Let’s get you to the station as soon as possible, and you can tell your side of the story. If you didn’t do anything, you will be home in a few hours. (Presumptive statement)
- **Suspect**: No, I want to know why you’re treating me this way. (Noncompliance to the presumptive statement)
- **Police Officer**: So you want to remain here and continue to be embarrassed. (Simple empathic statement)
- **Suspect**: I want an answer, big man! (Venting)
- **Police Officer**: You are going to the station. You can cooperate and come without protest or you will be forcibly taken to the station, which will cause you even more embarrassment. The choice is yours. You choose.

Providing suspects with a choice gives them a sense of personal control. If the suspects choose not to cooperate, they cannot blame the police
officers because the suspects made the choice not to cooperate. In each of these scenarios, the police officers maintained the illusion that the suspects were in control of the situation, but, in reality, the police officers directed the suspects one step at a time toward voluntary compliance.

Conclusion

The interview process begins at the moment of arrest. The manner in which arresting police officers treat suspects can have a significant impact on the outcome of the interview. Suspects who are treated with respect tend to make more admissions than suspects who are subjected to harsh interviewing techniques (Holmberg & Christianson, 2002; Swenson, 2006). These non-invasive simple techniques can be applied at the time of the arrest, in the police vehicle during transport to the police station, and prior to the formal interview. Addressing the physical and psychological needs of suspects at the time of their arrest significantly increases the probability of a successful interview outcome.

References


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Who are you going to believe, me or your lying eyes?

—Groucho Marx

**Introduction**

Each year, over 75,000 suspects are identified by witnesses. The power of eyewitness identification is legendary, but research suggests these identifications may be incorrect close to one third of the time. The case of *Perry v. New Hampshire* (2012) represents the first substantial Supreme Court review of law surrounding eyewitness identification since 1977. While legal attention to eyewitness identification has been slight, the psychological literature has flourished over the last several decades with over 2,000 published studies (Liptak, 2011).

Generally, three witness identification techniques are used by law enforcement. In the traditional line-up process, a suspect is placed with other similar subjects to allow a witness to identify their assailant. A “show up” involves the presentation of one suspect to a witness for identification. Last, a photo array consists of a series of photographs, including one of the suspect, which are presented to a witness. It is hoped, as in the line-up situation, that the witness can select the suspect from the group (National Institute of Justice [NIJ], 1999).

Having the victim or witness confront and identify a defendant in court has a very powerful impact upon the fact finder. In the traditional line-up process, a suspect is placed with other similar subjects to allow a witness to identify their assailant. A “show up” involves the presentation of one suspect to a witness for identification. Last, a photo array consists of a series of photographs, including one of the suspect, which are presented to a witness. It is hoped, as in the line-up situation, that the witness can select the suspect from the group (National Institute of Justice [NIJ], 1999).

The potential for eyewitness identification is clearly shaped by the structural factors of the victim-perpetrator interaction. Variables like the length of exposure to the perpetrator, the distance between victim and offender, lighting, the impact of a weapon (weapons focus), the use of a disguise or concealment efforts, as well as the time between the criminal encounter and identification would all logically impact the ability to accurately identify a suspect (Pezdek, 2012). Cross-racial identification capabilities are an additional variable that has received study with regard to affecting eyewitness identification. Identifications have been found to be more accurate when the witness and the perpetrator are of the same race as compared to identifications for which the participant’s race differs (Bothwell, Brigham, & Malpass, 1989).

There are, however, practices and procedures under the control of investigators that may steer the identification toward greater reliability. The first of these involves the instructions given to a witness. A witness should be given an unbiased instruction regarding the instructions given to a witness. A witness should be given an unbiased instruction regarding the presence of the perpetrator in the line-up or photo pack. Next, the construction of the identification procedure must be fair. For example, the general appearance of the foils must be similar to the description of the suspected offender. Moreover, the method of display should not
highlight the perpetrator from the foils. Thus, in a photo pack identification, the photos included should be of similar nature and quality, and persons in line-up identifications should be dressed and made to act similarly.

The investigator who administers the identification procedure should not know the suspect’s identity. Such double-blind administrations protect against overt as well as unintentional cues from the investigators regarding a suspect’s identity (Zimmerman, Austin, & Kovera, 2012). The temporal presentation of line-up members or photos has also received study. Specifically, line-up members or photos should be presented to a witness sequentially. This process requires that each of these presentations receive an individual decision with regard to identity. The more traditional procedure of simultaneous presentation of all line-up members or photos does not require several individual decisions, but it may well allow witnesses to select the person in the group who bears the greatest resemblance to the perpetrator (Sullivan, 2003-2004).

The composition of line-ups may also lead to improper identifications. The foils used in a line-up should not lead to an obvious conclusion as to who is the suspect. Thus, distracters should be matched to the description of the perpetrator on all relevant physical characteristics rather than attempting to find individuals who resemble the suspect (Gambell, 2006).

The identification process should not be a collaborative effort between witnesses. The joint viewing of a line-up or photo array may allow undue influence by one witness upon another and increase the potential for misidentification. Also, the presentation of one photo is inherently suggestive, and multiple images of the suspect should not be presented in a single photo array (Mayer, 1994).

Identifications can also be influenced by repeated presentation of the suspect or the suspect’s image to a witness. In such cases, the multiple presentations of the suspect may supplant original memories of the suspect with those of the various identifications (Zimmerman et al., 2012).

Finally, the methods used to record the identification and the procedure involved should be standardized and documented (Klobuchar, Steblay, & Caligiuri, 2006). Such uniformity allows for better review and evaluation of the practices used.

**Due Process**

Due process requires that acts of the government that impact life, liberty, or property must follow the existing law and that these actions are fair (Harrison, 1997). The concept of due process dates back in our legal history to the Magna Carta, but it remains a term notoriously difficult to specifically define despite also appearing twice in the U.S. Constitution. First, it is articulated in the 5th Amendment in an effort to secure protection for the states and second in the 14th Amendment in an effort to secure rights for freed slaves (Hough, 1918).

The 5th Amendment Due Process Clause states that “No person shall . . . be deprived of life, liberty, or property without Due Process of law.” This original constitutional provision was designed to have an impact upon federal power and not on the power of the states. Ratified in 1868 as the second of the *post-bellum* amendments, the 14th Amendment reads in part,

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This portion of the amendment provides certain restrictions on action by states and makes their actions subject to federal review.

The Due Process Clause also contains other less specific protections to persons subject to its application. Specifically, the clause contains both a substantive and procedural component (Nahmod, 1993). *Procedural due process* concerns the method or way government action
results in a deprivation of life, liberty, or property. Such deprivations must be accomplished via fair procedures (Wells & Eaton, 1984). Here, the focus is on the procedure used by the government to reach some conclusion affecting a person’s life, liberty, or property (Heckman, 2005). This procedural protection is designed to ensure “the security of interests that a person has already acquired in specific benefits” (Board of Regents of State Colleges v. Roth, 1972, 576).

The substantive due process protections of the 14th Amendment are stricter in their limitation of state action. These protect “the individual against certain government actions regardless of the fairness of the procedure used to implement them” (Wells & Eaton, 1984, p. 215). In this area of law, we ask “to what extent does the due process clause concern itself not simply with the methods of governmental action but also with its substance” (Gunther, 1985, p. 441)? Here, the focus is upon the fairness of the governmental action that affects life, liberty, or property (Heckman, 2005): “Substantive due process prohibits the government from infringing on a fundamental interest unless it has a compelling interest and the infringement is narrowly tailored (strict scrutiny)” (Smith, 2005, pp. 210-211). In these cases, substantive due process creates “certain rights that are not explicitly contained in the Bill of Rights” (Edlund, 1995, p. 181). That is, the clause concerns fundamental values that are not specifically enumerated in the text of the Constitution (Gunther, 1985). For example, this clause has been found to encompass a right to vote as well as a freedom to travel among the states (Edlund, 1995). This aspect of due process has also been applied in cases involving personal privacy and autonomy as well as domestic relations (Gunther, 1985). The Supreme Court has generally been reluctant to expansively construe this aspect of due process and has espoused a preference for analyzing cases under applicable specific textual constitutional protections rather than using the nebulous substantive due process protection (Sacramento v. Lewis, 1998).

Substantive due process can be implicated in the area of criminal procedure. One area where the clause has been applied concerns the methods of eyewitness identification of suspects. The following section will examine four seminal cases in this area.

**Fairness in Identification**

The U.S. Supreme Court has addressed the issue of fairness in police identification procedures in a number of cases. This section describes three seminal cases that set the stage for the Perry opinion (the fourth seminal case).

**Stovall v. Denno**

The case of *Stovall v. Denno* (1967) involved the identification of a murder and stabbing suspect. The witness, whose husband had been killed, was stabbed 11 times and left on a kitchen floor. The day after emergency surgery, Stovall was brought to the victim’s room without counsel. He was the only African American with a group of seven officials (five officers and two district attorneys). He was also handcuffed to one of the police officers. An officer asked the witness if Stovall was the assailant. She identified him from her hospital bed after hearing Stovall speak. She subsequently made an in-court identification. Stovall was convicted and given a death sentence.

The issue articulated in the case opinion asked “whether petitioner . . . is entitled to relief on his claim that in any event the confrontation conducted in this was so unnecessarily suggestive and conducive to irreparable mistaken identification that he was denied due process of law” (*Stovall v. Denno*, 1967, 301). The opinion noted that the totality of circumstances test is used to determine if an identification violated due process. In this case, there was a medical impetus for the show-up as compared to a traditional line-up as the only witness to the crime could not visit the jail, and her life expectancy was unknown.
Simmons v. United States

In Simmons v. United States (1968), the Court was asked to examine the practices of photo identification. Simmons was suspected of bank robbery. Federal agents obtained photos of Simmons and an accomplice and showed them to witnesses from the robbery. The witnesses identified Simmons as one of the perpetrators. Simmons (and others) were indicted and tried for the robbery. During the trial, all the bank witnesses who had seen the photographs identified Simmons. The defendant was found guilty and appealed. Ultimately, the Supreme Court granted certiorari to determine whether Simmons’ “pretrial identification by means of photographs was in the circumstances so unnecessarily suggestive and conducive to misidentification as to deny him due process of law” (381). The majority held that “that in the factual surroundings of this case, the identification procedure used was not such as to deny Simmons due process of law or to call for reversal under our supervisory authority” (386). In reaching this conclusion, the opinion first noted that due process violations must be examined by looking at the totality of the circumstances involved. Justice Harlan noted the many incorrect identification dangers associated with photographic identification, but also noted that the Court would not prohibit its use. Rather, the opinion required a reviewing court to conduct a case by case analysis examining all the facts and circumstances. This review seeks to determine “if the photographic identification procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification” (384). In such cases, the conviction will be set aside.

Neil v. Biggers

Neil v. Biggers (1972) involved a habeas corpus action for a conviction for the crime of rape. The victim was attacked by a youth with a knife in her home. After the victim screamed, her child entered the room to see what had happened. The assailant told the woman to order the child to “shut up or I’ll kill you both” (194). She did so and was taken from the home into a wooded area and raped. She stated that on that night, there was a full moon. She reported the crime and gave a general description of the perpetrator (height, weight, body type, and voice). Over the next seven months, she viewed a number of suspects in a variety of ways (show-up, line-up, and photo). She identified none of these subjects. She was then called to the station to view another suspect. The police were unable to locate similar looking detainees in either the city jail or juvenile facility. Without suitable distracters/foils, the officers conducted a show-up by having two officers walk the suspect past the victim. The victim asked that the suspect repeat the phrase “shut up or I’ll kill you.” After he did so, she confidently identified him as her assailant.

In this case, the Court examined “whether, as the courts below held, this identification and the circumstances surrounding it failed to comport with due process requirements” (Neil v. Biggers, 1972, 196).

The opinion reviewed the prior case law and noted that “the purpose of a strict rule barring evidence of unnecessarily suggestive confrontations would be to deter the police from using a less reliable procedure where a more reliable one may be available, and would not be based on the assumption that in every instance the admission of evidence of such a confrontation offends due process” (Neil v. Biggers, 1972, 199). The opinion then listed the types of factors that are typically examined under the totality of the circumstances test to determine reliability. Specifically listed were “the opportunity of the witness to view the criminal at the time of the crime, the witness’ degree of attention, the accuracy of the witness’ prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation” (199-200). In exploring these types of considerations, Justice Powell noted that the witness observed the suspect under artificial light and moonlight for an extended period of
time at a close distance. The witness provided many specifics in her description. She was without doubt in her identification. Moreover, while there was a seven-month delay in the identification, she had been exposed to a variety of identification procedures over that time and had not identified anyone as the potential perpetrator. As a result of this examination, Justice Powell’s opinion concluded that there was “no substantial likelihood of misidentification” and that the evidence was “properly allowed to go to the jury” (201).

**Perry v. New Hampshire**

The case of *Perry v. New Hampshire* (2012) represents the Supreme Court’s latest decision in the area of eyewitness identification. The facts involved police responding to a call for service regarding an African American breaking into cars in an apartment parking lot. Upon arrival, the officer heard a metallic sound and saw the defendant standing between two vehicles. The defendant walked toward the officer holding two large pieces of car stereo equipment. When the responding officer asked the defendant where the equipment came from, he replied that he “found them on the ground” (*Perry v. New Hampshire*, 2012, 721). A resident (Clavijo) then approached the officer to inform her that his car had been broken into and that much of his car stereo was taken. Another officer arrived on the scene and remained with the suspect while the responding officer and Clavijo went to talk to a witness (Blandon) in the apartment building. Blandon described seeing an African-American male walking in the parking lot peering into vehicles. She reported seeing him circle a car, open its trunk, and remove a large object. When Blandon was asked for a more detailed description, the witness pointed from her window and said that the person she saw breaking into the vehicle was in the parking lot standing next to the police officer. The defendant, Perry, was then arrested. In a photo array identification approximately one month later, Blandon was unable to identify Perry. The defendant was charged with theft and criminal mischief. In a pre-trial motion, he moved to have the identification suppressed under the Due Process Clause. The motion was denied, and Perry was found guilty of both charges. Perry appealed his conviction, and the New Hampshire Supreme Court affirmed the decision. The U.S. Supreme Court granted *certiorari*.

In this case, the opinion focused on “whether the Due Process Clause requires a trial judge to conduct a preliminary assessment of the reliability of an eyewitness identification made under suggestive circumstances not arranged by the police” (*Perry v. New Hampshire*, 2012, 723). In focusing the holding, the opinion noted that past decisions “turn on the presence of state action and aim to deter police from rigging identification procedures” (721). The opinion then goes on to hold that “when no improper law enforcement activity is involved . . . it suffices to test reliability through the rights and opportunities generally designed for that purpose, notably, the presence of counsel at post indictment line-ups, vigorous cross-examination, protective rules of evidence, and jury instructions on both the fallibility of eyewitness identification and the requirement that guilt be proved beyond a reasonable doubt” (721).

The reasoning of the case may be broken down into five steps. First, the opinion noted that defendants are generally protected from unreliable evidence not by barring the introduction of the evidence but rather by mechanisms designed to question the reliability of the evidence. Only in cases where the evidence is so tainted that its use is in opposition to our core ideas of justice will the Due Process Clause require inadmissibility. Next, the opinion reviewed the case law surrounding eyewitness identification and noted that in cases where state action is present, a two-part process has been established for exclusion. The first part considers the nature and quality of the eyewitness identification and noted that in cases where state action is present, a two-part process has been established for exclusion. The first part considers the nature and quality of the eyewitness identification. The procedure must be both “suggestive and unnecessary” (*Perry v. New Hampshire*, 2012, 724). This finding alone does not warrant exclusion. For the second part, reviewing courts must determine “on a case-by-case basis, whether improper
police conduct created a ‘substantial likelihood of misidentification’” (724, citing Neil v. Biggers, 1972, 201). That is, in examining the totality of the circumstances surrounding the identification, the eyewitness identification decision must still be reliable despite the taint of official suggestion. If the identification is so judged as reliable, it will be admissible. If, however, the corrupting effect of the state action is greater than the witnesses’ ability to accurately identify the suspect, the evidence should be excluded.

Third, the opinion denied the defendant’s efforts to expand the application of the Due Process Clause to all situations involving suggestive identification circumstances, even those devoid of state action. In doing so, the opinion reviewed a number of cases noting the consistent presence of state action as well as highlighting the substantial increase in trial court review of eyewitness evidence if the defendant’s proposition was adopted.

The Majority opinion next emphasized the primacy of the jury, not the judge, in determining evidence reliability as well as a number of safeguards designed to aid jurors in determining the reliability of eyewitness identification. These included the confrontation clause, the right to effective assistance of counsel, the right to cross examination, opening and closing statements regarding the nature and quality of the identification, specific jury instructions related to eyewitness identification, the requirements that guilt be proven beyond a reasonable doubt, the use of expert testimony relating to the perception and the cognition involved in eyewitness identification, and the limited ability of judges to exclude substantially prejudicial material under state and federal evidence codes.

Justice Ginsburg’s opinion last noted that many of these protections were indeed utilized in the defendant’s trial and concluded that “the introduction of Blandon’s eyewitness testimony, without a preliminary judicial assessment of its reliability, did not render Perry’s [the defendant] trial fundamentally unfair” (Perry v. New Hampshire, 2012, 730).

Policy Implications

The policy implications of Perry v. New Hampshire (2012) are diverse, but the legal implications are rather specific. By holding that in the absence of police wrongdoing “it suffices to test reliability through the rights and opportunities generally designed for that purpose” (721), the case has refused to expand the protections of the Due Process Clause to inherently suggestible situations created by forces other than state action. Rather, the opinion relies on a variety of trial mechanisms to address the potential for suggestiveness. Specifically, things like “the presence of counsel at post indictment lineups, vigorous cross-examination, protective rules of evidence, and jury instructions on both the fallibility of eyewitness identification and the requirement that guilt be proved beyond a reasonable doubt” are thought to provide protection (721). To be sure, ceteris paribus, this is an impressive list of legal rules and abilities that can aid a fact finder in understanding the suggestibility of an identification. However, deeper examination of each factor may reveal substantial implementation flaws that sharply limit each mechanism’s effectiveness. The ability to have counsel present for post-indictment identifications does nothing to ensure the investigatory identification procedures were correct. Indeed, a pre-indictment identification may ensure subsequent post-indictment and trial identifications. This protection, along with cross examination, is clearly dependent upon the skills and abilities of counsel. Even the high burden of guilt beyond a reasonable doubt depends upon jurors actually presuming a defendant innocent and holding the state to a difficult task. In short, the case lists a variety of logical legal mechanisms that, in a perfect world, provide protection from suggestible identifications.

However, these mechanisms deny human frailty. More importantly, they deny a vast body of research that explains the various social and psychological factors that greatly limit trustworthiness of eyewitness identifications. Despite the advent of the Brandeis Brief and a rising tide of social science research on this point, it appears clear that the legal
establishment will rely on legal precedent and legal mechanisms rather than science. One may see this as an admirable exercise of judicial restraint as well as an invitation to legislature to address all the issues surrounding eyewitness evidence. Regardless of the view taken, it seems clear that the majority of court members have no appetite for expansion of the Due Process Clause in this area.

As a result of Perry, it appears changes in identification procedures rest with a variety of other mechanisms other than the Supreme Court. Legislation at the federal level could clearly alter federal law enforcement practices, though these involve a small number of identifications. Similar to this, but with more potential impact, would be a change in state legislation or state court precedent mandating certain practices. For example, New Jersey and North Carolina require double blind administration and that photo arrays are presented sequentially (Goode & Schwartz, 2011). Another source of potential change may be police accrediting agencies like the Commission on Law Enforcement Accreditation (CALEA). Many police organizations value the imprimatur of accreditation for a variety of reasons. Organizations like CALEA often mandate substantial policy changes to gain or maintain accreditation. Thus, reasonably paced improvements in identification procedures by accrediting bodies may represent a method of improving the quality of eyewitness identifications. Other organizations that target police executives may also advocate for changes in identification. Conference presentations at the Police Executive Forum or the International Association of Chiefs of Police may provide the impetus for change. However, membership in accreditation programs and participation in professional conferences may be limited to progressive organizations and leaders who are already aware of the concerns surrounding eyewitness identifications.

Standardization of eyewitness identification practices with regard to suggestibility concerns will likely be piecemeal and staggered without a Supreme Court decision standardizing identification procedures. The Perry ruling supports federalism and allows states to innovate, yet it also will continue to allow inconsistent practices between and within many jurisdictions.

Endnotes

1 Law enforcement also uses police sketches to identify suspects.

2 Perhaps the most familiar function of the Due Process Clause of the 14th Amendment is the selective incorporation of portions of the Bill of Rights to the states. Thus, for example, states may not create laws that deny the right to freedom of religion contained in the 1st Amendment to the Constitution (Nowak & Rotunda, 2000).


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The Coroner/Police Relationship: Perceptions from the Coroners

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History of the Coroner

When asked what the duties of the coroner are, the average person would likely reply “They take care of dead bodies.” This statement alone depicts the coroner as nothing more than a livery service for the departed; however, the Office of the Coroner has been on the North American continent since the first subjects of the Crown set foot on the land. Being familiar with the English Common Law system, it was natural that the first settlers would bring the practices of the Office of the Coroner from England with them to America. After 400 years, the position of the Coroner still survives in 28 U.S. states. Yet, many Americans in contemporary society know little of the coroner’s history, powers, responsibilities, or occupational requirements.

Historically, it was suicide that first opened investigations into human deaths. The Greeks were the first to view death through the lens of early scientific application. Their investigation began a slow evolution toward medicolegal methodologies. In 1184, the Council of Nimes made the condemnation of suicide part of the canon law of the Roman Catholic Church (Fisher & Spitz, 2006). This determination also resulted in suicide being illegal under English Common Law, which ultimately led to the development of coroners who were expressly interested in deaths by suicide.

According to Sassard and Leary (1999), the 1194 Article of Eyre offered the first definition of the Office of the Coroner which consisted of three knights and a clerk who moved throughout their respective districts hearing cases. These knights represented the interests of the King and are believed to have been known as “Crowners” (Knight, 2007): “On behalf of the crown, the crowner was responsible for inquests to confirm the identity of the deceased, determine the cause and manner of death, confiscate property, collect death duties, and investigate treasure troves” (National Academy of Sciences, 2009, p. 214). With the settlement of America, early colonists utilized the same approach to death as they had under English Common Law. Consequently, coroners played a key role in the establishment of new colonies, working as both death investigators and, in some cases, as sheriffs (Sassard & Leary, 1999): “Early state constitutions explicitly mentioned the position of Coroner. Georgia’s state constitution was the first” (National Academy of Sciences, 2009, p. 241). The earliest record of coroner involvement in a death case in America was a 1635 Coroner’s inquest (Fisher & Spitz, 2006). As time passed and the level of scientific understanding grew, there was a determination made that the Coroner should be a stand-alone office. Additionally, by the time of the American Revolution, Benjamin Rush suggested that death investigations should be explained through science as opposed to superstition (Fisher & Spitz, 2006). This approach brought about significant changes in medicolegal practices in America.

As the United States expanded, new local governments adopted the Office of the Coroner in conjunction with the development of organized police forces (Sassard & Leary, 1999). Coroners were more pressured than ever to provide adequate scientific methodological explanations for deaths; and in
1860, Maryland coroners began consulting with physicians regarding their cases (Fisher & Spitz, 2005). Even though the coroner had always been in control of death investigations, the concept of a physician medical examiner first appeared in 1877 in the State of Massachusetts. This appointment began a long (and ongoing) debate and evolution in the investigation of deaths in the U.S. (Fisher & Spitz, 2005). The questions still remain about which approach is best—medical examiner or coroner. Additionally, states vary in which approach they use and in what responsibilities, educational requirements, and training they require and provide to those elected as coroners or appointed as medical examiners. Interestingly, a few states are so undecided that they use a bifurcated system with coroners and medical examiners working in adjoining counties.

With about one million people dying each year, and Coroner’s offices investigating approximately half of those cases (500,000) (National Academy of Sciences, 2009, p. 243), it is time that this position be studied. There have been a number of studies over the past 20 years examining the Office of the Coroner with an eye toward reform and restructuring. Previous studies have dealt with coroners and medical examiners collectively and have addressed the issue from a public health perspective with little or no emphasis on the Coroner as a stand-alone office. The studies are also typically conducted by practicing medical examiners or those having close ties to the medical examiners’ interests. As a result, studies investigating the relationship of the coroner and the police have been ignored.

**Current Study Methodology**

The National Academy of Sciences (2009) claims that medical examiners and coroners serve two purposes:

- First, they serve the criminal justice system as medical detectives by identifying and documenting pathologic findings in suspicious or violent deaths and testifying in courts as expert medical witnesses. Second, as public health officers, they surveil for index cases of infection or toxicity that may herald biological or chemical terrorism, identify diseases with epidemic potential, and document injury trends. (p. 244)

Additionally, the National Response Plan to terrorist attacks and mass fatalistic events requires that coroners be responsible for the management of the dead in any hazardous event (National Academy of Sciences, 2009). Both the first purpose and the National Response Plan require that coroners be able to work with the police on death scene investigations, medical investigations, autopsies, and in determining the cause of death. The collaboration goes both ways as it may also be the case that police departments are waiting for results from coroners in order to finish their work. Therefore, it is important to investigate this working relationship. This study was designed to fill the gap in current research on the perceived relationship between coroners and the police. The researchers asked coroners questions about their working relationship at death scenes, on death investigation teams, and about training and experience in comparison to law enforcement officers.

The research participants were adult males and females over the age of 18 who had been appointed or elected to the position of Coroner or Assistant Coroner in their geographical jurisdiction. The researchers surveyed 168 Coroners or Assistant Coroners whose e-mails were obtained through state coroner associations and other professional membership organization databases.

The original intent was to exclude medical examiners from the online survey; however, it was impossible to identify through e-mail addresses which of the respondents were medical examiners and which were not since all of the e-mail addresses were obtained from coroner associations. Once respondents answered survey questions, it became clear that many medical examiners hold the title
“Coroner” in their local areas even though they are viewed by the profession as two different offices. Thus, the researchers included all respondents in the survey findings, regardless of professional background and training. For educational purposes, the researchers believe it is important to mention that coroners, who are most often elected and are not required to be physicians or have formal medical training (except in four states), do not typically work for public health departments or agencies. Coroners usually rely on pathologists or other physicians to assist in death investigations and autopsies. Medical examiners are generally physicians and may be appointed administratively through the public health system or by a board or commissioner. This group includes pathologists. As mentioned before, states vary in which system they use—coroner or medical examiner—with most states using a coroner system. Even though the public hears more about medical examiner systems because these are the systems glorified in shows like CSI, medical examiner systems are typically found in populated metropolitan areas (Hanzlick, 2006, p. 1275).

Findings

Who Are the Coroner Respondents?
The responses in this study indicate that the coroners who responded were from Midwestern states such as Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin and were predominantly males between the ages of 51 and 60. The majority had attended some college but did not have a degree of any sort. Education was not important to the position of Coroner since most jurisdictions where respondents worked did not require a college degree. While in the position of Coroner, most respondents belonged to professional forensic/death investigation organizations; attended annual professional meetings, seminars, or conferences; or subscribed to a professional journal dealing with forensic or death investigative practices (the least common of the three).

Respondents were elected to their positions as Coroner and were required by their state statutes to attend a recognized state training program after their appointment or election. The majority of respondents were also required by their states to attend an ongoing annual training program.

Perceptions of Respondents’ Working Relationships with Law Enforcement

The researchers asked coroners about their perceived working relationships with law enforcement. In the first question, “How would you categorize your working relationship with the local law enforcement officials in your jurisdiction?,” 59.8% claimed to have a friendly working relationship with local law enforcement officials; 35.4% stated, “I have a cooperative working relationship with local law enforcement officials”; 2.4% claimed to have a territorial working relationship with local law enforcement officials; 1.8% stated they did not know how to classify their working relationship with local law enforcement officials; and 0.6% stated they did not have a working relationship with local law enforcement officials. Four respondents failed to answer this question. (See Figure 1.)

For the next question asked, “How often do law enforcement investigators rely on your input on death scene investigations?,” 51.2% of the respondents stated that “Law enforcement investigators always consult with me,” 36% claimed that “Law enforcement investigators regularly rely on my input,” 11% said that law enforcement investigators sometimes rely on their input, and 1.8% said law enforcement investigators rarely rely on their input. Four respondents failed to answer this question. (See Figure 2 for this data.)

Coroners were also asked if they believed they had more death investigation expertise than their local law enforcement. The majority (66.3%) said “Yes,” while 33.7% said “No.” When asked, “How many years of experience do you have in medicolegal death investigations?,” 31.9% said 9 to 16 years of experience,
23.9% said 25 or more years of experience, and 22.1% said 0 to 8 years of experience and 17 to 24 years of experience, respectively.

When asked, “If a violent death were to occur in your jurisdiction would you be summoned to the scene by law enforcement before crime scene processing began?,” 75.5% said “Yes,” 5.5% said “No,” 12.3% said “Sometimes,” and 6.7% said “It depends.” The qualitative responses for “No” and “It depends on . . .” indicated that there are delays for a variety of reasons, including the number of fatalities at the scene, the distance to or location of the scene, a delay in the pronouncement of death by emergency responders, time constraints, and the nature of the death (whether a homicide or natural causes). Reasons mentioned for being called to the scene prior to processing included state law mandates, good working relationships with deputies, and/or a general understanding that the coroner is part of the investigative team. Of interest in the qualitative remarks were that seven respondents mentioned an adverse working relationship with the police. One stated that “Law enforcement does not stop [processing a scene] and call for [the] coroner.” Another stated that “The officer on scene” may determine if a coroner will be summoned to the scene by law enforcement before crime scene processing begins, and a third stated that it “Depends on the attitude of the officer in charge.” Other remarks indicated that the 911 operator calls the coroner but that the coroner is not allowed on the scene until law enforcement has completed the scene processing. Law enforcement does not touch the body; it processes the rest of the scene without the coroner present. A final respondent summed up his experience with law enforcement by saying that whether he is called to the scene by law enforcement
before crime scene processing begins depends on “who [is] the lead investigator. Some have a territorial attitude.” Figure 3 shows the quantitative results. Twelve respondents failed to respond to this question.

Coroners were also asked, “If a homicide occurred in your jurisdiction, would law enforcement allow you access to the scene for purposes other than removal of the remains?” Respondents indicated “Yes” in 89% of the responses, “No” in 4.3% of the responses, “Sometimes” in 5.5% of the responses, and “It depends on . . .” in 1.2% of the responses. Twenty-five respondents provided qualitative remarks on “it depends on . . .” Several indicated that state law allows them access to the crime scene regardless of law enforcement desires. One even stated, I handle the normal scenes, but I need help doing large involved investigations. Many hands are better than one big ego! (Nothing to “ALLOW”; state law says I am in charge of death investigations. But I would be stupid to think I could do by myself all that is needed).

Other comments from coroners indicated that the scene belonged to the coroner and not the police. Comments such as these included statements like, “High profile case or not, I have an understanding with law enforcement that my office is not just a removal service . . .” and “It’s my scene” and “I would tell them I was going [on] scene if they told [me] I could not.” Others claimed that they work “in conjunction with law enforcement,” “assist investigators,” “We operate as a complete team . . .,” and we “usually process [the] scene together with law enforcement.” Figure 4 provides a
quantitative view of this data. Eleven respondents did not answer this question.

**Conclusion**

From the data presented, it is apparent that coroners have varied relationships with the police. Some view themselves as a vital part of the death investigation team and believe that law enforcement knows and understands the role they play on the team. They feel included in death scene investigations. Others are not so lucky and perceive themselves as having an adversarial relationship with police in their areas. They have to rely on state statutes that define their role on the death investigation team in order to gain access to death scenes, and they feel that their status at death scenes is challenged, on occasion, by investigators and/or the lead officer on the scene. How much these perceptions affect the way coroners process cases for the police and their willingness to engage in unethical practices for the police (as asserted in the Henry Glover case) is still not clear; however, it would seem reasonable to believe that the coroner’s perception as being valued, respected and included in the relationship would matter in a coroner’s resulting behavior.

Of interest in the findings is that coroners are facing controversy in two directions. On the one hand, they face constant scrutiny as a profession while state legislators deliberate the advantages and disadvantages of medical examiner systems versus coroner systems. On the other hand, they may also face adverse relationships with other front-line staff (i.e., police officers). When they are excluded from death scenes and/or not consulted by law enforcement on cases involving death, they face another objection to the Office of the
Coroner. Both of these can most certainly contribute to the perception of poor relationships with others and/or actual poor relationships with others.

A final note in these findings is that coroners may not be willing to acknowledge their true perceptions about their relationships with the police. When the researchers asked questions about coroner/police relationships in the survey, several respondents refused to answer the questions (4, 4, 12, and 11, respectively). This causes concern among the researchers. Why did this occur? Is this indicative of a larger issue faced by the coroners, or does it demonstrate a concern on behalf of coroners to acknowledge that their working relationships with the police are poor? Could it be that coroners do not want to admit to adverse relationships with front-line staff for fear of fueling the debate which is questioning the need for coroners at all? There are likely several explanations for respondents failing to answer relationship-based questions. Although the researchers did not fully arrive at the answers they sought, the findings of the study shed light on the fact that coroners operate in an unstable environment and may not have the finest relationship with those with whom they should be working most closely—the police. The authors are left with an even stronger belief that this is most certainly a population in need of study and investigation.

References


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One area of accountability that is frequently on the minds of public administrators is legal accountability, which is characterized by awareness of the demands and expectations of external legal actors and behaviors meant to minimize being subjected to lawsuits (Romzek & Dubnick, 1987). This area of accountability is often thought to be considered by the county sheriff, who is a frequent target of lawsuits. While some might believe that the legal struggles of well-known sheriffs, such as Sheriff Joe Arpaio of Maricopa County, Arizona, are exceptional events, a simple Google search with the terms “Sheriff and Lawsuit” yields over 10 million results. Google news results with these same search terms yield 20,700 results from the last month, 9,740 results from the last week, and 1,380 results from the last 24 hours. Given the scope of the sheriff’s many functions (e.g., patrolling, investigation, operating a jail, serving warrants and civil writs, etc.) and the fact that agents of the sheriff’s office do not always interact with the most cheerful segments of society, the sheriff and his officers are exposed to a host of opportunities to become subjects of lawsuits. In fact, a search of all state and federal cases listing a “sheriff” as a party in the case resulted in over 3,000 cases, including many cases decided by state supreme courts and hundreds of cases heard by the U.S. District Courts. This includes more recent cases, such as the 2009 case arising out of the U.S. Court of Appeals for the Eighth Circuit in which a criminal defendant sued multiple executives and numerous sheriffs and sheriff’s departments in Arkansas (Housley v. Erwin, 2009). Thus, it is understandable that legal liability is of concern to sheriffs. Not only are sheriffs often the target of lawsuits, these lawsuits have the potential to climb to the top of the judicial hierarchy, creating controversy and expending departmental and governmental resources. Despite the number of lawsuits U.S. sheriffs face, there is scant literature on the importance of legal liability concerns to sheriffs. Our first task will be to discern whether sheriffs consider legal liability to be a chief concern.

It will be shown herein that, for the majority of sheriffs, legal liability is a top concern. Despite the vulnerability that legal liability poses, however, most sheriffs in our sample contend that external legal actors and/or litigious groups have a minimal impact on the day-to-day operations of their agencies. Ostensibly, these two findings appear to conflict with one another. After careful analysis, we will show that sheriffs’ proactive behaviors in ameliorating legal liability concerns help them to keep this impact lower than might be expected. We will first report the perceived importance of legal liability concerns among sheriffs, and then we will set out to describe some of the tactics employed by sheriffs to proactively avoid legal liability. We argue that these proactive behaviors result in a minimization of threats to sheriffs. Finally, we conclude by discussing how information technology has affected, and will continue to affect, sheriffs’ collective ability to stave off lawsuits.
Types of Legal Liability a Sheriff Might Face

The typical sheriff’s office is engaged in a variety of functions, including, but not limited to (1) operating a jail and providing care for inmates, (2) patrolling county roads, (3) investigating crimes within a county, (4) providing officers for court security, and (5) serving warrants and civil papers (Falcone & Wells, 1995).

For many sheriffs, the jail is the number one venue in which legal liability concerns must be addressed (Block, 1987; Zalman, 1991). Inmates must be provided with living quarters that meet federal guidelines for health and safety, and they must also be provided with nutritious meals. Inmates must be medically and psychologically supervised and treated for a range of illnesses, from diabetes to dental care to drug withdrawal. Inmate on inmate violence must be prevented or quickly halted. Moreover, all of these things must be done with ever-shrinking operating budgets. Most of the lawsuits that arise out of sheriff’s departments deal explicitly with these issues, and much of the litigation that ultimately reaches a higher court deals with accusations of misconduct and potential violations of inmates’ 4th, 5th, and 14th Amendment rights.

Much like their counterparts in police departments, sheriff’s office patrol and investigation employees must strive to work within the boundaries of constitutional law when dealing with their respective clienteles (Kappeler, Kappeler, & del Carmen, 1993). In an era in which many states require police agencies to report traffic stop and arrest statistics, sheriffs are determined to avoid accusations of racial profiling. Sheriff’s office employees must carefully record things such as their interactions with the public and the chain of evidence possession while also being aware that in today’s world almost everyone has video camera capability integrated into their cell phones. Additionally, situations such as pursuits of fleeing motorists pose liability concerns (Becknell, Mays, & Giever, 1999; Hicks, 2006; Kennedy, Homant, & Kennedy, 1992).

The other functional dimensions also pose risks to legal liability. For instance, court officers are responsible for protecting inmates from irate family members of crime victims, and officers in the warrants and civil process division must track individuals down to serve them with legal papers.

In short, there are virtually no areas of operation in which the sheriff and his staff are not exposed, in one way or another, to potential lawsuits (whether frivolous or justified). Given this environment, two consequences might be expected: (1) sheriffs will report that legal liability is among their chief concerns and (2) external legal actors/litigious groups have a great deal of influence over the day-to-day operations of a sheriff’s office.

Methodology

As part of a larger project, we surveyed sheriffs in three states using questions derived from the Target Model of Discretion (LaFrance, 2011). The Target Model of Discretion helps researchers to understand the priority level that officers place on nine different categories of influence: (1) Legal Liabilities, (2) Community Norms, (3) SOPs, (4) Political Pressures, (5) Personal Values, (6) Other Managers, (7) Professional Associations, (8) Accreditation Bodies, and (9) Informal Organizations (LaFrance, 2010).

Our particular focus in this study comes from the following question we asked of sheriffs: “As a Manager, please prioritize legal liability (1-10).” Subjects were instructed that the scale operated in such a fashion that a lower number indicated a higher priority. Thus, a manager who prioritized legal liability above all others would choose “1.”

Additionally, we asked sheriffs to respond to an ordinal-scale item that read, “What is the degree of impact that external legal actors (lawyers, litigious groups, etc.) have on your organization’s daily operations?” We then provided sheriffs with an ordinal scale, including “no impact,” “minimal impact,”
“medium impact,” “high impact,” and “other” as response options. Finally, we asked sheriffs whether they used any of the following strategies to protect themselves from legal liability: meeting with county attorneys, consulting with risk management companies, reading bulletins from professional associations, using information provided by accreditation bodies, using online databases such as WestLaw, using online tools such as listservs or blogs, or dedicating an officer to keep tabs on changes in case law.

We sent this survey to all the sheriffs in Missouri, Nebraska, and North Carolina. From the 308 sheriffs in these three states, we received 107 responses (response rate = 34.7%). For each sheriff, we sent three mailings: (1) an introduction, (2) the survey, and (3) a reminder. There is no reason to expect any systematic response bias since our response rate was adequate. After receiving the survey responses, we began to analyze the results.

Hypothesis 1: Sheriffs Will Report that Legal Liability Is a Chief Concern

Our survey results lend a tremendous amount of support to the claims laid out in this hypothesis. In the context of the use of discretion within an agency, we asked sheriffs to respond to an item which read, “As a Manager, please prioritize legal liability (1-10).” Of the 106 sheriffs who responded to this survey item, the majority of sheriffs (55.1%) cited legal liability as the top priority associated with the use of discretion. An additional 21.5% of sheriffs prioritized legal liability as their number two concern. Finally, for 99.1% of sheriffs, legal liability was in the top five of their priorities.

Our findings provide firm evidence that legal liability is among the most important areas of concern for sheriffs. It seems logical, then, that those individuals and groups with the wherewithal to sue a sheriff’s office (e.g., external legal actors and litigious groups) would wield a large amount of influence over the day-to-day operations of the sheriff’s office. This is precisely what our second hypothesis claims.

Hypothesis 2: External Legal Actors/Litigious Groups Will Affect Daily Operations of a Sheriff’s Office

To test this hypothesis, we asked sheriffs “What is the degree of impact that external legal actors (lawyers, litigious groups, etc.) have on your organization’s daily operations?” We then provided sheriffs with an ordinal scale, including “no impact,” “minimal impact,” “medium impact,” “high impact,” and “other” as response options. Contrary to our expectations, the modal response, given by 63.6% of sheriffs, was that these actors/groups had a minimal impact.
on daily operations. Moreover, 19.6% of sheriffs claimed that these actors/groups had no impact on daily operations. Thus, approximately 84% of respondents in our sample claimed that legal actors/groups have a minimal impact or no impact at all on daily operations! Fourteen sheriffs (13.1%) agreed that these actors had a medium impact, while only two sheriffs (1.9% of our sample) said that these actors/groups had a high impact on daily operations.

When we first encountered these results, we were baffled. How is it, we wondered, that legal liability is a chief concern, but those who are in a position to sue the agency have such a minimal amount of influence on daily operations? After several long walks and much consideration, it occurred to us that sheriffs must engage in proactive behaviors that serve to limit the influence of those looking for a reason to sue their agencies. Once we had warmed up to this perspective, we realized that our survey would allow us to see, first-hand, the myriad of strategies that sheriffs use to keep lawsuits at bay.

**Strategies Employed by Sheriffs to Minimize Exposure to Legal Liability**

Here, we asked sheriffs to explain how they kept themselves up-to-date on changes in case law, court decisions, and other factors that might expose them to legal risk. Sheriffs were most likely to cite consultations with county attorneys as a strategy to avoid legal liability. When asked whether they consulted with county attorneys to minimize legal risks, 71 sheriffs (66.4% of our sample) agreed that they did. The second most common strategy sheriffs used is subscribing to bulletins from various professional associations. Fifty sheriffs (46.7% of our sample) said that they used bulletins to stay informed of changes in case law.

The third most common strategy for sheriffs is the use of online databases such as WestLaw to keep informed about changes and rulings. Almost a quarter of sheriffs in our sample (23.4%) claimed to use these resources. Similarly, approximately 22% of sheriffs claimed to use some other strategy. When asked to list what this other strategy was, many cited training, in-house communication, and interactions with professional associations.

Twenty-two sheriffs (20.6%) said that they used the services of risk management companies (e.g., OSS Law Enforcement Advisors) to minimize liability concerns, while 18 (16.8%) sheriffs claimed to participate in or use a listserv, blogs, and other online forums. Rounding out the strategies, 11 (10.3%) sheriffs said that they assigned an officer to keep the agency updated.

![Figure 2. Current Proportions of Different Strategies Employed](image)

- Consult with County Attorneys
- Subscribe to Bulletins
- Subscribe to Legal Database
- Rely on Risk Management Companies
- Participate in Online Forum
- Assign Officer to Keep Updated
- Rely on Accreditation Bodies
on changes in case law, while 10 (9.3%) sheriffs claimed to rely on information provided by accreditation bodies.

The ubiquity and variety of these strategies suggests that sheriffs are proactive and intentional in minimizing the influence that legal actors/groups have on their daily operations. While many of these strategies, such as consulting with county attorneys and professional associations, have been employed for decades, it is interesting that many sheriffs are beginning to use information technology and the Internet to supplement these traditional methods of guarding themselves from lawsuits.

Given the utility of electronic media and software in even the most mundane of law enforcement tasks, such as fingerprinting or GPS navigation, it is not surprising that sheriffs’ offices are becoming increasingly tech savvy and reliant on computers and the Internet. One need only scan the results of the LEMAS survey published by the Bureau of Justice Statistics (Hickman & Reaves, 2006, 2010) to see that this technology is becoming ubiquitous in sheriffs’ offices. Thus, we are forced to wonder whether sheriffs will become even more reliant on online databases, blogs, listservs, and other Web-based tools to protect themselves from liability concerns. It is not difficult to imagine a day when these strategies and tools will be as commonly used as traditional methods such as meeting with county attorneys or attending training sessions.

**Conclusion**

We found, to our expectation, that sheriffs are deeply concerned with the prospect of legal liability exposure. However, we also found that legal actors/groups do not constitute a large influence on the daily operations of sheriffs’ offices. To resolve this disconnect, we explored sheriffs’ strategies for avoiding legal liability. Here, we found evidence that sheriffs engage in a variety of proactive behaviors to hold off potential lawsuits. By discussing these strategies, the present study has laid the groundwork for an exciting avenue for future research on the relative efficacy of each strategy and the types of sheriffs and sheriffs’ offices most likely to use them. For example, future research is needed to know exactly what sorts of information are available to sheriffs from each source and whether this affects their chosen strategies. Additionally, a more nuanced survey is needed to discern whether these strategies are actually effective (or if they simply provide psychological comfort to the sheriff because they enable him to feel empowered or to feel that he is “doing something” to stave off liability concerns). Furthermore, researchers might question whether those sheriffs whom are most often sued use a similar or different set of strategies from those who are rarely sued.

We strongly believe that the sheriff’s office is evolving as technology becomes cheaper and easier to use. This will greatly change the nature of the concerns for the sheriffs as well as the influence the sheriffs have on the community at large.

**References**


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Radicalization in North America:
A Strategic Approach to Prevention

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The Process of Radicalization

Radicalization is not a new phenomenon, but common usage of the term and its frequent connection to terrorism only began around 2004 (Homeland Security Institute [HSI], 2006, p. 2). As with terrorism, there are many different definitions for radicalization. In Canada, the Royal Canadian Mounted Police (RCMP) define radicalization as the process by which individuals are introduced to an overtly ideological message and belief system that encourages movement from moderate, mainstream beliefs towards extreme views (Canadian Association of Chiefs of Police [CACP], 2008, p. 2). In Europe, the Dutch intelligence agency, AIVD, defines it as a readiness to pursue or support far-reaching changes in society that conflict with, or pose a threat to, the democratic order (HSI, 2006, p. 2). Much of the current literature suggests that radicalization involves more than simply adopting a system of extreme beliefs; it also implies imposing those beliefs on the rest of society (Gartenstein-Ross & Grossman 2009, p. 7). Consequently, an individual who has been radicalized will often display a willingness to use, support, or facilitate violence as a method to effect societal change (Rabasa, Pettyjohn, Ghez, & Boucek, 2010, p. 1). Though radicalization may make an individual prone to violence, it does not always produce this result. Radicalization, however, can be seen as a prerequisite to terrorism (Gartenstein-Ross & Grossman, 2009, p. 8).

The study of radicalization is an essential process in maintaining domestic security as the cost of fighting terrorism overseas; employing an army of law enforcement and security personnel to deal with hundreds of fanatics is unsustainable. Exploring the radicalization process may offer a more realistic strategy than capturing or killing every terrorist (Jacobson, 2010).

In recent years, both the United States and Canada have seen an increase in the number of cases of homegrown extremism and radicalization among various diaspora communities, involving recent immigrants as well as second and third generation residents and citizens. This trend suggests the possibility of additional future attacks that may approach the levels of violence seen in Europe over the last decade. Neither the U.S. nor Canada has a national policy geared towards preventing radicalization.

Small, violent minorities within diaspora communities do not have a monopoly on terrorism. Diaspora communities, however, have a long history of producing violence in their host country and provide an extended social support network that can rapidly import conflict to North American shores. Given the variety of violent groups tied to North American immigrant diaspora communities, policies and programs dealing with this challenge must address both secular and religious organizations.

There are two distinct processes opposing radicalization: (1) disengagement and (2) deradicalization. These processes may be applied at the individual level or collective group level. Disengagement involves a behavioral change and a rejection of violent means, though not necessarily a reduction in ideological support for a cause (Neumann, 2010, p. 12). A disengaged individual may withdraw from a
radical organization or an organization may cease its violence, but each may retain the original, radical worldview (Rabasa et al., 2010, p. xiii). In other words, disengagement focuses on outward actions. Deradicalization is the process of moderating beliefs and rejecting extremist ideology, making it more about internal views. Disengagement can occur without deradicalization, but deradicalization cannot occur without disengagement (Rabasa et al., 2010, p. 181).

Radicalization is often discussed in relation to terrorism, for which there is no universally agreed definition. One definition states that terrorist activity involves an act committed for a political, religious, or ideological purpose with the intention of intimidating a segment of the public by the use of violence against individuals and property or disruption of an essential service or facility (Canadian Criminal Code [CCC], 1985). Historically, terrorism was divided into domestic (involving citizens of only one country) and international varieties, though this distinction became blurred over time with the advent of so-called homegrown terrorism.

In the U.S., the Violent Radicalization and Homegrown Terrorism Prevention Act of 2007 defined homegrown terrorism as “the use, planned use, or threatened use, of force or violence by a large group or individual born, raised, or operating primarily within the United States . . . in furtherance of political or social objectives” (Nelson & Bodurian, 2010). Homegrown terrorism covers both classic domestic terrorists and a more nebulous set of individuals who are newly arrived or come from the first, second, or even third generation of immigrants within a diaspora community who may not have fully integrated within a host country. Homegrown terrorism may be a misnomer since many of these individuals may never have considered their host country to be their “home.”

Various root causes have been offered for why radicalization occurs, especially among members of diaspora communities. The European Commission (EC) (2005) suggested individual exclusion, threatened identity, discrimination, globalization, and immigration as possible root causes, noting a lack of connection to the linguistic, religious, or political beliefs of the parents’ generation or that of the host country. Canadian senior officials have also identified poverty and intense feelings of marginalization and alienation as root causes (Riddell-Dixon, 2008, p. 37). Victimhood is a common theme running through many of these causation models. Radicalization and the employment of violence are thought to offer empowerment, overcome “failing” nonviolent approaches, and forge a new identity in opposition to an exclusionary enemy (Change Institute, 2008a, p. 36). Radicalization does not occur in a vacuum nor through alienation alone, and terrorist indoctrination may not always occur at the margins of society (CACP, 2008, p. 6). Often, radicalizing figures serve as community leaders, though outside the mainstream.

For example, the U.S. Federal Bureau of Investigation (FBI) (2006) conceives of Muslim radicalization as a four-stage cycle: (1) pre-radicalization, (2) identification, (3) indoctrination, and (4) action (p. 3). Various motivating factors may spur conversion and initiation of the radicalization process for becoming a violent jihadist, which are thought to be unique to every individual. The four types of potential violent jihadists are described as (1) jilted believers, (2) protest converts, (3) acceptance seekers, and (4) faith reinterpreters. Once in the identification stage, the individual becomes alienated from his former life and affiliates with like-minded individuals while strengthening his dedication to Islam (p. 3).

During the identification stage, the individual may engage in training and group bonding experiences to solidify his extremist identity, but he does not pursue training in preparation for an attack. An indoctrination period follows. At this point, the individual becomes convinced that action is required to further the cause, and, if recruited, he undergoes extensive vetting and operational tests to gauge
the recruit’s willingness to participate in an attack and to test his resolve (FBI, 2006, p. 3). The action stage represents various activities, including participation in jihad, terrorist attacks, facilitation, recruitment, or financing. The actions can be violent or nonviolent, but they are done with the intention of inflicting damage to the enemy. Evidence suggests that radicalization does not always lead to action, and it is a fluid process that does not have a timetable (p. 4).

The FBI (2006) also notes that recruitment is often accomplished by personal friends who have established bonds with the extremist group or member, and it may not involve a charismatic leader (p. 6). Sometimes intermediary organizations act as “conveyor belts” and “match-makers,” transforming newcomers into sympathizers, supporters, and members of terrorist networks (Jacobson, 2010, p. 5). In other cases, traveling clerics and agitators pass through local communities to galvanize support and radicalize the faithful, indoctrinating adherents and propelling them to training camps to acquire terrorist skills for operations (Rudner, 2010, p. 122). This was the case with radical cleric Anwar al-Awlaki shortly after the September 11 attacks. He spoke to groups across the United Kingdom from London to Aberdeen and developed his lecture series, Constants in the Path of Jihad, while fleeing an FBI inquiry in the U.S. (Gardham, 2010). A generic recruitment process may include these steps:

1. Attract/promote exposure to seminal ideas.
2. Invite prospects to smaller, select gathering.
3. Develop social bond to small group.
4. Gradually introduce political/radical ideas.
5. Cultivate extremism, focusing on political/radical ideas.
6. Allow social forces to mobilize volunteers for action. (Borum, 2006, p. 7)

<table>
<thead>
<tr>
<th>PRE-RADICALIZATION</th>
<th>IDENTIFICATION</th>
<th>INDOCTRINATION</th>
<th>ACTION</th>
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<tbody>
<tr>
<td>Motivation/Conversion</td>
<td>Individual accepts the cause.</td>
<td>Immersion into a Group</td>
<td>Individual knowingly engages in extremist activity.</td>
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<tr>
<td>• Jilted Believer</td>
<td>• Increased isolation from former life</td>
<td>• Social</td>
<td>• Operational activities of facilitation</td>
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<tr>
<td>• Acceptance Seeker</td>
<td>• Begin to accept new social identity</td>
<td>• Terrorist</td>
<td>Recruitment</td>
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<tr>
<td>• Protest Conversion</td>
<td>• Key Component</td>
<td>• Strengthening social identity</td>
<td>Financing</td>
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<tr>
<td>• Faith Reinterpretation</td>
<td>• Overseas experience</td>
<td>• Increased vetting opportunities</td>
<td>include:</td>
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<tr>
<td>Stimulus</td>
<td>• Religious training</td>
<td>• Training Camp</td>
<td>• Preparation</td>
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<td>• Self</td>
<td>• Basic Paramilitary training</td>
<td>• Surveillance activity</td>
<td>• Planning</td>
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<td>• Other</td>
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<td>• Finance</td>
<td>• Execution</td>
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<td>Opportunity</td>
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<td>CONVERSION/REINTERPRETATION</td>
<td>ACCEPTANCE</td>
<td>CONVICTION</td>
<td>TERRORISM</td>
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<tr>
<td>NO ACTION</td>
<td>PROPENSITY FOR ACTION</td>
<td>READY FOR ACTION</td>
<td>IMPLEMENT ACTION</td>
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</tbody>
</table>

Source: FBI (2006), p. 4
Radicalization also occurs in many venues. These venues include places of employment, prisons, universities, study groups, community centers, conferences, mosques and other houses of worship, religious bookshops, local gyms, and private domiciles (Change Institute, 2008a, p. 40; HSI, 2006, p. 5). Vigorous law enforcement surveillance and expulsions from mainstream houses of worship have pushed radical activities to more informal and mundane locations. In Europe, informal “garage mosques” have emerged to avoid interlopers and accommodate the rapid growth of the Muslim population (HSI, 2006, p. 5).

Prisons are a unique radicalization venue. The prison environment often produces a need for protection, a search for meaning and identity, and a desire to defy a system perceived as unjust (Neumann, 2010, p. 29). For incarcerated radicals, the prison offers a captive audience and occasionally the opportunity to continue the struggle by other means. Prisoners can display psychological traits conducive to terrorist recruitment, including disillusionment with society, violent impulses, high levels of distress, a dysfunctional family system, and dependent personalities (Saathoff, 2006, p. 7). Prisoners may be radicalized through internal drivers such as terrorist inmates and radical prison chaplains or imams, or they may receive extremist messages from external drivers such as outside visitors; letters; or extremist literature, videos, and websites (Neumann, 2010, p. 28).

The Internet and social media may serve as a forum for discussion, virtual community building, operational planning, training, dissemination of information, spreading propaganda about successful attacks, and glorifying martyrs (Change Institute, 2008a, p. 4; HSI, 2006, p. 5). One of the most common means of spreading radical messages has been through videos posted on YouTube. The FBI has seen an increase in the use of social media sites, such as Facebook, by radical groups and individuals (Osman, 2010). Examples of individuals using Facebook examined in this study include the Times Square bomber Faisal Shahzad, thwarted al-Shabab conspirator Carlos Eduardo Almante, Swedish suicide bomber Taimour Abdulwahab al-Abdaly, and attempted Maryland military recruitment center bomber Antonio Martinez. In the Martinez case, it was the radical messages on his Facebook page that initially alerted law enforcement to the potential threat (Gay, 2010). At least one jihadist web forum has explicitly urged its members to use Facebook to spread radical ideas based on the previous propaganda successes from using YouTube (Osman, 2010).

The Rational Act of Terrorism

The resort to terrorism is a rational choice. It offers a way to show that even powerful governments cannot guarantee safety and security. Leaders who use terrorism can also become legitimate politicians over time as demonstrated by Menachem Begin, Yasir Arafat, and Gerry Adams. To them, terrorism is cheaper than all-out war and will kill fewer people. It also provides an opportunity to gain media access, notoriety, and an opportunity to magnify the importance of marginalized individuals and causes. In this view, terrorism is “win-win” since they will gain media attention regardless of whether the tactical operation is successful or not. Describing terrorists as rational actors does not justify their actions or downplay their occasional delusional views of reality, but it clarifies that terrorism is the result of a strategic calculation to achieve specific goals and not a form of pathology.

Many terrorists view themselves as reluctant warriors, believing that history will see them as peacemakers or valiant martyrs driven to violence to serve the greater good. They trust their acts will spur change, help them return to some golden age, or avenge a grievous wrong. Defining themselves as righteous protectors and visionaries, they feel the ends always justify the means, no matter what carnage they leave behind.

One of the most important aspects of radicalization is the process of moral disengagement.
and dehumanization of “the enemy.” Terrorists offer a skewed moral justification for their violence, which helps them displace responsibility for and minimize or ignore their victims’ suffering. First, they perceive some harm or wrong has been committed to them or a community with which they identify. Second, they find or invent an external source for this harm to blame. Third, they construct a negative image of the enemy to spawn a shared hatred. Fourth, they underscore that the harm will continue or grow worse if nothing is done. Finally, they call for action and violence to thwart the impending threat. It is difficult to suggest the wholesale slaughter of fellow human beings without diminishing their worth or status.

Radical propaganda often describes opponents as subhuman (mud people), inhuman (the System), animals (pigs or monkeys), parasites (leeches or vampires), diseased (plague or cancer), or evil incarnate (demons or the Great Satan). This rhetoric erodes constraints on violence and bloodshed by portraying victims as unworthy of living (Hoffman, 2010, p. 31).

By appealing to visceral emotions and breaking communication lines, terrorist groups hope to prevent negotiations and isolate themselves from their violence and its effects. It is important for terrorists to see their civilian targets as complicit with the broader regime, by paying taxes or benefiting from unjust policies and practices. This allows terrorists to claim non-combatants are not neutral or unacceptable targets. Terrorist groups constantly reinforce these views and provide a sense of belonging and a larger purpose for their members. The group’s belief system defines its acts as morally acceptable and, thus, diminishes any individual responsibility for their crimes.

Religious terrorists go one step further by claiming divine status from sacred authorities, allowing them to easily divide the world into good and evil realms. This, in turn, closes the door for political compromise and promotes more indiscriminate attacks since the victims are in God’s hands. They believe their violence is a sacramental act of purification that punishes unbelievers and violators of God’s law or speeds up the coming of a messiah or the apocalypse. Religious radicals claim that killing infidels shortens their lives and prevents them from committing more sins (Change Institute, 2008a, p. 103). It is important to note many “religious” terrorists do not come from strong religious backgrounds, and they often had an incomplete religious education or were exposed to a very narrow interpretation of their faith (Venhaus, 2010, p. 5).

Opportunities for Radicalization: Diaspora Communities

The term diaspora covers ethnic migrants; first-, second-, or even third-generation immigrants; guest workers; refugees; expatriates; and students who can be thought of as playing an active role in two or more communities simultaneously (Carment & Bercuson, 2008, pp. 6-7). These individuals often maintain a foothold in two worlds, and they may develop their composite identity from both their host country as well as their traditional ethnic or cultural roots. Diaspora communities have grown in part due to global migration patterns, and now an estimated 200 million people worldwide live outside their country of birth (Frideres, 2008, p. 77). Today’s diasporas have access to ubiquitous telecommunications, inexpensive international travel, and liberalized financial remittance systems that create “hyper-connectivity” with their home communities (Carment & Bercuson, 2008, p. 7). This hyper-connectivity can provide an extended social support network, but it may also relieve pressures to integrate into a host country and provide pathways to import foreign conflict.

Aside from concerns regarding the first wave of new immigrants, new challenges have developed regarding the second and third generations. Children of immigrants can go through a deculturalization process in which they become trapped between two cultures, alienated from the traditional culture of their
parents but not integrated into the culture of the host country (Ministry of the Interior and Kingdom Relations, 2006, p. 46). This failure to integrate may produce an identity crisis and increase susceptibility to radicalization.

This issue has become ever so important in Europe. European nations now face major integration challenges. Most of the European national debates regarding these challenges center on the Muslim diaspora, which represents the largest minority in Europe as well as the fastest growing religion (Gallis, Archick, Miko, & Woehrel, 2005, p. i). Estimates for the size of the European Muslim population range widely. The Pew Research Center Forum on Religion & Public Life, which relies on census data and demographic records, estimates the number of European Muslims (including Russia) in 2010 at 44.1 million, and this population is projected to grow to over 58 million by 2030, with the biggest increases in France, Germany, and the Netherlands (Agrell, 2011). Muslim communities in Europe are disproportionately represented in low-skilled, low-paid jobs, and radical Islam presents a vehicle of protest against problems of access to employment, housing, and discrimination (Change Institute, 2008a, p. 22; Taarnby, 2005, p. 33).

The two most common models of integration, assimilation and multiculturalism, have both proven difficult to implement in Europe (Fried, 2006, p. 5). The French aimed to forge a national identity that minimized cultural or religious differences wherein full acceptance of the host country’s values is expected. The British and Dutch have pursued multiculturalism, which allows diaspora communities to maintain distinct identities. However, European multiculturalism has failed to eliminate xenophobia, racism, isolation, and the alienation of Muslims and other diasporas, and it has helped crystallize separate, parallel societies (Archik, Rollins, & Woehrel, 2005, p. 2; Fried, 2006, p. 6).

Germany, like many other European countries, failed to develop formal integration policies, viewing Muslim immigrants as guest workers who they expected to leave and seeing even third-generation individuals as “foreign” (Fried, 2006, p. 6; Gallis et al., 2005, pp. 32-33). Consequently, this diaspora community maintained its own cultural identity, and segregation within German society has encouraged radicalization (HSI, 2006, p. 37). In 2010, German Chancellor Angela Merkel claimed Germany’s attempt to create a multicultural society has “utterly failed,” placing the onus on immigrants to do more to integrate (Weaver, 2010).

The Process of Countering Radicalization

The U.S. does not have a domestic counter-radicalization strategy nor is there a federal government agency specifically charged with identifying radicalization and interdicting terrorist recruitment (Bergen & Hoffman, 2010, p. 29; Rabasa et al., 2010, p. 190). This is remarkable given that there are reportedly 3,984 local, state, and federal organizations working on domestic counterterrorism in the U.S. (Priest & Arkin, 2010).

There have been episodic American outreach efforts to Arab, Muslim, Sikh, and South Asian communities to deter and prevent radicalization such as the Department of Homeland Security’s “E-Team” activities in eight metropolitan areas (Nelson & Bodurian, 2010, pp. 8-9). These activities, however, do not constitute a national-level program that is equal to the growing challenge of diaspora community radicalization. In neighboring Canada, security experts have decried the lack of a national counter-radicalization as well as the absence of public engagement and education programs that highlight symptoms of radicalization (MacLeod, 2008).

In contrast, Europe has developed counter-radicalization strategies at the municipal, national, and international levels as well as direct and indirect counter-radicalization programs. The main emphasis of European programs has been to prevent at-risk individuals from radicalizing and to rehabilitate those
who are not irreconcilable (Rabasa et al., 2010).
In this regard, Europe has identified several factors that may promote radicalization such as large youth bulges during periods of high unemployment, poverty, and radicalized educational institutions and NGOs (Center for Strategic and International Studies [CSIS], 2004).

The 2005 European Union Counter-Terrorism Strategy suggested recruitment and radicalization prevention priorities that include the development of common approaches to spot and tackle problem behavior, addressing incitement and recruitment in key environments, development of a media strategy, promotion of good governance, development of intercultural dialogue, development of a non-emotive lexicon for discussing the issues, and continued research (Council of the European Union, 2005, p. 9).

Unfortunately, there is no European consensus on the best approach to counter-radicalization. Individual European governments have used four broad strategies to counteract radicalization:

1. Reforming asylum law, police and intelligence cooperation, and judicial coordination
2. Improving social integration
3. Combating ghettoization
4. Blocking entry to or expelling radical imams, conducting surveillance, criminalizing incitement, and encouraging the growth of grassroots Islamic groups (Archik et al., 2005; Niblett, 2006)

Prisons represent another area of concern when dealing with the challenge of radicalization. European governments have moved into prisons to monitor radicalization, with many producing leaflets or manuals with instructions on indicators of prison radicalization, including acts of open defiance and attempts to replace and marginalize the prison imam (Neumann, 2010, pp. 31-32). The primary focus of most deradicalization programs is on imprisoned individuals, and the primary objective of these programs is rehabilitation, in hopes of obtaining intelligence, discrediting the extremist ideology, and preventing future recidivism.

There is no one method or path to deradicalization, so comprehensive programs offer multiple reasons for radicals to abandon violence and their ideology. Many deradicalization programs have an ideological component and a material component, incorporating theological dialogue with scholars as well as tangible benefits in the form of jobs, training, and other services to encourage cooperation (Rabasa et al., 2010, p. 7). Inducements also include more comforts during incarceration, early release, amnesty, or financial assistance during and after imprisonment (Neumann, 2010, p. 53).

Exceeding two million inmates, the U.S. has the world’s largest prison population, and almost all of its convicted terrorists are held in just three prisons. The U.S. Federal Bureau of Prisons has attempted to address Muslim radicalization in prisons by methods that include examining religious service providers’ beliefs on violence, linking ties to foreign governments and willingness to provide services for all faiths, requiring endorsement from national religious organizations, implementing guidelines for approval of religious materials, and mandating constant supervision of inmate-led groups (Cilluffo & Saathoff, 2006; Lappin, 2003).

The FBI and the Federal Bureau of Prisons have also organized the Correctional Intelligence Initiative to improve intelligence collection and to detect, deter, and disrupt prison radicalization and recruitment, using local Joint Terrorism Task Forces to train correctional administrators, coordinate intelligence sharing, translate extremist materials, and communicate best practices (Neumann, 2010, pp. 32-33; Van Duyn, 2006; Vanyur, 2006). Despite these advanced measures taken at the federal level, much of the potential candidates for radicalization may be outside of their reach. After all, 93% of American inmates are
in local and state prisons and jails (Cilluffo & Saathoff, 2006, p. i).

Nearly all of the European and North American efforts have been aimed at monitoring and preventing radicalization, not reversing it. Focusing only on preventing prison radicalization without active deradicalization programs merely contains the threat within the prison walls, and most countries lack the resources to incarcerate growing numbers of radicals indefinitely (Neumann, 2010, p. 8; Rabasa et al., 2010, p. 37).

Neither Canada nor the U.S. has a formal deradicalization program. This is surprising given the number of terrorists and violent radicals imprisoned in the U.S. and the comparatively short prison sentences for Canadian radicals. Most of the formal disengagement and deradicalization programs have been developed in North Africa, the Middle East, and Southeast Asia. Nearly a dozen countries have carried out such programs (Jacobson, 2010, p. 4; Neumann, 2010, p. 47).

Deradicalization and disengagement programs have been aimed at both individual and collective levels, with varying degrees of success. Deradicalization at the collective level is much less common, relying on militant leaders to renounce their commitment to violence and to use peer pressure to produce attitudinal and behavioral moderation among their fellow members (Rabasa et al., 2010).

Like counter-radicalization policies, deradicalization programs cannot simply be transplanted from abroad to North America. U.S. and Canadian deradicalization programs should reflect the social and cultural characteristics of the countries in which they are implemented (Neumann, 2010; Rabasa et al., 2010). For example, Saudi and Singaporean programs consider involving families in any deradicalization and rehabilitation programs. A pilot deradicalization effort in the UK has also found success in educating and counseling detainees’ spouses, who often feel the greatest burden during their spouses’ imprisonment (Jacobson, 2010, pp. 17-18). Continued care is another important element. To avoid the failures of other programs and to ensure continued disengagement from violence, North American deradicalization programs should continue to monitor former detainees and offer extensive support and counseling after their release (Rabasa et al., 2010).

Given the variety of violent radicals active in North America, it would be a mistake to focus deradicalization efforts solely on Islamic extremism. Exit and rehabilitation programs here should be developed that cover radicals of any persuasion wishing to move away from violence (Change Institute, 2008a, p. 145). A prison-based deradicalization program alone would likely not address the entire scope of the current problem. One of the challenges of rehabilitating radical members of diaspora communities is that prisoners may be released back into communities that are overwhelmingly supportive of the cause that led to their arrest or conviction (Neumann, 2010, pp. 20-21). Consequently, any deradicalization program should be part of a larger counter-radicalization strategy with complementary programs and community-based initiatives.

The Importance of Strategic Community-Based Policing in Diaspora Communities

Law enforcement agencies benefit from developing closer relations with diaspora communities, which can provide valuable insights, language skills, and cultural understanding to aid in the analysis of data and intelligence from their countries of origin (Riddell-Dixon, 2008). Cultural sensitivity and understanding are important in monitoring diaspora communities with radical elements. A narrow focus on criminal investigations and blindness to continuing threats and radicalization can diminish community cooperation and turn sources into adversaries. Good relationships between law enforcement and sources in or close to radical movements in diaspora communities are vital to acquiring actionable information (Whitelaw & Parent, 2009).
Heavy-handed tactics can provoke anger and erode the cooperation of the community, which is the most effective barrier to further radicalization (Jenkins, 2010, p. viii). Since 9/11, the FBI and Muslim and Arab diaspora leaders have worked to develop information-sharing relationships to act as a critical early-warning system against homegrown terrorism; these partnerships have come under strain with the infiltration of mosques by informants. The FBI is trying to repair these relationships. It has begun meeting Muslim and Arab leaders to hear their grievances regarding policing efforts (Vitello & Semple, 2009).

It is important to recognize the role of law enforcement and public vigilance in stopping terrorist attacks since one American study of 68 foiled plots since 1999 found that more than 80% of them were discovered by law enforcement or the general public (Beutel, 2010, p. 7; Strom et al., 2010, p. 1). In that study, nearly one in five terrorist plots were foiled during investigations into seemingly unrelated crimes (Strom et al., 2010, p. 1).

This suggests that intelligence and national security agencies are not the only significant players in stopping terrorism and radicalization. A radicalization prevention strategy should be rooted in the basic principles of policing, with an emphasis on community policing (CACP, 2008). Strategic community policing in diaspora communities must actively address community concerns, fears of crime, and the trust of authorities (Whitelaw & Parent, 2009). Local police agencies and "street-level" officers are best placed to detect radicalization and to intervene early in the process. In this regard, local and state police agencies need to be engaged in radicalization prevention since they have deep local knowledge of and insights into communities of interest.

One of the easiest ways to alleviate fears and develop support is through an effective police–community liaison. For example, the British have developed the Muslim Contact Unit (MCU), representing a best practice in radicalization prevention policing. In 2002, the London Metropolitan Police Special Branch created the MCU to establish partnerships with Muslim community leaders who were best positioned to counter radical propaganda (Change Institute, 2008b, p. 116). Staffed by experienced Muslim and non-Muslim police officers, with substantive contacts and experience in community liaison, the MCU applies community policing principles to fight terrorism and uses a “targeted and focused community partnership model” to maintain credibility (pp. 116-117).

The British have also taken steps to make their law enforcement forces more representative of their communities. Following the London bombings, the Metropolitan Police recruited more minorities, including roughly 300 Muslim officers (Change Institute, 2008b, p. 120). British police also developed “Gold Groups,” which were networks of trusted faith and community leaders who could be assembled quickly to provide expert advice and to allay suspicions and anxieties following terrorism-related arrests or attacks (CACP, 2008, p. 3).

In addition, the British Association of Chief Police Officers offers a two-day counterterrorism tabletop exercise, Operation Nicole, that is designed to promote greater understanding of counterterrorism operations and community concerns related to arrests for terrorist offences (Change Institute, 2008b, pp. 111-112). The association also heads a National Community Tensions Team that monitors community tension issues across the UK (p. 116).

Community policing, of course, is not a panacea, and a perception of tacit support for radicalism within a broader diaspora community can provide the moral infrastructure for those promoting violence (Bartlett, Birdwell, & King, 2010). Radicalization and terrorism do not need community support to flourish, only community silence. This emphasizes the important role of diaspora communities in taking the initiative for “self-policing,” utilizing various strategies that include the development of credible counter-narratives.
Counter-narratives can strip radicals and terrorists of their glamour and mystique by citing their ideological and theological shortcomings and through satire (p. 14).

This counter-narrative function is being utilized by several bodies in Britain, including the London-Based Quilliam Foundation that carries out research, training, and outreach as an alternative to Islamism and for developing a Muslim identity that is at home in the West (Rabasa et al., 2010, pp. 131-132). In this regard, radicals who have left their movement after negative experiences should also be encouraged and aided by authorities to tell their stories and explain the realities of living on the run and in deplorable conditions (Rabasa et al., 2010, p. 187; Venhaus, 2010, p. 15).

Finally, diaspora community leaders have a special role to play in self-policing by recognizing and confronting radicalization. Community leaders have their own intelligence systems and usually possess a great deal of knowledge about activities in their local areas (Bartlett et al., 2010, p. 35). Radicalization can occur quickly, and preradicalization indicators may be quite subtle to a cultural outsider like a police or intelligence officer.

Early signs include aggressive conflict with religious authorities about the legitimacy of violence and an interest in extremist literature. These signals should be shared with law enforcement to prevent further radicalization to violence (Bartlett et al., 2010, p. 38). Other items of concern include pre-operational surveillance, paramilitary training, smuggling, and suspicious documents (Strom et al., 2010, p. 1). For example, the British Channel Project combines the efforts of local police and community partners to identify individual radicalization, referring authorities to persons who visit terrorist websites, promote violence, or display other types of alarming behavior (Rabasa et al., 2010, p. 126).

**Conclusion**

The issues associated with radicalization in North America are multifaceted and can be attributed to a number of sources, many of which are part of religious and ethnic diaspora communities. There is a long history of episodic and continued violence developing from within North American communities, with no single group monopolizing this type of extremism and violence. Political radicalization and membership in a diaspora community from a conflict region seem to be at least as salient in most homegrown plots as religious identification. Many North American radicals have lived, worked, or studied in their host country for extended periods of time and do not usually fit the mold of a classic “sleeper operative.” These individuals appear to have failed to integrate into a pluralistic, tolerant democracy, or they have turned away and integrated into a radicalized subculture that has taken root through a perversion of the freedoms afforded by multiculturalism. Xenophobia and collective sanctions against identified ethnicities, religions, or nationalities are likely to be counterproductive and may serve to exacerbate tensions.

Since there is no single path to radicalization, there is also no guaranteed method for disengagement and deradicalization. Still, there are many viable models that have been developed in Europe, Asia, and the Middle East. North America needs to catch up with Europe before it faces a more grievous threat. There is a need to develop a North American counter-radicalization strategy that is complemented with targeted policies and programs that deter and prevent future radicalization as well as a formal deradicalization program. These efforts should be supported by strategic community policing initiatives and voluntary self-policing within diaspora communities.

In this regard, the U.S. and Canada must facilitate public engagement and education programs that describe radicalization indicators that communities should be looking for in their neighborhoods. Following the example of some European countries, the U.S. and Canada should work with diaspora communities to develop alternative, non-law-enforcement mechanisms at the local level to deal with radicalization.
Effective law enforcement support of diaspora communities can help them become more resilient to radicalization. The essential components for containing diaspora radicalization and terrorism are community cooperation, tips from friends and family members, alert citizens, and focused intelligence collection. Culturally sensitive strategic community policing, combined with voluntary self-policing efforts, offer powerful mechanisms to reduce and root out radicalization within the U.S. and Canada. Reducing radicalization today can save lives tomorrow.

References


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Contemporary Security Threats Impact on the Travel Destination Choice

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Introduction

Our global society lives in a world shaped by radical changes in the field of communication and information technology (Ovsenik, 1999, p. 290). Despite the development and continuous improvements of everyday life, security still presents the immanent element of each society: “We face security issues and deal with their importance since the early periods of humankind” (Kurež, Mekinc, & Anžic, 2009, p. 170); however, its understanding was and still is changing. Security concept is a living form which changes, grows, and adapts to different environments; hence, it is the evolution of security and its interpretation which is interesting. It is ironic that the evolution of the security concept will continue even beyond the point when the final collapse of humankind is to happen, despite the fact that the concept itself is about the processes, mechanisms, and systems dealing with the prevention of the collapse.

Security is undoubtedly related to the field of tourism, and it has been so since this field’s origins. The modern travel industry emerged in 1841 when Thomas Cook organized his first travel package from Leicester to Loughborough (UK) to a temperance meeting. Based on the growth of the travel industry in the last 170 years, his trip was a rather simple one; however, it contained the main elements of the organized travel industry, which were passed onto contemporary travel packages. Among others, security elements were and still are an essential part of this industry.

Global impacts on the tourism industry are responsible for strengthening the importance of the security issues from the personal to the local and global levels. Hall, Timothy, and Duvall (2003) report that the international travel industry influences the economy and political stability of entire regions, continents, and the world (p. 3). Each time security threats occur at any popular travel destination, travel flows to and from that location change dramatically. It has been noticed that the latter is even more evident from the Cold War onwards. Since the events of 9/11, the security issues and safety procedures became an indispensable element of almost every travel arrangement we make, and they shape global travel flows (Mansfeld & Pizam, 2006, p. xiii). One of the reasons for such strong connections between the security threats and travel flow changes are modern communication tools. Information arrives to a tourist minutes after attacks, disputes, or other security-related events occur; hence, the tourist has the opportunity to assess the level of the threat and possibly amend or cancel his or her travel plans. These reactions are reflected in a drop in the number of visitors, travel expenditure patterns, destination image, and other short- or long-term consequences. Security threats are, thus, immediately apparent, embedded in every tourism or general economy process of the travel market.

Security Threats in Tourism

Security threats evolve as a product of the security environment; even more, they shape it. Hence, it is a living form which continually
changes throughout history. After the Cold War, the nature of threats changed significantly. Armed international conflicts still present a threat, however, and the importance of other nonmilitary threats increased drastically. The most important nonmilitary threats are the fragility of the democratic and economic institutions and processes in the former socialist countries and some other great powers; the weak level of social-political cohesiveness and stability in some countries; massive violations of human rights; disrespect of minority rights; ethnic and religious extremism; a strong imbalance in the distribution of the wealth and power among global centers and peripheral areas; strong and powerful subjects with large military-industrial complexes that need tension in order to maintain their existence; limited natural resources essential for the continuous development of the entire world, which could cause exacerbated relations between developed and emerging countries; global social migrations that are consequences of ethnic and religious tensions between different social groups; international organized crime; global environmental threats and pollution; the spread of deadly diseases; and the ignorance and egoism of the developed world regarding worldwide problems (Lubi, 2004, pp. 190-191).

Alsarayreh, Jawabreh, and Helalat (2010) focused on studying the ties between tourism and politics. The main findings show that global tourism is a major component of international politics and is subordinate to the ideology. Tourism is under great pressure via wars, political instability, international conflicts, and terrorism. As an industry focused on changing the everyday living environment, tourism depends on international politics, policies, and relationships; thus, stability and peace are crucial for its development (pp. 145-147).

All of the above-mentioned security and safety issues emerge from the contemporary security environment and are more or less directly involved in the development of the tourism industry. Relevant literature (Hall et al., 2003, pp. 5-12; Mansfeld & Pizam, 2006, pp. 3-4) and our own research point out the different forms of security threats within tourism: crime, terrorism, war, social and political unrest, environmental threats, and the spread of infectious diseases.

Crime
Crime certainly is one of the most serious threats to modern tourism. McPeters and Stronge (as cited in Brunt, Mawbry, & Hambly, 2000) report in their early study from Miami that the level of economic- and property-related crime activities changes according to the tourism activity. Namely, the level of crime significantly increases during the peak tourist season and, secondly, the level of crime was much higher in the tourism trade than in other areas (p. 417). There are different kinds of tourism-related criminal actions: pick pocketing, shoplifting, rapes, murders, kidnappings, and piracy to name only a few. It can be either domestic-against-tourist or tourist-against-domestic population, but sometimes it can also be tourist-against-tourist crime. Pečar (1999) says that a tourist environment causes so-called ambivalent feelings, needs, demands, expectations, and other emotions (p. 320). Destination as a different living environment enables people to act differently—in many cases, in a way which is totally unacceptable in their home environments. Due to their feelings of relaxation, freedom, and lack of control, tourists surrender themselves to situations and actions which may cause unknown consequences. In many cases, they even disregard their physical, health, and financial safety. For many people, the tourist destination they have chosen holds the possibility for victimization. Another interesting point was made by Ryan and Kinder (as cited in Brunt et al., 2000, p. 418) who claim that both tourism and crime should be considered as deviant behavior in that tourism is wanted or desirable and the crime that potentially goes with it is not.

Drug trafficking is considered to be one of the most widespread crime forms, and the number of groups involved in this criminal activity is increasing (Dobovšek, 2005). Due to the potential size of the demand market, it is impossible to monopolize this form of crime; hence, investigating and preventing it is difficult. There are many ways to link tourism with this form of crime. There are actually travel destinations' worldwide
which tourists visit to participate in such criminal actions. Tourists act either as consumers, traffickers, or sellers of drugs during peak seasons when border patrols cannot perform sufficient control. It would be impossible to isolate tourists from drug trafficking within the destination, even if some would want that. On the other hand, there are destinations that allow drug use, so tourists may be visiting them to experience that.  

At the emergence of organized crime, prostitution was the most profitable criminal activity. Today, this form of crime is no longer as profitable; however, it still influences the spread of other related forms of crime. Prostitution was always closely related to the tourism trade. While similar to the drug experience, tourists would seek sexual comfort and satisfaction outside their own living environments. There are also many cases where prostitutes enter the country as travelers and later engage in illegal prostitution. Another terrifying form of human trafficking is related to children who are kidnapped while on holiday with their parents or relatives.

Immigrant smuggling and related illegal activities are growing and so are the ways this crime is committed. Organized crime groups often operate under the general travel mask and smuggle people into the country for further exploitation within prostitution and other areas of crime. Illegal immigrants are depending on the so-called protector who sees an emigrant as part of his workforce or even as his own property.

Car stealing and smuggling typically occur in destinations close to developed tourist markets. Many tourists travel to those destinations with their own vehicles. Once stolen, their cars get disassembled and sold for spare parts or smuggled to and sold in underdeveloped countries.

One of the rapidly developing forms of tourism-related crime is rip-off loans. This is particularly common in emerging destinations with high investment needs and potential. People see opportunities to invest in small businesses (e.g., bars, discotheques, restaurants, shops, small hotels, etc.) but have no financial means. Interest rates for such quick loans are usually extremely high, so in most cases, the borrowers are unable to return the principal. They either lose their business or are forced into some illegal activity by the creditors. Rip-off loans are quite popular in gaming destinations where lots of addicted players need quick cash. Another form of financial crime is collecting debts by means of pressure, threats, and violence. This form of crime operates under the pretense of providing safety and protection from different oppressors.

Human organ trafficking is a relatively new form of crime. Organs are used for transplants and medical experiments. Tourists usually act as organ seekers and not donors. Patients with sufficient material resources travel to foreign countries where they buy organs (mostly kidneys and livers) from donors who urgently need money. Budiani-Saberi and Delmonico (2008) call this “transplantation tourism” (p. 925), and they add that there were cases where tourists reported being a victim of such treatment. In some cases, tourists’ adventurous spirits took them into dangerous areas where they exposed themselves to trafficking groups and became victims of human organ trafficking.

Money laundering is the common name for all techniques used for exchanging illegally obtained wealth into fair and legal income. Crime groups involved in money laundering usually try to hide their criminal actions or simply abuse the taxation system. The tourism industry is a source of fast and large money turnover and, despite global information and communication technology, there is still a large portion of financial transactions done in the traditional way (e.g., in cash). Such financial flows are ideal for money laundering. Many destinations that are poor or have no electronic payment systems use exchange bureaus or offices for money laundering. Many economic activities have the potential for forgery. Most problematic are credit card forgeries, which jeopardize the entire bank system. In addition, tourists are involved in the trafficking of counterfeited products (e.g., music CDs, clothes, jewelry, and other accessories).

The above-mentioned forms of tourism-related organized crime are only a few that have
spread worldwide. Pizam (1999) claims that there is not a single minute in which a tourism-related crime is not being committed somewhere in the world (p. 5). Additionally, there are also numerous criminal actions involving the domestic population. Nevertheless, theory and research conducted on the topic of tourism-related crime teach us that there is a need to differentiate between the form of crime and its impact on destination choice. Namely, people would rarely move for the sake of the crime level in their home environment, but they do select their travel destinations accordingly.

**Terrorism**

Tourism represents an integral part of globalization (Tarlow, 2006, p. 45), whereas terrorism embodies its darkest side. As a result of the globalization process, tourism and terrorism became inevitably linked. By accessing the most advanced destruction technologies, terrorist threats and the consequences of terrorist attacks became more powerful and effective than ever before. Recent terrorist activities caused the rise of precautionary measures at airports and national borders; thus, tourism is being affected as well. In fact, many tourist attractions are positioned close to politically and nationally important elements or statues; hence, tourists become easy terrorist targets (Faulkner, 2001, p. 142).

By being one of the most important global economic industries, tourism also became an interesting target for terrorists. It has been established already that terrorists seek their targets according to their importance within the targeted area; thus, the area’s economy is always important. Tourism is also attractive to the media; hence, it has immediate media attention and the latter is also something terrorists always seek. Richer (as cited in Sönmez & Graefe, 1998, p. 119) claims that the media’s interest in terrorists’ political demands contributes to the attractiveness of tourist areas for attacks.

There are three known links between terrorism and tourism (Pizam & Mansfeld, 2006, p. 4). First, tourists can become victimized by coincidence or on purpose, and the tourism infrastructure can be targeted by terrorists due to the area’s attractiveness to the media. Tarlow (2006) considers aircrafts, major ships, coaches, restaurants and popular bars, and events and venues for gathering large masses of visitors as the most attractive terrorism targets (pp. 45-46). Tarlow mentions the hesitation of the tourism industry to resist as an additional cause for their fragility and their attractiveness to terrorists (p. 44). Tourism workers are usually afraid to take extra security measures because they might impact the demand and, indirectly, the profits. As a large industry linking many different economies, tourism naturally attracts terrorist groups who seek to destroy important economies. Attacking tourism indirectly means attacking every single industry that is dependent upon it. Tourism is also attractive to the media, and terrorists seek media attention. Tourism involves important cultural and natural attractions which, in most cases, represent the identity and history of each nation and, again, this identity is something terrorists and other crime groups are trying to damage. Last but not least, an important reason tourist sites are attractive to terrorists are the masses of people at those places, so terrorists can easily disguise themselves. Terrorism seeks targets that meet at least three out of four of the above-mentioned criteria. Tourist destinations easily meet this demand (i.e., opportunity for large number of victims, opportunity for publicity and media coverage, opportunity for major economic damage, and opportunity for the destruction of cultural identity or national symbols).

**Wars**

There are a number of politically unstable countries and regions worldwide. The instability is caused by religious, ethnic, racial, and other disputes or imbalances. Quite frequently, instabilities involve regions of the Middle East, Western Balkans, Kashmir, Caucasus, Korean peninsula, and some other areas. Those areas are not isolated, unstable areas, but they do present a threat to wider regions and occasionally are involved in military interventions, which tend to destabilize the country. Such circumstances are ideal for different forms of
Pressures on people and infrastructure, and they result in greater opportunities for the development of organized crime.

Despite their origins and backgrounds, wars impose a great impact on the tourism trade—not only regionally but domestically if not on a global scale. As opposed to terrorist attacks, war breakouts impact wider regional areas and have far greater consequences on tourism (Pizam & Mansfeld, 2006, p. 4).

Social and Political Unrest

Social and political unrest results in military coups, violent demonstrations, uprisings, and other forms of resistance. There are many potential reasons for such events (e.g., incompetent government, corruption, abuse of political power, weak state institutions, and lack of responsibilities by the public sector), and, in many cases, they lead to the disintegration of the country or at least to the collapse of the government. The latter is ideal for the development of war situations, terrorism actions, weapons smuggling, and organized crime, which are all important factors for the development of an insecure image, which would affect international attractiveness. These and similar social events or unrest will result in a drop in international travel to this destination (Pizam & Mansfeld, 2006, p. 4) irrespective of the real level of threat to the tourists.

Similar social and political unrests have an indirect impact on the domestic as well as international tourism demand (Pizam & Mansfeld, 2006, p. 4). Once details about riots receive attention from international media, the destination’s image is immediately affected—even if there is no serious threat to the tourists. How impactful the unrest is to tourism depends on crisis management, which can mitigate most of the medium- to long-term impacts and entirely focuses on strategies for recognizing and coping with unwanted events (Faulkner, 2011, p. 137). Without proper crisis management, destinations will face challenges in establishing a stable and positive tourism image—that is, changing negative arrival trends into positive ones.

Social and political unrest as well as minor indications of such will result in booking cancellations and travel amendments. Amendments usually result in transfers to other destinations and will significantly damage destinations under pressure as well as their close neighboring countries or regions.

Environmental Security Threats

The end of the Cold War resulted in the end of serious military threats; hence, international politics moved its interests to other areas. One of these was environmental security. Hall et al. (2003) identified at least four connections between traditional security and the concept of environmental security (pp. 7-8). The first is the relationship between the scarce natural resources and the increasing needs of the global society; another is the issue of biological weapons and climate changes and their impact on the natural environment. Additionally, the impact of ecological migrations to the abandoned as well as newly occupied areas are of concern as are the number of military objects and infrastructure with nuclear, chemical, and biological weaponry without any or with weak security and surveillance.

A healthy natural environment is of major importance for the development of tourism and an attractive destination image. There are only a few known travel market segments that would devote their travel budget and time to exploring abandoned, unfriendly, and devastated areas around the world; nor would these tourists want to experience unpleasant travel conditions due to political or other disputes at their travel destination.

Climate changes cause natural disasters (e.g., earthquakes, flooding, hurricanes, etc.) which destroy tourism infrastructure and indirectly damages the destination’s economy. There was some reporting of human casualties among tourists as well (Murphy & Bayley as cited in Faulkner, 2011, p. 142). There is also a connection between the attractiveness of a destination and its likelihood of being impacted by a natural disaster.

The importance of the natural environment to tourism makes environmental security even
more important. Threats to the environment are the most severe and in many cases are irreparable. Environmental threats are difficult to control; hence, development and growth has limits. Major natural threats damage wider geographical areas, and rarely are national entities able to keep natural disasters from reaching outside their borders. This is not the case with some other forms of security threats.

Spread of Infectious Diseases
For centuries, disease has imposed the heaviest threat to humankind (Hough, 2004, p. 154), and some still do so. Back in the 14th century, in just five days, the plague demanded more lives than any other military conflict in the history of humankind. In regards to national and international security, infectious diseases share some commonalities with natural threats. They both disregard political and natural borders, and they spread much faster than other forms of threats. Hall (as cited in Rittichainuwat & Chakraborty, 2009, p. 412) claims that tourism presents one of the major paths for infectious diseases to spread. It is the borderless nature of tourism that helps viruses and other vectors to be transported from one area to another. Among all known infectious diseases, AIDS presents the most danger; and in some areas (i.e., sub-Saharan Africa), it presents a threat greater than armed conflict, despite the level of military insecurity in the area. Hough (2004) reports that some 23 million lives were lost because of AIDS (p. 154). There are general and specific travel modes which increase the chances of tourists becoming infected by different viruses or diseases; hence, tourism is the activity that generates transmitters as well as transmission.

In the last decade, tourism suffered severely because of infectious diseases (e.g., pig foot and mouth disease, mad cow disease, severe acute respiratory syndrome or SARS, bird flu, etc.). The World Health Organization reports that there are many other health-related threats that shape travelling and experiencing different tourist destinations. Diseases such as malaria, yellow fever, cholera, tuberculosis, hepatitis, and so on (Kuo, Chen, Tseng, Ju, & Huang, 2008, p. 918) are the ones that most likely affect the modern tourist, who either becomes a victim or a transmitter of the disease.

Security and Destination Choice

Research Aim and Objective
The basic aim of the research was to analyze the importance of the security elements within the process of travel destination choice. We tried to establish whether tourists consider issues of security when they choose their travel destination or country—that is, have they ever experienced any security threat-related events (e.g., car accident, robbery, terrorist attack, etc.) and how do they perceive the security measures and systems (e.g., security scanners, police or military presence in public areas, liquids-carrying restrictions, etc.) in the host country.

Methodology and Sampling
The methodology is based on primary research conducted among Slovenian citizens. To collect data, a simple survey questionnaire with seven sets of questions was used. The first set of questions related to the last travel experience, followed by sets related to security level evaluation, travel motives, the importance of threats in regards to destination choice, personal experiences with security threats while traveling, attitude towards security measurements, and demographic data.

Research was carried out electronically, using 250 randomly chosen e-mail addresses provided by the Tourism Association of Slovenia. Gathered data were analyzed using the SPSS 19 statistics tool. Two hundred respondents returned fully answered questionnaires. Missing and undefinable answers were eliminated from the analysis.

Results
The sample consists of two thirds female and one third male respondents, generally highly educated. Half of the respondents completed a university or higher degree, and one third had a professional diploma or had completed secondary professional education. More than
half of the respondents have a full-time job, and the rest are students, retirees, or unemployed persons. Almost two thirds of the respondents have no children, a lower quarter has a minor, and the rest have an adult child.

The majority of the respondents recently visited Croatia (29.5%), traveled domestically (22.5%), or visited other EU countries (22.5%). Of these, 5% travelled to Italy and 3.5% to Austria. Seventeen percent of the respondents recently traveled outside EU territory.

Table 1 shows responses related to the level of the security experienced while traveling. The respondents felt safest in their home country (AM = 4.60). Slovenia is followed by Austria (AM = 4.45), Croatia (AM = 3.68), other EU countries (AM = 3.58), Italy (AM = 3.33), and other countries (AM = 2.78).

Respondents had to name three countries which they would not visit for security reasons. With 19.8% of responses, Iraq was the highest on the scale, followed by Afghanistan (14.9%) and Iran (8%). Countries such as Sudan, Pakistan, Thailand, North Korea, Israel, and Russia were also pointed out; however, 3.5% of the respondents would travel everywhere, regardless of the potential security risks.

Considering the importance of the factors affecting the destination choice (Table 2), the data confirmed that security does matter; however, it is not the most important factor. Far more important were destination attractiveness (AM = 1.58), followed by price (AM = 2.56) and then safety (AM = 2.93). Comfort (AM = 3.76) and activities at the destination (AM = 4.15) were less important. The majority of the respondents (58.8%) placed safety as the third most important factor influencing destination choice. Correlation analysis between demographic variables and the safety factor showed a significant (2-tailed) correlation only with family status. The latter suggests that tourists traveling with children (parents) consider safety to be a more important factor in terms of the destination choice than nonparents.

Table 3 points out the importance of different security elements in regards to the destination choice. The most important factor is war or military conflicts (AM = 4.65), followed by the possibility of terrorist attacks (AM = 4.64), street crime (AM = 3.83), safe accommodation venue (AM = 3.83), internal and political stability at destination (AM = 3.82), criminality (AM = 3.71), and safe transportation to and from destination (AM = 3.61). The possibility of a natural disaster was not considered to be a very important factor (AM = 3.12) or its importance was low. Nevertheless, all factors scored mean levels of 3 and above, meaning that they have some impact on the destination choice. Wars and military conflicts present the most important safety-related factors; therefore, they have the strongest impact on international travel flows. Such results were expected due to the fact that military action is one of most obvious security issues, irrespective of the fact that nonmilitary conflicts and issues cause far more casualties than the military ones.

Of the respondents, 85.4% claim they also travel outside the EU and less than half of those check security situations before making

<table>
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<th>Country</th>
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Note: 1 = lowest level of security experienced; 5 = highest level
decisions on a travel destination; whereas 4% of the respondents never check the security situation. Most of the respondents collect data on security and safety online (44%), and 32.5% collect their information through other media.

As part of the security and safety experiences related to traveling, respondents were asked to specify the type of threat they had experienced. The highest share of the sample experienced theft (23.5%) and verbal violence (21%). The other most common forms of violence (e.g., car accident, travel document theft, natural disaster, robbery, physical and sexual violence, etc.) were mentioned by less than 10% of the respondents. Ninety-one percent of the respondents experienced at least one form of violence while traveling outside Slovenia.

**Conclusions**

Tourism is one of the major economic pillars in many countries, and more and more countries are aware of its potential. The number of people who are able to afford traveling has risen not only due to personal income but also due to changes in the supply market. The most significant changes happened in the air industry, either by introducing low-cost carriers who offer low budget travelling or by new aircraft technologies enabling longer and nonstop routes. The world became a so-called global village—but not always with positive consequences. Security issues around the globe affect the tourism industry on the local as well as the global level, not only by reducing demand but also by guiding it and, hence, causing over- or under-demand pressures. Crime, wars, social and political unrest, environmental threats, and spread of infectious diseases are just some of most common threats to safe and secure tourism. The mass media and other forms of modern communication technology spread information on potential risk in no time, meaning that just moments after a particular security risk occurs, travel flows will change. On the other hand, sometimes unconfirmed and not verified information will circle the world and cause irreparable damage to the tourism industry of a destination and its image.

Nowadays, people are much more aware of the security issues and their potential risk to their own safety. Even small imbalances will temporarily or permanently change travel flows to endangered areas. The most significant changes

| Table 2. Structural Distribution of Most Important Factors for Destination Choice |
|---------------------------------|---|---|---|---|---|---|
| **Factor/Rank** | 1 | 2 | 3 | 4 | 5 | **AM** |
| Price | 10.8 | 45.6 | 25.6 | 13.3 | 4.7 | 2.56 |
| Destination attractiveness | 71.2 | 10.8 | 9.7 | 4.6 | 3.6 | 1.58 |
| Safety | 9.7 | 29.9 | 29.9 | 18.6 | 11.9 | 2.93 |
| Comfort | 4.7 | 7.8 | 20.2 | 39.9 | 27.4 | 3.76 |
| Activities | 3.6 | 6.2 | 14.4 | 23.7 | 52.1 | 4.15 |

**Note:** 1 = highest rank of importance; 5 = lowest rank

| Table 3. Structural Distribution, AM, and SD for Impact of Security Issues on the Destination Choice |
|---------------------------------|---|---|---|---|---|---|---|
| **Factor/Rank** | 1 | 2 | 3 | 4 | 5 | **AM** | **SD** |
| Safe transport to the destination | 5.5 | 11.6 | 25.6 | 31.2 | 26.1 | 3.61 | 1.153 |
| Safe accommodation venue | 2.0 | 9.5 | 19.6 | 42.2 | 26.7 | 3.82 | 0.999 |
| Internal and political stability | 2.0 | 10.0 | 21.6 | 36.2 | 30.2 | 3.82 | 1.037 |
| Criminality (in general) | 3.5 | 9.0 | 27.1 | 33.7 | 26.7 | 3.71 | 1.066 |
| Street crime | 2.5 | 8.5 | 23.6 | 33.7 | 31.7 | 3.83 | 1.048 |
| War or military conflicts | 1.0 | 3.0 | 6.0 | 10.6 | 79.4 | 4.64 | 0.809 |
| Possibility of terrorist attacks | 5.5 | 9.0 | 20.6 | 24.1 | 40.8 | 3.85 | 1.208 |
| Natural disasters | 10.6 | 21.6 | 31.2 | 18.6 | 18.0 | 3.12 | 1.241 |

**Note:** 1 = not important at all; 5 = very important
are travel postponements or cancellations. Even a slight threat will damage a destination’s image, and tourists will develop a negative attitude towards visiting such a destination, which results in a decline in tourism (Richard, 2002, p. 577). Beirman (as cited in Rittichainuwat & Chakraborty, 2009, p. 411) claims that safety and security issues are important factors in destination choice either due to the tourist’s personal safety concerns or simply due to the alternative options available at safe destinations (Čavlek, 2002, p. 482). There is a diversity of travel opportunities and destinations, and tourists can choose among many different destinations, thus avoiding any risks to their safety.

Research results confirm that safety plays an important role in choice of travel destination; however, it is not the most important one. Results suggest that within the observed sample, destination attractiveness still plays the most important role for selecting a particular destination. This result points to a surveyed group who are not concerned with security or who do consider security threats to be important but will still travel to a destination for its attractiveness. In addition to these results, price was also considered as an important element of the destination choice which suggests that tourists do not always price their own safety properly. That Slovenia is among the safest countries in the world might be one of the reasons. Other reasons might be related to the fact that the majority of Slovenes spend their summer holidays in Croatia and other EU countries, all considered to be relatively safe destinations, so they have had limited or no opportunities to experience war, terrorist attack, or other security threats. On the other hand, analysis shows that family status has a significant impact on security and is an important factor of destination choice. Thus, we can say that travelers with children are more prone to choose a destination according to how secure the destination is. It was established that parents consider safety as significantly more important than nonparents do.

In general, we can conclude that security is a basic predisposition for prospective destination development; however, it is not the only one. Despite the fact that our sample cannot be representative of the entire country, we can assume that results can be generalized. Slovenia is considered to be a safe country, and the majority of the population travels to neighboring countries (e.g., Croatia, Austria, and northern Italy) or they book travel packages to secured travel resorts in northern Africa (e.g., Egypt, Tunisia) and the Spanish islands. Such a travel culture suggests a lack of experience with true security risks while travelling; hence, the travel security culture has not yet developed. There is a chance that, due to the transnational nature of security threats, the feeling of relative safety can change into a feeling of threat overnight.

Endnotes

1 Security concept in this paper refers to the main framework of interpretation of processes in the contemporary security environment of the developed western world.

2 Drug trafficking in Mexico has spread to such a degree that it jeopardizes resort and other tourism-related businesses. Some drug cartels have become so strong that the government posted warnings for tourists to avoid certain areas. Casinos became a popular target for drug cartels, especially for money laundering. Being positioned next to the U.S. travel market, the travel routes between the two are considered to be popular for drug trafficking (Cothran & Cothran, 1998).

3 Two of the most popular drug use destinations are Amsterdam and Maastricht in the Netherlands, where drug use legislation is very liberal. Other destinations are in some parts of Australia, India, Morocco, and Peru (“Drug Tourism,” 2012).

4 Human trafficking is widespread in the Philippines and Thailand. Prostitution is considered to be very profitable and, in some cases, vital to the economy. Women and children are abused for the purposes of sex tourism, and there are specialized agencies that offer the experience as part of their general service (Adamoli, Di Nicola, Savona, & Zoffi, 1998, p. 86). Prostitutes are being offered jobs as waitresses or dancers and are later forced into prostitution. There are also cases where women voluntarily become involved in such activity just to improve their financial status.
Most organized human-trafficking groups are from Thailand. This country has become the biggest importer, exporter, or transit link for human trafficking. Asian criminal groups run trafficking with girls and women for prostitution. Organizers provide false passports for people to be able to travel into tourist areas of Malaysia, Singapore, and Hong Kong, or these girls/women would stay in Thailand and engage in sex tourism and prostitution there (Adamoli et al., 1998, p. 86).

Hijacked cars with foreign license plates are frequently seen in major Italian cities, which, in general, cannot be identified as poor or underdeveloped (“Crime in Italy,” 2012).

In 2007, the New Zealand Ministry of Internal Affairs reported an increase of suspicious loans in the areas of the Christchurch Casino (“Casino Loan-Sharking Concern,” 2007).

South Italian businessmen are often victims of mafia treatment and must pay a security for their business (ita. pizza). As per some sources, almost half of the entrepreneurs from the Italian city of Naples faced some sort of victimization in the form of security payments or rip-off interest rates for loans (ita. usurai) (“Crime in Italy,” 2012).

Transplantation tourism is most developed in Pakistan and in the Philippines. According to Sindh’s Institute of Urology and Transplantation, there are more than 2,000 illegal kidney transplants in Pakistan every year (Budiani-Saberi & Delmonico, 2008).

Famous destinations, such as the Cayman Islands, became tax oases for money laundering. As per the U.S. State Department, there are 446 banks out of over 70,000 companies registered on the Cayman Islands (“Background Note,” 2012).

Counterfeit branded clothes, accessories, and other products are most common in the Asian destinations where they were originally made. As a countermeasure for selling counterfeited products, some countries (e.g., France and Italy) consider possession of counterfeit products as illegal. Individuals with counterfeited products are fined (“Carrying Fake Brand-Name,” 2006).

If not the biggest terrorist attack in modern history, 9/11 surely was the terrorist attack with the largest media coverage and, thus, the most politically influential in history. In comparison to the same period in 2000, international arrivals to the U.S. dropped 15% after the attack on the World Trade Center (United Nations World Tourism Organization [UNWTO], 2007). As per Blake and Sinclair (2002), domestic travel dropped 34% and international travel dropped 23% (p. 7). Just a week after the attack, the American Air Industry reported between a one and two billion dollar loss. Three months after the attack, the hotel industry reported between a 20 to 50% drop in hotel reservations (Goodrich, 2002, p. 576).

In 1991, Slovenia faced a military intervention by the Yugoslav National Army. During the so-called 10-day war, which later continued in Croatia and Bosnia, tourist arrivals plummeted. Sönmez (1998) reports that over one million reservations for organized travel packages were cancelled during 1991, and Slovenia alone recorded a 32% drop of international arrivals the same year (Mihalič, 1996, p. 237). The consequences of the “10-day war” were far-reaching because Slovenia needed 10 years to reach the number of international arrivals it had enjoyed in 1990 (Tourist Arrivals . . ., 2010).

Counterfeiting, fraud, and theft are major concerns in tourism. One example is the theft of the first piece of diamond jewelry on the first night of a cruise ship. Counterfeiters can sometimes profit from such thefts and sell their products to unsuspecting tourists. One strategy to combat this issue is to notify travelers about the risk of theft and provide tips on how to prevent it. Another approach is to educate tourists about the risks of buying counterfeit products and the legal consequences of doing so. Additionally, enacting stricter laws and penalties for counterfeiters can deter this type of criminal activity.
Despite the severity of the crisis, air transport in Japan from the beginning did not suffer major losses. Both the International Air Transport Association (IATA) and the International Civil Aviation Organization (ICAO) issued a joint statement with the International Atomic Energy Agency and the World Health Organization reaffirming that traveling to Japan was safe. However, anxiety of being affected by radiation or other potential tremors had already started to depress the demand for travel to Japan and had generated travel warnings from other countries. After the event, the U.S. and the British Foreign and Commonwealth Office issued a travel advisory against all but necessary travel to Tokyo and Northeastern Japan. Countries such as France, Germany, and Canada issued statements asking their citizens to avoid an area covering all of Northern Japan, including Tokyo. French tour operators had already announced suspending any departures to Japan until the end of April. Most international cruise lines also decided to temporarily suspend their port calls in continental Japan (“Japan,” 2011).

SARS epidemics in 2003 heavily impacted several Asian countries (e.g., China, Singapore, and Vietnam). According to McKercher and Chon (2004, p. 716) and Kuo, Chen, Tseng, Ju, and Huang (2008, p. 917), there was a 70% drop in tourist arrivals, a 20 million USD drop in travel expenditures, and approximately three million jobs were lost.

References


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The Influence of Transnational Crime in the World: Current Status and Challenges of Combating It

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In the past decade, there has been significant growth in the illicit trafficking of drugs, people, firearms and ammunition, and natural resources. Trafficking in these and other commodities is generally characterized by high levels of organization and the presence of strong criminal groups and networks. While such activities existed in the past, both the scale and the geographic scope of the current challenge are unprecedented. Because criminals do not report information on their activities to any government agency, estimating the extent and the harm of such activity must be done using indirect methods. According to one recent estimate, 3.6% of global economic output is attributable to illicit trade. In 2009, the value of such trade around the globe was estimated at some $2.1 trillion; however, less than 1% of global illicit financial flows was estimated to be seized and frozen (United Nations Office on Drugs and Crime [UNOCD], 2011a).

Transnational organized crime (TOC) is of growing concern, and particularly the illicit trade’s broad impact on peace, security, development, governance, the rule of law, public health, and human rights. Global criminal activities are transforming the international system, changing the rules, creating new players, and reconfiguring power in international politics and economics. States and international organizations have largely failed to anticipate the evolution of TOC into a strategic threat to governments, civil societies, and economies (see Appendix 1). TOC is big business. In 2009, it was estimated to generate $870 billion—an amount equal to 1% of the global GDP (UNOCD, 2011a). That is more than six times the amount of official development assistance for that year, and the equivalent of close to 7% of the world’s exports of merchandise.

In its 2004 report, the High-Level Panel on Threats, Challenges, and Change noted that today, more than ever before, security threats (including terrorism and organized crime) were interrelated. Terrorist and criminal organizations operated in the same clandestine underworld and many times were located in the same geographical area—often a lawless area or region where the State was weak or absent. The creation of alliances between organized crime and terrorism makes these threats even more complex and significantly increases the difficulty of containing or reducing them by inflicting substantial and lasting damage. For the period 2007 to 2011, there were 58,970 worldwide terrorist attacks with 278,731 people killed, injured, or kidnapped. The majority of these attacks occurred in just three countries—Afghanistan, Iraq, and Pakistan (The State Department, 2012).

In its resolution 58/136 of 22 December 2003, the General Assembly invited Member States to provide the Secretary-General with information on the nature of links between terrorism and other forms of crime. The Secretariat has analyzed the 60 responses to that request. In those cases where respondents perceived links between terrorism and other forms of crime, it was reported that the links were mostly of an operational, logistical, or financial nature, denoting the presence of alliances of convenience. Many States indicated that often the aim of terrorist groups in committing other crimes was to obtain the financial or other means required to commit terrorist acts. According to some of the responses received, terrorist groups, in the absence of other means of support, had become involved in various forms of lucrative crime in order to support themselves and finance their main activities.
Many States indicated that terrorists were frequently involved in trafficking in illicit drugs and firearms, smuggling of migrants, and other forms of exploitation of illegal markets, *inter alia*, to support terrorist activities. A number of countries indicated that there were links between terrorist activities and various criminal activities relating to corruption; money laundering; and the falsification of travel, identity, or other official documents. Some States noted links between terrorism and trafficking in potentially deadly materials (UNODC, 2005a).

In a number of drug-producing countries, criminal organizations spread violence, fear, and insecurity. A total of 47,515 people have died in drug-related killings in Mexico in the five years since President Felipe Calderon declared an offensive against drug cartels. According to Mexico’s Federal Attorney General’s office, the 11% rise in murders was far slower than in previous years. In 2009-2010, murders jumped 70%; 2008-2009 saw a 63% rise; and there was a 110% jump in 2007-2008 (Cave, 2012).

In most transit regions, the drug trade is causing significant increases in drug use, making it a prominent contributor to the spread of HIV/AIDS. In 2010, an estimated 34 million people were living with HIV worldwide; among the estimated 16 million people who inject drugs, around 3 million, or approximately one fifth, were living with HIV. The prevalence of the hepatitis C virus infection among injecting drug users worldwide is also quite high, with half of estimated injecting drug users reported to be infected with the virus. Of the 51 countries that reported a prevalence of hepatitis C infection in 2009, 13 reported rates of over 70% among injecting drug users. Similarly, 22% of injecting drug users were estimated to be infected with the hepatitis B virus. This translates into an estimated 3.5 million injecting drug users infected with hepatitis B (UNAIDS, 2011).

In Italy, the term *mafia* is normally used to refer to the Sicilian clans, also known as Cosa Nostra, but there are actually four powerful branches of organized crime in Italy that have regional roots. Besides the Cosa Nostra, there is the Camorra in the Neapolitan region, the Ndragheta in Calabria, and the Sacra Corona Unita in Pugliese. They all operate and control illegal activities and funds worldwide. These organizations have long had a stranglehold on the Italian economy, generating profits equivalent to about 7% of national output. According to the Italian employers association (Confesercenti), organized crime generates an annual turnover of 140 billion Euros (over $204 billion). Loan sharking has caused the closure of 1,800 businesses and has obliterated thousands of jobs. Merchants are the most exposed to the phenomenon, and some 200,000 are victims of usury (Squires, 2012).

Most visibly, the problem of piracy off the coast of Somalia is perpetuating the lack of security, economic opportunity, and rule of law that caused its development and now poses a serious threat to Somalia, the region, and globally. In the past two years, the United Nations Office on Drugs and Crime (UNODC) has developed a Counter-Piracy Program to assist regional countries in prosecuting a significant number of pirates. With the support of the international community, 1,116 young Somali men are being, or have been, prosecuted for piracy in a total of 20 countries around the world and 688 in the region (Fedotov, 2012).

Counter-narcotics efforts have long been dogged by the displacement effect—that is, successes in suppressing production and trafficking in one country or region lead to the problem emerging elsewhere. When drug trafficking finds new routes, other forms of organized crime tend to follow. Drug trafficking groups are diversifying into other criminal businesses such as trafficking in other illicit products, extortion, kidnapping, protection rackets, gambling, prostitution, and extortion. In all cases, criminal influence and money are having a significant impact on the livelihoods and quality of life of citizens, most particularly the poor, women, and children.
Against this background, UN Member States and regional organizations are increasingly turning to the UN to support them in their struggles against these challenges. The 2005 World Summit Outcome Document expressed Member States’ “grave concern at the negative effects on development, peace and security and human rights posed by transnational crime,” highlighting the UN’s role in addressing the threat. In December 2009 and February 2010, the UN Security Council adopted two Presidential Statements on the issue requesting that the Secretary-General “provide information on drug trafficking and related issues where it risks threatening or exacerbating an existing threat to international peace and security” and inviting him to “consider these threats as a factor in conflict prevention strategies, conflict analysis, integrated missions’ assessment and planning and to consider including in his reports, as appropriate, analysis on the role played by these threats in situations on its agenda.” Meanwhile, in numerous regions of the world, Member States are increasingly seeking the support of UNODC (sometimes in cooperation with other UN entities) to help them foster regional counternarcotics cooperation.

The three Universal Drug Conventions against drug control and, more recently, the UN Convention against Transnational Organized Crime (UNTOC) constitute the key framework for a strategic response. UNTOC is a major landmark in international law. It is the first multilateral framework for international cooperation and prevention of TOC. The Convention’s provisions for international cooperation create a global base for extradition and mutual legal assistance against all forms of transnational organized crime among the 172 States Parties. Police no longer need to stop at borders while criminals cross them freely. The Convention provides new possibilities and frameworks for law enforcement agencies to coordinate their efforts, including transborder intelligence-sharing and joint investigations. Three Protocols to the Convention target activities that enable and support organized crime: (1) trafficking in persons (total number of parties to 153), (2) firearms (total number of parties to 96), and (3) smuggling of migrants (total number of parties to 135). Before the Protocols, human trafficking and alien smuggling were largely ignored crimes.

Yet, according to the 2010 UNODC report, The Globalization of Crime, the most comprehensive threat assessment undertaken to date, concludes that while the focus has been on combating organized criminal groups through investigation, arrest, and detention, these efforts have done little to reduce the threat and minimize the impact of organized crime. On its own, eliminating the groups and networks involved in illicit trafficking is not enough. As long as there is a demand for illicit goods and services, the lucrative rewards involved will continue to serve as strong motivating factors, and law enforcement initiatives will have only limited success.

Instead, global strategies, involving a wide range of both public and private actors, are required to address global trafficking. As the 2010 UNODC report makes clear, this may mean regulating selected international commercial flows which now have strong connections to illicit markets that have grown faster than our collective ability to manage them (see Appendix 2).

Overcoming the challenges of organized crime will require a very effective, coordinated, and multilateral response across a range of sectors to put the puzzle pieces together to tackle TOC in all its forms. We have identified six key challenges to a multilateral response to TOC:

1. Lack of evidence base and understanding of the nature of the challenge

The changing nature and continuous adaptability of TOC means that efforts to quantify the extent of the problem are frustrated. Figures and statistics are even more difficult to tally when there is an absence of international information sharing mechanisms. The 2010 UNODC report, which is the first attempt at
identifying, tracking, and understanding the flows of criminal activity, posited that there are at least two competing definitions of organized crime: the first focuses on particular groups of people, while the second focuses on particular types of crime. However, little else is known about either given the naturally covert nature of the problem and the lack of coordination of international actors. Further research, data collection, and analysis are imperative to developing an effective national and multilateral response.

2. Inadequate progress on the implementation of the international legal framework and multilateral instruments against transnational organized crime

UNTOC was opened for signature in December 2000. It marked a major breakthrough in the global fight against international criminal activity, reflecting the shared view of the international community that the UN has a fundamental role to play in helping States to prevent and combat this global challenge. UNTOC sets forth minimum legal and regulatory tools that countries should have in order to combat all forms of TOC. It provides a mechanism to enhance international judicial cooperation between countries to work together to fight TOC. Most States have ratified UNTOC, and many are taking steps to give it effective implementation. However, there is still much work to be done in order for many States to use the most basic and useful tools effectively. To date, only 20 of the 172 States have used the Convention to facilitate international cooperation, including extradition, to fight criminal groups. It is time to recognize that international cooperation and information sharing offer a way to strengthen sovereignty, not weaken it. The understanding of and challenges posed by TOC have changed, and it needs to be evaluated how to ensure that UNTOC is best positioned to respond to that threat. Methodological work to define how organized crime can be measured at the national and international level is also needed in order to have better tools to monitor trends over time.

3. Insufficient capacity and coordination between law enforcement institutions at the national level to investigate transnational organized crime

Traditional responses to combating crime rely on national law enforcement capabilities and criminal justice institutions, and they are focused predominantly on the impacts of crime only as these were perceived domestically. In other words, origin, transit, and destination countries have attempted to tackle TOC activity in a piecemeal fashion by focusing on the groups and individual perpetrators at work within their borders. As TOC continues to expand and flourish, it is evident that this approach is ineffective. The perception today is that TOC structures have reacted and adapted to the national law enforcement mechanisms commonly used to combat them. In fact, there is a growing consensus that criminal organizations have become more versatile, nimble, and flexible, rendering them far better able to adapt to the changing needs of the criminal marketplace than the national institutions designed to stop them. States must continue to strengthen their own capacity but, given the global nature of the threat, national efforts must form part of a coordinated multilateral response. In this regard, intelligence sharing and targeted law enforcement cooperation between Member States, as well as judicial cooperation for mutual legal assistance and extradition, must be accepted as a way of strengthening national sovereignty, not of surrendering it. Transnational criminal networks are well-organized. It is therefore critical that the approaches of national, regional, and international bodies be more coordinated and comprehensive; attention needs to be directed toward establishing mutually cooperative systems to monitor illicit flows, share intelligence, and carry out joint operations.

4. Weaknesses in criminal justice institutions and legal frameworks for international cooperation to effectively prosecute organized crimes
In seeking to address TOC, the linkages between international justice and domestic justice must be more clearly recognized. There must be an alignment of initiatives at the international level with overall efforts to strengthen rule of law assistance to Member States. In our experience, without an understanding of the fundamental principles of the rule of law and the capacity of legislators and policymakers to uphold it through an effective national legal framework, there can be no effective response to criminal activities. Throughout the wide range of UNODC mandates—terrorism prevention, corruption or organized crime, and trafficking—it is essential to build and support the culture of lawfulness, faith in the criminal justice system, and a strong stance against impunity for criminal activities. Thus, the capacity and will to carry out effective prosecutions and trials of organized crimes require, as a foundation, independent judges, a professional prosecutorial and defense bar, a functioning judicial infrastructure, and honest and capable law enforcement agencies. And yet, the implementation of UNTOC and the three Universal Drugs Conventions requires more specific skills and tools as well. This reflects the reality that trying a complex organized crime case or one involving trafficking in persons or piracy will often be far more challenging—technically, logistically, and in other ways—and will require more developed skills, knowledge, and capacity than trying a regular criminal case.

5. Lack of information sharing and international cooperation to track and prevent the financial flows of proceeds of organized crimes

The Report of the High-Level Panel on Threats, Challenges, and Change noted that criminal groups involved in drug trafficking have major security implications. It has been estimated that criminal organizations gain $320 billion annually from narcotics trafficking alone, which in some regions can rival the national GDP (UNODC, 2005b).\(^3\) Other types of criminal activities likewise generate huge (though difficult to quantify) profits. According to the Organisation for Economic Co-operation and Development (OECD), the total global economic value of counterfeit and pirated products is as much as $650 billion annually. Approximately 2.5 million jobs have been destroyed by counterfeiting. In addition to the personal and societal consequences of organized crime, the enormous purchasing power that comes from the financial proceeds of organized crime poses a threat to society, and thus to international peace and security.

6. Lack of attention and awareness to the potential victims of transnational organized crime and building better understanding of the threats of such crime to the society at large

Importantly, the 2010 UNODC report explains that while many forms of organized crime involve violence or carry personal consequences, the threats must also be measured in terms of both direct and indirect impacts to society. For example, in destination countries, the impact of drug trafficking may be realized in the numbers of individuals addicted to illegal drugs. For the users, the impact may carry serious physical and mental health consequences. This, in turn, affects families, communities, and society through the costs of drug-related accidents, lost productivity, child neglect, abuse, and psychological damage. In Europe alone, over 25,000 people die from drug use annually. Young people are especially hard hit: 4% of deaths among 25- to 39-year-old Europeans are caused by drug overdoses each year. Meanwhile, 47% of injecting drug users in Europe have hepatitis C, but in several countries the infection rate is over 70% (Fedotov, 2011).

However, it must also be noted that while the individual human costs may be more obvious in one region, countries rarely appreciate the spillover effects in others—whether an origin, transit, or destination country. As the 2010 UNODC report highlights, “only when viewed globally are the net costs of trafficking apparent, and only national governments, not...
their organized crime substitutes, have any incentive to look globally.”

TOC cannot be combated solely through repressive and reactive measures; it also requires the use of effective preventative measures and strategies to protect its citizens and public institutions, as well as legitimate business, from being infiltrated and controlled by criminal organizations.

According to the UNODC’s (2011b) Thematic Programme on Action Against Transnational Organized Crime for the Period 2011-2013, to be successful in preventing and combating TOC in a globalized world, the following needs to be done:

• Promote evidence-based planning and policy development through independent data collection, threat assessments, research, and global trends analysis on TOC flows

• Strengthen national and international awareness, and the capacity for prevention of all types of TOC, targeting particularly those vulnerable to becoming victims of TOC and illicit trafficking

• Build international understanding, awareness, and capacity to address new and emerging forms of TOC

• Strengthen national and regional capacity and international cooperation for law enforcement, criminal intelligence, border control, and criminal investigation in order to more effectively assess, identify, collect evidence, and ultimately control criminal activity such as the flows of illicit goods and services; for the prosecution, adjudication, and all other aspects of the criminal justice process in regards to TOC; and for tracking the proceeds of TOC activity both within and beyond national borders, with full use of technological advances (UNODC, 2011b).

As the nature of this challenge is so broad and far-reaching, and as it requires an extensive range of partnerships and management of interdependencies in order to be successful, the challenge to evaluate its impact is considerable.
### Appendix 1

#### 1.16 Organized crime

To what extent does organized crime (mafia-oriented racketeering, extortion) impose costs on businesses in your country? (1 - to a great extent; 7 - not at all) 2011-12 weighted average

<table>
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<tr>
<th>RANK</th>
<th>Country / Economy</th>
<th>Value</th>
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<td>2</td>
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Appendix 2. Summary of Illicit Markets and Financial Values

Transnational organized crime is not stagnant; it is an ever-changing industry, adapting to markets and creating new forms of crime. In short, it is an illicit business that transcends cultural, social, linguistic, and geographical boundaries and one that knows no borders or rules.

Drug trafficking continues to be the most lucrative line of business for criminal groups. In 2009, UNODC placed the approximate annual worth of the global cocaine and opiate markets alone at $85 billion and $68 billion, respectively (UNODC, 2011c).

Combined, these figures exceed $100 billion. That’s $100 billion stolen from people, diverted from the goals of development, invested in criminal businesses, and fuelling terrorism. Let me put that figure into perspective. In 2009, according to the World Bank, 131 out of 185 countries had a gross domestic product that was less than $100 billion—and in most cases, far less. Or, to put it another way: Cocaine and heroin traffickers are earning almost $280 million every day, almost $12 million every hour, and almost $200,000 every minute.

Extent of Drug Use – In 2009, between 3.4 and 6.2% of people aged 15 to 64, corresponding to between 149 and 272 million people, were estimated to have used an illicit drug at least once during the prior year. Cannabis remains the most widely used controlled substance in the world, with the number of cannabis users being estimated at between 125 and 203 million (2.8 to 4.5%). Amphetamine-type stimulants are the second most widely used drugs worldwide, outstripping heroin or cocaine. In 2009, there were between 13.7 and 56.4 million past-year users (0.3 to 1.3%) of amphetamine-group substances and between 11 and 28 million users (0.2 to 0.6%) of “ecstasy”-group substances. It is estimated that worldwide there are between 24.6 and 36.8 million opioid users (0.5 to 0.8%) and between 14.3 and 20.5 million cocaine users (0.3 to 0.5%).

Human trafficking is a $32 billion market and an abhorrent form of modern slavery. In 2011, there were 2.4 million people around the world who were victims of human trafficking. Among them, 80% were involved in sexual services.

Smuggling of migrants is another major market. The drug cartel, Los Zetas, was charging migrants between $7,000 to $10,000 per person to be smuggled from Central American countries through Mexico and into the U.S. According to the U.S. Homeland Security agency, between 2004 and 2011, 102,201 illegal migrants caught at the U.S.–Mexico border were sent back to Mexico. Between 1990 and 2011, 154 smuggling tunnels were found on this border. Migrants from India, Pakistan, and Afghanistan paid criminal gangs between $2,888 and $5,776 to be smuggled into Western Europe.

Illicit trade in firearms brings in more than $53 million annually and puts handguns and assault rifles in the hands of criminals and insurgents.

The 1994 UN Convention on the Law of the Sea defines maritime piracy as “any illegal acts of violence or detention, or any act of depredation, committed by individuals (borne aboard a pirate vessel) for private ends against a private ship or aircraft (the victim vessel).” When no “pirate vessel” is involved—for instance, when criminals embark on a ship and capture it—the legal term is hijacking. The number of pirate attacks against ships has risen every year for the last four years, according to the International Maritime Bureau (IMB). The total number of pirate attacks fell only slightly from 445 in 2010 to 439 in 2011. Overall, in 2011 there were 176 vessels boarded, of which 45 were hijacked and 113 were fired upon, in addition to 105 attempted attacks. The 802 crew members taken hostage in 2011 also mark a decrease from the four-year high of 1,181 in 2010. A total of eight crew members were killed throughout the year, the same number as 2010. The greatest threat to global maritime commerce remains the Somali
pirates who continue to account for the majority of attacks—approximately 54%. While the number of Somali incidents increased from 219 in 2010 to 237 in 2011, the number of successful hijackings decreased from 49 to 28. The IMB report shows that Somali pirate attacks were predominantly concentrated within the crossroads of the Arabian Sea and the Gulf of Aden (“2011 Piracy Attacks,” 2012).

Beyond highlighting the damage to peace and security, to development, and above all to human lives, these figures make another critical point: today, the criminal market spans the planet. Taking advantage of open borders, open markets, ease of transit, and expanded communication, organized crime is more diversified and better connected than it was a decade ago. Illicit goods are sourced from one continent, trafficked across another, and marketed in a third. Criminal groups are collaborating and forming transnational networks, especially in the world’s most vulnerable areas.

Criminals are entrepreneurs, seizing new opportunities for profit wherever they appear. This adaptability is giving rise to new and emerging forms of crime that has devastating effects on the environment and public health, and on development and security:

- **Trafficking in Natural Resources** – Every day, wild plants and animals are being illegally logged, harvested, or hunted in the richest biodiversity areas of the planet to satisfy lucrative illegal domestic and international markets, often controlled by criminal syndicates. Trafficking, supplying, possessing, and consuming wild fauna and flora obtained in contravention of national and international laws are happening at a scale that poses an immediate risk to species and ecosystems as well as to the people who rely upon them for their livelihoods. The value on the scale of illegal wildlife trade is estimated between $16 and $27 billion a year, including timber and marine species. Some of the most lucrative illegal wildlife commodities include tiger parts, elephant ivory, rhino horn, and exotic birds and reptiles. A recent World Bank study, *Justice for Forests*, reports that illegal trade in timber deprives States of over $10 billion in annual revenue.

- **Counterfeit Medicines** – The World Health Organization estimates that around 10% of all drugs around the world are counterfeit. In less-developed countries, the percentage of counterfeit drugs in circulation could be as high as 33%; while in developing countries, the rate of counterfeit drugs is less than 1%. The more serious effect of drug counterfeiting besides the economic dimension is that counterfeit drugs could have severe harmful effects on patients. The use of counterfeit medicines may lead to adverse reactions, therapeutic failure, or drug resistance.

- **Cybercrime** – The 2012 edition of the Norton Cybercrime Report calculates the direct costs associated with global consumer cybercrime at $110 billion over the past 12 months. Every second, 18 adults become a victim of cybercrime, resulting in more than one-and-a-half million cybercrime victims each day on a global level. With losses totaling an average of $197 per victim across the world in direct financial costs, cybercrime costs consumers more than a week’s worth of nutritious food necessities for a family of four. In the past 12 months, an estimated 556 million adults across the world experienced cybercrime, more than the entire population of the European Union. This figure represents 46% of online adults who have been victims of cybercrime in the past 12 months, on par with the findings from 2011 (45%). The Internet also feeds the market for child pornography, with profits of $250 million annually and untold costs in terms of the victimization of children.

As all of these examples show, money is the lifeblood of criminal organizations. They do not care about the source of their profits or the cost in human lives. Combating a global phenomenon such as transnational organized crime requires partnerships at all levels. Governments, businesses, and civil society in all corners of the world have a part to play.
Endnotes

1 According to Articles 2 and 3 of the UN Convention Against Transnational Organized Crime (UNTOC) (2000), “organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit. Serious crime shall mean conduct constituting an offense punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. Structured group shall mean a group that is not randomly formed for the immediate commission of an offense and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure. . . . [A]n offense is transnational in nature if (a) It is committed in more than one state; (b) It is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; (c) It is committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; or (d) It is committed in one state but has substantial effects in another state.”

2 Confesercenti, which represents around 270,000 Italian businesses, estimates firms are subjected to 1,300 crimes a day or 50 every hour, nearly one every minute.

3 In other World Drug Reports, UNODC has not published an estimate for the worldwide drug trade as a whole; however, the organization does publish estimates for the global cocaine and opiate markets. The 2010 report puts the retail value of the global cocaine market at $88 billion and the retail value of the global opiate market at $65 billion.

4 Findings based on self-reported experiences of more than 13,000 adults across 24 countries. The financial cost of cybercrime is calculated as follows: victims over past 12 months (per country) x 197 average financial cost of cybercrime (per country in US dollars).

References


**Alexander Sukharenko**, Vladivostok, Russia, is director of the New Challenges and Threats Study Center as well as a member of the Scientific Advisory Committee at the Ministry of Internal Affairs in the Primorskiy region. He is the author of numerous publications on organized crime and corruption.
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