FBI: 100 Years of Cooperation
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The Federal Bureau of Investigation, the nation’s leading criminal investigation agency, is marking its centennial as a federal law enforcement institution this year by expanding its cooperation with local and state agencies and its international presence.

The FBI’s history is one of fascinating and varied achievements. Begun in 1908 through the initiative and dedication of Attorney General Charles Bonaparte during the Presidency of Theodore Roosevelt, the agency has long been a leader in fighting crime and is probably best known for its unique Hollywood profile. It started out with ten former Secret Service employees and a number of Department of Justice investigators with a signature title of Special Agents. On July 26, 1908, Bonaparte ordered them to report to Chief Examiner Stanley W. Finch. This action is celebrated as the beginning of the FBI.

Today, the FBI is the principal investigative force of the U.S. Department of Justice, and it would seem absurd for local law enforcement not to be able to rely on more than 12,000 Special Agents and more than 17,000 support professionals such as intelligence analysts, language specialists, scientists, information technology specialists, and others.

This collection of articles reflects the history and changing nature of the FBI as well as the growth of its influence in the national law enforcement community in such crucial areas as investigation methodology, advanced technologies applications with a criminal justice dimension, and progressive training. The international dimensions of the FBI’s cooperative efforts include the enforcement of federal violations with a focus on terrorism, drug trafficking, and extradition; the extension of a system of liaison agents abroad; and the promotion of international police training programs. Communication, information sharing, and enthusiastic cooperation with the local, state, and international police constitute the cornerstone of the FBI’s thriving expansion of law and order:

I know when I was prosecuting homicides in the District of Columbia, one of the most effective units was the Cold Case Squad, which had on it FBI agents as well as Metropolitan Police Department homicide detectives working together.

Robert Mueller
FBI Director

As the Federal Bureau of Investigation steps into the second century of its successful evolution, there is no doubt that its leadership will continue to be the basis for law enforcement collaboration and that it will remain a crucial factor for American justice for years to come.

Vladimir A. Sergevnin
Editor
Law Enforcement Executive Forum
A “Most Effective Weapon”:
The FBI and the Evolution of Law Enforcement Cooperation

John F. Fox, Jr.

“The most effective weapon against crime is cooperation in the efforts of all law enforcement agencies with the support and understanding of the American People.”

J. Edgar Hoover, 1960

Prior to the 20th century, law enforcement cooperation was a matter of ad hoc efforts with little federal involvement. Law enforcement was largely a matter of local, municipal, tribal, and state concern. By the early days of the 20th century, though, revolutions in communications and transportation technology had closed the frontiers. American cities had grown precipitously, and Americans’ awareness of each other’s news and problems through instant media like the telephone and telegraph highlighted social issues like crime in ways previously unimagined. Whereas America had previously been a nation of loosely linked “island” communities, those islands were becoming more tightly connected (Wiebe, 1967, pp. 4-6).

Cooperation between overlapping jurisdictions in political, business, and law enforcement circles began to be seen as important as early as the 1870s, but it really began to take off during the Progressive Era, ca. 1895-1920 (Wiebe, 1967, p. 295). As more criminal investigative responsibilities came to be shared by the agencies of the federal government during the 20th century, interjurisdictional cooperation became a necessity in dealing with increasingly mobile, connected, and organized criminals.

Groups like the International Association of Chiefs of Police (IACP), the National Prison Association, the National Conference of Charities and Corrections, and the American Institute of Criminal Law and Criminology all pressed for law enforcement cooperation rooted in a will to professionalism—the institution of civil service police work—as a means to combat crime in a rational and comprehensive manner. The FBI was created within this political and social ferment, and its founding impulse was closely related to Progressive ideals, so much so that one historian called the Bureau a “step-child of Progressivism” (Williams, 1981, p. 24).

Furthermore, because the Bureau had such wide-ranging responsibility over investigating violations of federal criminal law, it became the central focus of law enforcement cooperation over the next century—as a leader in most cases, but as a stumbling block in some as well.¹

The evolution of this cooperation and the FBI’s key role in it shows the strengths and challenges inherent in the federal division of law enforcement jurisdiction and suggests that the trend of the past century will continue through the next. The purpose of this paper is to trace the history of this cooperation in order to
discern these things and learn from them lessons that will apply to American law enforcement cooperation into the 21st century.

Cooperation was necessary from the start. The early Bureau’s mission was broad and undefined: To conduct investigations on behalf of the Attorney General (and a few years later, the Secretary of State). This meant that it had investigative authority over land fraud on federal property, treason, anti-trust issues, neutrality act violations, certain frauds, and peonage, matters with little local or state jurisdiction. Peonage, being a civil rights related violation, did bring potential conflict between federal and local law enforcement, but that issue will be dealt with later in this paper. In matters like theft from interstate railroad shipments and train robbery, the Bureau’s interests overlapped local and state interests (Appel, n.d., ca. 1934). At times, Bureau agents also came to rely on local police who had the authority to make arrests, a power denied Bureau agents until 1934.

As Congress legislated new federal crimes, significant areas of overlap developed and cooperation with local agencies worked quite well. In 1910, Congress passed the Mann Act, or the White Slave Traffic Act, which outlawed interstate prostitution and doubled the Bureau’s budget and personnel rolls. The Bureau at times was quite small, so its ambitious plan to map out the scope of interstate prostitution under the new law faced significant hurdles.

The Bureau’s solution relied greatly on the cooperation of local police. A Bureau agent would approach the local chief of police and request an introduction to known houses of prostitution in the area and help in surveying the prostitutes at work there. This survey completed, the task of keeping track of subsequent changes in order to identify interstate traffic was turned over to an investigator hired to monitor personnel changes in the identified bordellos. Close cooperation with local authorities was imperative as the beat cop knew the area and those involved in the various houses of prostitution best from their own beat work (Finch, 1912).

A second major catalyst for increasing the Bureau’s authority has been national security crises. The first such crisis the Bureau experienced was World War I. Between 1914, as war broke out in Europe, and 1917, when America sent troops to Europe on the side of the Entente, the Bureau received additional authority to investigate war-related crimes, German intelligence activities, and potential threats from domestic radicals during and immediately following the U.S.’s entry into World War I. Cooperation with other law enforcement agencies again proved important to the Bureau’s mission.

The Attorney General clearly recognized this, asking all Chiefs of Police

... to make careful investigation in cases of location of any stores of arms or ammunition in the hands of or accessible to possible alien enemies or their sympathizers as well as keeping an eye on enemy sympathizers, careful guard over all supplies of explosives and see that especially pernicious agitators are restrained in so far as the law will permit. (DOJ, 1917)

Although augmented by a large civilian volunteer group, the American Protective League performed complementary functions. The legal authority of regular
police to make arrests in slacker (i.e., draft evader) cases and other matters was of much greater assistance to the Bureau in carrying out its homeland security responsibilities. In other matters, like the round-ups of alien anarchists in early 1920 following a series of domestic terrorist attacks in the previous year, neither the Bureau nor local police acquitted themselves well due to problematic planning and execution of the raids (Powers, 2004, pp. 113-117).

It is not clear that this cooperation meant as much to other law enforcement jurisdictions as it did to the Bureau in its first decade of existence. The Bureau was too small and too limited in responsibility, and it offered no significant services to other law enforcement agencies. With the end of the war and the onset of Prohibition, this began to change. The change, though, was unrelated to Prohibition itself since the Bureau had little jurisdiction in its enforcement; it had more to do with developments in other areas.

Let us briefly consider a typical example of interjurisdictional cooperation in this period. On October 11, 1925, Bureau special agent Edwin Shanahan became the first FBI agent killed in the line of duty. Shanahan had tracked down auto thief Martin Durkin and confronted him in a garage in Chicago. Durkin shot and killed the young agent. The crime was not a federal matter; it was strictly a violation of Chicago and Illinois law. Still, a coordinated effort was made by Chicago, the Bureau, and other law enforcement agencies to track Durkin from Chicago to California and back across other western states. Durkin was finally apprehended by St. Louis police officers based on a tip from a Los Angeles contact of the Bureau’s. He was then extradited to Illinois where he received the death penalty, under state law, for the agent’s murder (FBI, 1932; Findley, n.d., ca. 1934).

In this matter, although of deep concern to the Bureau, the crime was a violation of Illinois state law. The Bureau’s role linked different jurisdictions and brought together disparate pieces of a national puzzle, pursuing Durkin under its authority via the Dyer Act, or Automobile Theft Act, in order to secure his identification and arrest to face Illinois justice. The Bureau, therefore, worked with multiple jurisdictions and brought together disparate parts of the same problem, the depredations of Durkin.

By the early 1930s, such a role for the Bureau was recognized. One study of such matters noted that in the case of interstate racketeers, “Local police, in dealing with crimes that involve the crossing of State boundaries, need the cooperation of Federal officials” (House Commerce Committee Subcommittee, 1933). Nor can it be said how effective this role was at the time. For instance, little is known of the efficacy of the Bureau’s pursuit of interstate automobile thieves, and more study would be needed to evaluate the matter.

It was during this period of evolving cooperation that the Bureau greatly enhanced its relationship to other jurisdictions by becoming a provider of professional law enforcement services. Although results were at times mixed, overall there was widespread, effective cooperation between the various jurisdictional levels of U.S. law enforcement. The leadership of the IACP and the growing support the Bureau gave to its efforts clearly show this move to coordinate. The first and still successful joint IACP/Bureau effort was the drive to make a national repository of criminal identification information.
The idea for such a project emerged from the IACP and law enforcement circles in the opening years of the 20th century, and by the start of the 1920s, many entities were collecting criminal identification information. The IACP had a large collection in Chicago, the federal government had one at Leavenworth penitentiary, and several large cities were involved as well. By 1921, serious debates were being held over how to create a national, centralized, collection of criminal identification material.

Two arguments commanded attention. New York City’s mayor John Hylan and Police Commissioner Arthur Webb argued that an independent, privately run organization should control the depository. The IACP and the Attorney General argued that such a program should be run by a single agency in the Department of Justice in order that it would be well-controlled and cost-effective. This second argument won the day, and by 1924, Congress had funded the program, allowing the Bureau to create a Division of Identification within itself, bringing together the federal collection from Leavenworth and the IACP collection.

By 1926, Director Hoover informed the Attorney General that “we have been able to secure the cooperation and support of all law enforcement officers in the United States” (Hoover, 1926); the sole exception, he noted, was New York City, which did not contribute to the new division until a change of administration occurred. By 1927, the collection had become not only fully national, but was becoming the center of an international exchange of fugitive information and identification collaboration.

Another idea for the professionalization of law enforcement was the creation of crime laboratories. Hoover had been captivated by the latest developments in the field of scientific crime detection for years. After he became Director in 1924, Hoover encouraged the Bureau to keep an eye on the latest insights into Bureau work that science provided.

But it was other law enforcement agencies that truly began to implement the idea of creating a laboratory to focus on applying the latest forensic science to criminal investigative work. Colonel Calvin Goddard, who was connected to the Chicago Police Department, was instrumental in the opening of the Scientific Crime Detection Laboratory at Northwestern University. The Bureau learned much from Goddard’s lab, and it supported several of its efforts over the next several years, including its pioneering journal, the American Journal of Police Science; Goddard’s forensic science training program; and conferences sponsored by the school. The founder of the Bureau’s Technical Crime Laboratory learned much from these training programs and reported all of it back to the Bureau (Fox, 2003).

Reporting on the Bureau’s involvement in such efforts in 1930, reporter Rex Collier noted that

Ultra modern detectives in the United States Bureau of Investigation are being trained to out-Sherlock Sherlock Holmes, . . . the progressive director of the bureau, J. Edgar Hoover . . . is a thorough believer in science as a formidable weapon against crime.
Hoover was a primary source for Collier’s article, but Collier had taken liberties in focusing on the Bureau as he did and other reporters would similarly report on the Bureau, sometimes with Bureau assistance. Such focus, at times, would cause resentment and trouble in law enforcement cooperation, although never irreparable harm.

In 1932, Special Agent Charles Appel applied the training he had acquired over the years from self-study, Goddard’s program, and many other sources and instituted a Technical Crime Laboratory for the Bureau. Like the Identification Division, the Laboratory served not only Bureau purposes but those of the wider law enforcement community as well. It performed examinations, where able, for law enforcement across the nation; pioneered forensic science research; provided training like Goddard had for other law enforcement; and acted as a “cheerleader” for a scientific approach to law enforcement (Fox, 2003).

Throughout the early 1930s, the pace of the federalization of major crimes increased, exposing its fault lines. On the one hand, the provision of professional support services was welcomed by most law enforcement jurisdictions. On the other hand, the federalization of criminal laws set up conflicts among various jurisdictions. The 1932 kidnapping and murder of the young son of aviator Charles Lindbergh was a clear example. The crime occurred in New Jersey, so state authorities had primary jurisdiction. President Herbert Hoover ordered the Bureau to provide assistance, which it did through its lab and identification services as well as by following leads across state lines.

And yet, the literature on the case portrays the personal conflicts between Bureau Director J. Edgar Hoover and Colonel Norman Schwartzkopf, the head of the New Jersey State Police. This conflict did not have an impact on the disposition of the case—Bruno Richard Hauptman was found guilty following extensive work by New Jersey police, the Bureau, and many others, all of whom testified to one piece of evidence or another in the trial. There was fault on both sides, but the conflict became an icon for one’s impression of the Bureau and law enforcement cooperation (Lowenthal, 1950, pp. 405-408; cf. Whitehead, 1956, pp. 92-96).

The passage of the 1934 May/June crime bills, which federalized a number of gangster-related crimes, meant that the Bureau would become increasingly involved in matters previously reserved to other jurisdictions and that opportunities for conflict would be multiplied. Over time, the potential for jurisdictional conflict was quelled and a division of labor enacted, but the settlement was not uniform and exhibited many conflicts.

On the positive side, for example, one of the May/June crime bills made aiding a fugitive to avoid capture a federal crime. This could have created many jurisdictional problems, but these were largely resolved by emphasizing the Bureau’s coordinating functions, disseminating information, connecting crossjurisdictional activity, and providing services to identify and match a criminal with activities elsewhere in the country. Director Hoover (1957) noted, two decades later, that

the primary purpose of our investigations is to locate these fugitives and make them available to state and local authorities. (p. 8)
Furthermore, the Bureau became a clearinghouse for fugitive information, publishing *Fugitives Wanted by the Police*, later called *The FBI Law Enforcement Bulletin*. This journal disseminated fugitive information nationwide for several decades before it gradually shifted to publishing articles of general law enforcement interest.

Another means of serving and fostering law enforcement cooperation became available in 1935. One of Hoover’s earliest reforms upon becoming director was to strengthen the training of new agents, and as advancements were made in identification, forensic science, and law enforcement procedure, these improvements were incorporated into Bureau training classes.

In 1935, building again on an idea of the IACP and many other law enforcement officers, the FBI initiated the FBI National Academy to provide professional police training to law enforcement officers. The curriculum of this new school tackled a number of significant areas, including forensic science. Instructors, including academia, noted law enforcement officers, and the FBI, tackled courses on the latest changes in the law, training issues, police management, investigative procedure and records keeping, and many other topics. The FBI also used the training to introduce officers to the role of the FBI and its practice so that later conflicts could be minimized and cooperation enhanced.

Furthermore, this training became available not just to U.S. law enforcement officers. Hoover clearly envisioned not only domestic police cooperation, but even international cooperation. At the 1937 IACP conference in Montreal, he stated,

> It will not be long before the earth swings on a vastly smaller axis. Europe and Asia are coming closer every day. We need cooperation . . . [a day will come when a criminal could] rob a bank in New York on one day and eat dinner in Paris the next night. (Batvinis, 2007, p. 45)

Of course, the FBI had already been engaged in several efforts with other nations. The international exchange of criminal identification records and wanted fugitive information had begun within two years of the creation of the Bureau’s Identification Division.

Since the 1920s, the Bureau had also deepened its relationship with the Royal Canadian Mounted Police (RCMP), and in the 1930s, it became not only a criminal investigative relationship but a national security/intelligence one as well (Fox, 2006, pp. 58-63). Similar cooperation with Brazil and Colombia in the late 1930s developed as an FBI agent was asked to help train their police and consult on the creation of internal security functions in light of growing Nazi threats (Batvinis, 2007, p. 215). And FBI law enforcement’s liaison with Mexican police had been a fact of life since the outbreak of the Mexican Revolution around 1910 and would remain a key liaison throughout the Bureau’s history.

As war broke out in Europe in 1939, therefore, the issue of cooperation remained at the front of FBI practice even before the attack on Pearl Harbor propelled the U.S. into war. On September 6, 1940, President Roosevelt issued a public call requesting “all police officers, sheriffs, and all other law enforcement officers of the United States to promptly turn over to the nearest representative of the
Federal Bureau of Investigation any information obtained by them relating to espionage, counterespionage, sabotage, subversive activities and violations of the neutrality laws” (quoted in FBI Annual Report, 1939). By the end of Fiscal Year 1940, more than 1,000 conferences had been held by the Bureau to inform law enforcement leaders of what the President’s request entailed and to introduce the FBI’s “Law Enforcement Officers Mobilization Plan,” which was based on Bureau observations of British homeland security in the face of German bombing attacks. Bureau cooperation with the RCMP of Canada was even more advanced. The exchange of information, contrary to some comments, was both comprehensive and balanced (Batvinis, 2007; Knafla, 1994, p. 181).

The FBI itself was beginning to grow rapidly in response to the growing pressure of its national security responsibilities, and many of its new employees came from the ranks of the National Academy graduates, who, because of their previous training, could be assigned to investigative positions much more quickly than agent candidates starting from scratch. Between 1934 and 1944, the FBI grew from several hundred agents and professional support personnel to more than 13,000.

Throughout the war, American law enforcement organizations worked together within their respective spheres of jurisdiction, clearly accepting and excelling at the new national security role they were called upon to fulfill. They were especially helpful to the Bureau in the apprehension of escaped POWs, potential sabotage investigations (many of which ended up falling under local and state jurisdiction rather than federal), and the regular run of crimes that had an interstate nexus and, thus, crossed jurisdictions.

The FBI, not surprisingly, continued to provide the services of the Identification Division and the Laboratory, and law enforcement agencies throughout the country were increasing their demands for such services. The national government, especially, demanded these services as all new bureaucrats and military personnel had their backgrounds checked for criminal records against the FBI’s databases. Other levels of law enforcement also sought these services on an increased basis. In Fiscal Year 1945, for instance, the Bureau noted a 53% increase in requests from municipal, local, and state law enforcement for forensic science examinations. Not surprisingly, the Bureau was quickly increasing its numbers but was unable to increase its rolls as quickly as its responsibilities were growing (FBI, 1945, p. 16).

With the war’s end, new problems emerged. Law enforcement feared that demobilization would be accompanied by a rise in crime rates. It also marked a change in crime threats and priorities. With the onset of the Cold War, some large municipal departments increased their anti-subversive efforts and created or expanded “Red Squads” to investigate radical activities within their jurisdictions. These squads worked alongside the Bureau’s domestic security components and exchanged information with them.

On the criminal side of the equation, there was a growing concern about organized crime in the early 1950s and the national stresses that accompanied the violent response to the growing Civil Rights Movement. Some of these matters enhanced law enforcement cooperation; some, like the fractures surrounding the Civil Rights Movement, strained these relationships.
Not surprisingly, post-war cooperation tended to be on a case-by-case need rather than on a strategic basis. The ready division of national security labor in World War II gave way, and the nation returned to potentially more conflicted relationships concerning overlapping criminal jurisdictions. To make matters more complicated, the nation itself, especially during the 1960s, underwent a series of political stresses over opposition to the Vietnam War, civil unrest, and perceptions that crime rates were growing precipitously.

Ironically, this was also a period of strong innovation in law enforcement. Police departments, like Kansas City under former FBI Special Agent in Charge Clarence Kelley, experimented with bringing computers into their work, adapted to the use of helicopters and airplanes for surveillance, and dealt with changes in police procedure required by a series of Supreme Court decisions like Miranda v. Escobedo (Kelley, 1987, pp. 62 ff.).

The American struggle over extending full civil rights to minority citizens in the 1950s became the single most significant impediment in the development of inter-jurisdictional cooperation. Since its inception, the FBI had some jurisdiction over civil rights matters, but even as late as the 1950s, the statutes were “soft” in the words of Truman Attorney General Thomas C. Clarke (Hess, 1972/1973, p. 122). Although the FBI and the Department of Justice pursued such cases when presented with them, they had to be fought all the way through the courts. Conviction, even if the evidence was strong (even unassailable), was unlikely, and frustration among agents was high because so much work proved fruitless. Furthermore, according to Clarke, “the FBI had to depend on the local constabulary for much of their investigative work . . . 90% of the direct cases were done by the local people . . . [and] it’s difficult for the F.B.I. to get information . . .” “because they [the police] cover it up so” (pp. 130-132).

This was the crux of the problem. On the one hand, the different jurisdictions had to regularly cooperate on a host of issues from fugitive matters to property crimes; on the other hand, the federal law enforcement agents, especially the FBI’s, were being drawn more and more into policing civil rights violations too often covered-up, if not perpetrated, by those same law enforcement officers with whom they had to cooperate on other matters.

Still, for much of the late 1960s and early 1970s, cooperation did not advance beyond what it had been since the end of World War II. It took the death of J. Edgar Hoover in 1972 and the subsequent onslaught of criticism and scandal that emerged during and after the Watergate crisis, to force a change, suggesting that personality and individual management was at the center of the blockage. Following Hoover’s death and in response to the subsequent criticism, the FBI retooled its domestic security efforts, dramatically reducing the number of domestic security cases. It pursued and rededicated itself to “quality cases,” as Hoover successor Clarence Kelley would call them.

“Quality cases” were not those investigations that guaranteed a newsworthy finish but those that the FBI was best suited to pursue due to its nationwide resources and jurisdiction. It meant tackling problems in a more comprehensive, strategic manner (Powers, 2004, p. 304). This new approach entailed a change in the
character of cooperation between the Bureau and other law enforcement partners as this cooperation also took on a strategic character.

The creation of investigative task forces signaled this new approach. In 1979, the New York City Police Department (NYPD) and the FBI’s New York City field office formed a task force to jointly investigate bank robberies that were affecting New York City’s financial community. Eleven agents from the Bureau and a similar number of officers from the NYPD were brought together, each side in agreement to pool criminal intelligence related to bank robberies. The joint effort was a success and was quickly emulated in other areas. The Department of Justice Inspector General noted that this experience taught the FBI “the value of the task force concept in its investigative processes” and led to its application in its counterterrorism program.

Similar efforts were modeled after this first task force. In 1980, the FBI and the NYPD formed the Joint Terrorism Task Force (JTTF) to address a rash of unsolved bombings that had occurred all over the city. The primary claimants to these bombings were radical/terrorist groups like the Fuerzas Armadas de Liberacion Nationale (FALN); the Jewish Defense League (JDL); the domestic terrorist-related 1981 Brinks Armored Car Robbery in Nyack, New York; various Croatian groups; and an anti-Castro Cuban terrorist group called Omega 7.

Former U.S. Attorney Mary Jo White (2001) remembered that the JTTF was “created in response to this pressing law enforcement crisis,” or as Neil Herman, a former FBI Supervisory Special Agent remembered, “we were getting the hell kicked out of us . . . basically, we were competing against the NYPD, instead of working with them. It wasn’t cost effective (Reeve, 1999, p. 16).

Within a few years, many other agencies had been added to the JTTF, including the Bureau of Alcohol, Tobacco and Firearms (ATF), the Secret Service, the Immigration and Naturalization Service (INS), the Federal Aviation Administration (FAA), the New York State Police, the U.S. State Department, the New York and New Jersey Port Authority Police, the U.S. Marshals Service, the U.S. Customs Service, the Amtrak Police, the Suffolk County Police Department, the New York Metropolitan Transit Authority (MTA) Police, and the Naval Criminal Investigative Service.

This organization proved effective. White (2001) noted that “the JTTF has been a huge success story, measured both in terms of arrests and convictions of terrorists that the public knows about and (even more important) in the mostly unseen work of the JTTF in detecting and preventing terrorist acts that do not result in prosecutions or publicity. . . . [The] members of the JTTF are true heroes of the city” (p. 11).

Nor was the model limited to terrorist activities. In organized crime cases, the Bureau had also begun to tackle the problem differently, using the Racketeer Influenced Corrupt Organizations Act to target the organizational structure and entire leadership hierarchy of mafia families. This strategic approach was complemented by cooperation with major city police and international organizations and agencies. By the mid-1980s, for instance, a large task force of FBI, NYPD, New Jersey law enforcement, DEA, and municipal and federal prosecutors targeted a major international heroin smuggling operation in an investigation
known as the “Pizza Connection” case. Principal assistance from Italian law enforcement and judicial authorities as well as the help of Spanish, French, and South American law enforcement agencies was key to the successful prosecution of the case (Powers, 2004, p. 346). Furthermore, out of this success emerged the U.S.-Italian Working Group on Organized Crime to promote cooperation and resolve disputes (Nadelmann, 1993, p. 156).

This model was carried on by the Department of Justice in the early 1990s when it began the Safe Streets Task Force Program, combining interjurisdictional law enforcement and prosecutorial officials in order to tackle areas with a high incidence of violent crime. The successes here, as well as with organized crime task forces, likely had a strong impact on the declining rates of major crime in the 1990s. Cooperation had become not only crucial, but when targeted strategically against a clear range of problems, quite effective.

This development has been borne out in the aftermath of September 11th. Criticism of America’s national security structure highlighted the crucial need for different law enforcement jurisdictions to be integrated into counterterrorism and the need for stronger connections to the American intelligence community to better fulfill national security mandates. In responding to this need, the FBI and other jurisdictions built on what worked, expanding the JTTF model, and building new structures to better disseminate intelligence. The FBI also had to look internally and reevaluate its allocation of resources, cutting back on certain drug and bank robbery matters, best handled by other agencies, and seeking new ways, primarily through field intelligence groups, to leverage the situational knowledge of the cop on the beat and the wide variety of FBI intelligence collection mechanisms.

These changes are clearly in line with the evolutionary path from little cooperation, through tactical cooperation, to strategic cooperation across jurisdictions and missions to better protect Americans from criminal and national security threats. This does not mean that this evolution will be without conflict. History suggests that conflict will arise, but that the overall path of change is one towards effective cooperation.

The FBI has been at the center of this evolution. Its jurisdiction and resources necessitate this role, and its drive to professionalism has meant that it willingly acted as a leader, follower, facilitator, contributor, and beneficiary of this cooperation. In today’s law enforcement environment, this role will continue to strengthen and deepen within the national law enforcement model of overlapping jurisdictions.

Endnotes

1 Rather than cite “local, municipal, state, and tribal jurisdictions” each time I need to mention these differing levels of America’s federal law enforcement structure, the term other jurisdictions will be used. The term federal, as used in this paper, will refer to the feature of American governance whereby there are overlapping yet distinct spheres of jurisdiction in laws originating from the different ruling sovereignties in America. The term national will be used to describe those laws that originate from Congress and are signed and enforced by the President and so cover the entire American nation. Problematically, in our political vocabulary, we usually refer to this type of law as “federal.”
New legislation that criminalizes one activity or another is a major source of new Bureau authority. Although this source grew slowly over the course of the 20th century, the trend was towards an expanding national criminal law and, thus, expanded FBI authority.

Joan Jensen’s (1967) *The Price of Vigilance* is the best single source on the APL, the Bureau, and related World War I issues concerning national security-related activities.

In the last of these changes, the FBI provided clear help, explaining through its various training programs what the courts required, and suggesting how this should change police procedure.

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**John F. Fox, Jr.** has been the historian of the FBI since 2003. He was awarded a PhD in American History from the University of New Hampshire in 2001 and an MA from Boston College in Political Science in 1993. He has published articles in the *Journal of Government Information, Studies in Intelligence,* on the FBI website, and in *The Gouzenko Affair* (2006, Penumbra Press) and the forthcoming *Vaults, Mirrors, and Masks* (2008, Georgetown University Press).
FBI and Police Leadership Today and Tomorrow: The Axis of Organizational Authority and Power and Liability within Law Enforcement

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Law Enforcement and Leadership Perspectives

Organizations and governments succeed or decline based largely on the vision and capability of their leaders. The challenge of developing leaders is not a new issue nor is it unique to modern day organizations. Ancient Chinese rulers spent a great deal of time studying and thinking about leadership, particularly leadership under conditions of great difficulty. Most managers are not natural leaders; leadership is an acquired skill. For a manager to also be a good leader, he or she needs to have developed a diverse inventory of personal and professional skill sets that will allow for a visionary’s mindset to organize and integrate business-related concepts that are clear and understandable so that employees can succeed in today’s competitive business environment (Krause, 1997).

The FBI and other criminal justice administrators at all levels need to understand the human side of their organization. Leadership is a serious business with serious consequences. Taking the time to adequately manage and lead the criminal justice organization increases productivity and causes less internal conflicts. The tasks accomplished by leaders and managers are different. Managers do things right while leaders do the right things.

The FBI and all local law enforcement organizations can be jeopardized if leaders do not know how to motivate and mobilize their employees. Successful leaders know that they must invest in and utilize the talents of all their employees because the employees are the organization’s most vital resources. Law enforcement managers at all levels need to maximize their employees’ creativity and commitment to organizational goals. To accomplish this task, however, administrators need to know what leadership style and level of power is appropriate to use while interacting with their employees.

Considering the field of law enforcement, regardless of the level of police authority, a leader has limited power over his or her employees and others. Power must be useful, positive, and creative rather than abusive. Leadership does not include tactics to abuse, intimidate, manipulate, or bully employees. A hostile workplace culture is the result of poor leadership. It becomes important for managers to promote a culture of positive reinforcement that will lead to good mental health practices of employees. An important function of a leader is to meet the needs of their employees. To do this, a leader needs to use certain powers to influence and convince his or her employees to perform specific tasks. Dawson (1992) explains
that a manager might have certain powers for influencing his or her employees, but the manager still needs the employees. Power performers know they cannot reach their full potential if others control their lives. Instead, they understand that they must learn the skills necessary to influence others. Armed with these skills and not blanket police authority, they do not have to worry about impediments to their goals. A skilled manager will know how to convince others to consider the value of his or her way of thinking, regardless of the circumstances. Dawson (1995) makes the observation that a person with the most influence or power will gain the most in negotiations. The purpose of this paper is to support the assumption that a leader can determine what leadership axioms can influence others and then use this opportunity to influence any situation.

Review of Literature

The FBI and police leaders are well-positioned to learn from the plethora of leadership material to enhance their partnership with our global society. Daft (1991) has determined that there are five elements of power used by leaders within an organization to influence the behavior of employees: (1) legitimate, (2) reward, (3) coercive, (4) expert, and (5) reverent. Leadership is the actual utilization of power, which brings about change in employee behavior. It is Daft’s research on leadership that leads us to conclude the following: If a leader has expert and reverent power, the employees will share in the leader’s point of view and vision. If the leader has legitimate and reward power, the employee will agree to carry out the instructions even if they do not agree with the instructions. When a leader uses coercive power, it usually generates resistance, causing the employees to disobey orders, sabotage efforts, or deliberately ignore any instruction from the leader. Daft states there is a need for power: to influence or control others, to be responsible for others, and to have authority over others. A high need for power is often associated with those at top levels of management within an organization.

Among the various ideas and wealth of literature on leadership, three components stand out: (1) people, (2) influence, and (3) goals. Daft (1991) observes that leadership involves the use of influence, and this influence is used to attain goals. In relation to leadership, influence implies that the relationship among people is dynamic and designed to achieve a goal. Therefore, leadership is designed to influence employees toward the attainment of the organizational goals. This necessitates that leaders be involved with their employees in the pursuit of the organization’s objectives. The authentic police leader recognizes that leadership is a dynamic function that includes employees and involves the use of power. The element of power is essential in influencing employees, whether or not the leader has the ability to generate compliance. The above viewpoints fit into the framework for all organizations.

Winter (1973) explains that the concept of power is derived from Latin and is described as “to be able.” This description is an illustration of a person being influenced by external forces. Winter also relates power to ability as contrasted with the organization’s culture.

According to Winter (1973), there are three conditions necessary to a useful definition of power. First, one or more persons must have an effect on the behavior of others. Second, that person(s) must have the ability to produce an effect,
signifying he or she can accomplish something whenever they want. Third, social power can be an action, as one person could affect the behavior or emotions of another person when and if he or she wished. Winter describes social power as the ability or capacity of some person producing intended effects, consciously or unconsciously, on the behavior or emotions of another. In Winter’s final remarks, good power is described as leadership, guidance, and authority.

Dawson (1992, 1994, 1995) contends that there are eight levels of power used for performance, persuasion, and negotiating with employees: (1) legitimate, (2) reward, (3) coercive, (4) reverent, (5) charismatic, (6) expertise, (7) situation, and (8) information. Legitimate power is also known as title power. Dawson (1995) claims that a manager needs to influence and empower members of the organization into a position knowing they are the biggest, best, most experienced, or simply that they have the best solution for their problem. Once this is accomplished, then the manager must influence those members with his or her ideas. Tradition is a form of legitimate power and is accepted as a valid form of influence, which does not require any justification. If a manager establishes consistent procedures over time, few employees will ever question it.

Dawson (1994) mentions reward power as the quickest way to persuade an individual. A manager can have power over employees through reward. He or she needs to look for things with which to reward employees because when employees get what they want, they will in turn give their manager what he or she wanted. If rewards are given to employees, it reinforces them to develop a positive perspective on their job performance. Rewards become reciprocal and many times imitated.

The nation’s law enforcement organizations, including the FBI, find at times that it is important to engage in approved statutory law enforcement activities that are considered coercive. In the field of leadership, coercive power is also known as punishment power. When an employee disobeys a directive, fails in his or her responsibilities, or breaks a rule or regulation, the manager needs to reprimand the employee in some way. Dawson (1992) explains that if an employee thinks a manager can enforce punishment, then he or she can be influenced. A manager needs to influence employees to believe that by their becoming team players, coercive power will not be necessary.

**Authority- and Power-Based Relationships**

Reward power and coercive power must be judiciously applied. Nowhere is this more exposed for leaders—and employers—than in the area of discrimination and harassment (particularly sexual harassment). For example, over the past decade, the U.S. Supreme Court has handed down a succession of decisions holding employers vicariously liable for harassing conduct. If the supervisor committed the harassing conduct—the person who can assert the reward power and the coercive power—then the employer can be vicariously liable regardless of whether the employer knew of the harassing conduct and regardless of what type of sexual harassment is involved.

There may be some occasions when these powers overlap. For instance, a recurrent issue facing law enforcement managers in all organizations is body art and tattoos.
Specifically, how much skin can be left uncovered, particularly when wearing the police uniform? If employees recognize the importance of a professional appearance and respect the uniform, the issue may not become controversial within an agency. This could be attributable to a legitimate, traditional form of leadership that is unchallenged; or it could be due to a reward form of leadership in which employees are generally satisfied and do not wish to make an issue on this point. If neither of these leadership styles work, then the coercive style of punishment power may be effective. For instance, in the leading case of *Kelley v. Johnson*, the U.S. Supreme Court ruled that a police department may regulate hair length and style. In this example, the FBI and police leaders must also find flexibility to adjust outside the traditional norm for operational needs to accomplish law enforcement goals. More recently, in *Riggs v. City of Fort Worth*, a bike patrol officer’s reassignment from bike patrol for refusal to wear heavier clothing to cover his tattoos was upheld by the federal district court. In both *Kelley* and *Riggs*, the failure of traditional power and reward power resulted in the application of coercive power.

A long-held assumption among the members serving in all levels of law enforcement is that its leadership should have the respect of the group they serve in order to be considered legitimate. Dawson (1995) claims that if people respect their manager, they can be persuaded. This process then becomes the strongest influencing factor of all. Having reverent power is having a consistent set of values, which will promote mutual respect and lead people to look up to you. If a manager is consistent in his or her decisionmaking, his or her employees will become inspired and want to be led.

One of the most significant and more perplexing examples of reverent or values-driven leadership is religious tolerance in the workplace. As our law enforcement community can most certainly find benefit to recruiting and staffing their agencies with a diverse group of employees, these divergent perspectives on cultural values and workforce diversity will certainly present challenging, ethnocentric decisionmaking concerns for the FBI and our nation’s police leaders well into the future. In the global fight on terrorism, the FBI has significantly stepped up its recruitment efforts with an emphasis towards hiring for all positions, including Special Agent, with a driven focus on Middle Eastern applicants. Senior FBI leaders have recognized the need to understand cultural and ethnic differences that are at the center of the FBI’s efforts to protect citizens from terrorist acts. This first involves the educational process of developing an understanding of the cultural differences between various religious faiths.

A juxtaposition respect for varying religious traditions—or no beliefs at all—is a hallmark of the First Amendment freedoms we enjoy; however, the FBI joins all police leaders in seeking legal advice when such reverent tolerance leads to irresolvable conflict within the traditional, sociocultural environment found in most law enforcement agencies. The reverent, values-driven law enforcement attitude is in direct conflict with our notion of uncertainty on how to effectively approach leadership and diversity among group members.

A few examples can be used to balance out the sociocultural-based values discussed and the legal liability concerns to help the police leader better understand his or her role as an executive in today’s modern global society.
A police leader at any level may encounter his or her reverent, values-driven law enforcement culture challenged using the following cases: Two Sunni Muslim male officers who claim that shaving their beards is a sin, a uniformed patrol officer who refuses to remove a gold cross from his police uniform, a state trooper who refuses to work as a gaming agent on religious grounds, an FBI Agent who refuses to work a case against an anti-war group on religious grounds, or a correctional officer who refused to work on the Sabbath.

These social and religious value differences will most likely lead to more leadership implications for police executives who need to construct ways to lead people who are not like others by reframing some of the social value systems in their organizations.

The collective resources from all law enforcement agencies are excellent examples of organizations with an abundance of charismatic and creative officers full of innovation and vigor. This example is best viewed when observing undercover officers engaging in their complex skill of tradecraft to outwit criminals.

Areas of prime legal liability in which all effective leaders must be well-versed include the areas of religious discrimination/accommodation, disparate treatment in the hiring process, and disparate treatment in the hiring and promoting practices of the organization. The FBI is no stranger to these issues, and development of these cases continue to evolve. Often, the issues become highly germane in leadership roles because of the unique and heavy burden placed on the Bureau.

Recent issues of potential religious discrimination involving Muslim FBI agents have come to the forefront. Religious affiliations are a protected class under Title VII and are an issue with which modern law enforcement leadership is often faced. The critical concern to be mindful of is that law enforcement agencies must make “all reasonable accommodations” to the religious beliefs and practices of their employees. All successful leaders must make it plain to their employees, preferably in writing via an employee handbook, that the organization’s official position and practice is that a person’s religion has no negative bearing on her ability to perform a job and that no employment decisions will be based upon religious practice.

The vast majority of the conflicts that confront leaders in this area revolve around accommodation of religious observance. The triggering event is that an employee makes known to his supervisor the existence of a conflict of conscience between a work-related assignment and a religious observance. Once this has occurred, persons in leadership positions must make all reasonable efforts to accommodate (being careful not to infringe upon the rights of other employees). If an accommodation can be made without undue hardship on the agency, excessive costs, or collateral infringement on the rights of other employees, then such accommodation must be made. The effective leader does not do this begrudgingly, but, rather, makes known to the employee that it is his or her desire to reach a solution as well. Perhaps the most common scenario here is the observance of religious holidays. Clearly, such days are important to the religious practitioner. Value-driven leadership is most effective and empowering when it conveys that this is important to the agency as well.
One of the more insidious and easily overlooked issues is that of disparate treatment and disparate impact, both of which are Title VII concerns.

Disparate treatment occurs when an individual employee is treated differently from other employees, whether in like stations of like-kind employment or not, based upon race, gender, ethnicity, or religion. This is often unspoken and, indeed, very often an unconscious or inadvertent act by the employer. It is a natural inclination of everyone to prefer those of her or his own race, religion, ethnicity, etc., etc., but as with most vices, there must be some pragmatic effort to stop the problem in its tracks.

Disparate treatment addresses primarily hiring practices. To demonstrate disparate treatment a plaintiff must show that the agency was seeking applicants for an extant position, that the plaintiff was qualified for the position and applied for the position, that the applicant was nonetheless denied the position, and that the agency continued to seek to fill the open position. What is critical to remember here is that the circumstances dictate the liability, not the subjective view, of the leadership. It is no defense to simply assert that “We preferred to continue our search for someone else.” Many law enforcement departments have learned this the hard way when ultimately confronted by a civil jury. Of course, with equitably minded leadership, the potential problems of disparate treatment are avoided entirely. Skills and ability should drive all employment decisions.

Disparate impact is widely seen as the most complex issue within the penumbra of discrimination. Disparate impact occurs when there exists a test or protocol that has the effect, intended or not, of adversely affecting a protected class of persons. Very often, the concrete form includes such practices as aptitude or intelligence tests of applicants for hire or promotion. On the surface, such tests may seem relevant and revelatory about the prospect of the applicant’s success in the job; however, a closer inspection may indeed show that such relevancy does not exist. Intelligence testing is an area that invariably is struck down by the courts, especially when in the context of current employees seeking internal promotion. If those employees have been successful in the lower tier of the employment, the courts are much more likely to find little or no relevance connection with intelligence or aptitude testing. Even something as mundane as height and weight requirements can have greater bearing on employment or promotion issues than aptitude or intelligence quotient testing.

The Equal Employment Opportunity Commission has issued what is commonly called the “Eighty Percent Rule” to assist leadership in obeying the law in its hiring/promoting practices. The rule, simply stated, may be reduced to the notion that (1) if a hiring or promotion selection practice adversely affects a protected class under Title VII and (2) such may be demonstrated by comparing ultimate selection rates of a protected class against the ultimate selection rates of the general class, then (3) the protocol or procedure is discriminatory. This is a critical point to remember. The procedure is not presumptively discriminatory—the plaintiff’s case is made. Let us take as a fictitious example an instance in which an agency, as part of its promotion selection process, administered an intelligence quotient test to all applicants that were seeking promotion to the rank of detective. In addition, imagine that from the pool of applicants not in the protected class (i.e., all employees not of Eastern European origin), a total of 30% of the applicants passed the test/procedure and
were ultimately hired. Let us, further, also assume that the test/procedure had an adverse impact on the number of Eastern European employees within the agency seeking the promotion such that only 15% were hired. How would the rule apply?

Broken into a matrix for clarity, we see the following (Table 1):

<table>
<thead>
<tr>
<th>Class of Persons</th>
<th>Raw # Applicants</th>
<th>Raw # Selected</th>
<th>Percentile Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Persons of Eastern European origin (same nationality)</td>
<td>100</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Persons not of the same Eastern European nationality as above</td>
<td>1,000</td>
<td>300</td>
<td>30</td>
</tr>
</tbody>
</table>

As can be seen, the selection rate of the Eastern European applicants is only 50% that of the rate for the exclusive remainder of the pool of candidates (15% is one-half the hiring rate, or 50%, of the remaining general pool hiring rate of 30%). This is de facto discrimination via disparate impact. Any and all leaders involved in hiring or promoting should be familiar with this requirement.

Charismatic power is the hardest power to analyze because charisma must first be defined. There are several definitions of charisma. Dawson (1995) defined it as a special quality that gives a person the ability to acquire the insight of another person, inspiring support and devotion. Dawson (1994) also observed that if people like someone as a manager, this leads to developing influence within groups. A simple good morning or welcome can become the catalyst for dialogue. Beyond expressing these social graces, the leader can avoid the appearance of arrogance by developing a sense of humor, remembering the names of employees, and expanding the manager’s sense of self. This will allow the manager to embrace all the employees with whom he or she comes in contact.

Law enforcement organizations at all levels share a common bond with our military personnel. Each is staffed with some of the most patriotic employees we find anywhere. One of the greatest—and most charismatic—leaders of all time was George Washington. The charismatic leadership question asks did he operate alone or, as Dawson discusses above, did Washington draw from the insight of others, inspiring support and loyalty? Consider Washington’s approach to decisionmaking as described in David Discher’s book Washington’s Crossing:

> From much hard-won experience in American politics and war, he had learned to work closely with his subordinates. Washington met frequently with them in councils of war and encouraged a free exchange of views. . . . In that way, he created a community of open discourse and a spirit of mutual forbearance. . . . Major decisions were always an agony for him. But, Washington knew that nobody else could lead the American army as he was able to do. He had found a way. (Cited in Cantalupo, 2007)

If a law enforcement manager at any level can legitimately convince employees he or she knows something that the employees want to know, the manager will have power over them. Since the world and workforce have become more complex,
expertise is needed to do this. Dawson (1994) observes that if employees see expertise in their manager, this power will draw them closer to the manager.

Dawson (1994) defines a leader with situation power as a person who is powerless in other areas of his or her life, but due to certain situations, he or she will gain power over others. Some people who have knowledge, skills, ability, and few resources can still have certain power over others, depending on a particular situation.

The average human being has a natural desire to always want to know what is occurring around them. Dawson (1995) lists information power as the final element of personal power. Sharing information with another person who you become close to will form a bond. Information power is a function of the need-to-know principle. Withholding information tends to create a culture of distrust, excluding and intimidating people, while sharing information creates a cooperative bond. Some managers develop control over their employees by creating an atmosphere of secrecy. This is done by withholding information, thereby putting the managers in a position of implicit power. The positive side of information power is the sharing of knowledge, plans, ideas, and goals by management with their employees.

One of the best examples in a law enforcement context—one that does not technically rely on leadership rank—is the Field Training Officer or Mentorship programs. These types of leadership programs set forth a broad knowledge of the sociocultural dimensions of direct and indirect leadership skills that can be beneficial to law enforcement recruits by reframing the organizational culture. The role of the Field Training Officer is to be responsible for mentoring, tutoring, and passing on the “information power” described by Dawson to younger officers during their initial field training experience. The withholding of information can be quite detrimental, if not dangerous; conversely, patient and constant tutoring can be instructive and officer-safety enhancing.

For a couple of specifics, let’s examine observable actions of unknown and potentially armed subjects by patrol officers who can be taught through information sharing a leadership skill at every rank (Pinizzotto, Davis, & Miller, 2006):

- **Concealment characteristics**
  - Clothing indicators (warm weather conditions; accessory items carried; bulges in pockets)

- **Behavioral traits**
  1. Subjects touching hidden weapon
  2. Body position away from officer

- **Stopping armed individuals**
  1. Stop location
  2. Lighting conditions
  3. Available cover

Rosenbach and Taylor (1989) note that there are many definitions of leadership today which are constantly being studied and observed in all fields, including law enforcement; yet, leadership remains little understood. It is a tightly held universal concept, however, that leaders are not born and all leaders are made.
Researchers have ample opportunities to define theories on leadership and measure its effectiveness in various sectors. One such measurement is attrition. Poor leadership leads to attrition. Leadership can be further explained as a process of social influence within diverse organizational environments in which there is a set of common traits for every situation. The data outlined by Rosenbach and Taylor for understanding leadership is necessitated by organizational and environmental dynamics and the increasing complexities of the workplace. With the workforce becoming increasingly diverse, leaders have more pressure and responsibility to deal with the challenges presented by employees. The employees of today’s workforce need to be influenced by effective leaders who can protect their interests while pursuing the goals of the organization.

Covey (1989) described leadership and management as “creations.” Leadership is described as the first creation with an understanding that it is not management. Leadership deals with the top line—that is, what things can a manager or employee accomplish. Management, on the other hand, is noted as the second creation, and is a bottom line focus—that is, how can a manager or employee best accomplish a specified task. While management’s function is “doing things right,” leadership’s function is “doing the right thing.” As Covey notes, in most organizations and professions today, leadership is demanded first and management is demanded second.

Covey (1989) illustrates some key differences between leadership and management. He has the reader envision a group of managers and leaders fighting their way through a jungle of heavy undergrowth. The managers are sharpening cutting tools, writing policy and procedures, developing programs, improving technology, and setting up schedules, while the leaders are surveying the entire situation. As the group makes its way through the jungle, a leader realizes they are in the wrong jungle and points this out to the managers. The managers respond that they would not be doing the right thing by leaving the wrong jungle. Instead, they just want to proceed since they thought the group was making progress. The moral of this dilemma is that some managers are so caught up in trying to progress, they neglect to do the right thing. Again, as Covey notes, in most organizations and professions today, leadership is demanded first and management is demanded second.

Leadership styles found in law enforcement organizations are generally classified by management. Authentic leaders make decisions and allow their employees to become involved in the decisionmaking process. There are four basic styles of leadership, whose terminology varies depending on the researcher. The terminology employed by Kuykendall and Unsinger (1982) includes “selling, telling, participating, and delegating” (p. 155).

A leader utilizing the selling style makes fair decisions and then attempts to persuade his or her employees that a specific action was necessary and it should be supported. Kuykendall and Unsinger (1982) define the selling style of leadership as a two-way communication with socio-emotional support to get the employees to buy into management’s decisions. This style places the emphasis on a high task and high relationship. The leader continues to direct and closely supervise employees, explaining decisions, asking for feedback, and supporting progress. The leader coaches the employees to provide the opportunity for clarification.
In the telling style of leadership, managers make decisions themselves and inform their employees after the decisions are made. Kuykendall and Unsinger (1982) define the telling style of leadership as one-way communication where the manager tells the employee what, how, when, and where to do the specified task. This style is found in many law enforcement organizations and emphasizes a high task and low relationship as the manager tells the employee what to do, with no feedback or decisionmaking by the employees. The leader who makes all the decisions closely supervises the task and simply tells the employee the goal.

Kuykendall and Unsinger (1982) define the participating style as two-way communication and facilitation of behavior to encourage shared decisionmaking. This style emphasizes a high relationship and low task. In the participating style of leadership, managers allow employees to have a key role in the decisionmaking process. Managers discuss issues with their employees and share the authority to make the decisions. Employees appreciate being present when decisions are made that give them ownership and control of their future. Rosen and Brown (1996) describe this as building a strong partnership between management and employees. Participation creates a winning mindset and environment by building people’s self-confidence and promoting employee ownership.

Delegating is a leadership style managers can utilize to grant authority and responsibility to their employees. For a manager to delegate more effectively, he or she should delegate the entire task to one person instead of dividing it among several. Kuykendall and Unsinger (1982) define the delegating style of leadership as when a manager allows the employee to make all the decisions his or her own way. This places emphasis on a low relationship and low task, requiring very little communication on the leader’s part. The employee performs the task with minimal or no guidance.

Discussion

Because of the diversity of human nature, there are differences in leadership styles and the elements power managers use to influence law enforcement employees. Managers must understand the nature of leadership to be able to develop strong leadership styles in order to be respected by employees and to be successful as managers. Managers must also know the meaning behind each element of power to be able to influence their employees in the most positive sense. Obtaining this knowledge will enable the manager to motivate employees to be committed to organizational goals. If a manager can “walk their talk” and show that he or she has a human side, people will tend to trust that manager, which, in turn, allows the manager to gain the respect of his or her employees. Bennis and Townsend (1995) suggest that a leader must be congruent, caring, competent, and consistent in action. Daft (1991) mentions that power comes from personality characteristics that command employees’ identification, respect, and admiration, so they can follow their leader with confidence. This type of inspirational power is derived from admiration and reverence rather than from the authority of a manager and his or her formal title. As our global society presents significant cultural challenges to our police leaders, they too must embrace leadership and diversity through a mindset of paradigm change. One FBI supervisor put it in the following way: “[FBI Supervisory Special Agents] must possess the art of managing and possess the fine art of leadership” (Trott, 2006).
We have explored both management and leadership concepts, but we have not focused on whether the current management and leadership staff has been adequately trained to manage or lead. There is no reason for any person to become embarrassed for any lack of edification in these areas.

Most law enforcement managers have their own respective leadership styles but still need improvement on communication and execution skills. A law enforcement manager at any level needs to be consistent and care what their employees think; otherwise, they will lose the respect and commitment of their employees, who will not go that “extra mile” towards reaching the organization’s goals. Not all managers are leaders. A leader has certain qualities that make him or her stand out among others. For instance, place several managers in a room without a leader and give them a problem or task to solve. In time, one person will emerge as a leader and assume control. Collins (2001) mentions several situations where, sooner or later, one person will step forward and take command.

There are many seminars, courses, and programs that are designed to turn managers into leaders. It is unrealistic to believe that by attending one seminar a person can become a great manager or leader. Leadership requires a lifetime of authentic commitment and the desire to become a lifelong learner. While leadership traits cannot be instilled in a person, it is possible that proper training can modify the behavior of managers. There are no absolute techniques to transform managers into leaders, however, because of the diversity of personality traits, culture of employees, maturity level of managers and employees, and situational factors. These conditions are found in every leadership scenario, and it is up to the manager to adopt a leadership style that best achieves the specific goals of the organization.

Being promoted to a management or leadership position should be based on a fair, balanced, and objective promotional process, including personal and professional skills and abilities, rather than time in service. Tenure, not knowledge or ability, is typically the determining factor. This, more than anything, leads to poor leadership and abuse of power. Since many managers do not have expertise and information power, they often use legitimate power to influence others. This power intimidates employees into action rather than motivates them. As a result, employees do not tend to adopt the goals and mission of the organization, but, instead, they respond to directives out of fear. All levels of managers who lack expertise, information, and reward power need to take professional development instruction on how to be better managers and learn how to reward their employees rather than abuse them. Employee attrition is expensive. Education is a positive step in this direction. Rosenbach and Taylor (1989) suggest that self-knowledge, combined with an awareness of the environment, will provide the manager with the necessary understanding to adopt successful leadership styles. Managers need to benefit from this simplicity. Experience alone does not provide managers with leadership skills. Education coupled with experience does make a manager better informed, effective, and goal-driven and a real mentor.

**Conclusion**

In summary, the type of leadership needed to ensure success depends on the situation and how well the manager can apply theory and practice to varying
situations. The law enforcement manager or leader must make an effective decision to solve problems and handle leadership situations. The relationship between the leader and employee is essential to accomplishing a specific task. If the employee decides not to follow, it really does not matter what the leader thinks, what the task is, how much time is involved, or what the circumstances are. The manager must know the style that is appropriate in relating to his or her coworkers and when it is necessary to shift the leadership style for better performance and results. If the level of performance increases, it would be appropriate for managers to shift their style toward a more delegative and participative style. The delegative style is indicative that task-relevant readiness is increasing. If the performance results are declining, the managers should shift their leadership style to a telling style, known as a directive style.

An effective leader emphasizes changing one’s behavior rather than criticizing. By identifying important governing principles, guiding visions, strong values, organizational beliefs, and clear communication, a leader can create a healthy organization embodying the values of trust, honesty, integrity, and teamwork.

If a law enforcement manager recognizes that employees are an organization’s most vital resources, he or she can incorporate appropriate leadership styles to nurture employees’ talents, ideas, and energy to the mutual benefit of all stakeholders.

Endnotes


2 Quid pro quo or hostile environment.


4 229 F. Supp. 2d 572 (N.D. TX 2002).

5 Fraternal Order of Police Newark Lodge No. 12 v. City of Newark, 170 F. 3d 359 (3d Cir. 1999), cert. denied, 120 S. Ct. 56 (1999).


7 Endres v. Indiana State Police, 349 F. 3d 922 (7th Cir. 2003), cert. denied, 124 S. Ct. 1032 (2004).

8 Ryan v. U.S. Department of Justice, 950 F. 2d 458 (7th Cir. 1998).


References


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Hostage/Crisis Negotiation: An Exemplar of FBI and Local Enforcement Cooperation

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Introduction

The 100-year history of the Federal Bureau of Investigation (FBI) is legendary in the eyes of the world—mostly positive. In some assemblages, individuals have been known to comment not so positively that members of the FBI are “legends in their own mind” or worse. Early impressions of the “Bureau” for this author came from hearing cynical and disparaging remarks offered by more seasoned fellow New York Police Department (NYPD) officers: “You can’t trust them” or “They will step in and take your case.” Was this jealousy or reality? Street cops in New York did not have much opportunity to interact with FBI Special Agents, so my only personal experience early in my policing career was during a diplomatic but discouraging telephone conversation indicating that although I was a college-educated cop, I did not have accounting or law degrees, so don’t bother to apply. My working experiences with the FBI, typically positive, came several years later when I was assigned to various functions within the Detective Bureau (DB) of the NYPD. Coincidental to my arrival into the world of criminal investigations, the now commonly recognized if not accepted practice of police hostage negotiation was being formulated.

Early Support for FBI–Local Law Enforcement Cooperation

Noted criminologist and early-on proponent of police professionalism August Vollmer, President of the International Association of Chiefs of Police (IACP) in 1922, was a leading supporter of the FBI and its role in assisting local agencies. According to Carte and Carte (1975), “The FBI, as it developed, reflected many of Vollmer’s ideas—an efficient system of records, scientific investigative techniques, high personnel standards, and strong leadership” (p. 55). Among the FBI functions that Vollmer endorsed included that they should provide specialized training to local and state police departments. Bruce Smith (1949), in his seminal treatise on policing, indicated when discussing local and state police training programs, “A far more promising central training service is rendered by the Federal Bureau of Investigation. It undertakes upon request to provide instructors in special subjects for the wide variety of state, local, and zone schools” (p. 299). One reason that the FBI was able to develop this capability was that they had been granted the broadest investigative and enforcement mandate of any of the numerous federal law enforcement agencies (p. 22). Expanding the concept from training to police operations in the United States, Banton (1964) noted, “The principal American institutions which make for uniformity in practice and for the raising of standards are the Federal Bureau of Investigation Academy, the International Association of Chiefs of Police, and the Police Institutes sponsored by several universities” (p. 89).
Although academic authors had been touting the value of local law enforcement affiliation with the FBI since the 1920s, publications directed at civil service testing for entry-level police jobs and subsequent promotion did not include much information on the FBI role and function. The *Eagle Police Manual* (Lee, 1933), subtitled *A Handbook for Peace Officers National in Scope*, does not even mention the FBI. *The Policeman’s Manual* (Vollmer, 1954) mentions the FBI once in the context that it is part of the Department of Justice (p. 19), and the *Modern Police Service Encyclopedia* (Salottolo, 1962) indicated that “The Federal Bureau of Investigation conducts inquiries into alleged offenses against the United States” (p. 245).

It was not until 1975 that the topic of hostage situations was considered separately in standard police texts in the U.S. An examination by this author of the indices of numerous textbooks used in criminal justice education programs and for police civil service promotion purposes, published between 1970 and 1980, revealed only one, *Supervision of Police Personnel* (Iannone, 1975), that included a section on hostage situations.

Times have changed. Today, academic literature, professional law enforcement publications, biography and nonfiction, and fiction trade publications abound in FBI-related items. Recent key word book searches on Amazon.com yielded in excess of 45,000 hits for “FBI,” 1,160 for “crisis negotiation,” and 16 for “FBI crisis negotiation.”

**Hostage Negotiation**

Hostage Negotiation (HN) began as an innovative NYPD practice almost 35 years ago. The original NYPD HN plan was developed in response to the terrorist attack against Israeli athletes at the 1972 Munich Olympic Games (see Schreiber, 1973). The assessment at the time by the Mayor and Police Commissioner was that New York City was a probable terrorist target and that a hostage or siege situation was probable since there had been numerous such incidents, primarily throughout Europe and the Middle East, in the preceding decade. In 1973, the NYPD became the first law enforcement agency in the U.S. to formalize a policy of hostage recovery through planned containment and structured communication (see Bolz & Hershey, 1979; Louden, 1998; Schlossberg & Freeman, 1974) Soon after, the FBI became involved in HN research, response, and training and has been actively and affirmatively involved in negotiation and recovery operations throughout the U.S. and worldwide ever since.

By 1998, some derivative of the original NYPD HN policy had been adopted by a majority of the police departments in the U.S. that employ at least 100 sworn officers (Louden, 1999). During the summer of 2001, the newly formed National Council of Negotiation Associations (NCNA) in conjunction with the FBI Crisis Negotiation Unit (CNU) recommended that all law enforcement agencies should maintain a negotiation capability either in-house or through mutual aid. In spearheading this relatively recent initiative, the FBI was continuing its leadership and guidance role in crisis negotiation initiated almost 30 years earlier.

Of course, hostages were held and officials had responded prior to the last quarter of the 20th century, but policies and practices were primarily force-first oriented or *ad hoc*, depending on the totality of the circumstances. Crelinsten and Szabo (1979)
indicated that “Hostage-taking is a very ancient form of criminal activity. In fact, it was even an accepted tool of diplomacy when used by legitimate authority” (p. ix). According to Levitt (1988), hostage-taking is defined by the United Nations as “the seizing or detaining and threatening to kill, injure, or continue to detain another person to compel a third party to do or abstain from doing any act as a condition for the release of the hostage” (p. 14).

Agencies, including the FBI and the NYPD, had devised their own way of handling such problems. The NYPD was primarily action oriented. In regards to the FBI, one fictionalized depiction of its method was personified by the actor Ephram Zimbalist, Jr. as Inspector Lewis Erskine in the 1965-1974 television series, The FBI: “This is the FBI. We have the house surrounded. Come out with your hands up.” That was usually enough to solve the instant problem; word on the street was that J. Edgar Hoover approved of the portrayal. Fiction is seldom an exact mirror of reality. Whether intended to provide entertainment or information, images from a TV show often create an impression and an expectation in the mind of the viewer about what is actually happening and how law enforcement should handle the problem.

The negotiation process involves “law enforcement officers who are selected and trained for the task and who are acting on behalf of their employing agency” (Volpe & Louden, 1990, p. 308). For many years, the term hostage negotiation was used and, in many jurisdictions, it still is. In 1989, the FBI switched to crisis negotiation, and many agencies followed suit (Kaiser, 1990). The IACP (1991) utilizes the term hostage communicator. Hostage negotiation and crisis negotiation are used interchangeably throughout this paper.

A Sampling of Early FBI Negotiation Experiences

Historical mention of the FBI abounds with references to the proactive handling of hostage, barricade, and siege incidents and skyjacking events. Most situations ended successfully with minimum injury or loss of life. Others had different results.

According to the airline industry, there were approximately 970 attempted and successful skyjacking incidents worldwide between 1948 and 2000. The first known skyjacking occurred in February 1931, when a Peruvian airliner was seized. In the 1960s and 1970s, there were several hundred attempted and actual airplane hijackings in the U.S.; many involved diverting flights to Cuba (Breinholt, 2004). The FBI is the lead federal law agency responsible for responding to skyjacking incidents, which often also result in hostage situations on the ground.

The first recorded attempt to skyjack a U.S. plane to Cuba took place on August 3, 1961, when a man and his 17-year-old son boarded a Continental Airlines jet in Phoenix, Arizona; 65 passengers were onboard. The father had a long criminal record and was looking for a fresh start in Cuba. The pilot of the plane convinced the hijackers that they must land in El Paso, Texas, to obtain fuel to fly to Cuba. The FBI was waiting at the airport when they landed and persuaded them to allow 61 passengers to leave the plane. As the plane was moving down the runway to take off for Cuba, several agents disabled its tires and engine with machine gunfire. When an FBI agent boarded the plane, the father became enraged and threatened...
to shoot the remaining hostages. One of the hostages managed to distract the father, and both hijackers were soon in custody ("Skyjacking Thwarted," 2006).

Ten years later, October 4, 1971, a similar set of circumstances were present in Jacksonville, Florida. Again, the FBI disabled the plane with gunfire. This hostage holder was apparently more volatile than the one in Texas; two hostages and the captor died. The Federal District Court determined that the FBI was not negligent in the way the situation was resolved. The Appellate Court disagreed, and in *Downs vs. United States*, 522 R. 2d 990 6th Cir. 1975, ruled that “There was a better-suited alternative to protecting the hostages’ well-being” (McMains & Mullins, 2001, pp. 16-17). The rationale for the decision included reference to FBI policy that “established the safety of the hostages to be of primary importance” (p. 17). This decision is viewed by many as precedent setting in requiring law enforcement hostage/crisis negotiations as an alternative to the use of force or at least as a good-faith prelude to a more forceful resolution. The 1971 event, predating the formal adoption of hostage recovery through negotiation by two years, has had a direct impact on law enforcement practices. The FBI has been in the forefront by providing regularly updated pertinent training material to local and state law enforcement agencies such as including *Downs* as an important case study during negotiation training schools.

The Al Pacino movie *Dog Day Afternoon* (1975) is a fictionalized account of a real bank robbery hostage situation that took place in Brooklyn, New York, during August 1972. Given that art often imitates life, this big screen depiction captures much of the drama and problems associated with the real world. One characteristic reflected in the film more accurately than not is the tension and lack of coordination that existed among some NYPD units present and between the NYPD and the FBI. Both agencies had a jurisdictional right to be there; bank robbery is a federal offense and a state crime. Hostage/crisis negotiation had not been “invented” yet and, in many ways, some personnel in each agency viewed the other agency as troublesome, meddling, or worse.

After the *Downs* incident, but before the Appellate Court decision, heiress Patty Hearst was kidnapped in 1974. The subsequent investigation resulted in locating the suspected captors, and possibly her, in a Los Angeles house. A Los Angeles Police Department SWAT team surrounded the building, announced their presence, demanded surrender, and eight minutes later fired tear gas into the house. It was reported that more than 5,000 rounds of ammunition were fired by the authorities during the next hour (Payne, Findley, & Craven, 1976). The FBI was present at the scene. A fire, which was probably started by police tear gas canisters, claimed the lives of six members of the Symbionese Liberation Army (SLA); Hearst was not there (Gurr in Reich, 1990). Vetter and Perlstein (1991) noted that there was an “absence of coordination among various law enforcement agencies particularly the FBI and the police” (p. 77). The apparent decision by law enforcement not to negotiate was of interest since the FBI had been subjecting various audiotapes, provided by the SLA after the abduction, to psycholinguistic analysis in order to speculate about “the personalities of the SLA members and [make] suggestions for negotiation strategies” (Miron & Goldstein, 1978, p. 75). The FBI had recognized a symbiotic relationship between the behavioral sciences and police operations, but theory and practice were not yet synchronized.
The Philadelphia police department experienced two extraordinary siege incidents, in 1978 and 1985, with a group that identified itself as MOVE. The organization was predominantly African-American, anarchistic, and back to nature in philosophy, and it adhered to an absolute refusal to cooperate with the organized government of Philadelphia. The 1978 confrontation, after a yearlong series of escalating problems, resulted in the death of a police officer and the wounding of several other police officers and fire fighters. The 1985 occurrence, likewise, involved a long period of harassment and community displeasure. This time the police announced a 15-minute window of opportunity to surrender and then acted more forcefully, with the tactical operation resulting in a fire which consumed 61 homes and 11 lives (see Assefa & Wahrhaftig, 1990; Nagel, 1991; Wagner-Pacifici, 1994).

These incidents involving the SLA and MOVE were initiated by and primarily the responsibility of local police authorities. A consistent time-is-of-the-essence approach, apparently also present in the skyjacking incidents, was behavior reflecting the “Inspector Erskine” approach to the problems presented, with a dramatic follow-up. Federal law enforcement support, usually by the FBI, is generally common in such events and was an integral part of the Hearst kidnapping investigation and tactical preparation to capture the SLA. Of interest, the U.S. Attorney for Philadelphia decided that federal agencies had no jurisdiction to participate in the 1985 MOVE crisis. It may not be well-known outside criminal justice circles that although federal law enforcement agencies are afforded a certain degree of autonomy, the U.S. Attorney’s Office has a great deal of influence over certain aspects of their activities.

Another incident important to mention is the FBI’s role in what has become known as Wounded Knee II during the spring of 1973 (see Lyman, 1991). This complicated, lengthy, and dangerous event took place around the same time that the NYPD, and simultaneously the FBI, were initiating research and training into the multifaceted aspects of hostage/crisis negotiation that became the foundation for the adoption of this innovative approach to handling a problem that is as old as history. The outcome may be viewed with mixed results, but positive aspects learned helped set the stage for the resolution of many subsequent incidents that became the purview of the FBI, including several situations involving a variety of militia and so-called “right-wing” groups. These were settled in a predominantly positive fashion.

The FBI Initiates Hostage/Crisis Negotiation Research and Training

In the late 1960s and early 1970s, Morton Bard (1974) conducted pioneering research which contributed to major shifts in the way police agencies reacted to domestic violence, sexual assault, and hostage holding. Each of these areas involved a wide range of dispute, conflict, and crisis intervention issues. Bard acknowledged that “considerable gaps” still existed between police and academics but stressed their “commonality of interest.” His work sought to establish the “development of a mechanism for coupling the practitioner and the researcher” (p. 20). The publication of this article in The FBI Law Enforcement Bulletin is indicative of one manner in which the FBI disseminates information and concepts to local and state law enforcement agencies and thereby helps to advance an agenda of change influenced by forward-looking practitioners and academics. Not long after Bard’s comments appeared, one of the first published articles describing the new hostage
recovery program conceived by the NYPD was published by the FBI (Culley, 1974). Over the past three decades, the FBI, through its Law Enforcement Bulletin and a multitude of other publications and reports, has contributed a substantial volume of information dealing with a diverse assortment of police operations and tactics issues; much has included hostage negotiation information.

One of the original FBI contributors to the foundational work that became hostage negotiation, Conrad Hassel, noted that this specialty was not even conceived until 1972 and that it soon spread across the country (see Gettinger, 1983). Among the reasons that the concept spread and was accepted was probably a combination of well-publicized, early-on successes during several high-profile incidents handled by the new NYPD team of negotiators and the bully pulpit of the FBI Academy. Contributing to this was a very positive working relationship between the first NYPD HNT commander, Frank Bolz, and the New York Office (NYO) of the FBI, which led to a professional connection between the NYPD HNT and the FBI Academy that continues to this day.

An original FBI behavioral scientist and hostage negotiator, Thomas Strentz (1975, 1985, 2006) actively sought to share the developing information with the larger law enforcement community while in the Bureau and since. He is representative of several current and former FBI agents who continue their contributions to HN through research and teaching long after they leave government service, including Fusilier, Lancely, Noesner, Van Zandt, and Voss.

Another way in which the FBI plays a role in the discipline of hostage/crisis negotiation is through the compilation, analysis, and distribution of hostage barricade statistics (HOBAS). Although there were earlier efforts to accomplish this task, HOBAS was created in 1995 as a mechanism to collect, analyze, and disseminate data about hostage-type incidents occurring around the country. Up to that time, a reliable central database did not exist. Originally a paper-and-pencil operation, HOBAS went online in 2000. As of 2007, approximately 5,500 incidents have been reported to the FBI for inclusion in HOBAS; 97% of these incidents involve situations handled by local and state police departments. HOBAS data is used by the FBI to review and explore trends in the field which are then disseminated to police agencies as statistics and as updated training programs offered at the FBI Academy in Quantico and throughout the U.S. by training agents in each of the 56 FBI Field Offices across the country. The operational response, research, and training functions of the FBI as they pertain to hostage/crisis negotiation is the responsibility of the Crisis Negotiation Unit (CNU) of the Critical Incident Response Group (CIRG). The FBI maintains a small cadre of agent-negotiators at Quantico and has more than 300 crisis negotiators in the 56 field offices.

During 1998, this author (Louden, 1999) conducted a nationwide study of hostage/crisis negotiation practices of 275 police departments in the U.S. that employ at least 100 sworn officers. The FBI was the initial training provider in 35% of the agencies responding. There is a school of thought that the FBI should be credited with a higher percentage since during the 1980s and into the 1990s approximately 75 FBI negotiator trainers provided train the trainer hostage/negotiator classes across the country, thereby contributing a force multiplier effect.
CNU is responsible for managing personnel and providing the additional training and equipment necessary for field negotiators to successfully resolve crisis situations or assist local and state law enforcement agencies in doing so. CNU has adopted the Latin phrase *pax per conloquium*, “Resolution through dialogue,” as its motto (Flood, 2007). The motto of the NYPD HNT is “Talk to me.”

**Specific Training and Coordination Examples**

From the start, the NYPD and the FBI engaged in a policy of sharing cross-training opportunities for negotiators. Each agency provided training time for officers from the other agency, sharing curriculum and instructors. A few specific examples merit mention.

An important added duty for NYPD negotiators came about in 1984, a little more than ten years after the team was first formed. This was a new mandate to respond to certain incidents involving non-hostage-holding emotionally disturbed persons (EDP). The catalyst for this change was well-documented by the media in New York City and elsewhere. As may be expected, a host of court proceedings, Grand Jury, criminal trial, civil trial, and administrative hearings arose. The legal processes moved slowly, at least 28 months from incident to criminal verdict, longer for civil and administrative matters. Meanwhile, the NYPD moved quickly, and in less than 60 days it initiated a new response protocol for response to similar incidents.

A positive result of the tragedy was the design and adoption of a new police training program for response to EDPs. A short-term program for dealing with mentally ill individuals was designed and presented by the hostage team commander, a tactical commander, the police psychiatrist, and the city commissioner of mental health with the assistance of the FBI. The services of FBI Academy-based negotiators were requested based on their experience at the time using a closed ward psychiatric facility to acquaint negotiators with some of the dynamics of interacting with mentally ill individuals.

Another NYPD–FBI example of training and cooperation involved linguists and the clergy. New York City presents many unique law enforcement challenges based on language and culture. The NYPD and the FBI conducted joint familiarization programs, offered to linguists assigned to the New York Office of the FBI and local law enforcement chaplains, designed to acquaint these groups of potential helpers with the practice and procedure that is used in hostage/crisis negotiation response.

A third illustration involved suicide prevention awareness, an important issue for negotiators. One of the NYO FBI negotiators who subsequently was assigned to the core CNU group at Quantico, Chris Voss, was also a volunteer at the historic Marble Collegiate Church in New York. His helping contribution to his church involved their renowned anonymous HELP line for individuals contemplating suicide. Voss devised an arrangement for FBI and NYPD personnel to be familiarized with the workings of the HELP line and even give some time to this atypical form of law enforcement negotiation training.

Lastly, based on some routine interactions between the NYPD and the U.S. Coast Guard, it was decided to design a program to test preparedness for hostage/
crisis response to waterborne hostage-holding. This time, the NYPD HNT and FBI negotiators were joined with the U.S. Coast Guard Captain of the Port of New York and a multitude of other agencies and private industry in “seizing” a container ship in New York harbor. The all-day exercise required almost one year of preparation. Much was learned from this exercise, which took place months before the terrorist take-over of the Achille Lauro cruise ship in the Mediterranean.

**Hostage/Crisis Operational Cooperation**

As in training programs and in a general atmosphere of cooperation, there was also a great deal of operational interaction among and between the negotiators and tactical officers from each agency. The law enforcement work environment of New York City afforded many opportunities for multi-agency jurisdictional response to reported incidents: federal office buildings, banks, even the United Nations. Three siege incidents inside foreign Missions to the United Nations resulted in coordinated, cooperative responses by the FBI, the NYPD, and a host of other agencies. Even if there were no clear jurisdictional issues, the respective NYPD and FBI negotiation elements regularly notified each other of “opportunities” to participate or observe the other team in action. For the most part, this arrangement worked very smoothly and positively.

A dramatic example of this took place during November 1986. A team of NYPD detectives and tactical officers were attempting to apprehend a suspect in a murder investigation. Six officers were shot and wounded, and the subject escaped. An immediate intense manhunt ensued. While the police were actively pursuing all investigative leads, the subject put the word out on the street that the police intended to kill him and that he would not be taken alive.\(^5\)

The NYPD countered his claim in the media and designed an elaborate investigative and apprehension plan that included the immediate presence of an HNT element to assure the suspect and the general public that even though appropriately upset by the shooting of six officers, the police would act safely and professionally in locating and apprehending the wanted individual. Approximately three weeks later, he was located, holding two innocent hostages, and he was safely taken into custody after a several-hour negotiation session. The FBI’s role involved not only what would be expected as routine support during a critical investigation but also crucial assistance in the course of the actual negotiation with the subject by an FBI negotiator.

**A Few Additional Comments**

This paper looks back on FBI local law enforcement cooperation in the specialty of hostage/crisis negotiation. Only peripheral mention was given to tactical operations. The opinion of this author, based on four decades of active and academic police-related pursuits, is that negotiation cannot even hope to be successful without coordinated interaction with a carefully selected and well-trained, -equipped, and -disciplined tactical element. Adequate treatment of this part of the equation is beyond the scope of this paper.

The NYPD has the luxury of their elite Emergency Service Unit (ESU) for this task. The FBI has a combination of local field office Special Weapons and Tactics Teams
(SWAT) and their own brand of Super-Swat, the Hostage Rescue Team (HRT). The formation, early days, and subsequent actions of HRT is well-documented in a book by the founding commander, Danny O. Coulson (1999).

FBI negotiators and HRT were put to a critical test in 1983 near Waco, Texas. Like many of the events noted in this paper, volumes have been written about what happened there between February 28 and April 19, 1993. One aspect that deserves mention is that even in the face of the conflagration on the last day, numerous individuals, including children, were negotiated out safely during the first 30 days. A second item worthy of limited mention in this paper is the extent of government and academic investigation, research, and writing that followed this event and continues. The FBI paid close attention to the various findings and recommendations. This author is proud to have been asked to participate in part of the post-event review process and thereby make a brief contribution to that aspect of the literature of hostage/crisis negotiation (Louden, 1993).

Another connected dimension of hostage/crisis negotiation (but not included here) is the law enforcement response to extortion and kidnapping. The degree of involvement by local and state police departments varies across jurisdictions. Large city departments, like New York City, maintain their own investigative capability to respond to such events. Very often, trained hostage negotiators are integral to a successful resolution of the reported event. Even for incidents that are not automatically a federal case, the FBI is notified of the investigation and frequently participates.

The FBI mandate for involvement in extortion and kidnap investigations is extensive. On the local level, they often invite members of various police jurisdictions to be present in their command post (CP) to maximize information sharing and coordination. Some of these investigations are run out of a centralized CP in Washington, DC. Not a secret, but probably not well-known outside criminal justice circles, is the responsibility of the FBI as a consequence of the kidnapping of U.S. citizens in foreign countries; CNU negotiators play a major role. This is probably one of the least-documented spheres of their activity. Individuals interested in learning more about this may wish to start with Hagedorn-Auerbach’s (1998) Ransom: The Untold Story of International Kidnapping.

FBI cooperation with local and state law enforcement agencies is not limited to the U.S. The FBI National Academy (NA) (2007) is “a professional course of study for U.S. and international law enforcement leaders that serves to improve the administration of justice in police departments and agencies at home and abroad and to raise law enforcement standards, knowledge, and cooperation worldwide.” Police personnel from all 50 states and approximately 150 foreign nations have participated in the program (FBI National Academy, 2007). Hostage/crisis negotiation is a subject frequently covered in the classes.

FBI contributions to local and state law enforcement agencies are not limited to the U.S. agencies or the international NA students. The Bureau also participates in a network of International Law Enforcement Academies (ILEA) (2007) sponsored by the U.S. Department of State:
Speaking before the United Nations General Assembly at its 50th Anniversary on October 22, 1995, then-President Clinton called for the establishment of a network of International Law Enforcement Academies (ILEAs) throughout the world to combat international drug trafficking, criminality, and terrorism through strengthened international cooperation.

Now the United States and participating nations have moved ahead with the establishment of ILEAs to serve three regions: Europe, Asia, and Africa and a graduate facility in Roswell, New Mexico. An Academy for the Americas is currently under consideration.

The FBI played a major role in the founding of the first ILEA Academy in Budapest, Hungary, in 1995 (see Freeh, 2005). The curriculum often included lecture and role play about crisis negotiation using a staged robbery in an actual Budapest bank, during non-business hours, as the delivery platform.

Concluding Comments

“It is not a perfect world” is a phrase heard often in law enforcement circles. Hostage/crisis negotiation is an imperfect police response to a very difficult, life-threatening problem; however, it is a reasonable means to an end approach to maximize safety and control in an effort to save lives. Local and state law enforcement agencies do not always have a perfectly harmonious relationship with the FBI, but in the practice of hostage/crisis negotiation, there is presently more agreement than not. A review of the institutionalization of this practice, initiated by a local police department, allows an examination of an exemplar of good practice. This author has elected to accentuate the positive in this brief overview of maximum cooperation and positive forward movement.

Endnotes

1 This essay is based on a review of literature and on participant-observer activities between 1966 and 1987 and informed-observer activities between 1987 and 2007.

2 For an overview of the FBI, see Koletar (2005). Koletar retired as a Supervisor in the New York Office of the FBI.

3 Some of the anecdotal examples used throughout are based on the professional experience of the author as a hostage negotiator for the NYPD starting in 1974 and subsequently as team commander and chief negotiator from 1981 to 1987.

4 The death of Eleanor Bumpurs received extensive media attention. A search of New York-based media outlet and Google type websites will yield extensive references.

5 The shooting by, search for, apprehension of, and subsequent criminal trial of Larry Davis received extensive media attention. A search of New York-based media outlet and Google type websites will yield extensive references.
References


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Introduction

Workplace safety has been a legitimate concern from the outset of the mid-19th century experiment with “modern” U.S. policing, yet for many decades police departments took few steps to minimize risks to patrol officers in their routine duties. Historians and the memoirs of prominent executives of 19th-century urban police departments agree that violence against patrol officers was not uncommon and that this sometimes turned deadly (e.g., see Astor, 1971; Costello, 1885/1972; Flinn & Wilkie, 1887/1971; Lane, 1967; Richardson, 1970; Roe, 1890/1976; Savage, 1865; Schneider, 1980; Sprogle, 1887/1971; Walker, 1998; Walling, 1887/1972). Though it is difficult to generate a complete picture of the physical dangers even today, our understanding of them began to improve after World War II when the FBI’s Uniform Crime Reporting program gradually included more information on police victims of felonious killings and serious assaults. Today, such reporting is extensive. Over the most recent ten-year period (1997-2006), the FBI’s Law Enforcement Officers Killed and Assaulted reports indicate an average of approximately 56 felonious killings annually and around 58,000 assaults (FBI, 2007). In 2006, the most recent year for which data are available, 48 officers were feloniously killed in the line of duty. Each of those killings was a tragedy, yet these figures need to be placed within the context of the nature of the work and exposure to harm if we are to objectively assess them. Consider that there are around 630,000 sworn U.S. law enforcement personnel with arrest and gun-carrying privileges (Reaves, 2007). Of these, approximately 400,000 (~63%) serve in uniformed positions that lead to calls-for-service and officer-initiated activities that produce millions of contacts every year (Reaves, 2007; Reaves & Hickman, 2004). Some of these contacts involve dangerous offenders, yet few result in the police using any level of physical force beyond handcuffing and physically directing suspects, and fewer still lead to police injuries (e.g., see Adams, 1999; Garner & Maxwell, 1999; Garner, Maxwell, & Heraux, 2002; for a concise overview of this and related literature on the use of force, see Alpert & Dunham, 2004, pp. 17-53). In the light of the volume of police-public contacts, it seems that a very small number of assaults result in police deaths. Further detailing these dangers and risks to police work falls beyond the boundaries of this particular paper, but one final brief comparison is worth considering—murder rates.

High violent crime rates are more likely to be associated with large urban areas. The murder rate per 100,000 inhabitants for the 72 Group 1 U.S. cities (those with populations of 250,000 or more) in 2006 was 13.1, while for the population of officers working those large cities, the rate of felonious killings of police was 5.24. For killings within county jurisdictions, which here include metropolitan and nonmetropolitan
departments, the rate was 7.3. Granted, these examples provide only a snapshot both in terms of time (one year) and population groups/types (two of several), but they strongly suggest that officer safety measures are reasonably effective given that felonious killings of police not only are not several orders of magnitude larger than that for the general population, but they are actually smaller. In stark, if extreme, contrast, consider that 12,000 Iraqi police officers have been killed since 2003 in a country whose population is one-tenth that of the United States (Frayer, 2007; Iraqi Police Deaths . . . ,” 2007). Importantly, the 2006 rate of 6.0 felonious killings per 100,000 city and county police officers is approximately one-fourth that experienced by police a little more than 30 years ago (FBI, 1975). Over the past decade, improved field procedures to reduce risks to officers, more and arguably better training, together with technology such as soft body armor, have been associated with the steady and dramatic decline in the rate of felonious killings.

One of the logical factors to consider with regard to this welcome drop is police firearms training which, over the past century, has evolved from none among the bulk of U.S. police departments to today’s extensive academy programs for recruits and inservice programs for incumbent officers. Contemporary training spans statutory and constitutional law and ethics, practical marksmanship training and gunhandling for general safety and combat, field procedures or “tactics,” and judgment/decision-making experiences in which trainees integrate information and skills to resolve simulated encounters. The advances in this training in recent years are sufficient to obscure the dire situation routinely faced by early 20th-century police officers who then were part of the still new government entity called a “police department” that was still seeking a clear institutional mission. The developmental pace for policing was fitful, often awkward, and sometimes backsliding. Such context is crucial to more fully appreciate the efforts of the Federal Bureau of Investigation (FBI) in the mid-20th century when it sought to advance the skills and abilities of not only its own special agents but also to improve circumstances for tens of thousands of local and state officers who were delivering the bulk of police services around the Nation. This article will focus on the FBI firearms handgun training intended to improve officer safety and enhance the then-growing core mission of crime fighting. Before discussing this in detail, however, some additional background on police training—firearms training in particular—will be useful.

Training as Police Reform

From the 1840s through the 1910s, training for U.S. police was the exception not the rule. During this period’s earliest years, urban police departments rarely issued handguns to their officers, usually had no meaningful deadly force policies, and did not provide training. Patrolmen nonetheless routinely carried handguns which, under the circumstances, they typically carried concealed in a pocket. Understandably, the initial and then recurring costs associated with firing range facilities, along with consumables such as ammunition and targets, would have deterred all but the most determined administrators from introducing handgun training during what was a challenging period for municipal tax revenues and budgeting. Many municipalities also wished to avoid legal liabilities and unfavorable public opinion that might come with police-involved shootings. Carrying a handgun, therefore, not only came at the officer’s personal expense, so did its use (e.g., see Johnson, 1981; Kennett & Anderson, 1975; Lane, 1967; Miller, 1977; Richardson, 1970). During the Civil War and Reconstruction, police
increasingly carried concealed handguns irrespective of department policies. By the turn of the century, carrying a handgun had become a customary practice among larger municipal agencies, with many beginning to purchase and issue "standard" handguns suiting their individual preferences. Introductory and/or inservice handgun training, however, remained unusual. New York City was an early leader by virtue of introducing rudimentary revolver training in the mid-1890s, though this soon disappeared and was not reintroduced until the 1910s.

Prior to the 1930s, training amounted to little more than “on-the-job” patrolling with a veteran officer (e.g., see Berman, 1987; Walker, 1977; Wickersham Commission Reports, 1931/1968). The typical urban patrol officer around 1900 might receive a modest amount of classroom “theoretical” schooling supplemented by “the practical instruction he receives on the street” (Fuld, 1909, p. 106). Even prominent urban departments did little to build skills and abilities among their officers until much later in the 20th century, though various types of exceptions existed in the early 1910s in such cities as Chicago, Philadelphia, and New York City (e.g., see Chicago Civil Service Commission, 1912/1971; New York City Board of Aldermen, 1912/1971; New York City Police Department Annual Reports, 1913, 1915; Robinson, 1971; Special Committee of the New York City Board of Aldermen, 1971). These departments’ programs were around four weeks long as were the ones in St. Louis, Detroit, and Newark (Fosdick, 1969). While we now perceive their efforts to be quite modest, introducing month-long “recruit” training programs in an environment where there was none was, in fact, a huge forward leap. Despite these encouraging examples, a serious and widespread flaw in early police training was its lack of meaningful assessment. A good attendance record typically was the primary criterion for graduation since one’s presence was assumed to be the equivalent of newfound competence.

Officers of smaller municipal and county departments dotting the U.S. landscape, employed by the thousands, would endure the lack of “recruit” or preservice training for several more decades. This is attributable primarily to two factors. First, these relatively smaller departments were unlikely to possess sufficient personnel with the necessary subject-matter expertise to operate even a modest program. For many departments, hiring was not the ongoing process it often could be among the larger departments where even single-digit attrition rates led to hiring dozens or more officers a year. Second, though the concept of police officer standards and training (POST) commissions at the state level had been strongly championed by progressive leaders such as August Vollmer, O. W. Wilson, and others during the early 1900s (e.g., see Wilson, 1934), the first two states did not act on this until 1959. POST commissions would not be in widespread use among the states until the 1970s (e.g., consider Bopp, 1977; Gammage, 1963; Shaw, 1992).

By the 1930s, the International Association of Chiefs of Police (IACP) also had for some years been championing police training as an essential vehicle for reform. Officer safety, firearms training, and enhancing field performance often were topics at its annual national conferences. Progressive-minded chiefs hailed the advantages of firearms training for officer safety and for the crime-fighting mission that came to be so strongly associated with mid-century police reform efforts. The vast majority of the Nation’s police, however, were employed by relatively small departments that remained without sufficient motivation and/or resources to pursue something as expensive as training. As previously mentioned,
POST commissions were a distant goal. For most police officers, training remained atypical long into the mid-20th century. As a result, many officers continued to carry handguns without the requisite knowledge and skills. The comparatively advanced instruction and practice that we associate today with field procedures (tactics) and “shoot-don’t shoot” decisionmaking was still several decades away.

**Handgun Training**

Prior to the 1920s, the “state-of-the-art” in handgun training was to leave patrolmen to their own means when confronted with dangerously violent suspects. Despite the very real dangers they faced, one might well imagine how disinclined patrolmen would have been during this period of police history to devote their personal resources to developing handgun skills. Anecdotally, even today, some police officers likely would opt out of inservice firearms training if their departments operated it as a voluntary, not mandatory, activity. When forward-thinking police departments gradually adopted firearms training between the two World Wars, the programs were neither developed by police nor specifically tailored for their particular needs. Strictly speaking, police did not “develop” the early firearms training approaches that they came to rely upon but, rather, embraced existing doctrine, technique, and instructional methods that evolved within the U.S. military. The reasons seem simple enough: the military was presumed to possess firearm-related knowledge and proficiencies. This expertise had tremendous merit based upon its use by an institution that was weapon-oriented, and it was convenient to adopt an existing model comprised of a body of doctrine and technique, courses of instruction, instructor training, firing range construction and maintenance, courses-of-fire, and proficiency tests. Early police firearms training therefore would be most heavily influenced by the U.S. military and the National Rifle Association (NRA), which also depended upon this same general model as the basis for its competitive shooting programs.

**The U.S. Military**

Policing in the U.S. is predominantly local, but it is urban police work about which we know the most. So, at first it might seem odd to examine the new state police and highway patrol departments (hereafter, simply “state police” that were forming in large numbers during the period spanning from before World War I to the start of World War II. This roughly 30-year period provides an excellent means for exploring the influence of martial handgun training doctrine, technique, and instructional methods on U.S. police firearms training. Because state police departments formed rather late compared to those in the medium and larger cities, they typically included firearms instruction in their recruit training programs and, in some cases, periodically thereafter through inservice shooting activities (e.g., see Coakley, 1971; Conti, 1977). On the one hand, upon their creation, state police had a blank slate to work from in that they had no internal institutional inertia to overcome. They typically made training central to their preparations to launch their initial patrol operations, putting their complement of first-hired recruits through several months of training before ever working in the field as “state troopers.” On the other hand, key elements of their programs were modeled on U.S. cavalry practices, including firearms training. This is understandable for two key reasons: (1) state police executives were often former U.S. cavalry commanding officers and (2) state police heavily relied upon the horse for transportation until automobiles...
became plentiful and reasonably good highways (if not always paved) existed beyond the confines of the cities.

Unfortunately for the development of police firearms training, the revolver had been for the cavalry a relatively insignificant 19th century weapon and remained so in the early 20th century. The primary firearm for the cavalryman was the rifle or its shorter version, the carbine, either of which offered dramatically better accuracy and power at distances far beyond that possible with the handgun. Even in the romanticized West with its army and Indian clashes, the cavalryman’s horse was more the mode of transportation to engagements than an effective combat platform during engagements. The handgun did at least offer the possibility of inflicting casualties from further than permitted by the saber which, by 1900, largely had become symbolic. The revolver’s chief advantage for cavalry lay in its multi-shot cylinder and that only one hand was needed to hold, cock, and fire it, leaving the other free to manipulate the reins to direct the horse. The cavalry, therefore, developed handgun training for its particular needs which, if simply thrust into a different setting, might be a rather poor fit—such as in public policing. For the army, the handgun was somewhat of a specialist’s weapon with few tactical applications. Advances in rifle technology further marginalized the revolver, and later, the semi-automatic handgun’s multi-shot advantage in all but the closest-range emergency conditions where rifles were out of reach or otherwise impractical.

U.S. Army cavalry handgun proficiency training and qualification was divided into two stages (e.g., see The ROTC Manual—Cavalry, 1938; U.S. War Department, 1913). The first involved preparatory instruction, practice, and qualifying using bull’s-eye targets to be carried out while “dismounted,” which was cavalry lingo for standing on one’s own feet. Qualifying was the act of firing for record and being classified as an unqualified, qualified, marksman, sharpshooter, or expert shooter. Once this stage was completed, and assuming there was access to horses, suitable ground in a safe location, and other resources, the second stage commenced. This focused upon “mounted” handgun proficiency while the horse was standing (though probably not perfectly still given the noise), and at the walk, trot, and canter. Although this progression might have made sense for early state police given their close modeling on cavalry organizational structure, uniform appearance, and terminology, it seems largely irrelevant for municipal foot patrol officers. Nevertheless, municipal police adopted the key components to the “dismounted” bull’s-eye instruction, practice, and qualifying model. As previously mentioned, for cavalrymen, this phase was the precursor to (hopefully) more practical pursuits, while for the police it generally comprised the full extent of their training.

The National Rifle Association

The second prominent influence upon early police firearms training was the NRA. Established in 1871, the NRA was an advocacy, facilitating, and sanctioning organization focused upon the promotion of civilian rifle practice and formal competition. This might seem an odd mission for a private organization, but the two founding Union Army officers and many of like minds were of the opinion that there was an intolerable deficiency among military recruits regarding firearms knowledge and skill. Military recruits were, of course, to be drawn from the general population, and if rifle proficiency of a martial nature was more widely distributed
within that population, ultimately their fighting efficiency and effectiveness theoretically would be enhanced. This was especially important for the U.S. military model of the era which, unlike most European countries, depended upon a small standing army in combination with the “citizen soldier” attached to local and state militias to swell the ranks in times of war. For example, while the Union Army near the end of the Civil War grew to a million at its peak, upon the war’s conclusion, the army was promptly reduced back to near the congressionally authorized strength of around 25,000. The U.S. Army remained small throughout the rest of the 19th century and into the 20th until national mobilization for World War I (for a frank assessment of its condition, consider Smith, 1992). Therefore, without some degree of rifle proficiency within the general population, U.S. Army infantry and Marines would face a dire lack of a critical, time-consuming, and difficult to develop skill. Except for horse-drawn light artillery, the rifleman still comprised the primary tactical means for cementing victory on the battlefield by taking and holding valuable terrain or infrastructure.

The NRA was of significance even in its earliest years. Born of professional military leaders, it would come to count among its early presidents none other than generals Philip H. Sheridan, Winfield S. Hancock, and Ulysses S. Grant, the latter being President of the United States in the years following the Civil War and during Reconstruction. Its extension into recreational and competition handgun shooting was an early 20th century development. This initiative expanded relatively rapidly to include local, regional, state, and national matches given the foundation previously built for the rifle which remained its principal focus. NRA did not, after all, change its name to include “handgun.” Handgun doctrine, instructional methods, and proficiency expectations naturally enough were grounded in the dismounted cavalry bull’s-eye training previously discussed. Recreational and competitive shooters had no particular interest in firing from horseback during an era when the automobile was in ascendancy, and indoor shooting galleries became popular in urban areas. With few exceptions, NRA handgun shooting featured the same general characteristics found then and to this day: the handgun is loaded and then held in a firing grip, arm angled upward from the elbow in a safety-oriented standby position while awaiting the signal to fire; a bull’s-eye target; five-shot firing strings; and fixed distances of 15 or 25 yards for “rapid-fire” (five shots in 10 seconds) and “timed-fire” (5 shots in 20 seconds), and 25 or 50 yards for “slow-fire” (essentially untimed, but usually a maximum of one minute per shot). Military training and police-only matches often relied upon the shorter distances, while the longer distances more often were used for state, regional, and national matches open to the broad range of handgun shooters.

While there were exceptions to the general picture of early police firearms training presented above, the bulk of U.S. police officers would have been fortunate to participate even in questionably practical martial handgun training. It therefore should come as no surprise to find that the FBI also initially depended upon this approach when it began conducting firearms training for its special agents in the mid-1930s. The FBI, however, would make a noteworthy break with convention and introduce the next major police firearms training model.

The FBI’s Early Years

President Theodore Roosevelt established a small federal investigative arm in 1906 to bring the U.S. Department of Justice to bear on “the despoilers of the public lands in
the West, the railroad barons, the great trusts which threatened to obtain a stranglehold on the economy of the nation, [and] the processors of adulterated foods” (Cook, 1964, p. 50). Two years after the attorney general created this investigative service comprised of former Treasury Department agents, together with borrowed Secret Service and other federal agents, Congress temporarily halted its operations (p. 51; Ungar, 1976, p. 40). This unit would grow over the next two decades into a federal bureau, however, though Roosevelt’s attorney general was at first unsuccessful at the formidable task of overcoming long-standing Congressional resistance to an expansion of federal police powers. Undeterred, and with the President’s support, he created the “Bureau of Investigation” during the 1907-1908 congressional recess and then managed to deflect ensuing criticism. By the end of 1908, the Bureau had grown dramatically to 200 special agents (Countryman, 1973, p. 57). Congress was irritated by this exercise of executive power, but it still controlled federal agency appropriations and thereafter heavily scrutinized funding requests as well as limited the federal jurisdiction for the Bureau by passing few criminal statutes for it to enforce (Collins, 1943, p. 12). This ongoing stalemate would not be resolved in the FBI’s favor for over two decades.

By the mid-1930s, the FBI had grown to over 500 special agents (Purvis, 1936, pp. 50, 60). While this made the FBI large compared to state police forces and all but the larger municipal departments, it was a modest investigative arm given its national jurisdiction. Even if confined to operations in the large metropolitan areas, 500 special agents would be spread very thinly. This did not, however, preclude their exposure to the general risks and danger inherent to police work. In the mid-1920s, for example—a period during which special agents still were not routinely armed—a special agent was shot to death by a car thief whom he had stopped to question (de Toledano, 1973, pp. 94-95). In the early 1930s, special agents still were not authorized to routinely carry or otherwise possess a firearm, but “only in a special case or when his life might be in danger, and permission from his special agent in charge was always necessary” (Purvis, 1936, p. 66). Even then, armed confrontations could easily go poorly for special agents as, for example, in June 1933 when two FBI agents were wounded and one killed, along with two Kansas City detectives and the McAlester, Oklahoma, Chief of Police at the Kansas City train depot “massacre.” The special agents were escorting a federal prisoner to Leavenworth Penitentiary when several armed men approached and immediately opened fire on the law enforcement officers as they entered their automobiles. Only one city policeman was able to return fire in defense, but none of the attackers was hit (p. 35). Another high-profile gunfight, this one at Little Bohemia in April 1934 during the hunt for John Dillinger, found special agents dividing up their available weapons “so that each [automobile] would contain a machine gun, a rifle, a shotgun, tear-gas equipment, and of course the short arms [handguns] of each special agent” (p. 8). The shoot-outs, however, claimed one special agent’s life and left another special agent and a local police officer severely wounded. One uninvolved person was killed and two others wounded in a case of mistaken identity. None of the Dillinger gang was hit by gunfire. Beyond the public relations disaster, FBI training appeared as though it might be inadequate and perhaps of less utility than previously thought.

**Early FBI Firearms Training**

During the early 1930s, the public became riveted to the violence and escapades of gangsters and bandits. The Kansas City Massacre and Little Bohemia, along with high-profile cases like the Lindbergh kidnapping, ultimately worked to expand the FBI’s jurisdiction as congress began to “federalize” a widening array

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of criminal activities (Kelley & Davis, 1987, p. 12; Purvis, 1936; Ungar, 1976, pp. 69-72). Interestingly, Congress still denied special agents both arrest powers and routine handgun carrying privileges (Collins, 1943, p. 12). Arrests depended upon FBI special agents enlisting the formal assistance of a city, county, or state police department. But the tide began to change in May of that year when President Franklin D. Roosevelt signed six bills associated with that decade’s “war on crime” (Ungar, 1976, p. 50). For example, the Fugitive Felon Act made crossing state lines to avoid prosecution a federal criminal offense, another bill established “stiff penalties” for either assaulting or killing a federal law enforcement officer, while still another made bank robbery a federal crime (Collins, 1943, p. 21; Ungar, 1976, p. 76).

Despite the awkward circumstances brought by no authorization to routinely carry handguns or make arrests, apparently some form of firearms training had been under consideration by the FBI. It appears that at least as early as 1933 there had been discussions about constructing a range facility at Quantico, Virginia, south of Washington, DC. There were concerns about this becoming “too public,” however, and no action was taken (Butrym, 1982, p. 21). Nevertheless, the stage was close to set for formally authorizing special agents to routinely carry handguns. In June 1934, Congress acted, and following this, the Bureau “immediately inaugurated a special firearms training program for its agents . . . [while] . . . the finest firearms experts in the country began teaching the Special Agents of the FBI how to draw guns rapidly and shoot straight” (Hoover, 1945, p. 10). Writing a decade later, Hoover noted that the FBI had “for many years made a study of the art of shooting under every conceivable circumstance” (p. 11), something which informed its development of the Practical Pistol Course or “PPC”—the principal focus of this article—a course-of-fire and training model that became synonymous with the FBI.

Yet, the Bureau’s initial handgun proficiency activities were of a martial nature, and it turned first to the War Department for firearms training for the special agents: “Our entire personnel had to be trained and through the cooperation of the War Department that training has been accomplished. The new trainees who come here are sent to one of the adjacent forts and there instructed in the use of these weapons” (FBI, 1935e, p. 69). In the mid-1930s, special agents were firing 30 shots per month over elements of the U.S. Army’s dismounted course consisting of ten shots slow-fire at 15 yards, ten shots slow-fire at 25 yards, and ten shots rapid-fire at 15 yards (Purvis, 1936, p. 55). They also appear to have been provided additional ammunition with which to practice at local target ranges as well as additional training with shotguns, rifles, and machine guns. This doctrine and technique, however, would have severely limited the value of this early training. At least some training included the use of a “bobbing target or moving target,” a clear reference to the bookbinder board style of humanoid targets featured in cavalry mounted training but sometimes used in dismounted training, too (pp. 55-56).

The influence of the martial model and its bull’s-eye target shooting character would be reinforced by the participation of special agents in the formal target shooting competitions popularized by the NRA. For example, two FBI agents placed second and third in a police-only match held at the NRA’s 1935 National Matches. Later that year or in early 1936, a four-man FBI pistol team traveled to Miami, Florida, to compete against that city’s team on an NRA course-of-fire (NRA, 1936). FBI competitors were expected to return to Tampa, Florida, for the Mid-Winter Pistol Tournament to be held that March.
Whatever the competition shooting represented to the FBI, it continued to develop its practical firearms program. When the day’s classroom training at the Washington, DC, Department of Justice ended, part of the remaining afternoon was devoted to firearms safety and marksmanship fundamentals conducted at the pistol range constructed within the building’s basement. The majority of the firearms program, however, awaited the new agent trainees at the U.S. Marine Corps camp at Quantico. As a part of the 14-week basic program, special agent trainees underwent “tough” firearms training to become “qualified handler[s] of all types of firearms” (de Toledano, 1973, p. 106; Gammage, 1963, pp. 14, 16). Yet formal measures of proficiency appear still to have been gauged using the Army qualification course on which special agents had to achieve a minimum score of 60% (Cochran, 1966, p. 10). This figure had been a long-standing one for the Army and dated to before World War I (e.g., U.S. War Department, 1913).

FBI firearms training was undergoing dramatic changes, however, since agents-in-training fired their handguns “from every conceivable position, from moving automobiles and at bobbing targets” during the weeklong new agent firearms training program (Cochran, 1966, p. 10). The FBI also was consulting firearms and other experts in the combat use of the handgun, with J. Edgar Hoover (1945) noting that its maturing program was receiving input from “the finest firearms experts in the country” (p. 10). Their identities, backgrounds, and precise contributions and timing, however, remain unclear.

The PPC

The Course

The FBI developed its original Practical Pistol Course in the late 1930s, and the course was widely popular by the end of the 1960s as evidenced by the countless versions in use by individual local and state police departments (e.g., consider Hoover, 1945; Roberts & Bristow, 1969; Skillen & Williams, 1977; Weston, 1973). This authentic PPC was designed to cover in a single course “as many situations as possible under which the agent may have to shoot” (Hoover, 1945, p. 12). Although the FBI retained bull’s-eye shooting to convey marksmanship fundamentals, it sought a more practical combination of handgun shooting speed, marksmanship, and related gunhandling, as well as a reinforcement to use cover or concealment when available. (More detail on this and other facets to the PPC are discussed.) This was an impossibly tall order for a 50-shot course-of-fire, but for the FBI, this course did not comprise the full substance of the handgun training for its special agents. For many local and state departments, however, it appears that a single course-of-fire might serve as the foundation for instruction, repeated practice, and the means for certifying that officers were “qualified” to carry and use their firearms in the line of duty.

One contributing factor to the FBI’s relatively quick move beyond heavily relying upon the bull’s-eye target shooting model and toward “combat shooting” was having a relatively clean slate upon which to conceive, design, and implement a new program. Director Hoover also was determined to cement the FBI approach to training as a general model for police across the Nation. Furthermore, while the PPC was a huge step in the right direction given the nature of bull’s-eye target shooting, we must be cautious to not assume dramatic performance gains despite the claim
of “Quick, straight, and accurate shooting” (Hoover, 1945, p. 11). Nonetheless, the PPC would in time become the basis for the overwhelming majority of police training courses and proficiency tests (Matulia, 1980; McManus et al., 1970; Skillen & Williams, 1977).

The original 50-shot course designed specifically for FBI special agents set in motion a sea change in police firearms training. It consisted of two stages and used a single full-sized humanoid silhouette shape printed in black ink set against an off-white background. The first stage came at seven yards and involved ten shots. This stage captures many of the important departures from then-contemporary firearms training. Special agents had 25 seconds to draw their handguns from their holsters, fire five shots using the trigger-cocking mode (pressing the trigger without first thumb-cocking it), reload with five cartridges from a trouser pocket, and then fire a second string of five shots. Although one-handed firing was stipulated, it was from a deeply crouching stance that brought the forward leg’s thigh nearly parallel to the ground. This stance bore no resemblance to the target shooter’s upright stance. The “combat crouch” was physical and action-oriented; it sharply contrasted with target shooting stances designed to maximize balance and minimize muscle fatigue over what could be an extended session of precision shooting (Hoover, 1945, p. 12; McGivern, 1945, p. 7). The pistol was extended forward, but with the elbow significantly bent so that the handgun was near or slightly above hip level. This placed the handgun far below the special agent’s line-of-sight and comprised a form of “point-shooting” since there was no use of the sights. Part of the reasoning in this lay in reducing the agent’s frontal area by lowering his profile and thereby reducing his exposure to incoming bullets (McGivern, 1945, p. 7).

The second stage to the PPC consumed 40 shots and, thus, comprised the bulk of the PPC’s various elements. These 40 continuous shots (80% of the entire course) were fired within five minutes and 45 seconds over multiple firing strings at the 60, 50, and 25 yard lines. Beginning in a standing position at the 60 yard line, at the signal, special agents drew their revolvers as they dropped into a prone position and used a two-handed grip to fire five shots using the thumb-cocking mode. They then immediately reloaded, reholstered, and ran or jogged forward to the 50 yard line. There they fired a total of 20 shots, using two hands to fire five shots each from four positions—sitting, prone, and right- and left-hand barricades—that simulated use of cover (e.g., the corner of a building or around a car’s fender). Reloading between these four strings was under time pressure. After again reloading and holstering, special agents immediately ran or jogged forward to the 25 yard line where they fired a total of 15 rounds—five each from the kneeling, and then right- and left-hand barricade positions, to include reloading between strings. According to Roberts and Bristow (1969, pp. 77-81), these 15 shots were to be fired trigger-cocked.

Considered in its totality, this 40-shot stage brought a sequential closing by a special agent upon his target, something Weston (1973) characterized in the following manner: “The shooter assumes he is under fire from an armed opponent at all times . . . [and] . . . Each of the combat-shooting positions emphasizes target reduction, and the use of barricades suggests seeking available protection in real-life combat” (p. 77). There was also somewhat of a military “assault” flavor to this stage since special agents were in a fashion “firing and advancing” on the target. While this is fairly easy to explain given the FBI’s training relationship with the U.S. military, it still seems a curious one for police work. Perhaps experiences such
as the prolonged encounters at Little Bohemia and elsewhere where special agents engaged in extended surveillance or conducted raids to apprehend dangerous suspects inclined the FBI toward this feature to the course.

The PPC was a far more complex course-of-fire than conventional bull’s-eye target courses. One of the major differences was in using prone, sitting, and kneeling firing positions akin to those used for rifle shooting positions in order to provide greater shooting stability. For example, in the prone position, one rested the forearms and/or heels of the hands on the ground to fire at the target 60 yards away and, thus, need not attempt to hold the handgun steady at arm’s length in a standing position. The kneeling and sitting positions also were intended to offer support to the shooting arm and hand.

Given the linear arrangement of general purpose ranges, shooters stand in a line perpendicular to the direction of firing. This is a safe arrangement since all shooters are at precisely the same distance from the target line (i.e., not staggered). Recall, however, that stage two of the PPC course had special agents run from the 60 to the 50 yard line, and then from the 50 to the 25 yard line under time pressure. On the conventional target range with its parallel, compact firing lanes, this would be extremely unsafe and pose unacceptable risks for trainees. The alternative of having one officer fire the PPC while others waited for their turns would have been administratively cumbersome. The FBI overcame this problem to its satisfaction by arranging one area of its range complex in a radial or fan-shaped fashion with firing lanes emanating from a central hub. Several FBI agents would start close together and at angles to one another at the hub, and as they moved down range to the various specified distances, they also moved increasingly further apart on their respective lanes.

Critical analysis of the PPC, including discussion of its positive aspects, shortcomings, and alteration by local and state departments is presented further below. Because it was an important development in police firearms training, first we examine how the FBI was able to so effectively promote the PPC’s use by U.S. police departments.

Exporting the PPC to Local and State Police

No other single police handgun training or qualification course-of-fire has a provenance so generally well-known and its elements so easily recognized as the PPC-based course-of-fire. This is due to an effective FBI promotional strategy to export the PPC to the broader police community in the interest of officer safety and crime fighting. This strategy involved the National Academy “zone” schools taught by special agents assigned to field officers throughout the country, and The FBI Law Enforcement Bulletin.

The National Academy

The FBI’s centerpiece for influencing police training was the result of U.S. Attorney General Homer S. Cummings holding a “Conference on Crime” in Washington, DC, in late 1934. At that conference, he and Director Hoover “floated a proposal to have the Bureau run a national police training school for local law enforcement officers” (Powers, 1983; Ungar, 1976, p. 77). There even was some interest within Congress for a national police school along the general lines of the U.S. Military
Academy at West Point (Powers, 1983, p. 49). Though Hoover had by this time been director for a decade, his ability to influence police training was stymied until Congress expanded the FBI’s role as a federal law enforcement agency through statutes aimed at crime fighting, bestowed upon them the power of arrest, and authorized its special agents to routinely carry handguns (Gammage, 1963, p. 14; Ungar, 1976, p. 77). All three were necessary credentials to be taken seriously as a law enforcement agency.

In July 1935, around a year after gaining arrest and handgun carrying privileges, the FBI christened its Police Training School, which in 1945 was renamed the National Academy (FBI, 1935a; Ungar, 1976). The IACP backed the FBI’s police training program and established an advisory board from among its ranks. There was an application and selection process, but the training was underwritten by the federal government. Students still had to provide their travel, food, and lodging expenses. The National Academy grew from modest beginnings, with the first 12-week police school comprised of only 23 policemen and an early funding level that would support around 200 police officer trainees annually (Ungar, 1976). Classes grew in frequency and size, eventually producing several thousand FBI-trained instructors, managers, and executives employed by local and state departments (Cook, 1964, p. 218). By the mid-1950s, the National Academy had more than 3,000 police alumni among whom as many as a third had by then risen to various command-level positions (e.g., see p. 218).

As had been the case for the NRA regarding the promotion of its own firearms training approach, one of the National Academy’s key objectives was to prepare local and state police instructors to use FBI doctrine, techniques, instructional methods, and materials in their own departments’ training programs (Collins, 1943; Smith, 1940; Turner, 1993). Even as early as the late 1940s, Smith (1949) could project that the FBI would “ultimately exercise a profound influence upon the methods, and processes of local forces, by raising standards of general administration and of training” (p. 324). Attending the National Academy could be professionally beneficial for a police officer’s career, though fear of failing the program seems not to have been much of an issue (Ungar, 1976, p. 439). This was hardly unique to the National Academy, however, and, in fact, was rather prevalent throughout early police training programs. No curriculum or its delivery can be perfect, and local and state police criticism of National Academy programmatic shortcomings usually were muted. On one matter there was considerable dissension, however, and this was whether the Bureau should control police training nationwide. Police broke ranks with Director Hoover and his National Academy over this because America’s police departments wanted their independence (Turner, 1993, p. 204). That Director Hoover would become known for his interest in a national police force administered through the federal government likely played a significant role in this matter.

Even so, when police training attracted more attention following World War II, the FBI’s National Academy alumni were well-positioned within local and state police departments to implement and conduct PPC-based instruction, practice, and qualification programs to tens of thousands of their fellow officers (Smith, 1949). As evidence of the broader effects of the National Academy’s programs over time, the 1967 Task Force Report on the Police credited the FBI with dramatic changes in police training after the mid-1930s because the Bureau “dramatized the need,
set standards, and provided curricula and instructors for police training” (p. 138). Importantly, one of these areas of attention was firearms proficiency.

**Zone Schools**

Zone schools were implemented soon after the National Academy was created. By 1937, the Bureau was preparing special agents in field offices for collateral-duty instructional assignments to conduct various “police schools” for local officers in the region (Ungar, 1976, pp. 432-433). By the early 1950s, several hundred agents were trained to fill the police training instructor role (p. 432). Zone schools typically enrolled students from many departments in the local area. Compared with attendance at the National Academy, the zone schools likely had far broader and more immediate impact upon firearms training practices since many police departments were inclined to accept virtually free training offered nearby (Smith, 1940). These were extremely attractive to the smaller as well as more rurally located departments that otherwise found training completely out of reach (Turner, 1993, p. 208). Firearms proficiency was one of the three most popular subject areas (Smith, 1940; Turner, 1993, p. 208; Ungar, 1976, p. 433). Because in some years there were as many as 5,000 of these shorter zone schools conducted around the country (some only lasted a day or two), the FBI’s handgun training doctrine, technique, and instructional methods enjoyed particularly broad exposure. So, in addition to the lengthy and comparatively expensive National Academy, the Bureau’s relatively short-term zone schools brought handgun and other firearms training to the Nation’s police wherever there was sufficient interest.

**The FBI Law Enforcement Bulletin**

In 1932, the FBI introduced its *Fugitives Wanted by Police Bulletin*, which, in October 1935, changed to the still familiar title of *The FBI Law Enforcement Bulletin (LEB)* (FBI, 1932, 1935c). The *LEB* provided a promotional outlet for its training courses. One four-month series in the last half of 1935 provides an excellent example, particularly since it follows by a year the granting of arrest and handgun-carrying privileges, and by a month the opening of the National Academy. The August 1935 issue included a section on “Police School Courses and Curricula” that lists firearms training to be conducted at “the gun range of the United States Marine Corps at Quantico, Virginia” (FBI, 1935a, pp. 33-34). That training was to include firing from automobiles and at “bobbing” or moving targets as well as familiarization with a wide range of firearms in addition to handguns. The September *LEB* table of contents included “care of weapons,” along with a section on the 41 individuals with diverse professional backgrounds and subject-matter expertise who comprised the “Police Training School Faculty” (FBI, 1935b). That list included Major Julian S. Hatcher of the U.S. Army who, as one of the “distinguished authorities,” was an already well-known firearms authority, prolific writer, and editor for the NRA journal *The American Rifleman* (FBI, 1935b). Another feature on the Police Training School followed in the October issue and featured a panoramic photograph of the first cohort to attend, and then again in November to feature a photograph of the presentation of diplomas at the graduation ceremony (FBI, 1935c, 1935d). The National Academy program and FBI-sponsored training generally received excellent coverage in the *LEB*. 
Reflections on the PPC

The FBI’s PPC was a powerful catalyst for change in police firearms training, one without parallel during the crucial formative years of the middle third of the 20th century (c. 1930s-1960s). This phenomenon is partly attributable to the novel course, but equally important was the Bureau simultaneously creating an incredible national network of local and state contacts comprised of National Academy alums and zone school graduates, together with publications like the LEB that were widely circulated to departments around the Nation. This combination enabled the FBI to promote both its perception of the then current police handgun training challenge as well as its solution in the form of the PPC and related firearms training. It is important to remind ourselves that, in the mid-20th century, neither the FBI nor any other state or national entity exercised formal authority or significant influence over police firearms training and certification among the local and state departments. The IACP admittedly had existed since 1893, but at mid-century, there were no POST commissions or accreditation bodies like CALEA, no national instructor associations, and virtually no attention from the courts. Police were free to pursue firearms training as they wished. Therefore, and despite the combined and extensive contributions made by the NRA and FBI throughout the 20th century, neither of these organizations could mandate particular doctrine and technique, instructional approaches, or certification criteria.

Yet the PPC model clearly dislodged police handgun training and qualification practices from ones solely dependent upon bull’s-eye target shooting of martial origins to ones featuring a generally more practical foundation. It did so by being a far more appealing model and directly benefited from the FBI’s professional network. The PPC’s broad impacts, however, came not in its authentic, original form, but in the innumerable variants devised by departments that shared most of its key features such as the following:

- A humanoid target
- Drawing and immediately firing under time pressure
- Reloading under time pressure
- Trigger-cocking at the close-range, seven-yard stage
- Five-shot firing strings initially (later, six-shot firing strings)
- Simulated use of “cover” at the longer distances
- Kneeling, sitting, and/or prone firing positions for the longer distances

The FBI did not create their “proprietary” approach strictly in house, however, a fact best exemplified by the Bureau having consulted with mid-20th century firearms training experts among other police departments, civilian shooters, and the military. There was experimentation of a sort with practical combat handgun shooting in a variety of settings, including the NRA National Matches during the late 1920s and the 1930s, which incorporated several unconventional handgun contests. These courses came during a heightened period of NRA interest in police handgun proficiency and included military or commercial humanoid targets, a moving target, shooting right- and left-handed, quickly appearing “pop-up” targets along a directed walk through tall grass, the use of staggered and/or unknown distances, and even a bit of drawing from a holster. Though these police-only matches disappeared from the NRA’s National Match Program around 1940, some obviously then appeared as features of the PPC.
Authors of handgun shooting books sometimes also allocated a portion of their writing to practical uses. There were at times lots of interest as reflected in the pages of prominent magazines of the period, and a few specialty manuals or pamphlets appeared that were written by persons with military and/or police backgrounds. For example, Himmelwright’s 1933 edition of *Pistol and Revolver Shooting* included a short chapter titled “Revolver Practice for the Police.” This timely book described a “quick-fire” course at the then unusually close range of five yards, drawing the handgun from holster or pocket, and firing by double-action revolvers by trigger-cocking instead of thumb-cocking. He also emphasized promptly firing the first shot in around two to three seconds as well as quickly firing five-shot strings. There are many other authors, though only a few are noted. From a military and quasi-police perspective, for example, there was Fairbairn and Sykes’ (1987) classic *Shooting to Live with the One-Hand Gun*, based on British military police firearms training originally developed in 1920s Shanghai. The approach developed there would eventually influence training for intelligence agents trained by the Office of Strategic Services (OSS) during World War II (the predecessor to the Central Intelligence Agency) (Applegate, 1976). From the civilian sector, Ed McGivern (1938) included a lengthy chapter on practical shooting for police in his classic monograph *Fast and Fancy Revolver Shooting*. He not only mentions the FBI’s handgun training program of that period but seems highly likely to have been one of the experts that the Bureau consulted while developing the PPC. As for police authors, R. M. Bair of the Pennsylvania Highway Patrol put together a 55-page pocket-sized booklet titled *Manual of Police Revolver Instruction* in 1932. Published by the NRA, it was in its third printing in just two years during a critical point in the development of police firearms training as were others. Even Colt Firearms, one of two principal suppliers of revolvers to police departments, produced a pocket manual titled *Colt Handbook: A Manual on Handgun Use* (Colt’s Manufacturing Company, c. 1953). The *Colt Handbook* included a 14-page section on the fundamentals of bull’s-eye target shooting and related competition, giving equal space to a section on “defense shooting.” Despite the many alternative perspectives, concepts of appropriate training, and instructional methods, the PPC prevailed to dominate general notions about how police handgun training should be designed, delivered, and assessed. Its mid-century momentum carried well into the 1980s, and there is little doubt that some departments still use versions of it today. Because of this lasting influence, some final analysis is appropriate.

To summarize and provide some closing critical analysis, I reiterate some of the PPC’s key features and contrast them with previous customary practices associated with the martial model (in parentheses). First, its strongest points come in the context of the period during which it appeared due to the martial model that it gradually displaced. The PPC used a humanoid silhouette (not a bull’s-eye target) and included a close-range stage at seven yards (not 15 or 25 yards) that required trigger-cocking (not thumb-cocking). This stage also had special agents aim by “pointing,” which is in contrast to the precision-sighting used at the other distances (all precision-sighting). Agents noticeably bent their shooting arm at the elbow while in the crouched “combat” firing position, which also had the feet in somewhat of a boxer’s stance (standing erect). The pistol was extended slightly forward but at around hip level. Part of the reasoning in this lay in reducing the agent’s frontal area by lowering his profile at a time when he might possibly be shot at and thereby limiting his exposure to incoming bullets (McGivern, 1945, p. 7).
The PPC required gunhandling in the form of drawing (none) immediately before firing and reloading (none) under time pressure that connected the majority of firing strings. This emphasized continued firing in the event that a real-world encounter had not been conveniently concluded with the first cylinder of cartridges (one five-shot string at a time). At the longer ranges of 60 and 50 yards, the PPC stipulated the use of two hands to steady and control the handgun (one hand only). It also required movement into and out of several supported firing positions (no movement; only standing erect) and under time pressure. This introduced some physical exertion, too, which affects steadiness when aiming (remaining physically and mentally calm were essentials to fine marksmanship). The PPC also required the use of simulated cover, which usually took form in a 2” × 6” board rising from a receptacle installed in the ground (none). One need not be a police officer or a trainer to appreciate that the FBI’s signature handgun course introduced numerous practical improvements.

No approach is perfect, however, so the PPC also suffered from some weaknesses in its original form as devised for special agent training as well as from others that would emerge as local and state departments modified its stages, elements, and procedures to suit their idiosyncratic preferences. With the original PPC, there was no shooting performed between the seven and 25 yard lines where it seems rather likely that police would encounter dangerous suspects. Cars at that time were around 20 feet long, and outdoor spaces easily could extend beyond seven yards but fall well under 25 yards, which is a distance of over three times further. There also was no shooting at close ranges under seven yards where so much police-public interaction occurs, including at arm’s length where physical confrontations can sometimes turn deadly. Ammunition was carried loosely in a pocket, yet often in other locations or fashions when on duty. Lightly loaded match or target ammunition typically was used in training and qualification instead of service loads, and the two often differed markedly in blast level, flash, recoil, and bullet point-of-impact on target. As Skillen and Williams (1977) reported from the mid-1970s, 89 (80.2%) of the departments responding to their survey used “target” instead of “full-service” powered ammunition for training.

Given what should have been rather clear from a cursory examination of officer-involved shootings, there was far too much long-range shooting. The authentic PPC heavily emphasized medium- and long-range shooting, which was uncommon for armed confrontations involving police. Interestingly, on a course-to-course comparison with the national match bull’s-eye course, the PPC actually had the greater proportion of shots (50%) fired at the extreme distances of 60 and 50 yards. In contrast, the NRA National Match’s core elements resulted in two-thirds of its required shots being fired at the 25 yard line. Strictly police-oriented bull’s-eye courses along this general line often moved this shooting in as close as the 15 yard line.

As mentioned earlier, the 40-shot Stage 2 of the PPC had shooters progressively close in on the target, but it did not include an element incorporating tactical withdrawal (perhaps this was precluded simply due to safety). This seems somewhat analogous to a military assault of a held position, but most police work finds officers working alone or in pairs, instead of groups, and interacting with suspicious persons in public places. Importantly, the predominance of longer ranges (25 or more yards) within the authentic PPC would have influenced the division of training resources, particularly at the preservice or recruit level. The
marksmanship challenge inherent in hitting a humanoid silhouette target at 60 or 50 yards far exceeds the challenge presented at seven yards even if the latter challenge must be accomplished in less time. A disproportionate percentage of resources might have been directed to the more demanding marksmanship challenges presented by these elements to the course, with this at the cost of more practical shooting at shorter distances. One compelling reason would have been the necessity to qualify on this course-of-fire as opposed to only using it for practice. Since the FBI’s performance floor was, by the mid-1940s, 85% of the available 250 points (50 shots; maximum of five points each), performing well with the 25 shots at the 60 and 50 yard lines was imperative.

Shooters maneuvering through the PPC only moved after reloading (which probably was fine) and then holstering (which probably was not). In as distinct a break as possible with bull’s-eye shooting, all firing strings followed drawing or reloading—that is, there was no shooting whatsoever from an already unholstered ready-position. Yet, the course’s designers probably were aware that officers sometimes already had their handguns in hand during field encounters, for example, during foot chases, while approaching known dangerous suspects, or searching buildings under suspicious circumstances. This is particularly relevant since the cavalry and related competition bull’s-eye target ready-position had (and still does have) shooters put the back of the upper shooting arm against the chest wall and the lower arm—and with it the axis of the barrel—at around 45 degrees above the horizontal axis. This offered poor pre-positioning for police field use.

Finally, repeatedly firing at the PPC in recruit and inservice training, along with initial qualifying and inservice-qualifying, encouraged a carefully cadenced firing rate. This is because shooters naturally gravitate toward wanting to maximize their point scores and, thus, also their efficient use in the allowable time frame. There was no course-based incentive to balance firing speed with the presented accuracy challenge, so it was to officers’ advantage to use all of it so as to maximize accuracy. Yet, using only the time necessary to achieve an appropriate degree of accuracy (i.e., firing more quickly at closer ranges and more slowly at longer distances) is essential in gunfights. Put another way, in an encounter warranting the use of deadly force, police should fire as quickly as they can get hits so as to stop the threat that justified their decision. Firing slower than this in the face of a clear threat increases risks to police and the public.

As mentioned earlier, over time, local and state police departments made substantial modifications to the PPC course while retaining basic features and the acronym. For example, the 40-shot, nearly six-minute Stage 2 of the original was disaggregated into separate 60-, 50-, and 25-yard stages. The 60 yard line typically disappeared quickly and, over time, the 25 yard line became the long-range distance. Prone often disappeared along with sitting, though kneeling and the standing barricade positions seem to have persisted for several decades. The resulting loss of movement in Stage 2 also reduced physiological demands (and perhaps some psychological stress), which left officers on the disaggregated elements relatively calmer, with steadier breathing and fewer muscle tremors from exertion. (If this sounds implausible, take 60 seconds to get in and out of a prone twice, and then sit on the floor for a few seconds, and then into a kneeling position twice, and then run in place for perhaps 15 to 20 seconds. Even this minor physical activity easily triggers physiological responses in cardio and pulmonary rates as
well as sufficient muscle twitch to affect fine motors skills necessary for reliable gunhandling and precision marksmanship.)

Local and state police were primarily a uniformed service, and their handgun-related leather gear would, in addition to the holster, come to include either a set of cartridge loops; “dump” snap-pouches, which dropped cartridges into the hand when opened; plastic “speed strips” that held six cartridges fixed in a line; and, finally, “speedy loaders” that held cartridges in a circular arrangement matching the arrangement of chambers in the revolver cylinder. The latter technology became widespread in the 1970s and, as one might imagine, dramatically reduced the time for reloading while also increasing its reliability. Stage time limits usually went unchanged, however, which enabled officers to slow their firing speeds and likely increase their scores. The “speedy loader” innovation further compounded matters because firing strings usually were 12 shots or more and, therefore, did not include a built-in emphasis upon firing the first shot as quickly as the shooter could reliably make it hit. As a result, five or six seconds could pass between the signal to fire at the seven-yard “combat” Stage 1 and the report of shots ringing out. Given the reality that close-range gunfights last a few seconds, this was a training luxury with potentially dire consequences for field encounters. This is particularly the case at the seven-yard stage since this has the fastest required shooting pace in the course.

Conclusion

Less than 20 years before the FBI developed its PPC in the late 1930s, there essentially had been no firearms training conducted for police officers. In the interim, those who did relied nearly exclusively upon bull’s-eye training of martial origins. This was “better than nothing” in that something about marksmanship and some basic gunhandling was being conveyed, but it was of very limited value to officers who needed practical skills conceptualized for police service. The FBI’s ascent as a federal law enforcement agency during the 1930s and 1940s coincided with the slowly growing consensus that police training would be vital for police reform and professionalism. This provided an unprecedented opportunity for the Bureau to influence local and state policies and practices, and Director Hoover acted decisively. After the FBI developed the PPC, it then effectively promoted it during the mid-20th century through its National Academy curriculum and alumni, by way of the many zone school courses and their graduates, and via official publications widely distributed to police departments around the country.

Police departments gravitated toward the PPC to such a degree that, by the 1960s, it was the universal basis for instruction, training, and certification. Despite the shortcomings of the original PPC and, later, the seemingly innumerable PPC variants put to use by thousands of individual departments, the Bureau’s signature handgun course-of-fire was a huge forward leap in police handgun training. No single course-of-fire can incorporate all the skills and abilities police need, but before the PPC’s widespread use, the state-of-the-art in police firearms training did not require officers to

• fire at a humanoid target.
• use one- and two-handed firing techniques.
• draw from a holster and fire.
• trigger-cock during close-range firing.
- use a point-shooting technique not dependent upon the handgun’s sights.
- reload under time pressure and then continue firing.
- use positions more stable than standing when firing at longer distances (prone, sitting, or kneeling).
- develop marksmanship proficiency with the right and left hands.
- simulate the use of cover or concealment while firing and reloading.

The FBI’s handgun course came in response to these and other perceived shortcomings to then contemporary handgun training, and it would enjoy dominance within local and state police training deep into the 1980s. It has been displaced rather slowly over the past two decades by various contemporary approaches. Nevertheless, the PPC continues to thrive within the realm of police handgun competition in a very recognizable variant. The PPC acronym now also stands for “Police Pistol Combat” and is associated with competition handgun shooting. This resulted in the NRA’s Police Shooting Program launched in 1961 and announced in the pages of The American Rifleman. Police officers point-shooting from a combat crouch in the spirit of the seven-yard stage of the FBI’s original PPC even made the front cover of that issue (NRA, 1961). In 1962, the NRA’s PPC-based competition program held its first National Police Pistol Championships, conducting it on the Combat Pistol Range operated by the Indiana University Department of Police Administration (Grubar, 1962). This competition continues to interest police marksmen, and results from the 2007 championship can be found at the NRA’s website (www.nra.org). Today, however, neither police trainers nor competition shooters would argue that this is a suitable basis for police handgun training. Interestingly, and while the course elements have changed, the PPC acronym also lives on as a standard qualification course used by the Federal Law Enforcement Training Center.

The FBI’s PPC clearly has left indelible marks on the development of police firearms training. It gave form to notions about the suitability of training content, its delivery, and the certification of police officers for a half century. As for its legacy, contemporary approaches necessarily rest upon the foundation that it established beginning during the middle of the 20th century.

References


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As the investigation and prosecution of sexual homicide cases becomes increasing complex, law enforcement agencies are utilizing alternative avenues of investigative assistance. In 2004, the Oakland County, Michigan Sheriff’s Office was responsible for investigating the horrific sexual assault murder of an elderly woman. Although familiar with violent crime, this extremely violent and unusual case baffled investigators and motivated them to enlist the help of forensic scientists and FBI violent crime researchers to assist with their investigation. This multidimensional partnership led to the successful investigation and prosecution of the offender and serves as a model for law enforcement agencies willing to look to more unconventional avenues for additional resources in order to successfully resolve unusual and extraordinarily violent sexual crimes.

Agnes Schmidt awakened at 7:00 AM on May 31, 2004, like she did every day. She made her coffee and breakfast and then turned on the television. She sat on the couch working on a crossword puzzle. Later in the morning, Agnes got dressed and busied herself around her meticulous apartment. Around noon, her daughter, Rita Zarnick, stopped by to bring her some treats as well as to check on her welfare. Rita always expected that one day when she went to visit her mother she would find that she had passed. After all, Agnes would soon be celebrating her 93rd birthday. They visited for a while, and Rita left. Around 4:00 PM, Agnes heated up a TV dinner and sat down in her living room to eat. She had no idea that would be her last meal.

On a warm June 1st afternoon, Rita walked, as she did every day, from her home to her mother’s one-bedroom apartment a few short blocks away in Highland Township, Michigan, a quiet semi-rural community northwest of Detroit. When she arrived, she found the front door uncharacteristically locked. She called out for her mother but received no answer. Something was not right. Rita, a woman in her sixties, walked with trepidation to the back of the apartment, stood on a lawn chair, and looked through her mother’s bedroom window. Stunned, she came face-to-face with what no daughter should ever see, her murdered mother’s body lying on the bed in a pool of blood. Rita ran next door and told the neighbor to call 911. A few minutes later, police entered the one-bedroom apartment where Agnes Schmidt had lived for nine years.

Seasoned investigators, who had worked not only homicides, but a myriad of other violent crimes, thought they had seen it all until they entered Agnes’s bedroom that morning. Even these veteran detectives were unprepared for the extreme brutality and sexual degradation that was unleashed on one of the most vulnerable and fragile community citizens: the elderly female. In the blood-spattered crime scene
that unfolded before them, Agnes Schmidt lay crosswise on her bed, nude except for her socks. Her clothing was strewn about the floor of her bedroom, inside out. She had sustained 23 stab wounds to her neck, chest, and abdomen, including four to her vagina. The offender left the knife he had taken from Agnes’s own kitchen embedded in her abdomen. In the twilight of her life, Agnes’s dignity—92 years of living—was ripped away in an instant by a sexual predator who, without compassion or remorse, defiled her sexually, murdered her, and left her displayed across the bed to shock and offend whoever found her.

The detectives who entered that scene were stunned by the sheer level of violence inflicted on this defenseless woman. That an elderly woman has been viciously sexually assaulted appears, on its surface, to be incongruous with what the public at large and even most law enforcement officers associate with a sexual assault offense. Sexual assault, in the minds of many lay and professional people, is believed to be motivated by sexual arousal and desire on the part of the offender (Groth & Birnbaum, 1979). Rape and sexual assault are in fact distortions of human sexuality (Groth, 1978). When the victim is elderly, these distortions cause law enforcement to question the more traditional avenues of investigating these types of homicides. This perception can pose serious difficulties as law enforcement attempts to establish initial investigative directions for solving these unusual types of sexual homicide cases.

Because of the relative infrequency of these cases and the lack of research in this area, investigators often encounter difficulties when trying to investigate a sexual homicide involving an elderly female victim. Another complicating factor is the lack of knowledge with respect to offenders who perpetrate these heinous crimes (Safarik, Jarvis, & Nussbaum, 2002). The detectives struggled as they tried to grasp who would murder such a vulnerable woman—and why. The depth of their understanding was further challenged when it was determined, through a postmortem sexual assault examination, that Agnes Schmidt had also been vaginally violated. The sexual assault examination failed to locate any seminal fluid, but it was obvious that the vagina had been penetrated with the knife. Based on their extensive experience investigating sexual assaults, the detectives suspected the attacker had also attempted penile penetration, despite the lack of corroborating physical evidence.

Despite having extensive experience investigating homicide cases, it was difficult for detectives to comprehend why Agnes’s injuries were so severe. Intuitively, they knew the level of violence was inconsistent with the typical sexual assault they were accustomed to investigating. If the offender had wanted to sexually assault Agnes, the amount of resistance she could have mustered would not have been enough to fight off her offender. Why then did he inflict such severe injuries? Did the excessive injury indicate an offender consumed with rage, a loss of control, or frustration due to his inability to perform sexually? Was he acting out violently against a symbolic victim who represented someone in his life against whom he could not act out? Was the sexual assault the result of the offender’s distorted sexual proclivities or his need to demonstrate power and control (Myers, Husted, Safarik, & O’Toole, 2006)? Even though these detectives were seasoned veterans of hundreds of homicide investigations, they had never seen such wanton violence perpetrated on an elderly—and defenseless—individual.
Detective sergeants David Wurtz and Gary Miller of the Oakland County Sheriff’s Office Special Investigations Unit had the unenviable task of investigating this vicious murder and bringing Mrs. Schmidt’s killer to justice before he could harm another innocent victim. They organized and directed a complex, in-depth investigation, coordinating the efforts of dozens of investigators, uniformed officers, crime analysts, and forensic technicians. They oversaw the processing of the crime scene, ensuring the collection of every piece of potential evidence from Agnes Schmidt’s apartment. Prospective evidence was collected from other residences and locations as well.

Interviews were conducted with all the residents of the surrounding apartment complexes. Detectives went door-to-door, canvassing the surrounding neighborhoods and businesses. Lists were compiled of known and registered sex offenders in the surrounding area, along with background information on each of them: who they were, the crimes they had committed, and ultimately whether each of them could account for their whereabouts during the time frame of Agnes Schmidt’s homicide? Parole and probation officers were contacted in an effort to determine if any of the parolees they supervised had the criminal background, present ability, and proclivity to commit such a crime. Hundreds of people were interviewed, and multiple lead sheets were compiled and assigned for follow-up. As each day of the investigation came to a close, Detective Wurtz added more names to the growing list of potential offenders and persons who in one way or another had come to the attention of the police. The community felt as if they were under siege as days passed without an arrest. Everyone felt the fear, but the elderly women in the community had even more of a reason to be fearful, for they knew they were as vulnerable and defenseless as Agnes had been.

Underlying all the investigation and interviews loomed one nagging, unanswered question: “Who were they looking for?” More specifically, what type of an offender would savagely rape and repeatedly stab to death a 92-year-old woman. The investigators wondered what attributes such an individual would possess. What type of criminal, social, and work history; personality; demographic and behavioral characteristics would he have in his background? Would this information help the police and public identify him, and if so, would law enforcement be able to utilize these attributes in a way that would enable them to identify the suspect from the pool of potential offenders they had compiled? When compiling the neighborhood canvases, what questions should investigators ask those citizens who lived in the vicinity of Agnes Schmidt’s neighborhood in order to glean such information.

These issues, among others, kept surfacing in the mind of Detective Wurtz. Everyone wanted answers: the public, police administrators, the mayor and city council, other elderly women who lived in close proximity to the crime scene, and especially Agnes Schmidt’s family. Wurtz knew he needed answers. But were there any answers? And if there were, where would he find them?

As the investigation into the murder of Agnes Schmidt grew, so did the list of potential suspects. Tips provided by the public, interviews of neighbors, information from parole and probation officers, and neighborhood canvasses all seemed to point to different men. One of the first people that had been interviewed was David Ream, the neighbor who Rita, Agnes’s daughter, contacted after
discovering her mother. His name, along with the names of a number of others, continued to stay near the top of the investigators’ suspect list.

As the investigation continued to generate new leads and potential suspects, Detective Wurtz was given an article by a fellow detective who had attended FBI-hosted training. Of particular interest was material presented by an FBI behavioral profiler who had been conducting research and assisting law enforcement agencies across the country similarly confronted with investigating the sexual assault and homicides of elderly women. The article, written by FBI Supervisory Special Agent Mark Safarik of the FBI’s National Center for the Analysis of Violent Crime’s Behavioral Analysis Unit, focused on research that had been conducted linking the sexual homicide of elderly females through analysis of the crime scene to the offenders who kill them (Safarik et al., 2002). Detective Wurtz was surprised by the many similarities between the information presented in the research and the specifics of the sexual homicide case that he was tasked with solving.

Reaching out to a previously untapped resource, Detective Wurtz contacted the FBI’s Violent Criminal Apprehension Program (VICAP) office at the FBI Academy in Quantico, Virginia. After relating the investigation’s details to the analyst, Detective Wurtz was directed to the Behavioral Analysis Unit. In a matter of minutes Detective Wurtz found himself speaking directly with Agent Safarik, who not only specialized in the study of offenders who sexually assault and murder elderly females but was the author of the article that Detective Wurtz’s colleague had given him.

Detective Wurtz provided details of the crime scene, how Agnes Schmidt was found, and findings from the Medical Examiner’s autopsy report. Agent Safarik discussed the research results with Detective Wurtz and how this information could be used to narrow the focus of potential offenders in the current investigation. A standardized neighborhood canvas questionnaire was prepared specifically for the Agnes Schmidt homicide case. The questionnaire, based on Agent Safarik’s research, provided the investigators with offender-specific questions to ask in an attempt to identify the man responsible for the death of Agnes Schmidt.

Detectives Wurtz and Miller assembled a handpicked team of veteran investigators. These interview teams were provided with copies of the questionnaire and sent into the neighborhoods directly adjacent to Agnes Schmidt’s apartment. The areas to be canvassed had been specifically selected according to guidelines identified in the research. When the interview teams had concluded their canvas, they had personally contacted over 275 households and dozens of businesses. Additionally, copies of the canvas questionnaire were provided to probation and parole officers, area police agencies, and school officials, all of whom provided input and assistance. Based on the data compiled by the aforementioned actions, a list of 51 possible suspects was developed. And the same name, David Ream, was near the top of more than one of the lists.

“I was pretty amazed because so much of what [Agent Safarik] was saying fit Ream,” recalled Detective Wurtz as he recognized that the findings of the research provided a constellation of demographic and behavioral attributes that fit David Ream. Ream was unemployed, lived near Agnes Schmidt, knew her, had a criminal
history (excluding sexual assault), was unable to maintain healthy relationships with women, and was, among other matching characteristics, a substance abuser.

Agent Safarik has spent a decade studying the sexual homicides of women over 60 years of age. His initial study focused on 128 sexual homicides that had been committed by 110 offenders (Safarik et al., 2002). Every aspect of each case was reviewed and examined. Careful analysis of the crime scenes, victims, and offenders using police reports, crime scene and autopsy photographs, post-mortem and forensic reports, as well as post-conviction psychiatric reports, family histories, and offender interviews led to the publication of this cutting-edge empirical research. Since the initial data was published, Safarik has examined several hundred other similar types of elder sexual homicide cases and found the offender data to be consistent. Research studying the severity of the injuries sustained by these elderly women (Safarik & Jarvis, 2005) has provided additional insight into the dynamics of the excessive injury inflicted on these elderly victims and has proven to predict offender age and distance lived from the victim. The research has been designed from a law enforcement perspective with the laudable goal of providing useful, real-time information to those tasked with investigating and solving this type of homicide. Agent Safarik and Detective Wurtz hoped their collaboration would result in an arrest and conviction.

Detectives Wurtz and Miller and the other investigators initiated an in-depth study of their 51 suspects. Their goal was to pare the list through alibis, polygraphs, and other investigative methods. Each suspect was requested to submit DNA samples for comparison with the evidence recovered from Agnes Schmidt’s apartment.

Forensic Scientist Melinda Jackson of the Michigan State Police had been tasked with conducting DNA analysis of the hair samples previously obtained from those suspects considered to be a high priority by the Oakland County task force among the analysis of other pieces of evidence. In August 2004, Detective Wurtz received a call from Michigan State Police forensic scientist Heather Vitta informing him that DNA examinations had conclusively linked David Ream’s DNA to pubic hairs recovered from Agnes Schmidt’s apartment. An arrest warrant was issued by the Oakland County Prosecutor’s Office, and David Ream was arrested in North Carolina, where he had fled early in the investigation.

As Detectives Wurtz and Miller knew from experience, there can never be too much evidence in a homicide prosecution. Due to television shows, such as Criminal Minds and CSI, jurors are becoming more sophisticated about the forensic science aspect of criminal investigations. While the DNA and pubic hair comparison clearly linked David Ream to the murder of Agnes Schmidt, the detectives knew the jurors would expect more evidence. As a result, investigators obtained a warrant to tap Ream’s telephone, hoping they could obtain concrete mention of the murder.

During the trial, the jury heard much testimony from the detectives about their interviews with David Ream: they heard about Ream’s multitude of inconsistencies regarding his activities the day Agnes Schmidt was murdered; and they heard excerpts of telephone calls in which Ream not only admitted involvement in the murder of Agnes Schmidt, but also outlined how he intended to “explain away” the DNA evidence against him.
The jury also heard Detective Wurtz testify about the exhaustive canvas performed of the 275 adjacent residences, utilizing the questionnaire based on Agent Safarik’s research. Ultimately, the information obtained from the questionnaire not only helped identify David Ream as a likely suspect, it also helped the jury reach their verdict. The jury was able to appreciate the evidentiary value of crime scene analysis and how that information formed a behavioral, personality, and demographic picture that not only matched Ream but complemented the scientific analysis. The jury reached a unanimous verdict and convicted David Ream.

On January 31, 2006, David Ream was sentenced to life imprisonment for the Felony Murder and First Degree Sexual Assault of Agnes Schmidt. The successful resolution of the case was the direct result of the well-coordinated investigative efforts and communication between detectives, scientists, and violent crime experts at the FBI. The tenacity and investigative acumen of detectives like David Wurtz and Gary Miller, working in concert with the crime scene technicians who identified and collected evidence and the forensic scientists in the state crime lab who processed the trace amounts of potential evidence, were crucial in making a successful case against David Ream. Reaching out for new avenues of investigative direction by contacting experts like Agent Safarik to contribute their empirical and experiential knowledge is the new face of law enforcement in the 21st century. Ultimately, this cooperative partnership between local homicide investigators, state laboratory scientists, and the FBI resulted not only in justice for Agnes Schmidt but served to prevent other elderly women from becoming the next victims. Such cooperation can serve as a model for other violent crime investigations across the country. Unfortunately, there is no shortage of victims who, like Agnes, also await justice.

References


Mark E. Safarik, MS, FBI Retired, Executive Director, Forensic Behavioral Services International, was a Supervisory Special Agent with over 30 years in law enforcement, including 23 years with the FBI. He spent the last 12 years in the FBI as a Senior Profiler with the famed Behavioral Analysis Unit. Mark has a Master of Science from Boston University and is associated with both Boston College and the University of Pennsylvania. He specializes in the behavioral analysis and interpretation of violent criminal behavior through crime and crime scene analysis with an emphasis on sexual assault and sexual homicide. Mark has lectured internationally in Europe, Africa, South America, and Russia as well as extensively throughout the U.S. and Canada.

In addition to the thousands of homicide cases he has reviewed and consulted on both nationally and internationally, he has conducted extensive research on the sexual assault and homicide of elderly females, for which he has gained an international reputation. Mark’s groundbreaking research earned him the prestigious Jefferson Medal from the University of Virginia. He has authored works that include publications appearing in international journals and books to include *Homicide Studies*, the *Journal of Forensic Sciences*, and *Journal of Interpersonal Violence, Juvenile Sexual Homicide, The Crime Classification Manual*, and *Offender Profiling*, among others.

He has provided expert witness testimony across the U.S. on complex behavioral assessments involving staging, linkage analysis, body disposition, crime scene analysis, and undoing, among other areas of analysis. His expert witness testimony in high-profile cases has attracted both national and international media attention. Mark has appeared on numerous television shows, including *Dateline, Court TV, Forensic Files*, Discovery Channel, and *Nancy Grace’s Under Investigation* to discuss his cases and analyses.

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David Wurtz is a 31-year law enforcement veteran, currently serving as a Detective Sergeant with the Oakland County (MI) Sheriff’s Office where he is assigned to the Special Investigations Unit. He specializes in the investigation of homicides, crimes of violence, and cold cases. In 2007, he was recognized as Investigator of the Year by both the Michigan Arson Prevention Association and the Michigan Chapter of the International Association of Arson Investigators for the successful investigation and prosecution of an arson murder case involving five children that occurred in 2000. Also, in 2007, he received a National Law Enforcement Award from the National Center for Missing and Exploited Children for his closure of a 1976 parental kidnapping case, which reunited a mother and her now adult daughter. Detective Sgt. Wurtz has a Bachelor of Arts degree from Wayne State University and graduated from the Eastern Michigan University School of Staff and Command.
The Geographic Expansion of Mexican Immigration in the United States and Its Implications for Local Law Enforcement

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Ivan H. Light, University of California, Los Angeles

Part I. Introduction: The Nationalization of a Regional Phenomenon

Until recently, mass immigration to the United States was characterized by regional regularities. The largest source of immigration was Mexico, and Mexican immigration was concentrated in a few regions of the country. Thus, even as immigration soared in the 1970s and 1980s, most American communities continued to have relatively little contact with it. Since the 1990s, however, Mexican immigration has become increasingly geographically dispersed around the United States, and more and more localities now experience substantial Mexican immigration. For cities and towns, this means that more and more local governments and law enforcement officers in many parts of the country are now routinely involved in dealings with immigrants, and in particular, with undocumented immigrants. What challenges does this trend pose for local law enforcement officers?

Since the present article is addressed to law enforcement professionals and not policymakers, our goal is not to join in the political or scholarly debate concerning the benefits of Mexican immigration to the United States. That is a question for another forum. Rather, this article is tailored to questions that local police are likely to face. We seek to familiarize law enforcement officials with the contours of the geographical expansion of Mexican immigration, and also to consider its implications for their law enforcement activities. It will be argued that the challenge for local law enforcement officials in their dealings with immigrants is how to engage in their regulatory duties without infringing the rights of individuals or the powers reserved to the U.S. government in our federal system. The key distinction to be made is between regulation of persons—essentially, rules that attach to the bodies of immigrants and to their right to freedom of movement—and regulation of economic activities—rules that attach to the conduct of businesses and land uses. As will be argued, the regulation of economic activities is more clearly within the competence of local governments and law enforcement than is the regulation of people. In an environment of legal uncertainty and fluidity, when the future of national immigration legislation is uncertain, law enforcement officials would be well advised to bear this distinction in mind when planning their enforcement activities.

The remainder of this article is organized as follows. Part II charts the geographic expansion of the Mexican population in the United States, and Part III offers an explanation for this expansion. In these two sections, our goal is primarily descriptive and explanatory: to familiarize law enforcement officers with the scope and causes of Mexican immigration. As will be shown, this expansion results from causes that are beyond the control of any individual local or state government to
control. Part IV addresses the consequences for law enforcement of this expansion and lays out the constitutional and legal distinction between regulation of persons and regulation of economic activities. Regulation of business activities offers a more workable method of responding to increased Mexican immigration than do possibly unconstitutional attempts to regulate immigrants themselves or limit their rights. Part V is a brief conclusion.

**Part II. The Geographic Spread of Mexican Immigration in the United States**

We are witnessing a migratory dispersion of great historical importance in the United States. This is the dispersion of Mexican immigration from traditional settlement cities and states to nontraditional cities and states. Until approximately 1990, three states—California, Illinois, and Texas—housed virtually all the Mexican immigrants in the United States. Of the Mexican immigrant population of the United States in 2000, 83% of those who arrived in or before 1980 resided in California, Illinois, or Texas (Table 1). The other 47 states contained only 17% of the Mexican immigrants in 1980; however, after 1980, as the volume of Mexican immigration quadrupled, Mexican immigrants also began to disperse out of the big three states into new states and localities. As a result, by 2000, California, Illinois, and Texas housed only 70% of the Mexican immigrants in the United States. As Table 1 shows, when coupled with the four-fold increase in Mexican immigration after 1980, the dispersion of the Mexican immigrant population gave the “other 47 states” 2,754,288 immigrant Mexicans in 2000 where otherwise there would have been only 368,629. The change amounted to a nine-fold increase in the Mexican immigrant population of these 47 nontraditional states.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CA, IL, TX</td>
<td>6,425,898</td>
<td>2,714,727</td>
<td>1,934,108</td>
<td>1,777,063</td>
</tr>
<tr>
<td>Percentage</td>
<td>70</td>
<td>61</td>
<td>75</td>
<td>83</td>
</tr>
<tr>
<td>Other 47 States</td>
<td>2,754,288</td>
<td>1,730,338</td>
<td>655,321</td>
<td>368,629</td>
</tr>
<tr>
<td>Percentage</td>
<td>30</td>
<td>39</td>
<td>25</td>
<td>17</td>
</tr>
<tr>
<td>Total, USA</td>
<td>9,180,186</td>
<td>4,445,065</td>
<td>2,589,429</td>
<td>2,145,692</td>
</tr>
</tbody>
</table>

*Source: Census 2000, Summary File 3, Table PCT20*

This noteworthy increase in Mexican population has two components, not one. The first is the increase in volume of immigration from Mexico to the United States after 1980; the second is the dispersion of Mexican immigrants in the United States away from the big three states of traditional settlement toward 47 nontraditional states. Without the dispersion from the three traditional states, the increase in volume of Mexican immigration would not equivalently have affected the locational distribution of the Mexican immigrant population in the United States.

Growth of Mexican population in the 47 nontraditional states has been uneven. In the eight so-called new settlement states of Arizona, Georgia, Massachusetts, Nevada, North Carolina, Oregon, Virginia, and Washington the Mexican immigrant population grew faster than it did in the other 39 nontraditional states. As a result, the eight new
settlement states contained nearly as many recent Mexican immigrants in 2000 as did the 37 other states (Table 2). On average then, those eight new settlement states contained eight times more Mexican immigrants than did the other 39 states. These numbers refer to recent Mexican immigrants, not to all Mexican immigrants. Recent Mexican immigrants (RMIs) are those who entered the United States within five years of the decennial Census. Table 2 shows that 877,820 Mexican immigrants entered the United States between 1975 and 1980, and 1,757,900 entered between 1995 and 2000. These numerical estimates came from the U.S. Census. The Census estimates include illegal Mexican immigrants as well as legal immigrants, but the presumption is that they underestimate the true size of the Mexican immigrant population by as much as one-third. That said, the U.S. Census offers the most reliable indication of the true location of the Mexican immigrant population within the United States.

Table 2. Recent Mexican Immigrants by Settlement, 1980, 1990, and 2000

<table>
<thead>
<tr>
<th></th>
<th>Los Angeles County</th>
<th>California</th>
<th>3 Traditional States</th>
<th>8 New Settlement States</th>
<th>39 Other States</th>
<th>All States</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1980</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>311,940</td>
<td>524,200</td>
<td>785,240</td>
<td>37,120</td>
<td>55,460</td>
<td>877,820</td>
</tr>
<tr>
<td>Percentage</td>
<td>35</td>
<td>60</td>
<td>89</td>
<td>4</td>
<td>6</td>
<td>100</td>
</tr>
<tr>
<td><strong>1990</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>244,000</td>
<td>547,460</td>
<td>723,980</td>
<td>76,560</td>
<td>81,860</td>
<td>882,400</td>
</tr>
<tr>
<td>Percentage</td>
<td>28</td>
<td>62</td>
<td>82</td>
<td>9</td>
<td>9</td>
<td>100</td>
</tr>
<tr>
<td><strong>2000</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>312,000</td>
<td>553,700</td>
<td>995,860</td>
<td>364,020</td>
<td>398,020</td>
<td>1,757,900</td>
</tr>
<tr>
<td>Percentage</td>
<td>18</td>
<td>31</td>
<td>57</td>
<td>20</td>
<td>23</td>
<td>100</td>
</tr>
<tr>
<td><strong>Change, 1980-2000</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number</td>
<td>60</td>
<td>29,500</td>
<td>210,620</td>
<td>326,900</td>
<td>342,560</td>
<td>880,080</td>
</tr>
<tr>
<td>Percentage</td>
<td>-17</td>
<td>-29</td>
<td>-32</td>
<td>16</td>
<td>17</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Own calculations from 5% Public-Use Micro Samples, 1980, 1990, 2000

Who are the RMIs? Table 2 graphically answers this question. It arranges five locations from left to right in terms of the proportionate share of Mexican immigrants in each one’s population. RMIs were the largest share of the population in Los Angeles; after Los Angeles, California contained the highest proportion of RMIs; after California, the big three states combined; after them, the eight new settlement states; and finally the 39 other states in which the share of RMIs in the total population was lowest. From 1975 to 1980, 89% of the RMIs settled in the three traditional states; 83% of RMIs still did so between 1985 and 1990, but only 57% of RMIs who had arrived in the United States between 1995 and 2000 settled in one of the three traditional states. If this proportional decline had not occurred, the three traditional states would have attracted 1,564,531 RMIs in the period 1995 to 2000 instead of the 995,860 who actually settled there. During the entire 20-year period, an impressive proportion of all RMIs had always chosen Los Angeles for settlement, but the proportion selecting Los Angeles consistently declined. Los Angeles attracted 35% of RMIs in 1980, 28% in 1990, but only 18% in 2000. Had this decline not occurred, Los Angeles would have attracted 615,265 RMIs in 2000 instead of the 312,000 who actually settled there. That hypothetical increase of 303,265 Mexican immigrants would have increased the total population
of Los Angeles County by approximately one-tenth. As the proportion of RMIs continuously decreased in the three traditional states, California, and Los Angeles, it steadily increased elsewhere in the United States, but particularly in the eight new settlement states where 4% of RMIs settled between 1975 and 1980, 9% between 1985 and 1990, and 20% between 1995 and 2000.

Comparing the five regions, Table 3 displays their averages for yearly income, monthly rent, yearly rent, percentage male, percent ever married, age, number of own children, number of persons in households, and years of education of RMIs in 2000. RMIs in all regions were quite similar in terms of their age, their educational level, and their marital status. They differed somewhat in respect to the proportion of males who chose to reside in each region. Fifty-six percent of RMIs were male in the three traditional states, 63% in the eight new settlement states, and 65% in the other 39 states. The regions also differed to some extent in terms of the number of persons who lived in each RMI household. Traditional settlement states had 7.5% more people in each RMI household than did the new settlement states. The traditional settlement states also contained 44% more children per immigrant household than did the eight new settlement states or the 39 other states. These results suggest that RMIs in traditional states were more frequently female and more frequently parents than RMIs in the nontraditional states. Since the relative growth of families among immigrants is associated with permanent and longer-term settlement, this point further illustrates the difference between the relatively mature immigrant communities of the traditional states and the growing immigrant communities of the nontraditional states.

Table 3. Demographic and Economic Characteristics of Recent Mexican Immigrants by Settlement Category, 2000

<table>
<thead>
<tr>
<th>Personal Characteristics</th>
<th>Los Angeles</th>
<th>California</th>
<th>3 Traditional States (CA, IL, TX)</th>
<th>8 New Settlement States</th>
<th>39 Other States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent Male</td>
<td>55.0</td>
<td>55.0</td>
<td>56.0</td>
<td>63.0</td>
<td>65.0</td>
</tr>
<tr>
<td>Percent Single</td>
<td>45.0</td>
<td>44.0</td>
<td>41.0</td>
<td>43.0</td>
<td>44.0</td>
</tr>
<tr>
<td>Percent Ever Married</td>
<td>55.0</td>
<td>56.0</td>
<td>59.0</td>
<td>57.0</td>
<td>56.0</td>
</tr>
<tr>
<td>Age</td>
<td>29.6</td>
<td>29.5</td>
<td>29.7</td>
<td>28.5</td>
<td>28.5</td>
</tr>
<tr>
<td>Years of Education</td>
<td>8.2</td>
<td>8.2</td>
<td>8.3</td>
<td>8.5</td>
<td>8.6</td>
</tr>
<tr>
<td>Number of Own Children</td>
<td>1.4</td>
<td>1.4</td>
<td>1.3</td>
<td>1.0</td>
<td>0.9</td>
</tr>
<tr>
<td>Persons in Household</td>
<td>6.2</td>
<td>6.1</td>
<td>5.7</td>
<td>5.3</td>
<td>5.3</td>
</tr>
</tbody>
</table>

Rent and Income

| Annual Personal Income   | $8,469      | $8,898     | $9,337                            | $10,090                | $10,919        |
| Annual Household Gross Rent* | $8,326    | $8,586     | $7,748                            | $7,189                 | $7,617         |

*Rent paid by households where one or more of the residents is an RMI.

Source: Own calculations from 5% Public-Use Mirco Samples, 2000

Part III. Why Did Mexicans Disperse Throughout the United States?

Causes of the Mexican dispersion are beginning to attract attention. Ivan Light (2006, Chapter 2) and also Light and Johnston (2007) argued that Mexican immigrants
began to disperse because their own long-term, high-volume immigration had driven their wages down and driven their rents up within the states of traditional settlement and especially in Los Angeles, the epicenter of Mexican immigration. However, using the ratio of average rents to average wages as his measure, these researchers could not show that rents went up and wages down. Possibly only one or the other changed, not both. The researchers could only show that the rent-to-wages ratio became more unfavorable to Mexican immigrants during the 1990s. Using unpublished data, we examined separately the average annual incomes of RMIs in the five regions and their average annual rents. In 2000, RMIs who resided in Los Angeles earned lower average annual incomes than RMIs who resided in California (Table 3). RMIs in California earned lower annual incomes than RMIs who resided in the three traditional settlement states, who earned lower average incomes than those who resided in the eight new settlement states. RMIs in the 39 other states earned the highest incomes of all. In 2000, RMIs in Los Angeles earned a mean yearly income of $8,469; those in California earned $8,898; those in traditional settlement states earned $9,337; those in new settlement states earned $10,090; and those in the 39 other states earned $10,919 (Table 3). Evidently, RMIs had a financial incentive to prefer the nontraditional settlement states to any traditional region, especially Los Angeles.

We separately examined mean rents in 2000 of RMIs in the five regions, anticipating that rents would be highest where RMI density was highest. About three-quarters of RMIs were renters in every region. For RMIs who resided in the three traditional states, California, or Los Angeles, annual gross rents imposed an additional standard of living disadvantage when compared to RMIs residing elsewhere. The average gross rents paid by households that contained RMIs were $8,326 in Los Angeles, $8,586 in California, $7,748 in the three traditional states, $7,189 in the eight new settlement states, and $7,617 in the 39 other states. In fact, rents of RMIs in Los Angeles, the epicenter of high immigrant density, were 16% higher than those in the eight new settlement states and RMIs’ incomes were 19% lower (Table 3). Adding these two percentages, we discover an economic disadvantage of nearly one-third for RMIs who lived in Los Angeles compared to RMIs who resided in new settlement states. These results imply that Mexican immigrants began to disperse from traditional settlement states and from Los Angeles because their wages were low and their rents high there. Nontraditional settlement states offered immigrant Mexicans lower rents and higher wages. This is a migration push. Presumably, social networks also attracted Mexicans to the eight new settlement states in preference to the 39 others states. But the migration push would be there in any case and would account for the Mexicans’ sudden interest in exiting the traditional cities and states.

Nothing in our data suggests that this dispersion of the Mexican-origin population throughout the United States is likely to ebb in the near future. It is nurtured by economic forces of supply and demand, and if anything, the maturation of social networks in nontraditional states will only facilitate the geographic expansion of the Mexican-origin population in coming years. The question thus becomes how local communities will respond to this expansion, and how local law enforcement officials will deal with immigrant populations.
Part IV. Options for Local Law Enforcement

The two preceding sections have set forth the dimensions of the recent expansion of Mexican immigration in the United States and the reasons for it. As has been argued, the geographic expansion of the Mexican and Mexican-American population results from fundamental economic incentives and is, therefore, unlikely to abate in the near future. Such a trend is beyond the control of local governments. But while local governments and law enforcement cannot change the macroeconomics of the U.S. labor and housing markets, they do have to deal with the regulatory implications of increased immigration. Such consequences include the growth of the undocumented immigrant population at the local level, as well as changes in business activities that local governments seek to regulate such as the labor market or residential real estate. In this section, we assess the legal parameters of the options facing local governments as they implement policies that affect the immigrant population.

International migration is traditionally understood as a matter of population exchanges between sovereign countries. Thanks to the work of Jeannette Money (1999), a political scientist at the University of California, Davis, it is now recognized that the consequences of immigration (including crowding of the labor market and increased use of social services) are felt most intensively at the local level. As a corollary, opposition to immigration tends to crystallize initially at the local level. We can expect, therefore, that local opposition to immigration will be experienced in more and more regions as mass immigration makes its presence felt in ever more parts of the United States. As a result, in coming decades, local police can expect that they will be pressured by their town and city governments to take action to control undocumented immigration or unlawful activities surrounding immigration. This leaves police facing an awkward legal position. The basic contradiction that local governments (and therefore police) face is that whatever the consequences of migration for local communities might be, in the U.S. constitutional system, the regulation of migration (both international and domestic) is primarily subject to federal jurisdiction. At the same time, law enforcement itself is understood to be primarily a local and state matter. Therefore, we first consider the limits to local and state regulation of migration processes.

Ever since the adoption of the Fourteenth Amendment in the wake of the Civil War, the U.S. Constitution has contained a clear statement that the determination of an individual’s citizenship is a national, and not a state, matter. Citizenship accrues to persons born on U.S. territory by constitutional birthright (the legal principle known as *ius soli,* “the right of soil”).¹ Those born outside U.S. jurisdiction acquire citizenship by Congressional action in the form of legislation, usually based on their parentage (*ius sanguinis,* “the right of blood”), or by naturalization. Foundational 19th-century cases also established the authority of the federal government over all matters involving international migration. Subsequent legal development extended this principle to internal migration (i.e., between U.S. states, whether by U.S. citizens or noncitizens).

At first glance, the principle of absolute federal control over international and interstate migration appears clear. Thus, in the so-called “Chinese Exclusion Case,” the U.S. Supreme Court held that the right to exclude aliens from U.S. territory is vested in the federal government, not because of any explicit constitutional provision
but, rather, as an attribute of sovereignty. Only the U.S. government, and not state governments, is a subject of international law and, therefore, only the U.S. government possesses full external sovereignty, including the right to exclude noncitizens.\(^2\) Another Supreme Court case of the same era interprets the status of aliens as an instance of foreign policy, which, again, is solely vested in the federal government.\(^3\) In other foundational cases, the Supreme Court has also held that state governments do not have the right to engage in many forms of discrimination against U.S. citizens from other states or to create a separate state “citizenship” that derogates from the right of U.S. citizens to change their state of residency. The Supreme Court struck down New Hampshire’s attempt to bar out-of-state residents from practicing law and Tennessee’s attempt to impose a one-year residency requirement for voting in state elections.\(^4\) It is also unconstitutional for a state government to regulate either a person’s (including a noncitizen’s) departure from, or arrival in, the state’s territory, no matter how trivial the restriction on mobility might seem to be.\(^5\)

Yet, while the principle of absolute federal power to define migration rights seems established, the power of state (or local) governments to enforce immigration laws is another matter. To what extent do local and state officials have the right to, say, arrest people suspected of being in the United States without legal authorization? Here, the federal government’s exclusive power of regulating mobility overlaps with the “police power” of states (and localities) to enforce legal requirements. Recent cases, and recent statements of federal officials, have introduced some ambiguity into this area of the law. Whereas in the 20th century, the federal government tended to resist local and state encroachments on its power of enforcing immigration policy, in recent years, and particularly in the post-September 11 period, both court decisions and the U.S. Department of Justice have become more accommodating of local and state enforcement. In one important decision of the 1990s, a U.S. federal court (and later the U.S. Supreme Court) held that states had inherent jurisdiction to enforce immigration violations, even civil ones (i.e., an alien’s mere unauthorized presence in the United States).\(^6\) Following the 9/11 attacks, Attorney General John Ashcroft made remarks that were interpreted as suggesting that the states had the power to engage in the full range of immigration enforcement, including conducting checks of identity documents in order to establish whether a person holds U.S. citizenship or is otherwise in the United States lawfully (Pham, 2004). The post-9/11 period has also seen increasing interest in immigration enforcement cooperation between federal agencies, principally the Department of Homeland Security and local and state officials. Finally, the defeat in Congress of President Bush’s proposals for immigration policy reform in 2007 was widely taken to indicate federal inability to address immigration policy, further increasing the incentive for localities and states to attempt to enforce immigration policy independently.

Despite appearances, however, it would be highly imprudent for local governments and states to assume that they possess carte blanche to enforce immigration policy. First, U.S. federal courts have by no means ceased their efforts to restrain such enforcement. This summer, a federal judge in Pennsylvania struck down an ordinance passed by the City of Hazleton that barred undocumented immigrants from working or renting homes there (Preston & Hurdle, 2007). The judge found that because the Hazleton ordinance concerned the rights of the undocumented population to engage in various kinds of otherwise legal transactions, it infringed on the federal government’s constitutional prerogative to regulate the status and rights of aliens. In addition, it should also be noted that the failure of immigration reform under President Bush
and, hence, federal paralysis on this issue, is not definitive. While President Bush failed to convince many of his own Republican members of Congress and senators to support his “grand bargain,” a future President with a larger Democratic majority in Congress (or even a Republican President with a more disciplined Republican delegation in Congress) could very well pass similar legislation in the not-so-distant future. In this scenario, the federal government would at a stroke gain a new policy momentum to enforce its own priorities in the area of immigration control. Were this to happen, the U.S. Department of Justice and other federal executive branch officials might well become far less willing to entertain local and state attempts to carve out enforcement strategies that undermine federal policy or infringe on federal power. In short, local governments and states should not assume that the 1990s and early 2000s’ pattern of ever-increasing federal accommodation of local enforcement of migration controls will continue indefinitely.

Rather, national immigration policy is currently in flux and its ultimate shape is unknown. Moreover, the constitutionality of most forms of local and state enforcement of immigration policy is subject to constant reevaluation by the courts. Predicting what form both these variables will take even a few years hence would be highly speculative. In consequence, local governments and law enforcement would be well advised to consider how they can safeguard their communities’ regulatory interests in a context of expanding immigration while doing so in ways that do not infringe upon the (uncertain) constitutional rights of immigrants or infringe upon the (contested) constitutional powers of the federal government. Such an approach would not involve regulating migration (the act of changing one’s place of residence), and even less in regulating the migrants themselves (i.e., their legal rights or their freedom). Instead, localities would redouble their efforts to regulate areas of public policy that, while related to migration, unquestionably fall within the police power of localities and states. This is the distinction alluded to earlier between regulating persons (i.e., regulating migration per se) and regulating economic activities that happen to involve migrants.

A simple example will serve to illustrate the kind of enforcement that we have in mind. One concern that local governments sometimes have about mass immigration is the spread of substandard forms of housing arrangements often used by unscrupulous landlords who have immigrant tenants. Such housing arrangements can include the deliberate overcrowding of authorized residences beyond their licensed capacity or the use as housing of premises not zoned for residential uses. Unfortunately, because of the poverty of many Mexican immigrants, such abuses of their rights to decent housing tend to be practiced widely in areas with a large immigrant population. But in contrast to migration per se, the right of states (and hence local governments) to exercise their police power to regulate land use and enforce such regulation is completely uncontroversial, dating back to a landmark Supreme Court case in the 1920s. Since then, there has been no serious constitutional claim that localities do not have the power to regulate land use. Therefore, towns and cities are not constitutionally required to permit landlords to maximize their profit by permitting squalid living conditions. For example, if an increase in the immigrant population is accompanied by a rise in violations of the building code, there is nothing to prevent a locality from enforcing its building code more zealously. In addition to land use and zoning, other powers that are clearly within the local prerogative are the enforcement of workplace health and safety and licensing requirements. Local governments are not constitutionally required to
tolerate unlicensed business establishments or to permit licensed establishments to endanger the health of their staff or patrons by unsafe or unsanitary practices. In other words, while localities may not infringe upon the rights of immigrants, they are certainly not required to permit the exploitation of immigrants by unscrupulous businesses in ways that violate public policy.

The implication for local law enforcement is clear. Migration flows themselves are not really within the control of local or state governments, and efforts to interdict immigration violations per se, or detract from the rights of immigrants, are legally extremely questionable. Therefore, it is far better for local law enforcement officials to find other ways to shape the effects of migration flows by using methods that are consistent with the interests of localities. Basically, this means controlling the effects of immigration in the form of ordinances regulating business activities, whose constitutionality and legality are beyond dispute. In addition to its legal advantages, such a strategy also holds the advantage that it removes law enforcement officials from the highly politicized and emotionally charged realm of immigration enforcement. When confronted by demands to control immigration, local police often feel caught in the middle between immigrant communities and other local residents. They also sometimes worry that attempts to police immigration violations may create a climate of fear that may lead immigrant communities to withhold cooperation in other law enforcement matters. A strategy that focuses on neutral enforcement of non-immigration business practices obviates these concerns while addressing the legitimate prerogatives of the citizens of towns and cities to exercise local self-government.

Part V. Conclusion: Living with Mass Immigration While Maintaining Police Professionalism

Elsewhere, Matthew Light (2006) has written about the disastrous consequences in the Russian Federation of the unregulated devolution of control over migration to regional governments. Such consequences include the instability of migration rights, waste of police resources, and widespread corruption. U.S. police are fortunate in that, in comparison to their Russian counterparts, they face a more stable legal environment and receive better pay and training. However, the spread of legal chaos surrounding local enforcement of migration controls is a possible development in the United States as well as in Russia. U.S. local governments and law enforcement should not assume they are immune to these risks.

Therefore, U.S. localities and police need to consider their alternatives carefully and avoid being dragged into the trap of immigration enforcement. This means, in the first place, being realistic about the geographic expansion of Mexican migration and what it means for local law enforcement practices. As we have argued, local governments and law enforcement can do little to control immigration flows because such flows depend on impersonal economic forces that are beyond any municipality’s or state’s control. Local governments and police need to be mindful of both the existing and likely future constitutional and political restrictions on their power to regulate immigrants’ legal status directly. Therefore, localities and law enforcement officers should attempt to safeguard their communities’ quality of life and local self-government without infringing upon the rights of immigrants, and without involving themselves in potentially damaging conflicts with the federal government and federal courts.
Endnotes

1 “All citizens born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” U.S. Constitution, Amendment XIV, Section 1 (1868).

2 Chae Chan Ping v. United States, 130 U.S. 581, 609 (1889).

3 Ekiu v. United States, 142 U.S. 651, 659 (1892).


5 Crendall v. Nevada, 73 U.S. 35 (1868) (striking down a one-dollar tax on departure from Nevada); Edwards v. California, 314 U.S. 160 (1941) (striking down a California law that forbade entry of indigents into the state).


References


Matthew Light received his JD and PhD in Political Science from Yale University. His dissertation (2006) was on regional migration controls in the Russian Federation. He is currently a lecturer in Political Science at the University of Massachusetts, Amherst.
Ivan Light (PhD, University of California, Berkeley, 1969) is a professor of Sociology at the University of California, Los Angeles. He is the author of eight books, including most recently, Deflecting Immigration: Networks, Markets, and Regulation in Los Angeles, but also Ethnic Economies (with Steven Gold, 2000), Immigrant Entrepreneurs and Immigrant Absorption in the United States and Israel (with Richard E. Isralowitz, 1997), Race, Ethnicity, and Entrepreneurship in Urban America (with Carolyn Rosenstein, 1995), Immigration and Entrepreneurship (with Parminder Bhachu, 1993), Immigrant Entrepreneurs: Koreans in Los Angeles (with Edna Bonacich, 1988), Cities in World Perspective (1983), and Ethnic Enterprise in America (1972).

Internal and international immigration of entrepreneurs has been a priority in Ivan Light’s cosmopolitan and multi-method research. His immigration research has directly treated African-American internal migrants, and Mexican, Chinese, Iranian, Japanese, and Korean international migrants to the United States. Recent research has dealt with immigration to France, Germany, Israel, and the Netherlands. Deflecting Immigration explained the causes of inter-local deflection of Mexican immigration within the U.S. His research on rotating credit and savings associations still stands as the locus classicus of social capital theory. His research career pioneered, promoted, and expanded the concept of “ethnic economy.” Ivan Light received the Distinguished Career Award of the International Migration Section of the American Sociological Association in 2000. He was elected President of the section in 2001.

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Perceptions of Policing: A Comparison of Vietnamese and Latino Immigrant Communities

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Introduction

One of the enduring conflicts in American policing has been the distrust by minority group members of local police departments. For example, Sigler and Johnson (2002) argue that there are four types of behavior that are “... particularly distressing to the minority community: selective enforcement of the law, lack of courtesy in routine contacts, selective excessive use of force, and providing a lower level of service for minority communities” (p. 276). Much of the research done on minorities and the criminal justice system has historically focused on African-Americans and the police. Recently, excellent empirical studies on Asian-Americans and the legal system (e.g., Chu, Song, & Dombrink, 2005; Song, 1992) and Latinos and the police (Cheurprakobkit, 2000; Skogan et al., 2002) have expanded that focus.

Some studies found that minorities have a negative perception of their treatment by the police (e.g., Weitzer, 1999). For example, some of the first studies of Latino-police interactions found that Latino residents had negative attitudes towards the police such as in Carter (1985), who found that there were two main reasons why Latino victims did not report crime, one being that they feared criminal revenge and the other that they were advised not to report that they had been victimized. Petersilia (1983) found that Latinos were more likely to be arrested by police with a lower amount of evidence than whites, which leads to their belief that the criminal justice system discriminates against Latinos and minorities. Factors related to minority attitudes towards the police include age, income, and the nature of residents’ contacts with police.

Other articles have focused on citizens’ perceptions toward the police in regards to the problem of crime in their communities and other problems related to the police (e.g., overpolicing, rudeness to residents, and racial profiling) (Skogan, 2006; Weitzer & Tuch, 2006). These studies found that citizens’ perceptions regarding these factors were more important than attitudes toward the police in general, and were more important than the demographic group they belong to (e.g., Jesilow, Meyer, & Namazzi, 1995). Similarly, Weitzer (1999) has written about how neighborhood conditions create the context for residents’ attitudes towards the police, especially taking into account compounding factors such as race and social class. In addition, Jesilow et al. (1995) found that ethnicity is not the most important factor in explaining negative attitudes towards police in contrast to earlier trends in research on minorities and police interaction. Rather, attitudes of citizens about their own neighborhoods
are more important. For example, he found that since residents of suburban areas had more positive attitudes about their own neighborhoods, they were also more likely to have positive attitudes about the police in those neighborhoods. Conversely, those in urban neighborhoods, who were not happy with the quality of life in their neighborhood, were also more likely to have negative attitudes towards the police.

This issue of minorities and the police is exacerbated when one adds on to the historical relationship that of immigration. With immigrants representing many different countries of origin, cultural experiences, and attitudes toward the police and the legal system, it becomes a great challenge for police to determine the best ways to engage and police residents in their jurisdiction. In addition, countervailing pressures at the political level to change immigration laws and policies can have a local effect when the actions of government are portrayed onto the efforts of the local police.

The issue of immigrant adaptation as it relates to Vietnamese and Latino residents has long been a concern of social scientists and policy analysts (Gold, 1992; Portes & Rumbaut, 1996). Researchers have focused on issues such as educational achievement (Brand, 1987), fear and reluctance to use dominant societal institutions (Chavez, 1992), public health needs (Hubbell, Mishra, Chavez, & Valdez, 1997), immigrant work worlds (Light, 1972; Light & Rosenstein, 1995; Waldinger, 1986), community building (Hondagneu-Sotelo, 1994; Mahler, 1995), and interaction with the social service system.

A number of studies in the past twenty years have focused on different issues in Vietnamese refugees’ adaptation to American life, examining mental health (Ying, Akutsu, & Zhang, 1997), public health (Carey, Oxtoby, & Nguyen, 1997), economic adaptation (Kibria, 1994), and age-related adjustment difficulties (Matsuoka, 1990).

Less attention has been paid to immigrant adaptation to the American legal system. In looking at Canada, Chan and Hagan (1982) examined the importance of Chinese residents’ attitudes toward the legal system. In examining police and diversity in Australia, Chan (1997) has further documented the complex interplay between dominant cultural institutions and minority populations. In similar research, Vidales (2007) examines how immigrant status and lack of English facility present barriers for Latinas in obtaining assistance for domestic violence situations.

A limited literature exists on Vietnamese refugees’ adaptation to the law enforcement system in the United States. In a 1992 article, Song examined the interaction between Chinese immigrants and Vietnamese refugees and American law enforcement in Southern California. His interviews found that legal adaptation came after socioeconomic adaptation because legal adaptation is considered less relevant to refugees’ immediate survival in the United States. Though refugees came with an immigration status that would allow them to stay in this country permanently, economic and social adjustments, as opposed to legal adaptation, remained their top priorities. Legal adaptation relates more to refugees’ quality of life than their socioeconomic survival. This previous study found that fear of crime, poor communication with police, and gang activities were the major concerns for the Vietnamese interactions with police and their legal environment.
This article is in part a replication of Song’s 1992 research and in part an extension of his core questions into a similar immigrant community, that of Latinos in a nearby city.

Methods

We reviewed literature on police-community relations, on minority residents’ and immigrants’ knowledge of and attitudes toward the American legal system, and on fear of crime and neighborhood cohesion. We constructed the two versions of our community survey instrument in English, Vietnamese, and Spanish. We chose several questions each from Song’s earlier survey of Vietnamese immigrants’ attitudes toward the legal system, with items about contact with the police and attitudes toward the police.

Collecting systematic research data in the Vietnamese refugee community is always a challenge (Song, 1996). The mixture of latest refugees and immigrants and their earlier, more adjusted counterparts diversifies a seemingly homogeneous community.

One significant Vietnamese refugee enclave in the United States is the area of what we call “inland cities,” located in Southern California. Tran (1998) has depicted this area as a “bustling business area and the de facto capital for the largest Vietnamese émigré community in the world” (p. 4).

To collect data from this Vietnamese community, we gained cooperation from 12 Vietnamese community organizations and one Vietnamese student association at a local university in 1997. The organizations were asked to help us conduct a questionnaire survey. We replicated the questionnaire that we used in a prior study (Song, 1992) (and large portions of which were used in the later Latino study).

For the sample, we adopted a two-stage sampling method. First, we identified a representative group of community organizations. Secondly, we administered the questionnaires to the clientele of those organizations. We visited the administrators of Vietnamese community services agencies before we placed questionnaires with them. According to the size of their clientele, the administrators decided the number of questionnaires they should receive from us.

After several follow-ups, we gained a completion rate of 47% (n = 247). This level is beyond what prior studies have accomplished with similar populations and with similar studies. The 13 agencies used were two Catholic churches, three Protestant churches, one Buddhist temple, one student organization at a local university, one cross-culture community center, the Vietnamese Chamber of Commerce, a Vietnamese-American senior citizens organization, the American Vietnamese Fellowship, the Vietnamese Community of Southern California, and the Vietnamese Community Organization. All but one agency returned completed questionnaires with various degrees of completion rates. These 13 organizations service a clientele represented by college students, youth groups, ESL classes, senior citizens, members of the three primary religions, the business community, and general adult groups. The following is the breakdown of the completion rates of individual agencies.
Given the undefined population, the method adopted, though not a probability procedure, provided the best possible representation of the community. Through the social services agencies, we included people who were in need of those types of social and public assistance. Through churches of the three main religions, the chamber of commerce, the college student association, and senior fellowship programs, we covered people who were more established and who did not need as much social or public assistance—the so-called silent, or much more integrated, portion of the refugee population.

The Latino sample resides in the Westside area of “Coastal City,” containing about 20% of the city’s population but 75% of its low-income residents. The Westside—home to approximately 29,000 people—is undergoing a rapid transition. In the past two decades, the population of this three square mile area increased at twice the rate of the rest of the city. Westside residents include a long-time population of predominantly Anglo homeowners and a fast-growing population of mostly Latino low-income and working class renters. Since 1980, the Westside has shifted from 18% to more than 55% Latino.

For the Latino sample, we used two datasets: a telephone survey of immigrant Latino and Anglo residents and in-depth face-to-face interviews with Latino community leaders. The bilingual telephone survey was conducted in the summer of 2002. Questions were designed to obtain information about citizens’ perceptions and experiences regarding police interactions. One hundred and sixty-nine phone interviews were completed following a questionnaire consisting of 89 items. Information from the 2000 census was used to identify three Latino and non-Latino tracts in Coastal City. A “Criss-Cross” directory was used to identify streets in the study target area, and the resulting phone numbers were added to a list. Business addresses were ignored. Houses from these streets were then randomly selected, using every eighth household.

Face-to-face interviews with seven Latino community leaders referred to us from a local university partnership, and reflecting a range of local issues and Latino constituencies, were conducted as well.

**Demographics**

**Characteristics of the Vietnamese Sample**

The Vietnamese study sample consists of 247 Vietnamese immigrants. Due to missing cases, the number of total response (“n’s”) for each item varies. We report only the valid percentage and number of responses for each item. More than one-half of the subjects (52%) were between the ages of 18 and 44. Nearly 60% of the subjects (n = 133) did not have a college education. More than half of them (54%) went to their last grade of school in places other than the United States, presumably in (South) Vietnam. White-collar workers accounted for 25.5% (n = 63) of the sample with more than one-third of the sample failing to answer this question. More than half of the sample (51%, n = 126) did not indicate the ethnic background of the business owner for whom they worked. Of those who responded, almost 40% (n = 121) worked at a Caucasian-owned business, a quarter (25.6%, n = 31) at other Asian-owned business, and only 8.3% (n = 10) at a Vietnamese business.
Roughly 70% (71.5%, \(n = 153\)) of those who responded were male. Slightly more than half of the households in the sample (54%, \(n = 110\)) made less than $20,000, and a little over two-thirds of the sample (67.8%, \(n = 137\)) had a household income of under $30,000 in 1995. Out of 184 subjects responding, more than half (52%, \(n = 96\)) were not registered to vote, an indication of either a small proportion of naturalization or a lack of concern for politics in the host country. Out of all registered voters (48%, \(n = 88\)), more than half (52.3%, \(n = 46\)) were Republicans and slightly more than one-third (36.4%, \(n = 32\)) were Democrats. When asked about their political orientation, most of them identified themselves as liberal (41%, \(n = 86\)) and only 24 (11.6%) as conservative.

Most of the Vietnamese (93.6%, \(n = 176\)) in the sample were foreign born. More than half (52%, \(n = 105\)) of the subjects were American citizens, acquiring their citizenship through naturalization. Almost all of them (98%, \(n = 201\)) were either a permanent resident (resident alien) or an American citizen. The average number of years residing in the United States was 10.4 years.

**Characteristics of the Latino Sample**

The Latino sample for this article was drawn from a study of Latino and non-Latino attitudes toward the police and the legal system. Of those who chose to answer the income question (102 out of 169, 60%), the overwhelming majority of Latinos earned less than $30,000 annually. The majority of non-Latinos reported income of more than $50,000 annually. Both of these findings support our expectations, given the nature of Coastal City income and residence, and reflect data from other studies of the area.

In the Latino sample, 37% of the respondents were male and 63% female. The median age of Latino respondents was 30 years of age. The median age of non-Latino respondents, not analyzed in this article, was 57. This striking difference accentuates the age dichotomy between Anglos and Latinos in Coastal City.

As expected, fully 96% of Latino respondents stated that Spanish was their first language. In addition, 91 (91 of 103, 88%) of the Latino surveys were done in Spanish, at the option of the respondents.

Seventy-nine of 103 Latino respondents (77%) reported that their religion was Catholic. Another 11 (11%) responded that they were “Christian.” A majority of Latino respondents reported attending church regularly.

The strong majority (63 of 97, 65%) of Latino respondents to the survey were married. Two-thirds of the Latino sample (65 of 92, 71%) reported having children under 18 living with them; the majority of Latino respondents (45 of 70, 64%) reported having one or two children living with them.

The majority of Latino respondents reported living in a household with four, five, or six total members (72 of 101, 71%).

As expected, given our understanding of the Coastal City Latino community, the overwhelming majority of the Latino respondents (88 of 102, 86%) reported not
being born in the United States. The median number of years in the United States for this group was 10 years.

The Latino sample was comprised dominantly by renters (79 of 96, 82%), and the median monthly rent reported by the Latino respondents was $975 per month.

Findings

We found from the survey of Latino residents in Coastal City, California, that Latinos in general rated the police much more favorably than their Vietnamese counterparts. Latino residents held much more positive attitudes towards the police than the Vietnamese did. Nonetheless, neither population was eager to engage with the police, creating different challenges in each setting as to how to interact with an elusive population (although in the Latino case, it was more positively inclined).

Police Prevent Crime in the Neighborhood

Nine of 10 Latinos in the survey (90%, \(n = 101\)) stated that the police in Coastal City prevent crime in their neighborhoods (Figure 1). Only 6 of 10 (60.5%, \(n = 238\)) Vietnamese believed that the police protected their neighborhoods against crime (Figure 2). We also noted that the big difference is in the “strongly agree” category; 74% of Latinos, as opposed to 12% of Vietnamese, strongly agreed with the statement that the police protect them in their communities. While more than half of the Vietnamese are comfortable about police performance in preventing crimes, their confidence is not nearly as strong as the Latinos.

When the Vietnamese were asked to respond to a similarly worded question in our Vietnamese survey, “The police in the city where you live are generally effective in dealing with crime problems,” 14% strongly agreed and 43% somewhat agreed with this statement. The internal consistency of Vietnamese responses further give us more confidence that there is indeed a huge difference between these two groups of people.
Police Concerned with People’s Problems

Almost 7 of every 10 (69.8%, n = 96) of the Latinos strongly agreed, and 2 of 10 (18.8%) somewhat agreed, that the police in the neighborhood were concerned with people’s problems (Figure 3). Together, almost 9 out of every 10 Latinos indicated that the Coastal City police were concerned about their lives.

On the contrary, only 13% (n = 215) of the Vietnamese strongly agreed, and 34% somewhat agreed, that the police paid attention to Vietnamese complaints (Figure 4). With “strongly degree” and “somewhat agree” combined, there is a difference of 40% regarding this issue—a large difference.

Figure 2. Police Prevent Crime in the Neighborhood – Vietnamese

Figure 3. Police Concerned with Problems – Latino
Police Do a Good Job

We first used a general question/statement in the Latino survey: “The majority of the police in [Coastal City] do a good job” to compare to the similar questions in the Vietnamese survey.

Nine of every 10 Latinos (n = 103) either strongly agree (78.6%) or somewhat agree (14.6%) that Coastal City police do a good job—an amazing confidence in their police (Figure 5).

The question in the Vietnamese survey is two-fold. In response to a preceding question about call the police for service, the Vietnamese were asked to rate how
helpful their police were in his or her personal case and in a situation involving other members of the household.

In the personal case, slightly over one-third of the Vietnamese (36%, \( n = 70 \)) who had called for service either strongly agreed (10%) or somewhat agreed (26%) that police did a good job helping them (Figure 6).

**Figure 6. Police Do a Good Job Helping Me – Vietnamese**

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<th>Frequency</th>
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In the household case, less than one-third (31%, \( n = 70 \)) either strongly agree (10%) or somewhat agree (21%) that police did a good job helping them (figure not shown).

If we choose a more specific question from the Latino survey, “Police do a good job in helping people out after they have been victims of crime,” to compare, the results would have been almost the same: 88% of Latinos (\( n = 85 \)) either strongly agree (67%) or somewhat agree (21%) (figure not shown).

**Responsive to Community Concerns**

More than 9 out of every 10 Latinos (94%, \( n = 98 \)) either strongly agree (73%) or somewhat agree (21%) that “Police are responsive in my neighborhood to community concerns” (Figure 7). After we recoded a similar question in the Vietnamese survey, we found that only 11% of the subjects (\( n = 216 \)) strongly agree and 33% somewhat agree with this statement (Figure 8)—a 50% difference from the Latino sample.
Police Are Fair

More than 9 out of 10 (92%, $n = 97$) Latinos either strongly agree (67%) or somewhat agree (25%) that, in general, police are fair with people in their neighborhood (Figure 9).

Compared to the adapted question from the Vietnamese survey, we found that the majority of the Vietnamese did not believe that police were fair with the Vietnamese people. Only four out of every ten Vietnamese (39%, $n = 216$) either strongly (10%) or somewhat agree (29%) that prejudice against the Vietnamese people is not a serious concern (Figure 10).
Avoid Police Whenever Possible

Interestingly, the high ratings on the previous items by the Latinos in the sample did not translate into their willingness to have contact with police. Six out of every ten Latinos in the sample (60%, n = 101) either strongly agree (46%) or somewhat agree (14%) that it is best to avoid the police whenever possible (Figure 11). We are not sure this is a contradiction. To be supportive of police in the neighborhood doesn’t mean that people want to be around them. The Latinos may have rated police in their neighborhood favorably to show their support, but they did not forget the criminal investigative functions that police have. Though Latinos may not have more “skeletons in their closets” than any other Americans, few people want to be around someone who may negatively affect their freedom and life in general.
We don’t have exactly the same question in our Vietnamese survey. The closest item is whether failure to report a crime is a serious matter among the Vietnamese. It is clearly a community-level question in the Vietnamese survey. The response represents what each respondent perceives as a problem in the community, not necessarily his or her own problem. Again, after we recoded the question, we found that almost eight out of every ten Vietnamese (78%, $n = 211$) in the sample wanted to avoid the police whenever possible—25% strongly agree and 53% somewhat agree (Figure 12).

**Dishonest Police Officers**

Less than one-half (45%, $n = 93$) of the Latinos in the sample agreed that “There are quite a lot of dishonest policemen in [Coastal City]” (Figure 13). Comparatively,
only a very small portion of Vietnamese respondents (13%, \( n = 238 \)) believed that the police were generally willing to accept bribes (Figure 14). We understand the question in the Vietnamese survey is more specific than the general question of being dishonest. We speculate that accepting bribes may catch most of the domain of the concept of being dishonest on the part of the police.

**Figure 13. Dishonest Police – Latino**

![Frequency distribution for Latino respondents' perception of police dishonesty](image)

**Figure 14. Dishonest Police – Vietnamese**

![Frequency distribution for Vietnamese respondents' perception of police dishonesty](image)

We suspect that the Vietnamese may have experienced inadequate amount of knowledge about how the police system works, more cultural and language barriers than their Latino counterparts, poor communication between the Vietnamese community and American law enforcement, and the perceived and real prejudice against the Vietnamese. These factors combined may actually work together to reduce the chance of providing and accepting bribes.
Report to Police If He or She Is a Witness of Robbery

This is a personal-level question in both the Latino and Vietnamese surveys. All except a few Latinos (95%, \( n = 99 \)) answered affirmatively that they would report to the police if they witnessed a robbery (Figure 15). Seven out of every ten Vietnamese (72%, \( n = 159 \)) would be willing to cooperate with the police to prosecute the suspect if they can identify a suspect of a crime whom they don’t know and of which they are not a victim (Figure 16). Though the two groups all want to avoid the police whenever possible, it seems that reporting a crime as a witness is not one of the situations in which they want to avoid the police. The Latinos, again, are more determined to help the police in this situation than are their Vietnamese counterparts.

Figure 15. Report to Police – Latino

![Figure 15. Report to Police – Latino](image)

Figure 16. Report to Police – Vietnamese

![Figure 16. Report to Police – Vietnamese](image)
**Intervention Recommendations**

While there was clearly some variation in the two populations’ assessment of the police in their relative jurisdictions, the findings and interviews done with community leaders in the two studies support an engaged style of policing that is sensitive to the unique situation and attitudes of immigrants.

For law enforcement agencies that desire to make greater inroads with their immigrant populations, the findings above generated several recommendations for effective engagement with the immigrant populations. We encourage events and dialogue approaches that will bring the community and the police/legal system into more regular and productive contact.

As opposed to typical police-minority community dialogue, the recommendations we offer follow many of the efforts in various immigrant communities identified through prior research and have a strong element of the “increase of knowledge” from both sides as a key.

One Latino community leader in the Coastal City study, in response to our question as to what could be done to encourage Latino residents, especially immigrants, to use the legal system more, other than reporting crimes, answered,

> I believe if we had . . . more money for community policing and establish a task force, a Hispanic task force, in the community to work with the police department . . . Yes, get people from the community to learn the rights of the immigrant population to learn the housing codes to learn the police codes and then be able to share that . . . Meetings once a month . . . with the police, with the police department definitely.

In response to our question about changes to improve police-community relations and/or more effective policing in the Latino community, one Latino community leader responded,

> Well, more money for them to be able to hire more bilingual and Hispanic people to be police officers and then a task force. I believe that these people should be paid for their service to be able to go out there in the community. I think there should be more publications put out to the Hispanic community.

In elaboration about publications—which might be modeled after some successful Vietnamese and Spanish bilingual booklets recently produced by the local district attorney’s office—this same leader added,

> Well, a flyer in Spanish giving them all the agencies in the community that they can go get help giving them information, that they can talk to a Hispanic person [who] can kind of ease their mind that they are not, that if they . . . report something to the police, . . . immigration cannot step in and deport them if they . . . do not have documentation. Now, I think there is a big need in the community also to have workshops where immigrants can start the process of filing documentation to become citizens of this country.
Well, in our group we discuss how the police are a little racist sometimes. The harsh manner in which they treat them. There have even been comments saying how our own race tend to be the most racist ones. Sometimes people ask for more people of their own race, but then you experience more racism than with the Anglo-Saxon. I feel that it’s not necessarily more important to have a Latino, but how important it is for that person to be accepting of you.

These comments focus us on a debate which has taken place in the criminological literature for some time. The classic view, as presented by Alex (1969) in his examination of African-American police officers, is that even minority police officers hold their loyalty more to their fellow police officers than to the minority communities from which they come. The centrality of police work and its role definition to these officers is dominant over whatever ties they feel to their home communities and fellow minority group members. In situations where their potentially divided loyalties are being scrutinized by fellow police officers who depend on them for backup and support in potentially life-threatening situations, Alex’s officers resolve any ambivalence by proving their membership in the police community and adherence to its norms. These hypotheses have blunted the call for further diversification of police forces in many areas, or at least tempered the expectation that minority police officers will be less brutal in their policing of minority communities. This notion that minority police are “blue” first and “brown” only in a secondary sense has been a persistent theme throughout police studies since Alex.

By comparison, Irlbeck (2000), in her study of Latino police officers in an American city, argues that the sense of community connection—a strong issue in general for motivation for joining police forces—adds additional dimensions to the Latino officers she interviewed, who express their added ability to understand, model, and effectively police in minority communities.

Studies of community policing (see Skolnick & Bayley, 1986) have pointed out that the demands of community policing mandate an alternative consideration of police staffing and rotation patterns to effectively build continuity in community interaction. This principle, which conflicts with other deeply held police organizational maxims, can cause a problem for police administrations which do not conceptualize their staffing and rotation patterns as a key ingredient in community collaboration. At least one of the Latino community leaders expressed concern that the Coastal City police department was not sufficiently responsive to Latino community concerns and that they had allowed traditional police rotation patterns to undercut advances made in community collaboration:

Well, the other problem is that [our area] is more of a training ground for police. Police don’t stay around too long. It’s a training ground. It means we could have one police officer for one year and then he is gone. . . . We need more consistency. That would be the police structure. We cannot say you have to stay here because you are a good cop. Cops, they have the freedom they could go wherever they want. That is sort of the problem because new police come in and they have to relearn the whole neighborhood.
Another community leader supported this sentiment:

[R]ight now, we have almost [a] good relationship with the police department. It’s just that . . . right now we don’t have as much contact with gang officers because . . . they do a rotation, and so certain gang officers that were there, back then, are no longer in the gang detail.

Another comment was that positive results had come from such police-community collaboration in the past, and the spirit could be rekindled for future efforts:

We’ve worked with them in the past. Not recently. We haven’t had any specific problem rise in the community where we need to work better with the police. But we have had in the past . . . when they were having a big crime rate in the early nineties. We worked with the police and that is how the police substation got created. That is what came out of that.

Latino community leaders understood that such efforts took resources—and that the funding might compete with other police priorities—but they argued that it was well worth the investment:

There needs to be more money for this program, to create this program, and a will . . . more of a will from the police [view]point, for the police to want to do this. If there is no will, how are you going to do it?

To reiterate an earlier theme, that same leader also emphasized that the community members needed to be involved through their active civic participation:

But I also think that, personally, the community needs to be involved. They need to assume that if there [is] something that is going on that’s wrong, they need to pick up that phone and make that phone call. They need to have the courage to stick it through [to see] what happens.

Yeah, having community forums, having more one-on-one contact with police. Specifically not through when you have a problem, just for them to come around to say hi, to introduce themselves to you. I think the police have to do some more outreach in the Westside. Maybe do more community forums, neighborhood meetings. Encourage more neighborhood watch programs. Maybe begin something at the apartments. Maybe they should have a police officer just working with the high-density neighborhoods. . . . These are high-density apartment areas that [are] where mostly crime happens. That is were drug dealing is going on. We need to have more specific officers. We need more police force, period.

Our informant interview respondents also highlighted possible events, whether one-time or regular, which increase immigrants’ access to the legal system, and other systems, including health, education, and landlord-tenant.

Community leaders were also supportive of the notion that the police and the community could jointly offer forums and other opportunities for the police and community to come together:
Oh, what can we do? Oh, well through the different agencies, social service agencies that are involved in what we do, whenever we have an event or something we try to encourage the police department to participate or just to show up and be here so the kids will know that they are here for them and the police department needs to be, they . . . get to know these kids in a more social basis than a professional basis. “Hey, how you doing? What’s up, what’s going on?”

One community leader suggested the reintroduction of something as simple as a sports event as a response to our question, “Do you have in mind any sort of activities, to start establishing this support?”

Well, this goes back to . . . an annual softball game between the city hall, including the police, fire, and city staff and [a community organization for youth]. That was [a] little example where you took thirty kids and you had thirty officers and that was a start.

Another leader encouraged greater community participation at city council meetings and other citywide forums:

As you know the cost of living . . . is so horrific that generally one parent has to work in the day time and the other parent has to work at night and it’s a matter of having to take care of the children . . . so it presents a problem for the Hispanic community to be able to attend city council meetings or meetings out in the community. I think that maybe if the city provided transportation, maybe like a bus that would come into the community and transport them to these meetings that maybe that would help that if there was money to be able to do that . . . [and also] to be able to explain to the immigrant population, [to] educate them that INS police cannot touch them by them attending these meetings by them participating.

Another community leader suggested the extension of some activities the police department already undertakes—with a focus on the Latino community:

Police in neighborhoods, on bikes or foot patrol, and the police academy in Spanish. It has only occurred one time, I believe . . . It’s a class, the police puts a class for citizens for residents of [Coastal City] and they spend six months, like one day a month and they learn different aspects of the police department. It helps them understand how the police department works, but it’s even better for improving the communication between residents and police. The bad thing is they don’t do it very much; they only did it one time.

Another intervention, which could be offered with different formats, and could be offered as often as deemed necessary, could focus on the legal needs and legal access of the immigrant population. These “legal fairs,” with legal advice available from pro bono lawyers, could be modeled after efforts that a local pro bono law organization has done with the Vietnamese community in our study.

To address the issues in these studies, a city could establish or elaborate programs at various locations which address these same issues of legal access and police-community relations. For example, at a senior center in a nearby community,
trained volunteers provide tax/homeowner and renter assistance twice a month. A lawyer from the Legal Aid Society is provided once a month, with opportunities for appointments. In addition, a pro bono legal organization has been active with workshops in the Vietnamese community, and their model could be advantageous.

Some of our Latino community leaders highlighted the need for vigilance in the unique areas where they might be victimized, such as fraud in immigration cases, which the local district attorney’s office has also focused on:

And certainly issues concerning immigration is another area that I hear about. . . . A lack of information of on how the process works for obtaining legal status . . . or the knowledge or the resources that are available are inappropriate, for example, notario publico, who are not qualified and who provide misleading information.

Another leader added,

Well, for immigration a lot of them have . . . taken their money away from them because there is a special lawyer that—they put out two, three thousand dollars and their lawyer disappears so that is why they are afraid and they normally try to go to church. Sometimes there is a lawyer but there is someone behind them that is not a lawyer. And that is the one that is taking the money away from them. I know about a few people that have to go through all their savings to get their situation legal and they end up getting taken . . . .

**Conclusion: Complicating Factors**

Unfortunately, since the data from these two sites was collected, city officials in Coastal City have chosen a course of policing and public policy that may in the future negatively affect the perceptions which the Latino immigrants had in their city. By voting to mandate the city police to do immigration checks on suspicious or arrested persons, the city became one of the first jurisdictions to do so in the country. With immigration as a policy topic of intense interest and inflamed passion throughout the country, it is not surprising that other jurisdictions have followed with similar measures. One of this article’s authors is conducting additional research in that city to examine any reduction in the positive evaluation of police from this study.

What was unique about that city in our study is that the police department responded to the political issue by challenging the public officials and, in fact, financially and otherwise supporting alternative candidates in the next city council election, with the hope of changing the policy on police immigration checks. That election was very contested, but it ended with a close result that did not change the city policy.

**Bibliography**


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Investigations Involving Limited English Proficient Populations: Lessons from a Case Study

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The ability to effectively communicate is often taken for granted in our society. But for limited English proficient populations, difficulties of language access and communication can serve as a substantial barrier to social and justice system services. Nowhere is this issue more acute than in the interaction between police and immigrant communities. This paper explores these issues through an analysis of data stemming from a case study of a mid-sized western police agency. Through the utilization of detailed data stemming from interviews, focus groups, and official police records, it will be demonstrated that language access issues can have a far-reaching negative impact on the ability of police to further criminal investigations. Along the way, several commonly utilized methods of interpretation utilized by the police will be evaluated in terms of efficacy in criminal investigations.

Introduction

The impact of the inability to communicate with members of the public due to language barriers is a well-known frustration among police officers (Herbst & Walker, 2001). Charged with the need to collect facts and resolve issues based upon those facts, today’s police officers often find difficulty in attempting to assist those who speak a language other than English. In turn, this frustration can lead to misunderstandings and breakdowns in service. The negative impacts of language barriers are not limited to police frustration alone. It is a well-established premise in policing that communication barriers can have a major impact on the community as well. Several studies have demonstrated that communication difficulties are manifested in the community as a tendency to underreport crime, a distrust of the police, and overall community dissatisfaction with police services (Davis, Erez, & Avitabile, 2001; Davis & Henderson, 2003; Schneider, 1998; Skogan, 2006). This can have severe consequences on the ability of the police and the community to work cooperatively toward the co-production of public safety. In fact, recent studies have demonstrated that in the most linguistically isolated communities, attempts to establish community policing programs and neighborhood partnerships have failed terribly (Schneider, 1998; Skogan, 2006). All of this leads to an alarming trend in policing. The communities that would be best served by strong police-community partnerships are often the ones that have the most difficulty establishing them.

What is more alarming is the fact that linguistically isolated communities are growing (Davis & Henderson, 2003; Shah, Rahman, & Khashu, 2007). These segments of the community, more commonly known as limited English proficient (LEP) populations, are steadily increasing in number. According to the U.S. Census Bureau’s 2000 census figures, a total of 17.9% of the U.S. population speaks a language other than English at home. Of these, nearly 11 million report that they speak English “less than well.” This may just be the lower bound, however, as
undercounting is a well-documented problem with census figures. A more complete picture can be gleaned from public school enrollment data. According to a recent study examining the growing levels of LEP students enrolled in public schools throughout the United States, Padolsky (2002) found that between 1991 and 2001, the LEP student population in U.S. schools increased by 95%. Clearly, increasing numbers of community members who the police come in contact with will not be able to effectively communicate with them, leading to multiple problems and, ultimately, a breakdown in the delivery of service.

Nowhere are the negative effects of communication barriers felt more than in criminal investigations. Criminal investigations are high stress events for those involved (Torres, 1999). Due to this, effective communication becomes even more important. Add to this the multiple evidentiary and procedural requirements and the need for accurate communication is only heightened. Modern police investigators have to be knowledgeable in criminalistics, forensics, criminal procedure, legal processes, and human nature. Advances in evidentiary analysis have allowed more cases to be solved for sure, but the skills of a seasoned investigator are still necessary to gain corroborative evidence and confessions. Without the ability to effectively communicate with witnesses and suspects, investigators will find this task increasingly difficult.

**New Immigrants and Limited English Proficiency**

Over the past twenty years, the United States has witnessed the largest growth in new immigrant populations since the post-Industrialization era (Shah et al., 2007). According to the latest census estimates, 12% of the U.S. population in 2004 was foreign-born, excluding U.S. citizens born abroad (U.S. Census Bureau, 2005, Table 45). This represents a slight increase over the year 2000, when the foreign-born were estimated to number 10% of the population (U.S. Census Bureau, 2002, p. 22). If native-born persons of foreign parentage are taken into account, approximately one-fifth of the population can be considered to be of foreign stock. The vast majority of states have foreign-born populations considerably higher than the national average. The following is a short list of states with foreign-born populations of 15% or more (in descending order): California, New York, New Jersey, Hawaii, Nevada, Florida, and Texas. While most states have small proportions of foreign-born, in more than 40 of them, more than one-fifth of their foreign-born entered after the year 2000. In other words, the current immigration reality is that most states have a low proportion of foreign-born residents, but most of them are recently arrived residents. For instance, the foreign-born in nontraditional immigration states like Alabama and Idaho comprise 3 and 6%, respectively, but 39 and 31%, respectively, have entered since 2000.

Also of significance to police services is the fact that the foreign-born are concentrated in cities. In 2004, 37 out of 70 cities with populations of 250,000 or greater exceeded the national average of 12% of the population being foreign-born (U.S. Census Bureau, 2005, Table 46). In two cities—Miami, Florida, and Santa Ana, California—55 to 58% of their populations are foreign born. Twelve other cities, aside from New York and Boston, mostly in Texas and California, have foreign-born persons comprising more than 25% of the total population. Moreover, in cities that have not traditionally been immigrant destinations, high proportions of the foreign-born entered after the year 2000. In 44 out of 70 cities with populations over 250,000, the proportion of the foreign-born who entered after 2000 exceed the national average of 18%. In 32 of them, those having entered after 2000 comprise 25% or more of the population. One
implication of these population movements is that in many cities and states, police and other criminal justice agencies are for the first time encountering immigrants in relatively large numbers as victims, witnesses, or offenders.

By examining the educational and language proficiency of the foreign-born, it is possible to appreciate some of the problems confronting police departments. As shown in Table 1, the foreign-born, especially non-naturalized persons and those having entered after 2000, have less educational achievement and lower incomes than the native-born. The significance of this to police services is made clear when one examines the levels of English language proficiency of the foreign-born. In 2004, approximately one-fifth of the population over the age of 4 spoke a language other than English, and 8% of them spoke it “less than very well.” In ten states—among those with high proportions of foreign-born persons—35 to 40% spoke a language other than English, and 10 to 20% spoke English “less than very well” (U.S. Census Bureau, 2005, Table 52). In 35 out of 70 cities with populations greater than 250,000, the proportion of persons speaking a language other than English exceeded the national average of 18%; and in 38 cities, the proportion of persons speaking English “less than very well” exceeded the national average of 8%. In eight cities—Miami, Florida, El Paso, Texas, and six California cities—over half of the populations spoke a language other than English; while in 11 cities, more than one-fourth of the population spoke English “less than very well” (U.S. Census Bureau, 2005, Table 53).

Table 1. Educational Attainment of Persons 25 Years Old and Over, and Income of Family Households, 2004, by Nativity

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Source: U.S. Census Bureau, 2005, unpublished data, Table 49: Native and Foreign-Born Populations by Selected Characteristics

In sum, the large proportions of foreign-born in many cities and states, the large numbers of recently arrived immigrants, their low educational levels, and their limited ability to communicate in English present barriers that challenge the ability of many police agencies to provide effective police services.
Impact on Policing

The ever-increasing level of new immigrants and LEP populations residing in the United States has created a major issue for police. The influx of LEP populations has meant that police have had to increase their ability to interpret and understand numerous languages. For example, Khashu and Almo (2005), in their study of language barriers in New York City, report that in 2004, the New York Police Department received 248,177 calls for service from individuals who could not speak English. In addition, data stemming from four out of five New York City boroughs show that nearly 16,000 people per year who speak a language other than English are arrested per year in New York City (Khashu & Almo, 2005). Clearly, police are coming into contact with LEP populations on a daily basis and in multiple ways. The need for interpretation in policing does not end with calls to 911 and arrest processing, however. According to Divasto (1996), nearly half of the major city crisis negotiating teams have recognized the need to communicate with people in different languages and have staffed their teams with bilingual negotiators. Other special units, such as domestic violence response teams, have recognized this same need as language has proven to be a strong indicator of potential re-victimization (Wolf, Ly, Hobart, & Kernic, 2003). The need for communication in policing has been well-established.

This paper explores how increasing levels of LEP populations have impacted police services. In particular, the issues surrounding language access in criminal investigations will be outlined. The outgrowth of this will be a complete discussion and evaluation of the multiple translation and communication methods employed by police investigators during criminal investigations.

Method

Data for this study was collected as part of a larger study on language access in policing. As part of that study, a mid-sized western police agency was selected for intensive study. This jurisdiction is the subject of this article’s case study and will be referred to as West City.

Data was collected from West City via telephone and in-person interviews, participant observations, and focus groups. Initially, researchers conducted semi-structured telephone interviews with police officials, including the Chief of the Department, Chief of Patrol, Chief of Operations, and Chief of Detectives. Telephone interviews were also conducted with community leaders, including clergy, elected officials, other service providers, and a representative from the prosecutor’s office. A total of 27 interviews were conducted. These interviews helped to frame later in-person interviews and focus groups by identifying the various conventional and nonconventional methods utilized by police officers in their attempts to communicate with the non-English speaking public. Once identified, each method was stripped out for more detailed discussion and evaluation.

Focus groups were conducted with members of West City’s police force. Specifically, focus groups of six to eight officers were conducted with patrol officers, patrol supervisors, command staff, dispatchers, and investigators. Officers were asked to describe the formal and/or informal processes they went through to communicate with non-English speakers. In addition, officers were asked to judge the utility and
effectiveness of each method they described. Patrol officers and investigators in three
districts were interviewed. One final focus group of officers and investigators was
convened at the end of data collection to discuss the accuracy of the various findings.

All of the interviews and focus group proceedings were recorded and transcribed.
Statements were grouped by content and charted on a spreadsheet for data reduction
purposes. The major themes were then utilized to draw research findings.

Demographics: West City

According to the 2000 Census, approximately 300,000 people reside in West City. The
city’s main racial/ethnic demographic make-up consists of five main categories;
white, Hispanic/Latino, Asian, Black/African American, and American Indian/
Alaska Native. Whites claim a slim majority in the demographic make-up of the
community at just over half of the population. This is followed by just over 40%
of the population claiming Hispanic or Latino ethnicity. Asians represent the third
largest racial/ethnic group with approximately 10% of the population. Figure 1
graphically depicts the demographic percentages of people residing in West City
according to the 2000 Census.

Language Demographics: West City

According to the 2000 Census, over half of the people residing in West City speak
a language other than English at home. This translates into approximately 163,000
people. About 40% of people reporting that they do not speak English at home
report that they speak Spanish. In fact, Spanish appears to be the largest language
other than English spoken in the city. Additionally, of those who report that they
speak Spanish, approximately 24% reported that they speak English less than “very
well.” This equates to nearly 94,000 Spanish-speaking people who may not have a
good enough command of the English language to properly access public services
such as emergency assistance. The next largest language group spoken in West
City is Asian/Pacific Island languages. Approximately 30,000 people reported that
they primarily speak languages belonging to this group when at home. Of the
people who speak an Asian or Pacific Island language, nearly 6% report that they do not speak English very well. Lastly, approximately 4% of people residing in West City report that they speak an Indo-European language at home. Of these, 1% or 3,500 people report that they do not speak English very well. In sum, nearly 95,000 people in West City report that they do not speak English very well.

**Figure 2. Language Spoken at Home, 2000 Census**

Findings

The interviews revealed that the greatest number of communication barriers occur at the delivery of service level within the police department. Officers performing the patrol function were more likely to find themselves in situations where there was a language barrier. According to the police officials we spoke with, these situations most often arose during basic police functions such as traffic enforcement or responding to calls for service. Other police functions, such as investigatory work, appeared not to present as significant a problem as patrol. According to the commanding officer in charge of investigations, detectives were often able to schedule interviews in advance and therefore ensure that an interpreter was available. Patrol officers often did not have this luxury and had to utilize alternative methods to communicate with those LEP people with whom they came in contact. This does not mean that investigators did not encounter significant issues when attempting to further their criminal investigations, however. One such barrier cited was that investigators must often rely on the initial information collected by patrol officers in the field. In cases where an investigator is not able to respond directly to the scene, this information can sometimes be misleading and/or not pertinent to the furtherance of the criminal investigation. Although this presents numerous problems, this was not the most significant barrier noted by investigators. By and large, the most significant issue raised by investigators was the navigation of various interpretation methods. According to the investigators who we spoke with, knowing which method could be relied on and which needed a more nuanced approach could mean the difference between soliciting reliable information and poor leads. The data suggests several issues that all law enforcement investigators should be keenly aware of when dealing with interpreters for LEP populations. Below, each method is discussed in detail incorporating the insights gleaned from the interviews and focus groups.
Telephonic Interpretation Services

Numerous police agencies across the United States subscribe to telephonic interpretation services. These services charge a fee to provide interpreters via telephone for hundreds of languages. These interpreters can be reached 24 hours a day/seven days a week depending on the language. West City utilized such a system. In 2005, a total of 2,636 calls were placed to the telephonic interpretation service. According to the data collected, West City requested translations for a total of 19 different languages. Spanish was the most common language requested, accounting for 94% of all translation requests. Figure 2 graphically depicts the distribution of the top four languages requested.

Figure 3. Top Four Language Line Translation Requests, West City Police

![Chart showing the top four languages requested for translation services in West City Police] (2495 Spanish, 67 Vietnamese, 31 Korean, 7 Arabic)

Although it appears that West City made wide use of the telephonic interpretation service, investigators in the department reported that they rarely utilized it. There were several reasons expressed for this. Initially, investigators reported that it was extremely cumbersome passing a telephone back and forth to the subject in order to get the most basic information. In addition, investigators reported being suspect as to whether their questions were being asked in the same manner as they had uttered them and, more importantly, if the answers given by the interpreter were verbatim responses. Investigators reported frustrations due to interpreters translating long rambling answers to the detectives in terms of yes or no responses. As one investigator related, “The subject talks to the interpreter for ten minutes and then hands the phone to you and the voice on the other side says, ‘He said yes.’” The most problematic issue with telephonic interpretation services expressed by the investigators, though, had little to do with convenience and quality of interpretation. Rather, investigators were extremely concerned with evidentiary problems. Time and again, investigators reported that cases had the potential to be compromised due to the unavailability of the telephonic interpreters at subsequent trials. Investigators expressed serious doubts about their ability to get a telephonic interpreter to appear in court if ever the skill of the interpreter or the accuracy of the interpretation was brought into question.

Professional Interpreters

Some agencies have entered into cooperative agreements with the local court systems in order to make use of professional court interpreters. In West City,
investigators reported that they often made use of professional court interpreters because they would rather have a live interpreter than a telephonic interpreter. Although they reported several improvements with live professional interpreters, key problems were still noted. The most significant problem associated with professional interpreters was their training. Professional interpreters are instructed to be impartial and nonjudgmental. Investigators noted that professional interpreters sometimes sanitized language and did not express emotions such as anger and disbelief, emotions often key in nonverbal communication during interrogations. This most often occurred when investigators attempted to exaggerate evidence or embellish circumstances in an effort to catch the subject in a lie during interrogations, a commonly utilized tactic in investigations. One investigator recounted an interrogation during which an interpreter outright refused to interpret a misleading statement to a suspect. Ultimately, investigators expressed concerns about the lack of control during questioning involving professional interpreters.

**Convenient Interpreters**

Throughout the case study, officers and investigators recounted numerous instances in which they utilized a convenient interpreter such as a family member or neighbor. In fact, this practice seemed quite common, especially during patrol functions where the urgency of the situation required instantaneous communication. Investigators were less likely to rely on convenient interpreters, although the practice was not unheard of. Investigators reported that they were more likely to rely on family members during the initial canvassing phase of the investigation. Reasons forwarded for this practice included the need to quickly identify those persons with pertinent information about a crime and the relatively innocuous nature of these initial canvassing interviews. Investigators drew clear distinctions on the propriety of utilizing family members and neighbors during sensitive interviews. These topics included sex crimes, domestic crimes, and major violent crimes such as homicide investigations. Investigators also demonstrated a clear predilection for family members over outsiders such as neighbors or bystanders. The reason for this preference was twofold: (1) using family members helped to maintain the subject’s privacy and (2) having a family member around during questioning was viewed as being comforting.

**Bilingual Officers**

By far, the most widely accepted and utilized interpretation method employed by investigators was the use of fellow bilingual police officers. This included officers from within the agency as well as officers from neighboring agencies. There are clear benefits to utilizing sworn officers as interpreters. These benefits include subsequent availability at trials and familiarity with departmental procedures and practices. The most widely cited benefit, though, was the experiential knowledge and interview skills that sworn officers bring to the interpretation process. Unlike professional interpreters, bilingual police officers are familiar with the nuances of interviews and interrogations, including the use of exaggeration, traps, and direct and/or forceful questioning. Investigators recognized this and it shaped their preference.

It must be recognized that the use of bilingual officers as interpreters is limited by the number and diversity of those officers in each particular agency. In West City, 19% (76) of the officers were bilingual, with the majority (70) reporting being
bilingual in Spanish. In line with this, West City did not encounter major issues when interpreting Spanish, the one caveat being that there were sometimes slang or dialectic nuances noted. Issues did arise however, when investigators encountered other languages such as Arabic, Polish, Vietnamese, and Chinese. These difficulties also included dialectic nuances. In recognition of this, West City created a list of all bilingual officers within the department and offered these officers a pay bonus to become certified interpreters. This practice greatly assisted with the ease of securing a sworn officer as an interpreter. At a minimum, agencies that do not currently have this capability should explore creating a bilingual skills list. Those agencies with significant language problems should consider pay incentives and bonuses.

Discussion

Issues of language access and communication difficulties are becoming more commonplace in policing. The precipitous rise in new immigrant populations, many of whom are limited English proficient, has forced many police agencies to explore new methods and options regarding translation and communication services. This paper discussed several of these options in terms of their efficacy and utility during criminal investigations. The findings suggest that the various methods of communication and interpretation are not interchangeable. In actuality, each method has its own unique circumstance in which it is the superior method. More importantly, though, the findings suggest that police officers have a clear understanding of when a case requires a deeper level of communication that can only be had through professional interpreters or when a case can be resolved through basic communication. For instance, when speed of communication is paramount, convenient interpreters such as family members may be the preferable method. But when urgency is not present, and the need for factual case information runs paramount, bilingual officers may be the preferable interpretation method. Ultimately, the findings from this study suggest that identifying and securing an interpretation method may be the least troubling aspect of criminal case investigations involving LEP populations. Once identified, other issues such as procedural safeguards, trust, and evidentiary issues take precedence. Future research efforts should be undertaken to examine these issues more in depth.

References


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Thai Police Officers’ Attitudes Toward the Deportation Policy on Non-Documented Workers in Thailand

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Introduction

During the past decade, the number of illegal or irregular workers in Thailand has dramatically increased and become one of the government’s most significant policy dilemmas (Wongbunsin, 2001). The majority of these workers come from the three neighboring countries of Cambodia, Laos, and Myanmar. While the political and economic instability and the lack of opportunities to improve the quality of lives in their home countries have pushed these migrants to Thailand (Huguet & Punpuing, 2005; Wongbunsin, 2001), Thailand’s labor shortage at the low-end market has also helped to attract the inflow of these illegal migrants (IAS, 1997, 2001). In 2003, the Royal Thai Police and the Labor and Social Welfare Ministry estimated that there were about 1,500,000 illegal immigrants of which 1,200,000 were not yet documented (RTP, 2003a). The Thai government has tried to deal with these undocumented workers over the years, but its efforts have not been successful (Boodphetcharat, 1998; Chantavanich, Chintayanona, & Risser, 1997; IAS, 1997, 2001; Jinnawaso, 1995).

The increasing number of illegal migrant workers has created several problems for Thailand. Such problems include (1) threats to national security since these migrants can come from different ethnic groups along the border and create political unrest such as participating in demonstrations; (2) cross-border crime such as human trafficking; (3) trade impediments (e.g., when the World Trade Organization or the European Union accuses Thailand of exploiting illegal labor); (4) slow technology development due to employers’ reluctance to replace labor with new technology; (5) public health issues such as increased prostitution and risk of HIV/AIDS as well as other contagious diseases; and (6) safety threats to society via serious crime and crime against persons (Huguet & Punpuinng, 2005; IAS, 2001).

Although Section 54 of Thailand’s Immigration Act of 1950 clearly allows police officers, especially those working under the Immigration Police Bureau, to deport people who reside and work in the country illegally, it seems that this law has not been fully enforced. In 1999, the Thai government issued a memorandum demanding the Royal Thai Police increase its efficiency and effectiveness in dealing with the immigration problem by following the deportation regulations and procedures. Clearer instructions and procedures on the deportation policy have been given to responsible police officials to follow; however, the outcomes of this policy have not yet been measured.

There is little empirical research conducted on this subject, particularly with the police officers enforcing the immigration law and implementing the deportation policy. This
current study aims to fill a gap on this issue by examining police officials’ attitudes about the deportation policy. The study applied the four important factors—(1) legal, (2) organizational, (3) technological, and (4) geographical—presented by Stojkovic, Kalinic, and Klofas’s (2003) measurement of the efficiency and effectiveness of an organization’s goals and policies. It attempts to answer the two key questions: (1) How does each of the four factors affect police officers’ attitudes toward the deportation policy, and (2) Which of the four factors most affects the officers’ attitudes?

**Related Studies**

Transnational migration has long been an influential characteristic of the world literature for both post-industrial and developing countries. The United States has long experienced being the biggest receiving country for immigration. Bean, Edmonston, and Passel (1990) analyzed undocumented migration to the U.S. to understand more about illegal migrants on how they feel and think, and how the government dealt with them. Many Asian countries, including Japan, Taiwan, South Korea, Hong Kong, Singapore, and Middle East countries, are playing the role of recipient countries. Some other Asian countries like the Philippines, Indonesia, Cambodia, Laos, Myanmar, Vietnam, and India are exporting their labor. Thailand and Malaysia play the roles of both receiving and sending countries because both countries are becoming more industrialized and are confronted with the need to increase the size of the low-level labor force. Most Asian governments treat migrants as temporary workers, with very limited rights and no entitlement to settlement and family reunion. The receiving countries have been worried about structural dependence on foreign labor and about the possible effects of settlement (Castles, 2000).

Because of a rapidly increasing influx of illegal migrant workers in Thailand, Chantavanich et al. (1997) suggested a new paradigm to solve the migrant worker problems. They argued that the existing solutions are too limited in scope because they focused heavily on the security issues and not enough on the labor concerns. Chantavanich et al. believed the new paradigm must begin with the acceptance of migrant workers as a concrete part of Thailand’s economy. For the paradigm to be effective, it would require cooperation among all stakeholders: the government, the private industrialized sector, and the voluntary private sectors.

The Thai government has initiated more flexible measures to cope with the problem since 1996. For example, in recent years, there have been several cabinet resolutions allowing illegal migrants to obtain legal documents and temporary work permits for one year with a possibility for renewal. However, it was reported that the policy was only implemented in an ad hoc manner without any long-term goals (Chantavanich et al., 2002). The main objective of the policy was to locate all irregular migrant workers. Most recently, in 2003, the government allowed the existing 430,074 registered workers to extend their working licenses for another year, but only 288,780 migrant workers took advantage of the opportunity. It noted that the total estimated number of unregistered migrant workers was approximately 1,500,000 in 2003 (RTP, 2003b).

The registration process was initially launched in 2001, allowing all of Thailand’s 76 provinces to register their illegal migrants to work in ten industries (e.g., agriculture, mines, construction and boat building, rice mills, and as housemaids). The registration fee was 4,450 Baht (about $US 135), and the registration was valid for one year. During
2001 and 2002, a total of 568,249 and 430,154 illegal migrant workers, respectively, registered in the ten industries. The number of the registered migrant workers had decreased over the years, however. For example, a report from the Thai Ministry of Labor revealed that the total number of registered migrant workers in 2002 was 430,154, a decrease of 138,095 persons from 2001. The number continued to fall in 2003 when only 141,374 persons were registered. Only 288,780 registered foreign workers extended their work permits in 2003, whereas 568,249 workers did so in 2002. Chantavanich et al. (2002) attributed the decreasing number of registered workers to the implementation process, stating that the registration procedure failed at the operational level. They recommended that the Thai government should have a long-term plan to deal with the immigration problem and treat it as a serious national issue.

Regarding unregistered workers, the Royal Thai Police have tried to control the number and deport them back to their home countries when possible. Table 1 shows the types and number of people arrested for immigration charges between 2002 and 2005. Overall, the number of employers, agents, and landlords arrested for immigration-related charges had increased. There were 189,486 non-documented workers arrested in 2002, and the number increased significantly to 280,867 in 2003 (a 48% increase) and to 294,663 in 2004 (a 55% increase). The number dipped in 2005 when fewer illegal workers (only 232,912 persons) were arrested. The total number of arrests between 2002 and 2005 was 997,928.

<table>
<thead>
<tr>
<th>Year</th>
<th>Employers</th>
<th>Trafficker Agents</th>
<th>Landlords</th>
<th>Irregular Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>318</td>
<td>1,127</td>
<td>670</td>
<td>189,486</td>
</tr>
<tr>
<td>2003</td>
<td>722</td>
<td>1,939</td>
<td>1,622</td>
<td>280,867</td>
</tr>
<tr>
<td>2004</td>
<td>543</td>
<td>2,824</td>
<td>1,321</td>
<td>294,663</td>
</tr>
<tr>
<td>2005</td>
<td>978</td>
<td>2,357</td>
<td>1,305</td>
<td>232,912</td>
</tr>
<tr>
<td>Total</td>
<td>2,561</td>
<td>8,247</td>
<td>4,918</td>
<td>997,928</td>
</tr>
</tbody>
</table>

Source: RTP (2006)

Table 2 reports the total number of deported illegal migrant workers between 2002 and 2006. Migrant workers from Myanmar appeared to be the largest deported group, followed by people from Cambodia and Laos. The data indicated that while the number of deported workers from Myanmar had consistently decreased from 168,148 in 2003 to 121,690 in 2006, deportation of workers from Laos and Cambodia had steadily increased. A big increase in the deportation number was evident with Cambodian workers, which increased from 58,528 in 2002 to 141,865 in 2006 (a 142% increase) compared to a 49% increase of deported workers from Laos during the same period. The main reason the Cambodian group had the highest number was because many of them were persecuted by corrupt officials and forced out of their home countries. Many of these Cambodians wanted to go back home safely, however, so they reported themselves voluntarily to the Thailand-Cambodia immigration checkpoints in order to be deported back through a formal channel to avoid persecution (S. Paritkulontatt, pers. comm., June 3, 2007).
Table 2. Total Numbers of Deported Illegal Migrant Workers (2002-2006)

<table>
<thead>
<tr>
<th>Year</th>
<th>Myanmar</th>
<th>Laos</th>
<th>Cambodia</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>132,688</td>
<td>15,824</td>
<td>58,528</td>
<td>207,040</td>
</tr>
<tr>
<td>2003</td>
<td>168,148</td>
<td>16,213</td>
<td>74,903</td>
<td>259,264</td>
</tr>
<tr>
<td>2004</td>
<td>130,076</td>
<td>18,544</td>
<td>74,946</td>
<td>223,566</td>
</tr>
<tr>
<td>2005</td>
<td>115,306</td>
<td>22,325</td>
<td>90,645</td>
<td>228,276</td>
</tr>
<tr>
<td>2006</td>
<td>121,690</td>
<td>23,552</td>
<td>141,865</td>
<td>287,107</td>
</tr>
</tbody>
</table>

Source: The Immigration Bureau (2006)

Conceptual Framework of the Study

The conceptual framework for this study is based on the system approach theory that offers a basic understanding of the broad complexities of organizational change (Katz & Kahn, 1978). Organizations are viewed as open systems which are influenced by various factors and forces from the environment. These environmental forces affect not only the structure of public organizations, they determine the effectiveness and efficiency of the organization’s policies and procedures as well. Stojkovic et al. (2003, pp. 47-55) used internal (or organizational) factors and external (or environmental) forces to explain how each of these plays a role in creating, maintaining, developing, and evaluating organizations. The organizational factors include budget, personnel, supervision, management, rules and regulations, and employee behavior. The external factors can be legal, technological, and geographical forces. Equally important are the perceptions an organization’s employees have toward each of these forces. It is unlikely that police officers will fully observe their department policy if they do not see its relevance. A sense of role conflict may arise if the officers see an inconsistency between written law and practice or a clash between practice and unrealistic goals. Therefore, the current study uses these factors under the open systems as a model to examine police officers’ attitudes toward the effectiveness of the deportation policy.

Methodology

Samples

The study’s samples were police officers who were involved in immigration duties. Using a stratified sampling technique, the study chose to survey immigration officers from four different regions in Thailand as the study’s samples—(1) the central region; (2) northern region (Myanmar Border); (3) northeastern region (Laos border); and (4) eastern region (Cambodia border). For each of these four regions, 100 officers were randomly selected from the border control checkpoint, the labor office, the border police, and the local police station. These officers were relevant to the study because they worked at the operational levels in which their day-to-day duties were directly involved in implementing the Thai government’s immigration policy. The researchers contacted the police commander of each region in September 2005, explained the purpose of the study, and requested cooperation and assistance in distributing the surveys to the officers and collecting the completed and returned questionnaires from them. The researchers asked police commanders to follow up on the survey in October 2005, and all the data...
were collected and returned in November 2006. Of the 400 questionnaires, 327 were returned, which was a response rate of 81.74%.

Study’s Variables

The independent variables of the study consisted of four scales. First is the legal scale, which was used to measure whether the officers thought rules, regulations, registration policy, and punishment regarding the illegal migrant worker cases were effective. The respondents were asked questions about (1) the roles of the local residents who provided information about illegal entries to the authorities, (2) police ability to check and control registered workers, (3) the government’s punitive measures against employers involved in human trafficking, (4) the government’s exemptions to allow some illegal migrant workers to work, and (5) an increase in illegal workers due to the current registration policy and its procedures.

Second is the organizational scale, which was designed to measure how the corruption and the budget issues would affect the deportation policy on illegal migrant workers. To measure this scale, the respondents were asked about (1) the cover-up of the officer’s corrupt behavior during the deportation process, (2) the appropriateness of the current rules and regulations, (3) the budget issue, (4) the personnel shortage issue, and (5) the corrupt officers who set many illegal migrants free.

Third is the technological scale, which measured the impact that technology and information systems have on the deportation policy. To measure the attitudes on the technological scale, the study asked the respondents about (1) the need for new technology (night vision instruments and thermal detector system) at boundary control and patrol; (2) the inefficiency of information gathering and analysis used for arrested or deported illegal workers; (3) the lack of the latest computer systems to manage daily operations; and (4) the lack of computer connections with other related agencies to share information on illegal workers.

Fourth is the geographical scale, which was used to measure the effectiveness of border control (i.e., the ease or difficulty the illegal workers have in crossing the border) and border relationship (i.e., whether there is a close relationship among people living on either side of a national border) would affect the deportation policy. Measuring this scale, the survey asked the respondents about (1) the effectiveness of the international bilateral agreement on the deportation process, (2) the issue which stemmed from the unofficial deportation process (the process by which the deporting of illegal migrant workers to their home country is done without any bilateral agreement), (3) the difficulty in controlling deportation due to the long border between Thailand and its neighboring countries, and (4) the difficulty in controlling the deportation process due to illegal ethnic minority groups along the border.

The dependent variable was the effectiveness of the deportation policy, which was defined to the respondents as permanently sending illegal migrants back to their home country after arrest. It was measured by asking the police officers if they thought the current deportation policies for illegal migrant workers were ineffective. To prevent sensitizing the respondents to the study’s issue, the effectiveness of the deportation policy question was asked before those of the independent variables. For all the questionnaire items, the respondents’ opinions
were gauged through a 5-point Likert-type scale, with 1 representing “strongly disagree” and 5 representing “strongly agree.”

## Results and Discussions

The demographic data concerning the respondents showed that 81.8% were male and 18.2% were female. About 79% of the respondents were under 45 years of age. About 59% of them had been performing immigration-related duties for 20 years. For educational level, 38.8% of the respondents had a secondary school education, 37.9% had a bachelor’s degree, 12.9% had a high school diploma or GED, and only 9.7% had a master’s degree. Regarding the agencies, 27% represented the border control checkpoint, 32% were local police officers, 24% were border patrol officers, and 17% represented labor officers.

Table 3 presents the overall means for the questions on the effectiveness of the deportation policy and the legal and organizational factors. With a mean score of 3.62, police officers slightly believed that the deportation policy was ineffective. Police officers seemed to believe the legal factor had a big impact on illegal entry of migrant workers to Thailand, with the overall mean score for all five items being 4.28. Information on illegal migration given from local residents was considered the most important to prevent illegal entry (M = 4.69), followed by police inability to check and control registered workers (M = 4.26), the legal exemption allowing migrant workers to enter Thailand (M = 4.22), and the current registration policy and its procedure (M = 4.04).

<table>
<thead>
<tr>
<th>Items</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>The current deportation policy for illegal migrant workers from Myanmar, Laos, and Cambodia are ineffective.</td>
<td>3.62</td>
</tr>
<tr>
<td><strong>Legal Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Information on illegal migrants provided by local residents is important in preventing illegal entry.</td>
<td>4.69</td>
</tr>
<tr>
<td>Police officers are unable to check, control, and enforce violation by registered workers.</td>
<td>4.26</td>
</tr>
<tr>
<td>The Thai government’s punitive measures against employers or anyone involved in human trafficking are ineffective because violators either received suspended sentences or their cases are dismissed in court.</td>
<td>4.22</td>
</tr>
<tr>
<td>The lax measures that allow exemption for illegal migrant workers from Myanmar, Cambodia, and Laos do not discourage illegal migrants from trying to enter Thailand.</td>
<td>4.21</td>
</tr>
<tr>
<td>The current registration policy and its procedures increase illegal migration.</td>
<td>4.04</td>
</tr>
<tr>
<td><strong>Organizational Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Corrupt officers cover up their behavior at every state of the deportation and re-smuggling prevention process.</td>
<td>3.81</td>
</tr>
<tr>
<td>The rules and regulations on immigration enforcement in your agency are appropriate and up-to-date.</td>
<td>3.69</td>
</tr>
<tr>
<td>The lack of sufficient budget in your agency reduces the effectiveness of deportation and re-smuggling prevention.</td>
<td>3.60</td>
</tr>
<tr>
<td>The shortage of personnel in your agency reduces the effectiveness of deportation and re-smuggling prevention.</td>
<td>3.52</td>
</tr>
<tr>
<td>Corrupt officers set many illegal migrants free.</td>
<td>2.86</td>
</tr>
</tbody>
</table>

**Note:** The scale ranged from 1 to 5, with a higher number indicating a stronger agreement.
For the organizational factors, the overall mean score for all five items was 3.50, suggesting that the police officers felt neutral about the issue. They only slightly agreed that corrupt officers covered up their behavior during the deportation process and re-smuggling prevention (M = 3.81) and that the rules and regulations on immigration enforcement were appropriate (M = 3.69). The effectiveness of deportation policy and re-smuggling prevention was not believed to be affected by the lack of budget (M = 3.60) or by the shortage of personnel (M = 3.52). The least agreement (M = 2.86) was a belief that corrupt officers set many illegal migrants free.

Several points are worth mentioning. First, police officers seem to be uncertain about the effectiveness of the deportation policy. Such uncertainty may result from various factors affecting the policy. Second, police officers consider the local people to be a valuable source of information in preventing the entry of illegal migrants, which is a positive sign under the Royal Thai Police’s recent effort to implement community policing programs. Third, the legal issues appear to be of greater concern than the organizational issues. To Thai police officers, the issues of corrupt behavior, poor funding, and personnel shortages seem to have a lesser effect on the deportation policy compared to legal-related issues such as government’s exemption policy, rules, regulations, and penalty on immigration charges. Fourth, although the officers believe some corrupt behavior of the officials is concealed, they do not think such behavior includes letting illegal migrants go free.

Table 4 reports the mean score for the technology- and geography-related items. Overall, police officers thought the geographical factor (mean scores ranged from 4.08 to 4.18) attributed more to the weakening of the deportation policy than the technological factor (mean scores between 3.70 and 3.88). The officers only slightly agreed that there was a need for new technology equipment and new information and computer systems for their jobs. Among these technologies, a shared database system that can link all the immigration-related data among criminal justice agencies was considered the least desirable (M = 3.70). For the geographical factor, the officers believed an international bilateral agreement was the most important element to make the deportation process more effective (M = 4.39). The officers also agreed that an unofficial deportation (M = 4.12), the long border between Thailand and its neighboring countries (M = 4.11), and illegal ethnic minority groups along the Thailand border (M = 4.08) made the deportation process and re-smuggling prevention difficult.

Table 4. Mean Scores of the Officers’ Attitudes on the Technological and Geographical Factors Affecting the Effectiveness of Deportation

<table>
<thead>
<tr>
<th>Items</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Technological Factors</strong></td>
<td></td>
</tr>
<tr>
<td>New technology such as the night vision instrument and the thermal detector system should be necessary tools for border control and patrol.</td>
<td>3.88</td>
</tr>
<tr>
<td>Your agency is inefficient when gathering and analyzing information about the arrested or deported illegal migrants.</td>
<td>3.84</td>
</tr>
<tr>
<td>Your organization does not have an up-to-date computer system to manage day-to-day operations.</td>
<td>3.84</td>
</tr>
<tr>
<td>Your agency does not have shared databases or other technology linkages with other related organizations.</td>
<td>3.70</td>
</tr>
</tbody>
</table>
Geographical Factors

The international bilateral agreement is sufficient for the effectiveness of deportation process and measures.

The unofficial deportation at border checkpoints makes it more difficult to control deportation and re-smuggling.

The long border between Thailand and its neighboring countries makes it more difficult to control deportation.

Illegal ethnic minority groups make it more difficult to control the deportation process and re-smuggling prevention.

**Note:** The scale ranged from 1 to 5, with a higher number indicating a stronger agreement.

Correlations Between the Four Scales and Effectiveness of the Deportation Policy

The Spearman correlation coefficients were used to determine the strength of the relationship between the four scales and the dependent variable because all the items measured were ordinal data (Cronk, 2006, p. 43). To create scales for all the 18 independent variables, Cronbach’s alpha values were calculated to measure the reliability and internal consistency of each scale. The Legal and Organizational scales (each with five items) had Cronbach’s alpha values of 0.6167 and 0.6219, respectively. The Technological and Geographical scales (each with four items) produced reliability coefficients of 0.7142 and 0.7467, in that order. Each of these four scales indicates its internal consistency with an acceptable Cronbach’s alpha of 0.6 or higher (Chen & Small, 1994).

Based on the Spearman rho correlation results in Table 5, all four scales were found to be positively correlated with the attitudes toward the ineffectiveness of the deportation policy. The more the officers believed there were legal, organizational, technological, and geographical issues when dealing with illegal migrant workers, the more they thought the deportation policy was ineffective. However, the Technological scale had the highest correlation with attitudes toward ineffectiveness (rho = 0.459), followed by the Organizational scale (rho = 0.408), the Legal scale (rho = 0.366), and the Geographical scale (rho = 0.218).

Table 5. Correlation Results Between the Dependent Variables and the Effectiveness of the Deportation Policy

<table>
<thead>
<tr>
<th>Scale</th>
<th>Ineffectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Scale</td>
<td>0.366**</td>
</tr>
<tr>
<td>Organizational Scale</td>
<td>0.408**</td>
</tr>
<tr>
<td>Technological Scale</td>
<td>0.459**</td>
</tr>
<tr>
<td>Geographical Scale</td>
<td>0.218**</td>
</tr>
</tbody>
</table>

**Correlation is significant at the 0.01 level.

Discussions and Policy Implications

This study addresses an important question of how Thailand controls and deports migrants who illegally entered Thailand by focusing on two major issues: (1) How do the legal, organizational, technological, and geographical factors affect police
officers’ attitudes toward the deportation policy? and (2) Which of the four forces most affects the officers’ attitudes? Using the stratified survey data collected from the police officers whose day-to-day duties deal with the immigration cases, the study assessed these issues. Several interesting findings emerged.

For the first question, the study’s data indicate a problem in all four areas that helps weaken the deportation policy. The officers believe that the legal, organizational, technological, and geographical factors have each attributed to the failure of the deportation policy. Although this is not a surprise given that Thailand has not been well-prepared to deal with this recent influx of illegal migrants from its neighboring countries, the results suggest that Thailand is confronting a big challenge on the immigration issue. Therefore, Thailand needs to have a comprehensive plan, both short-term and long-term, which addresses all the issues affecting the deportation policy.

A closer look at the findings reveals further interesting issues. For the legal factor, the officers believe that leniency of the court system on people involved in human trafficking (i.e., migrant trafficking) and the Thai government’s exemption that allows migrants to enter Thailand do not strengthen the deportation policy (Table 3). These findings conflict with the Royal Thai Police’s policy that demands its officers to be serious in controlling and deporting illegal migrants. The role conflict problem may occur in situations in which the officers are uncertain about their role either as law enforcers or as service providers when dealing with arrested illegal workers. The Thai government must have clear objectives on its immigration policy and ensure the same level of understanding among all immigration police officers.

Moreover, on the one hand, the data suggest that the officers do not seriously think the lack of budget and the shortage of personnel are an issue (Table 3), but on the other hand, they certainly believe that the long border between Thailand and its neighboring countries and illegal ethnic minority groups residing along the Thailand border make the deportation process more difficult (Table 3). A possible explanation for this may be that in an effort to control illegal entry into Thailand in the past, the police officers seldom patrol along the borders, most of which are impenetrable jungles of rolling hills and mountains and are home to various factions of ethnic minorities. Thus, Thailand needs to consider exerting more resources to patrol and explore these “untouched territories” in order to increase the effectiveness of the deportation policy.

With respect to the second question, the data indicate the highest correlation between the Technological index and officers’ attitudes on the ineffectiveness of the deportation policy (Table 5). Officers who think their agencies are not well-equipped with up-to-date technology and computer systems are more likely to believe the deportation policy is ineffective. This finding may explain the officers’ need to make more use of today’s technological advances to deal with their increasing workloads and the greater number of illegal migrants pouring into the Thai immigration system. The support for advanced technology has been consistently found in previous studies conducted with the Royal Thai Police. For example, Piumsombun et al. (1989) reported that Thai metropolitan police required modern equipment and devices to better serve the public more satisfactorily. Cheurprakobkit, Kuntee, and Denq (1997) found a positive correlation between material support (such as equipment and technology) and effectiveness of
drug enforcement. Therefore, Thailand must invest more of its resources in the computer technology area to help facilitate officers’ day-to-day operations with the emphasis on creating a central information and networking system to enhance and strengthen cooperation among various agencies.

Another interesting finding relates to the corruption issue. The current study reveals the officers’ beliefs that the cover-up of corrupt behavior among the police officers during the deportation process and re-smuggling prevention exists (Table 3). This finding comes as no surprise and is consistent with Cheurprakobkit, Kuntee, and Vaughn’s (1998) study on drug-related corruption among drug enforcers in Thailand in which about 63% of respondents believed drugs can cause police corruption and about 25% of the respondents said drug-related corruption existed in their agencies. With all the issues surrounding the immigration problem and the increasing number of migrants from neighboring countries into Thailand, it is likely that more opportunities for immigration-related corruption and its cover-up will continue to grow unless the Royal Thai Police addresses it seriously. Clear immigration enforcement policies must be implemented to avoid police corruption.

One last point worth mentioning is the study’s findings on the role of the local residents as informants (information providers). Of all the questions asked, the officers rated information given by the local people the highest in preventing illegal migrants from entering Thailand (M = 4.69). This finding confirms the philosophy of community policing that emphasizes public relations, community services, and community participation as a tripod to combat crime (Radelet & Carter, 1994, p. 33). The more the public trusts and respects the police, the more willing they are to report crime and useful information to the police. Hence, the Royal Thai Police should provide its officers with proper training and knowledge on community policing and the resources they will need for program implementation.

There are several caveats for this study’s findings. Since the study examined the weaknesses of the deportation policy, the respondents might be reluctant to fully opine about their own agencies due to the nature of the very top-down centralized criminal justice system in Thailand in which punishment power can be easily exerted. Because of the different system in Thailand in which the police are the main authority who enforce immigration law, generalization of these findings must be exercised with caution.

In sum, as immigration is a natural evolution of humanity, the solution for this endless problem can only be temporary and very much dependent on the country-specific conditions. In the case of Thailand, the jury is still out as to what should or will be its best solution to this emerging issue. This is perhaps because the illegal migrant problem has not yet been treated seriously enough (Chantavanich et al., 2002). However, although the findings of this study reveal many issues facing Thailand in its effort to address the immigration problem, they also offer useful information for policy development in several areas. To effectively address this immigration pandemic, Thailand needs to utilize a balanced combination of humanitarianism, cooperation, and understanding that requires full cooperation of all concerned parties, including the host country, source countries, and the illegal migrants themselves.

Future research should be conducted on the role conflict issue to examine the role of the officers in enforcing Thailand’s Immigration Act of 1950 and on the computer
technology aspect to determine officers’ readiness and needed skills. Future studies can also examine the types of and the opportunities for immigration-related corruption, as well as the deterrent factors. Finally, community policing-related research should be conducted not only with the local people to generate more trust and respect from them but also on the ethnic minorities along the border to find out how to best use them as resources to strengthen Thailand’s deportation and re-smuggling prevention processes.

Endnotes

1 Illegal or irregular “workers” mentioned in the study refers to unskilled workers who mostly migrate from Thailand’s neighboring countries. Skilled or guest workers are not included in this category.

2 The data on the number of arrested, non-documented migrant workers were reported by local police stations, whereas the numbers of deported migrant workers were collected by the Immigration Bureau. Although both agencies are under the Royal Thai Police, sharing information is still an issue. S. Paritkulsontatt (pers. comm, June 3, 2007) stated that the current computer system is incapable of linking and sharing information among related agencies and checking repeat offenders on illegal entry charges.

References


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Less Lethal Weapons for Law Enforcement: A Performance-Based Analysis

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Frank L. Thompson, MBA, Researcher, Weapons and Equipment Research Institute

Introduction

The terms less-than-lethal, less lethal, and non-lethal are frequently and inappropriately used interchangeably. Almost anything can become lethal if used improperly or if circumstances are extremely unlucky; weapons that are considered to be of less-than-lethal force only decrease the odds of deadly injury. The court in Graham v. Conner (1986) addresses the use of less lethal force in the “objective reasonableness standard,” where questions regarding excessive use of force are to be judged from the perspective of a reasonable officer coping with a tense, fast-evolving situation. This revised standard alleviates some of the “Monday morning quarterbacking” that would otherwise result and respects that officers possess sound judgment skills.

The public, raised on science fiction like Star Trek, expects phaser-like weapons that can incapacitate without causing permanent harm or death (Heal, 1999). This phenomena has created what Surette (1998) termed a weapons cult within the entertainment media, “with weapons made increasingly more technical and sophisticated but less realistic” (p. 43). The entertainment industry tends to display deadly force in black and white; the evil doer misses or inflicts minor wounds while heroes are incredibly accurate and kill painlessly and from great distances.

Less lethal weapons in the entertainment arena can be viewed through a similar lens. The recipient is usually rendered unconscious from a single application and recovers almost immediately. This creates a massive discrepancy between reality and the portrayal of less lethal weapons in popular media. In reality, they are as their name reflects: less than lethal. While they have the potential to cause death or serious injury, these weapons are considerably less harmful than the projectiles fired from firearms.

At the core of this current review is the premise that law enforcement officers use the right tool for the right job. That is, in any given scenario, an officer is conditioned to react appropriately and to use the techniques acquired during training and the tools issued by the agency. Clearly, the most socially desirable outcome of these conflicts between law enforcement and the public is one in which the disturbance is quelled and no one is injured.

This paper addresses the various less lethal technologies available to law enforcement, and it provides technical data and analysis of weapon performance.
and testing outcomes. Where prior research on police use of force has attempted to shed light on the specific circumstances and situations where force is used, this current study intends to provide the reader with information about the weapons systems that may be beneficial in determining the strengths and weaknesses of each system. The paper is organized to first provide an overview of each weapon system tested, then an overview of the most current testing methodologies and results.

Weapons and Equipment Research

In spring 2004, at Florida Gulf Coast University, the Weapons and Equipment Research Institute was created through a grant from the Bureau of Justice Assistance to test and evaluate less lethal weapons. Since that time, additional projects funded through the National Institute of Justice and Florida Gulf Coast University have allowed the comprehensive review of equipment currently available in the law enforcement marketplace. A series of research trials and experiments were conducted to evaluate the accuracy and performance of the TASER, chemical agents, 12-gauge beanbag munitions, FN303, and PepperBall. Ballistic accuracy testing of the weapons was conducted on an outdoor range and utilized a laser rangefinder to verify distance accuracy. Further, weapons were fired from a commercial firearms resting platform to reduce the effect of individual shooter accuracy. The point of aim was identified by a neon orange paste-on target, which contrasted with the rest of the target. Accuracy was measured as the difference between point of aim and point of impact.

As data was collected, it was entered into SPSS 11.0 for statistical analysis. A t-test of each shooter’s individual scores indicated that no significant differences existed, allowing the data to be aggregated. Although originally collected for unpublished technical reports that have been disseminated to the law enforcement community, this data has not been previously published in a peer-reviewed forum. The authors of this manuscript have provided the data from each evaluation, conducted over a three-year period, in abbreviated form.

Weapon Systems

Conducted Energy Weapons

Obviously the “hot” topic in discussions about police use of force today, these devices are the closest technology available today to the fictional “phaser on stun.” Conducted Energy Weapons (CEWs) are less-than-lethal weapons designed to deploy an electric current through the body of the target to temporarily cause loss of muscle control. Throughout the history of law enforcement in America there have been many devices that may fit this description such as “cattle prods” or “stun guns.” Devices such as these allow electricity to be deployed on contact with the skin or within close distances. Over the past several years, the technology for these devices has become more user-friendly than the original, more rustic devices, allowing the user to apply the device from greater distances, with more accurate application. As a result, the deployment and use of these devices has grown exponentially in policing.

TASER International is the company best known today for producing CEWs. Their product has become so well-known that the name “TASER” has become synonymous with “CEW,” much like the name “band-aid” is to a plastic
bandage. The TASER (so named after the inventors’ science fiction interests as the “Thomas A. Swift’s Electric Rifle”) is currently being tested or is used in over 7,200 law enforcement, military, and correctional agencies throughout the United States and abroad (U.S. Government Accountability Office, 2005). TASER International continues to advertise their device as among the safest and most effective less-than-lethal force choices available, claiming that TASER use reduces officer shootings and suspect injuries (TASER International Inc. [TASER], 2004).

Early studies indicated this weapon’s effectiveness ranged from 50 to 85% (Donnelly, 2001) when deployed. In a pilot study examining a random selection of 400 deployments, the TASER was found to be immediately successful in 68% of the cases (Mesloh, Henych, Hougland, & Thompson, 2005); this rate is refuted in a second study by White and Ready (2007) who found that 68.6% of suspects continued to resist after a TASER deployment. Some literature shows that since the TASER’s deployment in 2000, the use of deadly force by officers and the number of officers injured during arrest confrontations has been dramatically reduced (Hopkins & Beary, 2003; Mesloh & Hougland, 2004).

Powered by high-pressure air, the darts fired from the TASER are tethered on wire that can reach from 15 feet (civilian model) to 31 feet (law enforcement model). However, in order for the TASER to be effective in gaining compliance, both probes must strike the target, preferably with a spread of about one foot between the probes. Despite the length of the wire, recent best practices guides by the Police Executive Research Forum (PERF) (2004) suggest restricting targeting to less than 15 feet. This is consistent with other studies, which indicate that beyond 15 feet, accurate placement of probes is difficult (Mesloh et al., 2005). Reviewing a random sample of 50 cases where the TASER was found to be ineffective, 38% could be explained by the fact that both probes missed the target (Mesloh et al., 2005).

A recent study conducted by Mesloh and Thompson (2005) on the spread rates of the TASER probes found that probes separated at a rate of approximately two inches for every foot of distance between the TASER and the suspect. Again in support of the PERF guidelines, this study found that the maximum feasible distance was 15 feet as any distance beyond that, even though the probes are capable of traveling further, results in too great of a spread between probes. At 15 feet, the probe spread is approximately 30 inches, which is pushing the envelope on the dimensions of a person’s torso. Consequently, ineffective TASER deployments are more related to distance factors than the suspect’s ability to fight through the electricity (Mesloh & Thompson, 2005). Other failures were explained by a suspect wearing baggy clothing or by a number of weapon malfunctions.

**TASER Reliability and Accuracy Testing**

The researchers conducted research on the TASER, the most commonly used CEW in the police market today, by test firing 200 (N = 200) cartridges. The TASER device was fired at a Numb John™ target from a fixed platform at distances of 5-, 10-, 15-, and 20-foot intervals. At each predetermined distance, 50 shots were fired at the target. The impact points of the probes were analyzed, and their distance from the point of aim was recorded. With the exception of two cartridges that did not deploy properly, all of the TASER cartridges behaved as advertised and as expected. The probe spread (1.77 in/ft) was predictable and the weapon was
consistent in its operation. The following details the TASER’s probe spread at the various respective distance intervals.

<table>
<thead>
<tr>
<th>Distance</th>
<th>TASER Projected</th>
<th>TASER Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 feet</td>
<td>0.85 in</td>
<td>9.42 in</td>
</tr>
<tr>
<td>10 feet</td>
<td>17.70 in</td>
<td>18.45 in</td>
</tr>
<tr>
<td>15 feet</td>
<td>26.55 in</td>
<td>25.93 in</td>
</tr>
<tr>
<td>20 feet</td>
<td>35.40 in</td>
<td>34.92 in</td>
</tr>
</tbody>
</table>

Chemical Agents

In their simplest form, chemical agents are a type of irritant that attacks the eyes, nose, and skin, which disables or significantly impairs the recipient’s ability to function (Lumb & Friday, 1997). The use of chemical agents can be found throughout history. In China during 178 AD, a peasant revolt was quelled though the use of lime dust, a severe irritant, which was used to create an early form of tear gas (Mayor, 2003). Quicklime projectiles, creating a suffocating cloud that blinded the enemy, continued in the Byzantine war in 941 AD (Partington, 1999). Noxious smoke from poisonous plants was also propelled from a smoke machine to repel attempts of the Roman invaders who were tunneling under the city of Ambracia’s walls (Mayor, 2003). Leonardo da Vinci later created a similar poison smoke machine in the late 1400s (Partington, 1999). Ancient Chinese writings contain literally hundreds of recipes for creating chemical agents that were able to disable or even kill enemy troops. The earliest form of pepper spray appears in the 16th and 17th centuries from the Caribbean and Brazilian Indians who burned hot pepper seeds to create an irritant cloud that was used against Spanish conquistadors (Mayor, 2003).

Prior to the development of oleoresin capsicum (OC), agencies relied on tear gas grenades, which dispersed the chemicals o-chlorobenzal malononitrile and 2-chloroacetophenone (abbreviated as “CS/CN” gas), but problems existed due to the delivery system’s propensity to start fires (Miller, n.d.). Most agencies have transitioned from the use of CS/CN gas to pepper spray, an irritant spray that can disable a suspect. Most of these products are made with OC oil from selected hot peppers.

The strength of pepper spray is related to the heat rating and quality of the source peppers. The Scoville Heat Rating, created in 1912, assigns a value to each pepper. Pure capsaicin has a rating of 15 million, while typical police pepper spray has a rating of 5.3 million. For comparison purposes, the bell pepper has a rating of zero, the jalapeno pepper a rating of 5,000, and the habanera pepper a rating of 300,000. Recovery time after exposure is based on the percentage of capsaicin in the formulation. A 15% solution may require one and a half to two hours to recover, while 2% may require only 15 to 30 minutes. The added benefit of lower solutions is that the solution much more easily penetrates mucus membranes and skin pores and thus acts faster.

When compared with impact weapons as a less lethal force alternative, OC spray was found to be at least as effective in stopping subject resistance, with the added benefit that the majority of suspects sprayed did not require medical treatment.
OC was on the cutting-edge of less-than-lethal weapon systems in the 1990s as it incapacitated suspects by “causing the eyes to tear and swell shut, mucus to drain profusely from the nasal passages, bronchial passages to constrict, and [make] breathing become more labored” (Morabito & Doerner, 1997, p. 681). Prior literature suggests that many law enforcement agencies believed pepper spray to be the “magic bullet” to reduce officer and suspect injury as well as citizen complaints (Kaminski, Edwards, & Johnson, 1998; Rogers & Johnson, 2000). However, a review of the literature indicates some issues regarding the use of pepper spray as it relates to the eyes and corneas of affected persons. The alcohol carrier and the force at which the liquid is expelled have been known to cause damage to suspects.

Ocular injuries are almost unheard of in the extant literature regarding pepper spray. In one study by Zollman, Bragg, and Harrison (2000), 47 subjects were sprayed with OC to evaluate the effect on the human cornea. Visual acuity was unaffected, and corneal sensitivity had returned to normal within a week (which is consistent with the findings of Stopford, 1996). In itself, corneal sensitivity is not an injury, but it can place the individual at greater risk of a future trauma as the blink reflex is affected. Repeated exposures to OC spray was found to damage the sensory nerves that initiate protective reflexes (Cohen, 1997).

Additional studies examined corneal epithelial defects after exposure to chemical agents. Das, Chohan, Snibson, and Taylor (2007) found that this injury healed after two weeks of treatment, and visual acuity returned in six weeks. Epstein and Majmudar (2000) suggested that “prompt ocular irrigation might be very important to avoid potentially permanent injury” (p. 1712). In another study, Brown, Takeuchi, and Challoner (1997) suggest that corneal abrasions and defects might be explained by suspects rubbing their eyes, and may not be the result of the chemical agent itself. This theory was supported by Zollman et al. (2000) in their response to Epstein and Majmudar’s study, where they stated that “[t]he handcuffs used may have kept the patient from rubbing her eyes and inadvertently inducing a larger epithelial defect” (p. 1713).

Issues regarding cross-contamination of back-up officers and a growing number of reports that suspects were able to fight through the burning pain of the spray illustrate a few of the weaknesses of chemical agents. Additionally, a limited range of less than eight feet for most models places the officer well within the reactionary gap, and the number of uses per canister can vary depending upon the duration of each spray. Firing at a suspect at greater distances consumes a greater portion of the canister as it takes longer for the spray to reach the target, which is necessary for the officer to adjust his or her aim.

In a recent study, researchers found that the use of chemical agents was rapidly declining at the Orange County (FL) Sheriff’s Office as officers instead chose to deploy the TASER (Hougland, Mesloh, & Henych, 2005). While the American Civil Liberties Union has stated that at least 30 fatalities have occurred as a result of TASER use (Mesloh et al., 2005), studies have shown similar deaths by OC deployments. Bowling, Gaines, and Petty (2003) examined 63 deaths after OC deployments and found that the overwhelming majority were due to the arrestee’s drug use, disease, positional asphyxiation, or a combination of these factors, similar to recent claims about TASERs (see also Granfield, Onnen, & Petty, 1994).
Chemical Agent Deployment Testing

Research has focused upon the difference between dominant (strong) hand and reactionary (weak) hand deployment of chemical agents. A public perception has emerged that an officer should be able to deploy a chemical agent against a subject armed with an edged weapon while still having the ability to use deadly force by also having a gun drawn. In this scenario, the officer would have his or her service weapon drawn in the dominant hand, while deploying the chemical agent with the reactionary hand. Basic field trials indicated that accuracy was not only negatively impacted, but the risk of “blow-back” contamination from the chemical agent was significant.

Eighteen subjects (N = 18) were trained in the use of chemical agents and then asked to fire five bursts of pepper spray from both their dominant and reactionary hands. In this study, accuracy performance dropped by approximately 50%. The dominant hand accuracy (M = 4.39, SD = 1.04) was significantly better than the reactionary hand (M = 2.22, SD = 1.52). Further, 67% of the dominant hand deployments struck the target in comparison with only 11% for the reactionary hand. Consequently, officers attempting to fire chemical agents from their reactionary hand and without additional training are much less likely to strike their intended target.

Less Lethal Munitions

Less lethal impact munitions fire a projectile that will provide a transfer of kinetic energy that will impact and potentially incapacitate a suspect. Different launchers and projectiles are on the market, with many projectiles existing to fit the specific need of individual scenarios. Currently, all 12-gauge munitions must be fired from a pump action shotgun in order for the ammunition to cycle correctly, and the 37/40-mm launchers are available in single shot and six chamber designs (Hubbs & Klinger, 2004; Kenny, Heal, & Grossman, 2001).

There are a wide range of launched munitions of a variety of compositions, each with different accuracies and a maximum effective range. The 12-gauge launcher is most frequently utilized as most agencies already possess a ready supply and the user requires minimal additional training. For these, beanbag type projectiles tend to be the ammunition of choice. However, there are many other options available that include chemical agents; rubber buckshot; and solid, rubber-finned projectiles. The only caveat with using a shotgun launching system is that it must be manually operated (e.g., pump-action) as the reduced powder loads in the beanbag prohibit a semi-automatic shotgun from cycling properly.

For those agencies that utilize the 37- or 40-mm grenade launcher, even a greater number of munitions choices become available. These munitions can be direct-fired or skip-fired depending upon the specific need or desired effect. A degree of accuracy is lost with some of these munitions, but it is made up by the ability to saturate an area with projectiles. As the accuracy decreases, the chance of hitting bystanders increases. Launched munitions include rubber buckshot, sand-filled beanbags, and foam or rubber batons. A key factor with these munitions is that at close range they have the ability to inflict severe injury or death, but as the range increases, the rate of injury drops off sharply (Hubbs & Klinger, 2004).
Other significant injury predictors are the hardness of the material being fired (e.g., wood versus rubber) and the mass of the projectile. Both harder projectiles and those with more mass resulted in higher injury rates in a study conducted by DuBay and Bir (2000). Kenny et al. (2001) found that engagement methods influenced the effectiveness of the munitions—for example, baton rounds were more effective when skip-fired, while beanbags and airfoils performed better when fired directly at the subject.

While there are certainly other types of less lethal weapons, both mainstream and not so mainstream, the types of weapons described in this manuscript are most often found in the “tool belt” of a local, county, or state police agency officer. Weapon choice certainly has an effect on subject injuries, and not every less-than-lethal weapon is appropriate for all circumstances. Each weapon has different potential to result in injury, in addition to appropriate officer-suspect distances for use.

12-Gauge Beanbag Testing

A research design was created to measure the accuracy of the 12-gauge beanbag less-lethal munitions. For testing purposes, the researchers utilized the Remington 870 pump-action shotgun with an 18-inch barrel as it is considered the workhorse weapon for most law enforcement agencies. A total of 100 (N = 100) rounds were used in the initial stages of testing. The drop rates of the projectiles are acceptable up to 40 feet; however, beyond 40 feet, the accuracy of the rounds decreases significantly and their flight becomes erratic, increasing the risk to bystanders. A linear regression of distance and projectile drop revealed 3.78 inches of drop for every ten feet of distance (r = 0.90), with a spread of 5.5 inches. When confirming the results of this study with a second weapon (FN tactical police shotgun), however, it became clear that the accuracy of the beanbag projectiles was affected greatly by the launching system.

A second study utilizing the modular Remington 870 with three different barrel lengths (14 inch, 16 inch, and 18 inch) was constructed to determine the feasibility of their use in tactical deployments. Clearly, shorter barrels create smaller weapons that are easier to maneuver in close quarter environments. Accuracy was measured as the difference between point of aim (POA) and point of impact (POI) in order to assess the deviation of the projectiles. A total of 480 (N = 480) beanbag rounds were fired in this project to create a predictive model of the projectile trajectory for each barrel length.

The 10-inch barrel performed well, only displaying a slight increase in deviation between the distances 40 to 50 feet (+ 2.7-inch spread increase). Ultimately, the accuracy of the 10-inch barrel leveled off at the distance of 60 feet (10.625-inch spread). The 14-inch barrel displayed excellent accuracy until 60 feet, where the data indicates a substantial increase in deviation. The 18-inch barrel displayed excellent accuracy throughout testing, showing little deviation.

Additional analysis indicates that the projectile drop for each of the different length barrels is minimal at 50 feet, but a noticeable change in accuracy for each barrel’s projectiles occurs at 60 feet. Consequently, the longest barrel performs better at greater distances. Surprisingly, the 14-inch barrel which had performed the best up to 50 feet had a substantial increase in deviation and reduction in performance at 60 feet.

Utilizing data from Table 2, a reliable predictive model can be structured for law enforcement application. The 10-, 14-, and 18-inch barrels can be used in close
proximity from 10 to 50 feet without loss of accuracy. This is of major significance as
the use of shotguns during tactical room clearing is often limited by the size of the
weapon. Frequently, officers are not able to carry these large weapons as it is difficult
to navigate around close quarters. These findings suggest that even the smallest
length barrel tested would perform well if the targets are not engaged beyond 50 feet.
For the 10-inch barrel, it is not uncommon for entry teams to carry these as secondary
weapons specifically for door breaching. This same technique could be used to carry
the 10-inch as a less lethal option for when deadly force is not an option.

Table 2: Beanbag Round Performance, Projectile Drop

<table>
<thead>
<tr>
<th>Distance to Target</th>
<th>Barrel Length</th>
<th>Mean</th>
<th>N</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 feet</td>
<td>10 inch</td>
<td>0.5000</td>
<td>20</td>
<td>0.51299</td>
</tr>
<tr>
<td></td>
<td>14 inch</td>
<td>0.4250</td>
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Impact Weapons

All impact weapons can find their basis in the club, the least technologically advanced type of weapon system in use by police, other than hand-to-hand combat. Historically, it was probably the first human weapon as a piece of wood was used to bludgeon its victim somewhere around 10,000 BC (Meltzer, 1996). The police impact weapon’s primary function is to strike specific target areas of resisting offenders to cause dysfunction or pain and gain control or compliance (Mesloh et al., 2005). Billy clubs, truncheons, and straight wood batons have been utilized for hundreds of years by police officers around the world. While most hard handheld objects are capable of being used in this fashion, law enforcement has tended to utilize impact weapons specifically designed for ease of carry and the most effective use of physics. The faster the baton is swung and the heavier its weight, the greater its kinetic energy potential will be. However, heavy objects tend to move slower than light ones. The velocity of the end of the baton is multiplied in proportion to the increase in its distance from the pivoting body parts such as the pelvis, shoulder, elbow, and wrist (Crosby, 2002). Similar to a golf swing, proper form and execution play a major part in the creation and transfer of kinetic energy from the baton to the suspect. In order to be effective, the baton must also be swung to strike with a large force and with a fast delivery (Gervais, Baudin, Cruikshank, & Dahlstedt, 1998).

As technology has advanced, this weapon type has evolved to meet specific needs. The blackjack and sap, which are made of a spring-loaded lead weight encased within a leather handle, were quickly adopted by police officers as they allowed both plainclothes and uniformed officers to conceal an effective impact weapon. The side-handled baton offered the ability to add mechanical advantage and leverage to take-down techniques. The expandable baton allowed the officer the ability to carry a full-size baton on their duty belt in a low-profile manner (Johnson, 1996). The newest generation batons have now added an enlarged plastic tip, which creates a larger amount of kinetic energy in the strike (Mesloh et al., 2005).

Highly visible nightsticks and side-handled batons carried on the police officer’s belt seem to have gone out of style and have been replaced with smaller, collapsible straight batons which have a more positive public perception and are easier to carry (Johnson, 1996). These new batons have also increased their effectiveness. Gervais et al. (1997) found that a 26-inch ASP expandable baton created more impact pressure than a traditional full-size baton. The ASP collapsible baton is much lighter and easier to carry than the traditional baton. In addition to the velocity created by swinging the weapon, additional factors, such as an officer stepping into the swing or a suspect moving towards the officer, also generate increased velocity. This type of impact weapon is the most commonly used in law enforcement today due to the fact that it can be carried on the belt.

Smaller and lower profile impact weapons such as the yawara and kubaton, which can be carried in a pocket, are frequently marketed as self-defense keychains and can be used to deliver pinpoint force to nerve centers (Monadnock Lifetime Products, 1968). In addition to impact strikes, the yawara has the ability to supplement close quarter take-down techniques through joint locks and pressure point compressions. The family of yawara-type products can be found in a variety of designs, which may contain finger grooves to reduce slipping or sharp inserts.
to discourage the suspect from attempting to wrestle it from an officer’s hand (Monadnock Life Products, 1968). The inherent weakness of the yawara weapons system is the fact that the officer and suspect are within extremely close proximity, increasing the potential that the encounter will escalate into grappling or ground fighting. Despite the fact that many officers have martial arts training, almost one-third feel that defensive tactics training is insufficient and ineffective against combative suspects (Kaminski & Martin, 2000).

While an agency may take a “one size fits all” approach in issuing impact weapons, it is truly a very individual science to determine the baton that best fits the specific user by generating the greatest amount of energy. The primary approved target areas are large muscle masses, and the ability of an officer to hit these targets is directly related to their success in an encounter (Gervais et al., 1997). However, saps and blackjacks, due to their size and potential reach, were commonly used to strike the head. Serious injuries are a likely result if the head is targeted for an impact weapon strike (Cox, Buchholz, & Wolf, 1987).

A study of impact weapon kinetic energy is scheduled for spring 2008. This project will evaluate the amount of force generated across a range of straight, side-handled, and expandable batons of varying length, weight, and composition. Further, it will examine the smallest impact weapons, such as the yawara or kubaton, since their size is likely to produce significant amounts of energy density.

Compressed Air Weapons

The need to project a chemical agent at greater distances has led to the development of compressed air weapons. While similar weapon systems are produced for consumer use for the sport of paintball, police compressed air weapons fire projectiles loaded with chemical agents. An adapter allows air bottles or reservoirs on this type of weapon to be quickly refilled from a standard SCUBA tank, and a full tank will provide 20 to 30 refills for most air bottles. Compressed air is significantly cheaper than using CO₂ and allows refilling of the SCUBA tank at a local dive shop for less than five dollars. Two less lethal compressed air launchers are examined here: the “FN303” and “PepperBall.”

FN303 Less Lethal Launcher

The FN303 is built by FNH USA and utilizes fin-stabilized plastic projectiles to deliver paint-marking rounds and OC rounds on target. Since FNH USA also manufactures the M16 family of weapons for the U.S. military, many of the components on the weapon should be familiar to anyone who has handled an M16 or AR15. The pistol grip is identical to the M16, and the iron sights are from the M16A2. In addition, the launcher has a picatinny rail for mounting optics, and the upper receiver of the launcher can be mounted beneath the M16 in place of the M203 grenade launcher. Independent tests by Bertomen (2005) found the FN303 to be accurate to over 50 yards, shooting four-inch steel plates; however, the weapon’s sights are set at 30 yards. The primary drawback is the launcher’s 15-round magazine capacity.

The ammunition for the FN303 is a proprietary fin-stabilized .68 caliber round that has a muzzle velocity of 280 to 300 feet per second. The weapon should not
be used at distances closer than three feet; at distances up to 12 feet an operator should only target the thighs as strikes to the center mass may cause serious injury or death (FN Herstal, 2002). Beyond 12 feet, the torso is the POA. The manufacturer’s literature states that the air reservoir will allow 110 firings before the air tank must be refilled; however, FN303 representatives place the number of shots at approximately 79 before a refill is necessary (pers. comm.).

**FN303 Testing**

A research design was created to measure the accuracy of the FN303 less lethal launcher. Ten projectiles were fired at each distance, which were in ten-yard increments (n = 60). Accuracy was measured as the difference between POA and POI. At distances of 30 yards and closer, the difference between POA and POI is less than four inches, indicating that there is very little drop and the weapon can be consistently and accurately fired on target. Beyond 30 yards, a substantial deteriorating effect is noted. However, while the projectiles were falling below the POA, they remained in a relatively tight pattern.

A linear regression was conducted to measure the strength of the relationship between distance from the target and the drop of the projectile from the POA. As shown below, an almost perfect relationship exists. However, when the data was plotted, it became clear that at distances closer than 30 yards there was a very small amount of drop, which impacted the perceived strength of the model (r = 0.909).

While the correlation between distance and spread from POA is 0.901 for the entire dataset, there is obviously more activity beyond 30 yards. Consequently, a second regression model was used to examine these greater distances, excluding distances closer than 30 yards. The strength of the model increases as shown in the r = 0.96. Past 30 yards, an actual relationship between distance and projectile drop emerges compared to the extreme flat shooting at distances under 30 yards (Mesloh & Thompson, 2006a).

<table>
<thead>
<tr>
<th>Distance to Target</th>
<th>Mean</th>
<th>N</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
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<td>1.03950</td>
</tr>
<tr>
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<tr>
<td>60 yards</td>
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<td>7.20922</td>
</tr>
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</table>

The overall goal of this project was to create a predictive model that would allow an FN303 user to determine where the projectile would strike given a known distance. The unstandardized coefficient of the regression model indicates that at distances of 40 yards and greater, the drop of the projectile will be 13.72 inches for every ten yards of distance beyond 40 yards. Testers were able to effectively correct their fire based on observations of projectile impact and were capable of achieving tight groupings at distances well over 60 yards during additional test sessions.
PepperBall

The PepperBall family of launchers is designed around Tippmann paintball markers and operates in the same fashion. The stated muzzle velocity for the PepperBall launcher is 300 to 380 feet per second, and the projectiles have 8- to 12-foot pounds of kinetic energy. The standard air system for the PepperBall utilizes a 13 cubic-inch bottle, and when charged to 3,000 psi, it can launch 130 projectiles. A larger 47 cubic-inch bottle exists that can launch 450 projectiles. A 68 cubic-inch bottle exists and is capable of launching 850 projectiles. The hopper on the PepperBall launcher can hold 180 projectiles. According to the PepperBall system instructor-training manual, “PepperBall operators must understand that thirty feet is the farthest distance to target individual suspects. The lightness of the projectiles makes the ballistic accuracy fall off dramatically past thirty feet” (Bedard & Cole, 2003, p.24); however, the manufacturer claims that it is safe to engage a target at point blank range with the PepperBall system.

The PepperBall launchers fire a .68 projectile modeled off of a traditional paintball round; the primary payloads are PAVA, glass shattering rounds, paint marking rounds, inert training rounds, and an anti-freeze round for use in colder climates. PAVA is the abbreviation for pelargonyl vanillylamide, and is a synthetic form of OC. The PepperBall manual (Bedard & Cole, 2003) states that subject compliance is brought on by a combination of the three factors of shock (associated with being struck with an object), pain (resulting from impact), and the chemical irritant in the payload. The PepperBall launcher’s best attribute is in the incapacitation effect of their PAVA (a synthetic OC) rounds. Mesloh and Thompson (2006b) found the effects of PAVA to be “immediate and incapacitating” and that they created a burning sensation to any exposed skin surface.

PepperBall Testing

A research design was created to test the accuracy of the Pepperball launcher. Utilizing the same methodology used in the 12-gauge beanbag and the FN303 studies, 15 projectiles were fired from each position (n = 90). Beginning at five feet and increasing in 5-foot increments, the study continued to 30 feet, which was the maximum recommended distance for a direct fire target.

Up to 20 feet, deviation from POA to POI is approximately five inches or less. The relationship between dispersion (difference in POA to POI) is moderately correlated. A linear regression indicates that dispersion increases 1.5 inches for every five feet of distance. However, at greater distances, the projectiles seem much less accurate and tend to “float” with little discernible pattern, unlike the traditional “drop” seen in other weapons’ projectiles.

As the dispersion results indicate that the projectiles travel in no consistent, discernible pattern, a second test was conducted to determine the spread of the projectiles—that is, the distance between the two projectiles furthest away from each other in each string. First, the projectile spreads for each shooter were plotted in a table correlated to the shooter’s distance from the target. As shown in Table 3, at the furthest distance of 30 feet, the average spread was less than 15 inches. The relationship between PepperBall projectile spread and distance is highly correlated (r = 0.94). A simple linear regression indicates that projectile spread increases an
average of 2.68 inches for every five feet of distance between target and shooter \((t = 11.07, \text{df} = 17)\).

**Table 4. PepperBall Distance Dispersion Table**

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While the PepperBall system is capable of producing a high rate of fire and delivering an extremely effective chemical agent payload, its accuracy and reliability hinder the effectiveness of the weapon. Unlike other compressed air weapons where the projectiles travel in a predictable pattern and POA can be corrected to achieve proper aim, this does not seem possible with the PepperBall S200 launcher. While 21 feet is considered a critical distance to law enforcement, and the PepperBall can strike a target at that range, it is frequently necessary to engage targets at much longer distances. At any distance beyond ten yards, the PepperBall launcher is unable to accurately strike a point target and can only be used for area saturation with PAVA. Therefore, successful PepperBall deployments will most likely occur within enclosed areas or in tandem with an additional less lethal launcher capable of long-range engagements.

**Conclusion**

Through the procurement of different less lethal weapon systems, an agency provides each officer with a range of options to overcome suspect resistance. Each agency controls and guides its personnel through its policies and the placement of the individual’s less lethal weapon within the force continuum. Despite this guidance, a great deal of discretion is left to the officer on the street. While an officer may have a fraction of a second to make a choice, it is clear that that decision may be scrutinized for years to come.

After deciding which weapons to carry on their person, either for a particular incident or consistently, each officer is burdened with deciding upon his or her response to the suspect’s resistance. In some cases, this decision is limited by the actions of the suspect who may flee or fight, and the officer must respond accordingly. However, in some cases, the suspect may resist, and the officer has a broad range of discretion in determining his or her response.

While less-than-lethal technology continues to evolve in modern policing, there is no perfect weapon currently in existence that will immediately stop unlawful resistance yet will cause absolutely no harm to the receiver. Certainly, there are many different manufacturing companies each vying for the potential to create a new, better, less-than-lethal weapon that could be utilized in the field as such a perfect weapon. Use of force continuums, once relied upon as the best way to train
officers on the correct application of force, are slowly being removed from agency policies across the country as a result of fear of litigation when an officer works outside of the printed standards but still within reasonable guidelines.

Endnotes

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References


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Ross Wolf, EdD, is assistant professor of Criminal Justice at the University of Central Florida in Orlando and holds a Doctorate degree in Higher Education Administration and Educational Leadership. He has over 16 years of experience as a law enforcement officer and has worked various assignments, including patrol, criminal investigations, and a plainclothes tactical unit. He continues to serve as a police academy instructor and serves as a division chief with the Orange County Sheriff’s Office Reserve Unit.

Mark Henych, PhD, holds a Doctorate in Public Affairs and certifications in law enforcement technology applications. Dr. Henych has provided training and testing in democratic policing in several countries. He lectures to law enforcement and university classes on crime in America, white-collar crime, computer crime, and cyber law. His current research interests include computer crime, cyber terrorism, and technology in law enforcement.

Frank Thompson holds an MBA and is a former adjunct faculty member at Florida Gulf Coast University. His prior research has focused on less lethal weapons, forensic science, and police use of force. Mr. Thompson holds instructor-level and trainer certifications in numerous less lethal weapon platforms and is currently a federal agent for the U.S. government.
From Villain to Hero:
Voices from the Field

By Martha L. Shockey-Eckles, PhD, Assistant Professor, Sociology and Criminal Justice, Saint Louis University

Police work’s not pretty. A lot of guys I know are worried about being sued, about the media, about how they’ll be portrayed. I’ll tell you what pisses me off. We use force on somebody—we’re the bad guy even when it’s justified. The media gets hold of it and we’re the bad guy. Then, somebody shoots us and now we’re the hero because we died in the line of duty.

Sergeant Jeff Myer
Town & Country (MO) Police Department

It is well-documented that police discretion and use of force are, and have remained over time, the greatest concerns expressed by members of the general public when considering the role of law enforcement in their lives (Lawrence, 2000). As a result of extensive media attention given the victims of police misconduct, images of Rodney King (Los Angeles, California), Abner Louima (New York City), and Timothy Thomas (Cincinnati, Ohio) permeate the national psyche—and rightly so. The media have long assumed the role of informing the general public and serving, in many ways, as an added layer of accountability to which law enforcement must answer (see Skolnick & McCoy, 1985). So, too, do they shape public perceptions about police and law enforcement in general.

While scholars, researchers, and practitioners alike have focused extensive attention on police use of force (Elliston & Feldberg, 1985; Friedrich, 1980; Garner, Schade, Hepburn, & Buchanan, 1995; Jacobs & Britt, 1979; Kleinig, 1996; Klinger, 2004; Perkins & Bourgeois, 2006; Skolnick & Fyfe, 1994; Skolnick & McCoy, 1984; Terrill, 2005; White, 2001), little is known about the officers against whom force is used. Even less is known about the role of the media in shaping public perception prior to, and after, an officer is injured or killed in the line of duty, thus affecting those comrades left behind. This constitutes the focus of this paper.

Drawing upon previous research, in-depth interviews, and personal observations, this paper examines the role of the media in shaping public perceptions of law enforcement officers in St. Louis, Missouri, and its surrounding municipalities. In so doing, it also examines the triangulated relationship that exists between local police, members of the media, and the public who represent both consumers of the news and residents of the communities served by law enforcement. The goal has been, at all times, to identify how media portrayals of local officers affect police-community relationships and, thus, impact the ability of law enforcement to do their jobs effectively. Explaining the complex findings requires theoretical synthesis. Drawing upon sociological, criminological, and communication theories, these findings are used to offer suggestions for improving media-police relationships vis-à-vis an enhanced understanding of how each group views itself and its obligations, its role in the community, and its relationship with the other. As such, this project is intended to “count for something,” not just in the world of
academia but also in the lives of St. Louis residents and those who have sworn to serve and protect the larger community.

**Kill or Be Killed**

I brought a group of farmers from Illinois into St. Louis for a local promotion. These people were different ages, family men, hard-working, educated people. And one of them expressed a serious fear about all the crime in the city and he didn’t feel he would be safe enough, even though we were on The Hill in the Italian neighborhood where there were no crime problems. I asked why and he said, “Because that’s what I see on the television news. There’s always stories about shootings in the city of St. Louis. So, I don’t think I’m safe here.” He was doing what everybody does and that is, as a media consumer, you hear about it often enough you tend to believe that it is true. You generalize beyond the details.

Harold
Retired Radio Broadcaster
St. Louis, Missouri

Two bodies of literature contribute to the project undertaken here—that which examines the use of deadly force in police work and that which addresses the role of the media in a society founded upon the principles of free speech and the right of the people to know. While this research is of import to both scholars and practitioners in its own right, it does little to speak directly to the question of interest here. To date, it appears no research has explicitly addressed the role of the media in shaping public perceptions of police after an officer is injured or killed in the line of duty. This paucity of research should not suggest the topic is irrelevant or inconsequential. In fact, the opposite is true. Many police departments, the St. Louis Metropolitan Police Department included, are adopting Community Policing philosophies, the success of which depends upon police-resident relationship building. Any factor that affects the image of law enforcement concomitantly shapes, at least in part, the outcomes associated with Community Policing efforts.

Perhaps the most innovative examination of the use of force comes from Klinger (2004) who documents the lived experiences of officers who have killed while in uniform. As a Los Angeles police officer, Klinger was 23 when he fatally shot 26-year-old Edward Randolph. Thus began Officer Klinger’s personal journey as an officer who used deadly force in the line of duty. Later, as a PhD and professor of Criminology and Criminal Justice, Klinger researched and documented the nature of police work, its organizational structure, and the characteristics of that culture that contribute to, or impede, psychological healing among officers who have used lethal force. A microanalysis, Klinger’s work stands alone amidst a plethora of research that considers use of force as an indicator of brutality and misconduct.

As stated by Skolnick and McCoy (1985), “Any theory of the police in a constitutional democracy must consider the issue of police accountability” (p. 521), a view shared by many in academia (Gibbs, 1999; Morgan, 1999). A cursory review of the literature regarding police use of force identifies a surplus of articles on the subject, with much of it pejorative in nature. This appears especially true when
force is used, or misused, against minorities (see Adelman, Erez, & Shalhoub-Kervorkian, 2003; Banks, 2001; Brunson & Miller, 2006; Correll et al., 2007; Davids, 1997-1998; Lawrence, 2000). Appearing under such headings as police corruption, officer misconduct, and abuse of power, many of the writings to date have identified the conditions under which force has been misused by individual officers. The same can be said for popular media accounts of incidents wherein injury or death occurred as the result of police conduct. With each account, the consumer is brought face-to-face with the reality that “police training continually reminds recruits that coercive power is a central feature of police life” (Skolnick & Fyfe, 1994, p. 95). Hence, the use of coercive tactics, the misuse of power, and the abuse of police authority are well-studied and documented in both the popular media and the professional literature. Conversely, little attention has been paid by researchers to the officers who, themselves, become victims of force.

The primary research conducted to date on officers killed in the line of duty falls into one of two categories: (1) historical or (2) descriptive. Focusing on relevant trends and social change over time, the historical research examines the influence of either the cultural and legal contexts in which the killings occurred (see Bailey & Peterson, 1987) or era-specific, victim-perpetrator characteristics (see Wilbanks, 1994). Still others have attempted to expand upon the statistically based information provided by the FBI in its annual report entitled, *Law Enforcement Officers Killed and Assaulted* (see Edwards, 1995; King & Sanders, 1997).

It is readily apparent that both media and professional accounts of use of force incidents are abundant, with most of these focusing on force as it is used by those in law enforcement. What is absent from the literature are studies examining how the media portrayals of police prior to, and after, a line of duty death affect those left behind. This project attempts to bridge that gap.

**Doing Ethnography**

A lot of things we do are not police or criminal issues. A lot of things we don’t have answers for, we can’t solve. I laugh when I go to [community] meetings now. I tell them “Don’t bitch to me when the crime rate goes through the roof because that’s a societal problem.” As a police officer, I’m part of that. As a citizen, I’m part of that. I’ll do anything I can to try and eradicate that, but it’s not fully the police department; it’s a community issue.

William
St. Louis Metropolitan Police Department

This paper derives from a larger project designed to investigate interaction styles adopted by members of the St. Louis (MO) Metropolitan Police Department when engaged in discourse with criminal and noncriminal residents of the city. Recognizing the importance of cultural context in shaping interaction, the methodology employed is best described as Interpretive Ethnography, utilizing a grounded theory approach. The information gained from in-depth, semistructured interviews and observation is augmented with detailed field notes maintained during the research, thus allowing for the rich description so necessary to understanding the nuances of police-resident interaction. The approach undertaken here has allowed for relevant concepts, categories, and theoretical implications
to emerge from the information obtained. Hence, remaining true to the work of Glaser (1978) and Glaser and Strauss (1967), the findings themselves constitute the core of the project, thus providing a picture of “what is” in the unique culture within which St. Louis police officers, local media, and residents interact.

Since initiating the project in October 2006, 21 initial interviews have been conducted to date. Each interview lasted approximately 90 minutes, and three follow-up sessions were conducted with select interviewees in order to clarify information provided or expand upon a topic introduced during the first meeting. Of the 21 interviews recorded to date, 12 have been with local law enforcement officers; four have been with local media personnel representing television, radio, and print; four have been with noncriminal residents; and one has been conducted with a self-identified offender. With the permission of interviewees, all sessions were taped and later transcribed for analysis. Each interviewee was assured of confidentiality, an assurance enhanced by a Saint Louis University (Institutional Review Board) approved Informed Consent Document, which both the interviewer and interviewee signed, and a Certificate of Confidentiality issued by the National Institute of Health. In one instance, the interviewee requested his name, rank, and departmental affiliation be included with the information provided. As a result, all information attributed to Sgt. Jeff Myer of the Town & Country (MO) Police Department reveals his actual identity. The tapes were coded with no identifying information revealed during the course of the interview process except in the case of Sgt. Myer. Master code lists and the accompanying Informed Consent Documents are maintained in a separate, locked facility with access granted to only those officially associated with this project.

The fieldwork described here required in-depth observation of those most central to this research—members of the St. Louis Metropolitan Police Department (SLMPD). Thirty-two hours were devoted to observational ride-alongs with Third District officers working the streets of the Soulard and Benton Park areas of the city. The hours spent in observation represent four of the five shifts worked by SLMPD officers: (1) Days (7:00 AM-3:00 PM), (2) Overlay Shift (10:00 AM-6:00 PM), (3) Evenings (3:00 PM-11:00 PM), and (4) Nights (11:00 PM-7:00 AM). Following each ride-along, copious field notes were written in order to ensure subtle nuances, so important to rich description, were not lost as time passed and the project progressed.

All transcripts and accompanying field notes have been hand-coded as relevant concepts, categories, and theoretical implications have emerged. Respect for the emergent quality of this project demanded a certain intellectual naiveté upon entry into the field, for such is the nature of the beast referred to as qualitative fieldwork. Respect for objectivity and verification demanded triangulation; what was termed “factual information” by an interviewee was deemed reliable only if, and when, at least two unrelated sources confirmed the statement as fact.

The findings presented here are intended to “have a life.” The goal is, at all times, to uncover and disseminate information that is relevant, timely, and of use, thus transforming theory into praxis. The intended audience are those—the scholars and practitioners—who will most benefit from, and put into practice, the suggestions emanating from an enhanced understanding of social control as a collaborative effort between key societal players.
Changing Times

Norvelle Brown never thought the young men he stopped would kill him. And they did. We have it occur so often that we become somewhat desensitized to it. And I wanted to remind officers, don’t take too many chances. I think the culture has changed from when I started out as a police officer. The criminals are much younger; they’re much more aggressive.

Colonel Joseph Mokwa
Chief of Police
St. Louis Metropolitan Police Department
retrieved 11/16/2007)

On August 15, 2007, Officer Norvelle Brown of the SLMPD lost his life in a line-of-duty incident. Allegedly killed by a teenager, Brown’s death spawned a community-wide response as police officers and area residents mourned his death. Media accounts of his death were abundant. So, too, were the posthumous reports documenting the officer’s commitment to the neighborhood where he, himself, had grown up. Vowing to make a difference in the lives of youth who, like him, had the odds stacked against them at an early age, Officer Brown lived a hero’s life. According to many of his SLMPD comrades, however, the hero’s designation came not during the time he lived and worked the streets of North St. Louis, but only after his death. The media handling of the event raised the ire of many in the SLMPD while also sparking debate among local citizens.

Immediately following the officer’s death, area residents voiced their thoughts on a website offered by KMOV, a local television station. A brief sampling of the thoughts posted depict a wide variation in how the incident, and its media portrayal, were received and interpreted by those in the viewing audience:

**August 16, 2007, 4:24 PM**
Here is another example of poor leadership. I do not know where we went wrong, but it is sad to see another person who took the oath to PROTECT & SERVE get shot down in the streets of St. Louis by one of his own kind. I search every day for someone who my children can look up to, but only to find someone or something is holding us all back. It is a disgrace for young black men to die on the streets for no good reason, but when you have a young black hero die, no doubt by the hands of another young black, it’s a true form of genocide. Stop The Violence!

**August 17, 2007, 8:08 AM**
My prayers go out to the family of Officer Brown. Years ago, criminals never even thought about shooting a police officer, but today they don’t even give it a second thought. Officer Brown tried to make a difference; it’s a shame he had to die doing it.

**August 17, 2007, 11:00 AM**
Your Chief of Police is responsible for all of the shootings in St. Louis. As the Number 1 crime fighter in your city, he should have an aggressive plan to prevent this type of crime. In the bad areas there should be double officers in the patrol
cars. If the budget doesn’t support this, the city needs to find the money. When I come to your town I stay in the St. Charles area. I will not go to the downtown area because of your crime ridden city. It is a shame that the Chief and the Mayor do not see that all the crime is stopping people from visiting. It is a pure Shame that a young person has to die like this. Your city has more deaths by Shooting [than] some days our troops have in Iraq. GET IN [sic] TOGETHER ST. LOUIS.

August 17, 2007, 2:17 PM
How dare anyone place blame on anyone besides the individuals responsible for this. Godspeed my brother in blue. Our [department] lost a son and I a brother. May your family know this department is here for whatever they need. We are still hurting.

(www.kMOV.com/perl/common/surveys/vote_now.pl retrieved 8/18/2007)

Officer Brown’s death and the media attention given it highlight two realities of life in St. Louis. First, as in many other metropolitan areas, violent crime at the hands of youth is on the rise. In fact, local officers repeatedly cite youth violence as one of the major dangers faced daily in the course of the job (Shockey-Eckles, 2007). Second, it is clear from the preceding excerpts the media can and does shape public opinion of individual officers and local law enforcement in general. What remains unclear is how uniform these perceptions are, with the results of this study indicating three factors that tend to influence the way in which area residents process and interpret information received from local media outlets. First, one’s place of residence appears to affect how likely it is that the media will shape public perception of local law enforcement, with those living in St. Louis City less likely than those in surrounding communities to be swayed by what is reported on the nightly news. Second, individuals tend to interpret new information in a way that “fits with” already held perceptions, thus reinforcing previously held beliefs about local law enforcement. Finally, inter-group differences divide the city along lines of race, social class, and neighborhood of residence when considering how media accounts influence public perception:

[Viewers] hear the lead. The lead is designed to get our attention and give us enough information to bring us into the story. And the lead is another murder in North St. Louis tonight. That’s all [they] hear. [They] tune [the rest] out. Consequently, a journalist may not realize they are not giving enough information to people before they tune out. That the lead, by its very definition, doesn’t allow for a lot of information and as a result of that there are many, many people who see St. Louis as crime ridden, dangerous, filthy, all Black, whatever. I mean just on and on and on. Not at all true, but why pay attention because it doesn’t affect me or it’s more of the same. Those most affected are the folks who live in the outlying areas—the small town folks, the farmers. They hear the reports and to them it’s not North St. Louis that’s unsafe, it’s that St. Louis is unsafe. It not that the crime ridden area is where the bulk of the crime is taking place, it’s all St. Louis. And the same thing happens [everywhere], and I’ve heard it from people in West County who won’t come to a ball game downtown.

Harold
Retired Radio Broadcaster
St. Louis, Missouri
Harold’s statements are especially relevant when considering both the role of tourism in St. Louis and the very real fact the city serves as the “shopping hub” and “weekend getaway” for surrounding rural communities. As such, the economic prosperity of St. Louis depends upon the ability to attract visitors—outsiders if you will—to its colleges and universities, its malls, sporting events, hotels, and restaurants. Being outsiders, these same visitors rely upon the media for news coming from the city; their opinions about their personal safety when visiting are shaped by media accounts. If they fear either the police or the criminals, a major component of the city’s economic base suffers. As a result, so, too, do the residents.

Once fear is instilled into the psyches of those entering St. Louis from outlying areas, little can be done to assuage the individual’s concerns. In fact, the opposite appears to be the case as both social psychologists and those working in the field of communication know all too well. Individuals tend to seek cognitive consistency and ease of interpretation when encountering new information, regardless of its source (Maximillians, Graupmann, & Frey, 2006). Often unconsciously, the recipient will shape this new information in a way that internal stress is avoided and efficient interpretation is achieved. Thus, the perceptions already held by the individual are ossified, with the existing doubts intensified:

Your average [non-resident] viewer is not really interested in . . . detail. He has already drawn his conclusion and that is St. Louis is an unsafe place to live and with that would come all of the peripheral decisions that the cops aren’t effective or whatever. Without digging into it, they already have their minds made up. Many print journalists who are very good reporters end up unconsciously misleading their readers, not because of what they’ve done, but because after their story has been handed off to the headline writer who has to summarize that story in five or six words, and the headline might be misleading. That’s it. That’s all they read and they say, “Do I want to read more or not?” It’s registered. It has strength of their conviction that the city is unsafe. Ah, well all other convictions say [the] police are inept or whatever. And without going into detail, they’ve moved on because they’ve heard enough or read all they want to and they don’t have the realities.

Harold
Retired Radio Broadcaster
St. Louis, Missouri

Local police, media personnel, and residents alike agree that inter-group differences appear when considering public perception of local police and the effect of media portrayals on these beliefs:

I think many African Americans see the Metropolitan Police department as an occupying force. It’s a group of white people wearing uniforms that carry guns in their neighborhoods, rousting African American men and boys and arresting them. And I think many African Americans look upon the police department as an occupier and they’re not happy about it. No, it’s not valid at all. What it is is its history and it’s the fact that people who live in poor neighborhoods see the police a lot more than people who live in middle class and wealthy neighborhoods. And if you’re poor in this city you’re Black. And
you use the police a lot and you see them arresting your neighbor or your cousin. Or looking for your son. So, how do you feel about these police? Well, you don't feel good about it even though they might be doing the right thing, rounding up the bad guys. It's different when it's your son or your nephew or your uncle [or if] your husband is the bad guy.

Walt
Television Reporter
St. Louis, Missouri

I have been in certain circumstances . . . certain instances where there'll be a Black male suspect and if there are other Black police officers present the Black male(s) will say, “Hey, are you going to let him treat me like this or are you going to take care of this?” So, now it's a race thing rather than the occupation. I remember on two occasions the Black officer will get the “Hey, you’re the Uncle Tom and you’re working for The Man” and it goes on and on. If it’s a white male I get the same thing. I’ll have the person say, “Hey, let me talk to the white officer.”

Todd
St. Louis Metropolitan Police Department

I think it all depends [on] who you know. I live in an area where I happen to have two cops living right in my neighborhood. So, I see them as more personal than folks do who see them patrolling their neighborhood. And I know the couple of times I’ve had something happen and I need help they’ve taken a personal interest in my problems. So, I have one view of the police around here. But, I can sure see how the people living in poor neighborhoods could see them as . . . something else . . . a threat.

Kelly
Resident
St. Louis, Missouri

It comes as no surprise one’s personal experiences with local law enforcement shape perceptions about individual officers and the police department at large. It is also understandable how these individual opinions become shared realities among members of the larger group. Communication with members of one’s primary reference group exerts an influential role in shaping the individual, as well as the group, belief system. Once formed, this belief system is often reinforced through the processes described above as information.

If It Bleeds It Leads

Police work is a lifestyle rather than a career. [The recruits] come in here and they’re looking for a career rather than a lifestyle. Then the reality hits them and they begin asking, “What about embarrassment to my family? What about lawsuits, civil liabilities, losing my job, and being sued outright?” This is all taken into account and when we discuss this in class I say, “Hey, you have to justify your actions, you have to know your force levels. But, if you
hesitate you get hurt.” And I always use “I’d rather be judged by twelve than carried by six.”

Todd
St. Louis Metropolitan Police Department

It goes without saying society has changed over time. So, too, has police work, the concerns articulated by today’s officers, and the layers of accountability embedded in the profession (Gibbs, 1999; Morgan, 1999; Skolnick & McCoy, 1985). When considering the impact of the media on police work, these issues become inextricably linked. No longer does the street cop work in relative anonymity; no longer are his or her actions free from scrutiny by the public he or she serves:

That is something that is told to police officers. And it’s a shame it is told to police officers. There is Big Brother out there. And this is the time of the small cell phone camera. This is the time of the miniature cameras that you have instant access to the Internet where, on your cell phone, you can take video footage, press a button, and it sends it to the Internet and next day everyone is watching it on YouTube. The reasons this is explained to the officers is because of reporting procedures. If you use force, you had better make sure that force is justified and if you use that force, you better articulate that and reflect that into the narrative section of the report and make sure that your “I”s are dotted and your “T”s crossed. Because if you watch a video and your report doesn’t reflect that video description, then you can find yourself in hot water. I’m not saying “Hey, use force when there’s no camera on you.” That’s not it. Make sure you are justified in your use of force at that time because the media’s out there.

Todd
St. Louis Metropolitan Police Department

Technological changes in the past century have dramatically altered the way in which the consuming public receives its news, thus having a dramatic impact on police work and the considerations officers take with them into the job. So, too, has technology’s ability to make one an instant celebrity, whether that individual is a reporter or John Q. Public. While some claim this added layer of accountability is beneficial to society (Morgan, 1999; Skolnick & McCoy, 1985), others argue it often places undue and unnecessary constraints on those for whom discretion and timely decisionmaking are essential for optimal job performance, efficiency, and officer safety (Gibbs, 1999). This debate, appearing in the scholarly literature, also permeates any discussion of police-media relations.

Both members of the media and local law enforcement readily describe their relationships with one another as “strained” at best. Resentment and, at times, hostility reside beneath the surface of the spoken word as members of each group describe the other. More often than not the feelings are openly voiced, although each provides a different explanation for the tension so readily apparent:

[The relationships are] relatively strained. Because there’s always tension between the media and the police because the police need us at certain times and at times they don’t need us. And when they don’t need us they’re not
interested in having us around. I think we portray [the police] relatively accurately. But that portrayal is hindered by the inability of the Metropolitan Police Department to get its message out. They are more interested in hunkering down and not telling a story. They’re always behind a story, not ahead of it.

Walt
Television Reporter
St. Louis, Missouri

Walt’s comments tend to echo the sentiments of others working in the St. Louis market. Yet, while Walt readily attributes the conflict directly to the “hunker down” mentality of the SLMPD itself, others point to the nature of each profession and competing goals that automatically place the groups at odds with one another:

Still it’s an adversarial relationship at its core. The media are not only feeding off the department for their news today, but there is also the role I play that it’s our job to hold the police department accountable and responsible for the decisions it’s making. In a relationship that, at its core, is adversarial, I don’t know if you can ever have a perfect relationship. Anybody that’s in a position of authority has to realize there is a burden that comes with it and when you do something wrong you are going to be held accountable for it. When the media does something wrong, the community is outraged. When the police do something wrong, the media are the ones that lead the way. It’s our role to hold those accountable for their problems.

Brian
Television Reporter
St. Louis, Missouri

Clearly, whether attributed to individual personalities working in each profession or to inherent job-related differences, members of the St. Louis media are united in the belief that tension exists between themselves and members of the SLMPD. Just as clearly, these same individuals view themselves as guardians of the First Amendment rights, a role they willingly accept and one that places them at the heart of the conflict. This—the adversarial nature of the police-media relationship—constitutes the one subject where agreement is found between reporters and local law enforcement. And, according to many local police, the implications are far-reaching:

No, [we’re] not treated fairly at all [by the media] in my opinion. Because the negative reporting plants seeds. You can lead with [the negative story], but you can’t lead with a books and badges program. You can’t lead with a departmental awards ceremony detailing how somebody saved somebody from so-and-so. But, yet, if I have a use of force incident, the media will immediately go out and find someone who wasn’t even there who is maybe related to the suspect that we had this altercation with. And they’ll interview these people and they will have no knowledge of the incident prior to a phone call or someone coming by the door and saying Junior has been shot by the police. And now they’re coming out . . . now their face is on the TV saying how Junior was not armed, how Junior would never have done this. And that’s what they lead with and now our commanders are on camera saying
we’re investigating this and the investigation takes time. They’ll say, “Yes, the officer is off for three days for administrative leave”—which is normal procedure for everyone—but, they don’t say it’s normal procedure, that it doesn’t indicate wrong doing.

Ross
St. Louis Metropolitan Police Department

St. Louis Metropolitan police officers repeatedly indicate the media handling of a story affects departmental morale, public perception, and the considerations an officer takes onto the street in the course of the job. Thus, according to SLMPD officers, the media become more than purveyors of fact, extending their role well beyond the original intent of the First Amendment as they compete for market share:

Let’s say we have two of the same incident. One where the officer is actually putting force on someone and the other where the private citizen is putting force on somebody. Not an officer, but a private citizen. The way the media will portray it is, “The officer involved beat this guy.” The way they portrayed the private citizen one is the private citizen “allegedly” beat this guy. They will actually say we beat Joe Blow, but the private citizen allegedly beat his wife when it’s on video of him smacking and hitting her with a bat. It’s all in the choice of words. That’s how the media portray us. Why? Negative. And it means big bucks. It puts butts in the seats.

Ross
St. Louis Metropolitan Police Department

In light of the concerns expressed with regard to media portrayal of local police one might assume law enforcement would applaud efforts to raise the bar, to depict an officer in a hero’s light when he or she becomes the victim of deadly force. Little could be further from the truth.

From Villain to Hero

The resentment comes not as much from [the media] treating that person as a hero fallen officer. I mean, that officer should be treated that way. The resentment comes because they couldn’t, or just didn’t, treat the officer that way before he died.

Todd
St. Louis Metropolitan Police Department

FBI data indicate 341 police officers lost their lives in the line of duty during the six-year span from 2000 through 2005 (Uniform Crime Reporting Program, 2005). The SLMPD recorded five line of duty deaths from the year 2000 to the writing of this paper. Concern has been voiced with regard to what appears to be a rise in violence directed toward our police nationwide. This concern was echoed in a letter sent by Chief Joseph Mokwa, Chief of Police, to his officers. The letter reads, in part (portions of the letter have been deleted by this author),
Dear Officers:

My purpose in writing is twofold. First, I want to alert you to a disturbing trend of fatal police shootings across the nation. Second, and more importantly, I am asking you to critically evaluate the safety strategies that you personally practice in your job as a police officer and determine what you could do to better protect yourself.

So far this year, 60 police officers have been fatally shot. This is a 54% increase from the same period last year. In fact, there have already been more fatal shootings of officers this year than in all of 2006.

As police officers, you have selected the noblest of professions, yet one of the most dangerous jobs. The rate of police slayings is disturbing, and I want to make sure that you are practicing sound safety strategies. You owe it to yourself and to your family.

Colonel Joseph Mokwa
Chief of Police
St. Louis Metropolitan Police Department

While those who choose careers in law enforcement know and understand the dangers associated with the job, the death of a fellow officer brings it home. The grief experienced by a department that loses one of its own is felt as strongly as that suffered by any family who loses one of its members. Many local officers indicate that it is at this time, when they are most vulnerable, they also feel most exploited by the media:

We’re good people no matter. You know, there are policemen out here doing heroic things every single day. Whether it’s running into a building or saving somebody or doing CPR on somebody, there’s tons of stuff and you never hear about that stuff. You only hear about the heroic deed that’s done when they’re dead. How many people do you know that would make that decision to say, “Well, I might not see my wife and kids anymore; someone’s getting hurt in there and I’m going to stand in their way”? How do you take that risk? If they go in there and somebody gets shot, or if a bullet ricochets off another house and kills somebody else, they’re ridiculed. But if they die in that encounter, no matter what they were doing, then they are the hero. We had [an incident here recently] where an officer was killed. For a day or two he was the hero. Then the media got hold of the kid’s story about why he was so mad at cops, about how his brother’s death had affected him, and why he felt he had to kill a policeman. Then that became the angle, the poor kid who felt mistreated by the police. Well, his brother dying doesn’t have anything to do with [the officer] getting killed. His brother dying made this guy go crazy and ape-shit and he killed a policeman. And you can’t justify that [media angle] to me.

Sgt. Jeff Myer
Town & Country (MO) Police Department
The general resentment expressed by officers throughout the course of this project can be heard in Sgt. Myer’s words. What became evident during the course of this research was the shared animosity between local media and law enforcement. What also became evident was that each felt justified in the feelings expressed and in the stance assumed. A chasm borne of misunderstanding, resentment, and hostility divides these professionals from the general public caught in the middle of the conflict. John and Jane Public rely upon their police to protect and serve. They also rely upon their media to inform in an objective and truthful manner. Just as the public needs each of these professions so, too, does each in its own way, need the general public. In place of a collaborative effort to build relationships and, thus, work toward crime control, we see, instead, a city divided by competing interests. Floundering in the wake is a public left to its own devices when deciding who it can trust.

**Bridging the Gap**

There is no qualification more indispensable to a Police Officer than a perfect command of temper, never suffering himself to be moved in the slightest degree, by any language or threats that may be used; if he does his duty in a quiet and determined manner, such conduct will probably induce well-disposed-by-standers to assist him should he require it.

(Quoted in Skolnick & Fyfe, 1994, p. 70)

In 1829, well before Community Policing was introduced as the latest philosophy aimed at curbing crime through police-resident relationship building, constables in England were offered the words of advice appearing above. Nearly 200 years later, the power of collaboration has once again been recognized and revived in Community Policing efforts nationwide. Nowhere is Community Policing more ardently embraced or its goals more actively sought than in St. Louis, Missouri. Success depends upon not just the city’s police, but its residents as well. Yet, obstacles to success emerge from an unlikely, and largely unrecognized, source—community professionals who have, themselves, dedicated their careers to serving the public.

In order to bridge the gap between members of the St. Louis media and its local police department, mutual understanding between groups must first be achieved. Four key concepts—(1) professionalism, (2) economics, (3) culture, and (4) interpretation—emerge from this study that lead toward the first step in achieving this understanding.

Both media and law enforcement professionals interviewed in the course of this study firmly believe they are living up to the core values associated with their chosen careers. Each of the interviewees subscribes to his own view of professionalism and its associated traits. Each is confident in the belief he is serving his community to the best of his ability. Yet, the community itself is the group most harmed by profession-specific traits that leave local police and members of the media at odds with one another.

It is well-documented that a distinct police culture exists in American society that gives birth to, and is reinforced by, the officer’s working personality (Skolnick, 1966). Influenced by the danger associated with the job, social isolation, and the authority granted officers, this culture is often referred to as the blue wall or the thin blue line. Among other traits, the officers working within this culture tend to
be hostile, suspicious, cynical, and, above all else, intensely loyal to their comrades. When one is attacked, they are all attacked. When one is injured, they all feel the pain. The attacks and injuries need not be physical for one officer to come to the defense of his or her comrade. Hence, it makes sense that what appears to be an unfair assessment of an officer by the media raises the ire of all in the fraternity. It also makes sense that all in this group will harbor negative feelings toward the source of the attack, thus setting the stage for feelings of animosity and hostility. In no way is this assessment intended to exacerbate officers’ feelings of mistreatment or serve as further criticism of their professionalism. Rather, the attempt made here is intended to provide an alternative perspective to media claims that members of the SLMPD assume a “hunker down” mentality when approached. Often times the very nature of police work demands that officers be secretive; the nature of the culture in which they operate further ossifies this tendency.

Conversely, the constitutional rights granted the public as members of a free state demand accountability from our law enforcement officials. This task often goes to the media who, under the mandates of the First Amendment, are granted the responsibility to inform the consuming public. The individuals interviewed here take this responsibility seriously. Of that there is no doubt. All too often the demands associated with their profession require parsimony and succinctness, thus compelling the reporter to share his or her information in less time than the story deserves. This reality should force the individual reporter to rise to an even higher level of professionalism in order to ensure information is contextually accurate and situationally precise. Less than that is little more than sensationalism bordering on yellow journalism. Less than that further reinforces feelings of cynicism and suspicion, thus exacerbating the tendency of local officers to adopt a defensive posture when responding to media requests.

Economic considerations also play a key role in the misunderstandings that affect the police-media relationship in the metropolitan St. Louis area. Without a doubt, the local police department faces economic and budgetary considerations when establishing its policing strategies. The reality associated with limited resources compels the local department to focus its attention on those areas most in need of crime control efforts—neighborhoods in which the poorest of the city reside. Hence, local law enforcement officers are often viewed as the occupiers rather than the protectors. This, alone, creates a skewed perception of the role played by members of the local department. Any negative reporting on the part of the media thus serves to reinforce negative perceptions of police among those already predisposed to such beliefs.

Both media and law enforcement professionals repeatedly discussed the role of economics in determining which stories find their way to viewers and how those reports are framed. While attempting to remain loyal to the values of their profession, media personnel must, first and foremost, find favor from producers and editors interested in market share and profit. Hence, the “bottom line” remains paramount in the decisionmaking process of media management. The officer-as-everyday-hero seldom puts “butts in the seats,” as stated by Ross of the SLMPD; the officer-as-fallen-hero does. While viewers respond favorably to the respect shown the fallen officer, his or her comrades feel exploited by a media largely concerned with economics.
St. Louis is, without a doubt, a city that has been historically divided along lines of race and class. In many ways, this remains true today. Similarly, these divisions also affect the perception both individuals and groups have of local law enforcement. This is evident in the daily workings of the SLMPD and in the way in which officers perceive the workings of the local media. Rather than serving to “tell it like it is,” the local media are viewed as exploiting police officers by playing to the divisions already present among community residents.

Finally, the role of interpretation must be considered when attempting to get at the root causes of what have been called the “strained relationships” between local police and the media, both of whom serve the community. The media must come to understand their words and inflections are interpreted by an audience already predisposed to certain beliefs. Reports must include the context in which an event occurs. Teasers and headlines must not be sensationalized. However, the responsibility addressed here should not be shouldered by the media alone. Local media professionals describe the SLMPD as assuming a “hunker down” mentality. With awareness comes responsibility. It behooves the local police department to actively work to improve relationships with the media and to be as forthright and forthcoming as the legalities of their work allow. Open dialogue is required. So, too, are efforts aimed at educating the media with regard to how an investigation is undertaken, what information can be shared, when it can be shared, and then upholding promises made to inform the public in a timely manner.

Effective police work demands community participation. What better venue through which to inspire participation than via the media? Crime reduction can only be achieved through relationship building and collaborative effort. That begins with the police and the media.

The St. Louis Metropolitan Police Department has made a commitment to the philosophy of Community Policing. The local media have made a commitment to the public’s right to know. Rather than viewing each other as adversaries, perhaps it is time for each to recognize, respect, and appreciate the role played by the other in (re)building St. Louis. Perhaps it is time to clean the slate and work first at building relationships between professionals serving the city. Then, perhaps, the community will follow.

Conclusion

The relationship existing between local law enforcement and the media who cover their activities is important in any city. Why? Because the media serve as the constitutionally guaranteed information gap between police and the community. In short, the public, as declared in the First Amendment, have the right to know. This is especially true when it comes to the behaviors and activities of their sworn law enforcement officials. However, it appears this relationship, at least in the case of St. Louis, Missouri, is less than optimal; hence, the basic link between the police and the people is strained, at best, and perhaps even counterproductive in its stated goal of serving the citizens of the city and surrounding areas.

This paper has explored that relationship, focusing specifically on media portrayals of local law enforcement prior to, and after, an officer is killed in the line of duty. This exploration has allowed for an examination of how each group—the media
and the police—perceive each other. It has also provided insight into why each group assumes the stance it does.

The goal here is to provide insight into not only the unique relationship existing between the two groups, but also into the misunderstandings that have developed between the two over time. By providing this insight it is hoped that understanding and enhanced communication will transpire, thus allowing the citizens of St. Louis and surrounding areas to better view the community that serves them, the law enforcement personnel that protect them, and the media who inform them.

**References**


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Bioterrorism Preparedness: What Is the Most Effective Way of Preparedness?

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Health Belief Model

Hochbaum and Rosenstock devised a model in 1950 (cited in Simons-Morton et al., 1995) that develops the first comprehensive explanation of health behavior (Becker, 1974). The Health Belief Model theory and its practice include health education, health promotion, health protection, rational decisionmaking, dealing with a perceived threat or uncertainty, and “program planning that enables health educators to go about their work with more confidence and credibility” (Simons-Morton et al., 1995, p. 81).

The Health Belief Model theory, which deals with perceived threat or uncertainty, is an appropriate theory on which to base research on bioterrorism preparedness in the local government at this time. The need to prevent, protect, respond, and train the public calls on the local government to design an effective program based on this theory.

Intentional Injury

The framework of this research is based on the Public Health Model for Intentional Injuries (McKenzie, Pinger, & Kotecki, 2002). This model describes a trail of energy, host, and environment. In this model, the injury-producing agent is energy, the affected party is the host, and the environment is the component, which can prevent the energy from affecting or injuring the host. Figure 1 below explains the three components of intentional injury in the form of a triangle.

Figure 1. Intentional Injury
This model will describe bioterrorism within the context of public health or public administration in the local government or at any other level. In this Intentional Injuries Model, the public health triangle (bioterrorism, the public, and public health) is modified to indicate that bioterrorism is the energy, which is a causative agent of injuries, disease, and death. The public is the victim (host) of bioterrorism attack, and public health is the environment, which can prevent and detect any threats of attack through prevention, detection, and response at any time. This theory relates to prevention, control, and response against bioterrorism attack. The theory serves as a plan for local jurisdictions’ preparation and readiness to minimize or prevent any sudden emergency.

What Is the Most Effective Way of Preparedness?

The Agency for Healthcare Research and Quality (AHRQ) has funded the development of a report, an interactive tool set, and different models of preparedness. Among these are the Emergency Assistance Line and Triage Hub (HEALTH) Model. This model assists hospitals in minimizing surges in case of emergency, such as with a terrorist attack, when a great number of incoming patients are demanding care (AHRQ, 2005).

One of the other models, which encompasses many assessment functions, is called the Evaluation Model. This model is used by The Johns Hopkins University Evidence-Based Practice Center (EPC). This approach includes many of the main factors needed for evaluation and testing, mainly in a hospital setting during an emergency period. For example, the Evaluation Model assesses the incident command, which is a vital function in any organization. It not only evaluates the incident command, but it further looks at decontamination, triage, and treatment zones during a hospital disaster drill:

The zone modules have items on time points, zone description, personnel, zone operations, communications, information flow, security, victim documentation and tracking, victim flow, personal protective equipment and safety, equipment and supplies, staff rotation, and zone distribution. Further, this model includes pre-drill assessment, debriefing, and addenda for biological incidents, radiation incidents, general observation and documentation, and victim tracking. (AHRQ, 2005)

This model could be used by all first responders to assess their own evaluation condition. There are other instruments, such as the Emergency Preparedness Resources Inventory (EPRI), which are made for local, regional, and state planners to see how well-prepared they may be and to check the adequacy of tools needed in case of an emergency (AHRQ, 2005).

Donahue and Joyce (2001) argued that Comprehensive Emergency Management is the better model against disaster and added four phases of modern disaster management:

Mitigation – Activities undertaken in the long term, before disaster strikes. Preparation – Activities undertaken in the shorter term, before disaster strikes. Response – Activities undertaken immediately following a disaster to provide emergency assistance to victims and remove further threats. And the last one is Recovery – Short and long term activities undertaken after a
disaster that are designed to return the people and property in an affected community to at least their pre-disaster condition of well-being. (p. 730)

Donald A. Henderson (1999) provides an analysis on preparedness states. Educating the civilian population is one of the strategies of preparedness to minimize fear and build confidence. There are few programs established to train the public to enhance their awareness of important steps in case of a bioterrorism attack. The training programs in 120 targeted cities, including those for police, fire, emergency rescue personnel, and special National Guard functions, have little to do with bioterrorism. In addition, most cities’ public health, medical, and hospital personnel are not included in the planning and the training for unknown reasons.

Even though funds from the federal government are allocated to the Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC), unfortunately, public health, medical professionals, and hospitals remain woefully unprepared. We (the United States) are ill prepared to deal with an epidemic in the present situation. As Johnson (2001) observes,

There is no comprehensive national plan for biological weapons. Hospitals are not prepared. Pharmaceuticals are in short supply; shortage of emergency rooms, and ventilators to aid respiration are in short supply. There is a need for a research and development program for bio-defense. (p. 15)

Wise and Nader (2002) provided a framework of preparedness that is based on four dimensions: (1) Intergovernmental Dimension, (2) Operational Dimension, (3) Legal and Regulatory Dimension, and (4) Political Dimension. The Intergovernmental Dimension requires massive organization of all the different departments at the local, state, and federal levels to assist the homeland security mission. Preparedness for disaster and terrorism attack is based on the Operational Dimension, which includes understanding the various effects and performance of terrorism, and using weapons of mass destruction such as anthrax. The Legal and Regulatory Dimension deals with the legal ramifications in case of a terrorist attack, making preparations in case legal action needs to be taken to safeguard the public and minimize casualties. Finally, the Political Dimension is about decisionmaking for preparedness. This looks at how to administer and coordinate activities between local, state, and federal organizations. This is mainly about the “decision to call public alerts, invoke emergency public health powers, and initiate prosecutions for terrorism” (p. 53).

Citizens have witnessed both glaring gaps in coordinated action by local, state, and federal departments and effective joint mobilization to deal with consequences of attacks. Preparedness brought unity between old divisions of labor, such as local and federal; intelligence and law enforcement; military and civilians; and above all foreign and domestic agencies (Wise & Nader, 2002). Leaders must discover “what configuration of organizations, public and private, is needed and what arrangements between them provide the most effective relations to perform a needed function” (Wise, 1990, p. 142, in Wise & Nader, 2002).

The development of core functions of preparedness requires investing in communication facilities, administrative support, and personnel capacities (9/11
Commission, 2005). This supports the public health system’s effort to contain and eradicate epidemics in a timely manner such as those caused by bioterrorist attacks (Cilluffo, Cardish, & Lederman, 2001). Close working relationships with many different departments at the state and federal levels, and especially with the Federal Emergency Management Agency (FEMA), CDC, HHS, and the Environmental Protection Agency (EPA) and other related departments, is a must for public health administrators to fight bioterrorism in their jurisdictions (FEMA, 2001a, 2001b). This is because bioterrorism is a new threat and it needs more resources and cooperation to minimize its effects.

David A. McEntire and his colleagues (2002) compared different paradigms to identify the most effective ways to prepare against any disaster. The most common ones are (1) Comprehensive Emergency Management, (2) Disaster-Resistant Community, (3) Disaster-Resilient Community, (4) Sustainable Development and Sustainable Hazards Mitigation, (5) Invulnerable Development, and (6) Comprehensive Vulnerability Management. Among these six models, the authors found that Comprehensive Emergency Management (CEM) is suited to guide scholars and practitioners to reduce disasters and aid in emergency preparedness. The National Governors’ Association, during its emergency preparedness planning, first developed this framework in 1979. The other five models failed to effectively address the role of safety to incorporate each of the hazards, phases, and actors pertinent to emergency management preparedness.

Among the most critical roles that government serves are emergency preparedness and management. It has been demonstrated that government departments’ preparedness, such as FEMA’s, in responding to the 9/11 terrorism attacks in the United States brought New York City back to business as usual in a week’s time. The strong leadership of Mayor Giuliani in New York directed resources, managed employees, and comforted victims and residents in this time of crisis. The governor of Maryland, Parris N. Glendening (2002), summarizes his duties and responsibilities by saying “as chief executive, the governor is responsible for [the] public’s safety and welfare” (p. 21). The element of strong leadership, planning, and communication infrastructure built for catastrophe proved worthwhile. Most striking were the skills and intensity of the government’s response (Cohen et al., 2002).

Cohen et al. (2002) asks, what did we learn from the tragedy of 9/11 and the excellent leadership displayed by Mayor Giuliani and his team. They answer by saying, “We learned some prosaic operational lessons that we should take care to record” (p. 31). Recommended points to adapt from these operational lessons against bioterrorism are as follows:

- Emergency response planning is essential.
- Emergency response institutions, procedures, and resources must be retained, even when threats seem distant.
- Communications systems must be made more redundant.
- Cellular and wired emergency communications systems must have at least two levels of backup to reduce the odds of failure during emergency.
• Emergency response procedures must assume communication breakdowns and allow for decentralized decisionmaking.

• There is no substitute for inspiring leadership during a crisis.

Further, Cohen et al. (2002) added, “the more profound lesson we learned is that public service and the ethos of public service are as important as ever” (p. 31).

Homeland Security has a great challenge in planning for emergency services and responses because of the variety of bureaucracies, departments, and jurisdictions involved. In general, preparedness suffers from the lack of administrative and political coordination and cooperation (Waugh, 1990). The lack of coordination and overlapping jurisdictions has resulted in fragmentation and often in redundancies within the system. Reorganizing the intergovernmental system on each level of government to accomplish the mission would be one of the solutions.

According to Thompson (2002), the Homeland Security department developed four essential functions:

1. **Prevention** – Activities designed to reduce the inclination and ability of individuals to commit terrorism.

2. **Preparedness** – Efforts to develop the plans and capacity needed to respond effectively to terrorism attacks should they take place.

3. **Response** – The immediate actions taken by public entities, private parties, and citizens to limit injury, death, physical damage, and impairment of critical social functions when an attack occurs.

4. **Recovery** – Taking the short- and long-term steps needed to rebuild, restore, and revitalize the area subject to terrorist assault economically and in other ways. (p. 18)

Overall, preparedness in any stage calls for cooperation, coordination, and communication among local, state, and federal governments. Training and preparation has been underway but has not yet been put to the test.

The studies above did not address specifically the relationship of preparedness between local jurisdictions and the state and federal governments as much as this study looks to evaluate preparedness. The rest of the studies did not examine small cities to analyze their local preparedness. This study will examine the local jurisdiction as a case study to evaluate the preparedness of the local jurisdiction in concert with state and federal governments to deliver effective and efficient service in time of emergency crisis. To the best of my knowledge, no one has done this kind of symbiotic analysis among the three levels of governments to maintain and secure public safety.

According to Davis and Gilman (2002), before a crisis occurs, possible events are anticipated, diagnoses are conducted, a plan is developed, and staff is trained. This kind of drill assists in correcting the lessons learned from the exercise before an actual emergency occurs. Second, during a crisis, an effective communications
system brings normalcy. Third, after a crisis occurs, it is time to learn from it by assessing damages, evaluating what went right and wrong, and learning from the crisis to act effectively in the future. Davis and Gilman suggested an information flow model to be used during an emergency. See Figure 2 for a demonstration model.

**Figure 2. Information Flow During an Emergency**

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>An internal or external stakeholder notices a possible or pending event.</td>
</tr>
<tr>
<td>2.</td>
<td>An alert message is sent to management – Emergency Management System.</td>
</tr>
<tr>
<td>3.</td>
<td>The alert messages are evaluated and a decision is made about how to respond.</td>
</tr>
<tr>
<td>4.</td>
<td>If the event is serious, an incident log is opened to track all response and recovery activities.</td>
</tr>
<tr>
<td>5.</td>
<td>Plans and procedures are implemented in response to the event.</td>
</tr>
<tr>
<td>6.</td>
<td>Tasks are assigned according to preexisting plans.</td>
</tr>
<tr>
<td>7.</td>
<td>Resources are allocated.</td>
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<tr>
<td>8.</td>
<td>Tasks are performed.</td>
</tr>
<tr>
<td>9.</td>
<td>Status briefings and updates are provided to stakeholders.</td>
</tr>
</tbody>
</table>

According to Davis and Gilman (2002), *crisis communications* was defined as how any city, local government, state, or federal government provides information to others—internally and externally—during a critical event to communicate effectively with the public and the media.

The U.S. government’s General Accounting Office (2005) did a study in regards to the local and state governments’ state of preparedness. The study surveyed cities with populations under 300,000 and cities between 300,000 and 1,000,000. The study clearly reported that there is “deficiency in capacity, communication and coordinated elements essential to preparedness and response, such as workforce shortages, inadequacies in disease surveillance and laboratory systems, and lack of regional coordination and compatible communications systems” (p. 1). The report further addressed the local and state officials’ frustration due to lack of guidance on specific standards in bioterrorism preparedness. The report demonstrates that cities with populations under 300,000 are less prepared. Table 1 displays the GAO findings.
<table>
<thead>
<tr>
<th>Context</th>
<th>City A</th>
<th>City B</th>
<th>City C</th>
<th>City D</th>
<th>City E</th>
<th>City F</th>
<th>City G</th>
</tr>
</thead>
<tbody>
<tr>
<td>City population</td>
<td>Under 300,000</td>
<td>300,000-1,000,000</td>
<td>Over 1,000,000</td>
<td>300,000-1,000,000</td>
<td>Over 1,000,000</td>
<td>300,000-1,000,000</td>
<td>Under 300,000</td>
</tr>
<tr>
<td>City had received funding from Metropolitan Medical Response System (MMRS) program</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>City prepared and hosted a National Security Special Event within previous 5 years</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Disease Surveillance Follow-up and Agent Identification</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local active disease surveillance system</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>One or more epidemiologists in local public health agency</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Treatment Capacity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug stockpile maintained by city</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Drug stockpile maintained by hospital</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Hospital had sufficient bioterrorism response training per self-report</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Hospital had sufficient equipment for bioterrorism response per self-report</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Communications between emergency responders had been effective during public health emergencies per self-report</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>City had compatible radio system</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>State Public Health Resources</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local public health office used HAN</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Cooperation among responders</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Written agreements exist to cooperate with neighboring state(s)</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Coordination with neighboring country</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Local officials had developed a system for triaging samples prior to the 2001 anthrax incidents</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
Summary

The studies above prevail that most small cities and local governments are less prepared because these models demand more resources, funding, multi-communication, cooperation, and coordination which are beyond the ability and the budget of a small local jurisdiction. The ideal model which should be utilized for preparing small jurisdictions is the Domino Effect Model, which triggers immediate coordination and effective action among the three levels of government.

The model in this study suggests that the local government is dependent on the state and federal governments for resources and assistance in case of an emergency. In the meantime, there is also interdependency of the three governments on each other to prepare against any bioterrorist threat. The local government is the “front-line army” as first responders in addressing an emergency situation. Not only that, the state and federal governments depend on local government for intelligence gathering, surveillance, local information, and emergency incident alert. The studies mentioned above did not consider the limitation of the local governments or the relationship of dependency and interdependency among the three different governments.

References


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Dr. Habtes has been teaching, training, and consulting for a quarter of a century in different areas of management and administration. He presented professional papers on different occasions, including the annual American Public Health Association (APHA) in Washington, DC. He was also invited to visit Cuba to study public health and public administration with 30 other professionals from the United States.
Does Ordering an Employee to Refrain from Certain Personal Contacts Violate Constitutional Due Process? The Federal Constitution May Be Violated by “No Contact Orders”

Michael P. Stone, Founding Partner, Stone Busailah, LLP. A partnership of Law Corporations
Marc J. Berger, Senior Law and Motion and Writs and Appeals Specialist, Stone Busailah, LLP

When a public employer conducts an internal investigation into suspected misconduct, it is quite common to order the subjects of the investigation to refrain from contacting each other during the investigation. This occurs in all types of misconduct investigations, but particularly in investigations of sexual assaults, sexual harassment, domestic violence, and other interpersonal misconduct that is likely to revolve around the kind of “he said/she said” disputes that leave relative credibility as the only test that can be applied to the evidence.

These orders are routinely given to avoid tainting the evidence with coached or contrived statements and to avoid undue influence or intimidation. They also preserve the spontaneity of the observations of the witnesses and parties. Compliance with no-contact orders avoids tipping off subjects as to the direction the investigation is moving and conveying other important background information that would compromise the effectiveness and integrity of the investigation. In short, there are many good reasons why a public employer would want to make such an order, and most public employers are aware of these reasons.

Another growing phenomenon within the law enforcement profession is for police employees to date and marry each other so that a growing number of employees have a spouse, cohabiting partner, or dating partner in the same department. Given the increasing number of employees living in or having intimate relations with co-employees, and the frequency with which no-contact orders are given in internal investigations, there should be no surprise that we are confronting a difficult new legal issue as to when an employer’s order to not contact a spouse or cohabiting or dating partner during the pendency of an internal investigation may violate an employee’s constitutional rights. And, because so many internal investigations are combined with criminal investigations, when this issue arises in an internal investigation, it may often intersect with the same issue as it pertains to the rights of a criminal defendant.

Accordingly, it is helpful for both employers and employees to have a basic understanding of the constitutional tests that determine the extent to which an employee can properly be ordered to refrain from contact with a spouse, a domestic partner, dating partner, or other family member. In this study, we shall survey the
problem from the various dimensions in which an employer can seek to restrict the employee’s right of intimate association.

For a few examples of restrictions that impact on a person’s freedom to engage in social or familial relationships, an employer can issue a permanent requirement to not associate with a particular person or persons. This might be based on the person’s status as a convict or felon, or it might be based on the person having a professional status that could be seen as a conflict of interest such as a law enforcement officer becoming intimate with a prosecutor, judge, co-employee, or supervisor. Or an employer may seek to enforce the same restrictions not by affirmative direction but by attaching disadvantages to such associations such as refusing to hire or promote someone because of a relationship with a felon or undesirable person, or a co-employee. Another alternative is a temporary order to refrain from all contact with persons involved in an internal investigation, notwithstanding their intimate relationship to the person, subject to the order. Another less burdensome alternative is an order to not discuss the investigation, or another type of order that restricts but does not prohibit the personal contact in question.

Our study shows that orders of this kind are subject to a relatively high degree of constitutional scrutiny under the Fourteenth Amendment Due Process clause as an aspect of Substantive Due Process. Factors that justify this type of order may include the seriousness of the misconduct under investigation and the department’s ability to demonstrate an interest in controlling the flow of information during the investigation in the particular case. Finally, an order of this kind is most likely to survive constitutional scrutiny if it is narrowly tailored to the demonstrated need at hand.

At the end of this discussion, we shall also explore a related issue concerning the extent to which a public employer can require disclosure of intimate personal matters in a hiring or investigative process. A significant degree of constitutional scrutiny is also applied to this type of invasion of privacy as it is generally recognized that inquiry into intimate associational matters requires a demonstrated nexus with job performance or other important public interests.

Substantive Due Process Encompasses a Right to Form and Maintain Intimate Personal Relationships.

The substantive aspect of the Fourteenth Amendment Due Process clause protects individual rights of privacy and intimate association as a fundamental aspect of human liberty. This was established by the U.S. Supreme Court in *Roberts v. United States Jaycees* (1984) 468 U.S. 609, 617-618. The concept that the Fourteenth Amendment is the source of this right of intimate association was recognized by the Ninth Circuit Court of Appeals in *IDK, Inc. v. County of Clark* (1988) 836 F. 2d 1185, 1191-1192. Quoting from *Roberts* (468 U.S. at 618-619), the Court in *IDK* observed that the Fourteenth Amendment protects relationships “‘that attend the creation and sustenance of a family’ and similarly ‘highly personal relationships’” (*IDK*, 836 F. 2d at 1193). The factors pertinent to the existence of this right in a particular situation include “the group’s size, its congeniality, its duration, the purposes for which it was formed, and the selectivity in choosing participants” (*Id. at 1193*).
Shortly before Roberts, several federal cases found cohabiting and dating relationships protected by an individual’s right of freedom of intimate association. In Briggs v. North Muskegon Police Dept. (W.D. Mich. 1983) 563 F. Supp. 585, the court held an employer liable for damages for terminating the employment of a police officer for cohabiting with a woman who was married to another man. The court opined that “the privacy and associational interests implicated here are sufficiently fundamental to warrant scrutiny of the defendants’ acts on more than a minimal rationality basis” (Id. at 590).

**Nexus with the Employment Is an Important Factor in Determining the Constitutionality of an Order that Burdens Intimate Relationships.**

The critical issue in Briggs was framed in terms of “whether the likely adverse effect of plaintiff’s off-duty conduct on his job performance justified his suspension and dismissal” (Id.). The court decided that

there are many areas of a police officer’s private life and sexual behavior which are simply beyond the scope of any reasonable investigation by the Department because of the tenuous relationship between such activity and the officer’s performance on the job. In the absence of a showing that policeman’s private, off-duty personal activities have an impact upon his on-the-job performance, we believe that inquiry into those activities violates the constitutionally protected right of privacy. (Id. at 591, quoting from Shuman v. City of Philadelphia [E.D.Pa. 1979] 470 F. Supp. 449 at 459, which reversed the termination of a police officer who refused to answer an internal investigator’s questions about his adulterous relationship).

Similarly, in Wilson v. Taylor (11th Cir. 1984) 733 F. 2d 1539, a federal appellate court affirmed a damages award in favor of a police officer who was terminated because of a dating relationship with the daughter of a reputed mobster. The court held, “A state violates the Fourteenth Amendment when it seeks to interfere with the social relationship of two or more people. We conclude that dating is a type of association which must be protected by the First Amendment’s freedom of association. Wilson’s right to date Susan Blackburn falls under his right of freedom of association. We further conclude that Wilson was fired for a reason infringing upon his constitutionally-protected freedom of association” (Id. at 1544).

After Roberts, the analysis in Wilson would properly fall under the Fourteenth Amendment rather than the First. Essentially, the Supreme Court in Roberts channeled intimate association through Substantive Due Process, while the First Amendment’s associational right was confined to relationships having expression as their specific purpose (see IDK, 836 F. 2d at 1192). Wilson holds that a dating relationship is protected by the freedom of intimate association, which cannot be unduly burdened by punishing an employee for his choice of intimate relationships. It is no longer good law, however, to the extent that it pins this right on the First Amendment.

An employer cannot lawfully impose a work rule or regulation that unduly burdens the right of intimate association. As stated above, this principle is directly supported by Shuman v. City of Philadelphia (E.D. Pa. 1979) 470 F. Supp. 449 at 459.
For another example of the implication of employee privacy rights on employer conduct, the court in Briggs recognized that “When the government intrudes on choices concerning family living arrangements, this Court must examine carefully the importance of the governmental interests advanced and the extent to which they are served by the challenged regulation” (563 F. Supp. at 588-589). Similarly, the court in IDK stated that a dating relationship may receive constitutional protection because of its value as an intimate and expressive association, and it upheld the regulation at hand in that case only because it did not “reach a substantial amount of constitutionally protected conduct” (836 F. 2d at 1196).

**The Constitutional Balancing Test May Invalidate Regulation of Intimate Association If Less Restrictive Means Are Available to Achieve the Legitimate Governmental Objective.**

The Supreme Court in Roberts recognized a balancing test under which the government seeking to uphold any infringement of the right of expressive association must show that its legitimate interest in the matter “cannot be achieved through means significantly less restrictive of associational freedoms” (468 U.S. at 623). At least one federal court after Roberts has held that an intrusion into an intimate relationship must be tested for whether it is the least restrictive means for achieving the employer’s goal. In Adkins v. Board of Education (6th Cir. 1993) 983 F. 2d 952, the court found that the termination of a school secretary because of her marriage to the school principal implicated both the freedom of intimate relationship and expressive association, and that “The right of association is violated if the action constitutes an ‘undue intrusion’ by the state into the marriage relationship” (Id. at 956).

For example, where a no-contact order is given, a court may find that a simple order to not talk about the investigation would have been sufficient to serve the governmental purpose of ensuring the integrity of the investigational process. In a case where a terminated deputy sheriff challenged regulations of personal associations for vagueness, the California Court of Appeal in Arellanes v. Civil Service Commission (1995) 41 Cal. App. 4th 1208 upheld the regulation because “Police officers . . . will normally be able to determine what kind of conduct [will be detrimental to the image of the Department]” (Id. at 1217). Likewise, officers who are ordered to not discuss an investigation are normally able to determine what matters they must refrain from discussing. If such an order appears sufficient for the investigator’s purpose, an order to not have any contact at all is far too broad to serve the governmental purpose without infringing on the constitutionally protected right of intimate association of both members of the couple.

The overbreadth of such an order is also illustrated by California cases applying the state constitutional right of privacy. In Ortiz v. Los Angeles Police Relief Assn. (2002) 98 Cal. App. 4th 1288, 1300, an employee of a nonprofit association managing certain police benefit funds, who was terminated for marrying an incarcerated felon, brought a civil action for invasion of privacy. The court noted that the elements for such a claim consist of “(1) a legally protected privacy interest; (2) a reasonable expectation of privacy in the circumstances; and (3) conduct by defendant constituting a serious invasion of privacy.” The court recognized that the California constitutional right of privacy includes “an interest in making intimate personal decisions or conducting personal activities without observation,
intrusion, or interference” (Id. at 1301). The court characterized privacy as “a fundamental and compelling interest” and as “an important American heritage and essential to the fundamental rights guaranteed by the First, Third, Fourth, Fifth, and Ninth Amendments to the U.S. Constitution” (Id., quoting from Robbins v. Superior Court [1985] 38 Cal. 3d 199). The Ortiz opinion recognizes that “The state Constitution ensures the freedom of association” and “protects two types of association—intimate and expressive association” (98 Cal. App. 4th at 1302).

Examining the claim that the employer violated the right of privacy by requiring the plaintiff to choose between her marriage and her job, the court stated, “Ortiz’s right to marry should be balanced against [the employer’s] countervailing interests” (Id. at 1306). Toward this end, privacy interests must be “carefully compared with competing or countervailing privacy and nonprivacy interests in a “balancing test” (Id. at 1307-1308). The court favored the employer’s interests in the case before it because the employment was private, and the employer had a legitimate need to protect confidential peace officer personnel information (Id. at 1313). But even though the employer prevailed in that case, the Ortiz case furnishes guidance on the stature of privacy rights under California law as it applies to the present case.

To overcome the privacy interest invaded by an order that a domestic couple not speak to each other, a department would need to show why the lesser order, to not discuss the investigation, would fail to protect its legitimate interest in the integrity of the investigation. Since a no-contact order in these situations is so impractical and difficult to obey, we believe the privacy interest would prevail in a proper application of the balancing test.

**Inquiry into, or Reliance on, an Employee’s or Applicant’s Sexual History, Absent Sufficient Governmental Justification, Violates Constitutional Privacy Rights.**

A related employee privacy interest is recognized where a public employer seeks to question an applicant or employee about sexual history and other intimate matters. In Thorne v. City of El Segundo (9th Cir. 1982) 726 F. 2d 459, the Ninth Circuit held that such questioning must be justified by a strong showing of countervailing governmental interests, ordinarily including evidence that such information may impact on job performance. The Court of Appeals condemned both the questioning and the employer’s reliance on the answers to reject the applicant.

The plaintiff in Thorne was a female civilian clerk-typist employed by the police department, who responded to a public invitation for civilian employees to compete for police officer positions by submitting to written and oral interviews, psychological testing, a background investigation, and a polygraph. At the time she submitted to the polygraph, she outranked all male candidates. The polygrapher told her she would be asked about a pregnancy and miscarriage in her medical history, and who the father was. She reluctantly revealed the father was a married officer with the department and asked the polygrapher to keep the information confidential. The polygrapher went on to ask a series of questions about her sexual history (Id. at 462).

The polygrapher reported the affair to the chief and volunteered a personal opinion that Thorne was unqualified because of lack of aggressiveness and physical
strength. The chief then met with Thorne and told her that he could not guarantee confidentiality of the affair if she pursued her application. After Thorne decided not to withdraw, the background investigator issued a nonconfidential report disclosing the affair and concluding that Thorne had a poor attendance record, barely passed the physical agility test, and was a “very feminine type person who is apparently very weak in the upper body” (ld. at 463).

Thorne was disqualified, and the highest ranking male candidate was hired. Thorne brought a civil action under Title VII for gender discrimination in hiring, and under 42 USC section 1983 for violation of privacy rights in the disclosure of the affair and reliance on it to reject her application. Trial Judge Manuel Real dismissed the case, and the Ninth Circuit reversed on both claims. On the gender discrimination claim, the Ninth Circuit emphatically discounted the department’s attempted neutral explanations based on attendance and physical strength (ld. at 464-468). But for this article, our discussion of the case is directed more specifically toward the court’s dissection of the City’s defense to the privacy claim.

In reversing dismissal of the privacy claim, the Ninth Circuit first observed,

> The constitution protects two kinds of privacy interests. One is the individual interest in avoiding disclosure of personal matters, and another is the interest in independence in making certain kinds of important decisions. Both are implicated in this case. Thorne presented evidence that defendants invaded her right to privacy by forcing her to disclose information regarding personal sexual matters. She also showed that they refused to hire her as a police officer based in part on her prior sexual activities, thus interfering with her privacy interest and her freedom of association. (ld. at 468, citation omitted)

The Ninth Circuit concluded that “Thorne’s employment was indeed conditioned on her answering questions regarding her sexual associations” (ld.). The polygraph instructions given to Thorne attempted to justify the sexual questioning by stating that “On-the-job sexual or perverted deviancies can be cause for termination of employed personnel” (ld. at 469). The trial court had found that sexual relations among officers was “an appropriate matter of inquiry with respect to employment in light of their possible adverse effect on morale, assignments, and the command-subordinate relationship” (ld.). But the Ninth Circuit observed, “the inquiry in this case was not limited to this sort of information” (ld.). The polygrapher “was quite clearly concerned with whether Thorne had had an abortion, a matter totally irrelevant to ‘on-the-job sex.’” The Ninth Circuit noted that the department’s justification for the questioning was contrived (ld., fn. 9).

The opinion clarified, “We do not hold that the City is prohibited by the constitution from questioning or considering the sexual morality of its employees. If the City chooses to regulate its employees in this area or to set standards for job applicants it may do so only through regulations carefully tailored to meet the City’s specified needs. The evidence established here that the City had no policy” (ld. at 470, footnote omitted).

The Chief had “simply applied the moral standards of the general society, as he saw them” (ld.). The polygrapher’s questioning into sexual activity “Was not regulated in any way. He was given free reign to inquire into any area he chose” (ld.). The
City had “set no standards, guidelines, definitions or limitations, other than the polygraph examiner’s own personal opinion, as to what might be relevant to job performance in a particular case” (Id.).

The Court found that this type of

unbounded, standardless inquiry, even if founded upon a legitimate state interest, cannot withstand the heightened scrutiny with which we must view the state’s action. We cannot even bestow legitimacy on the defendants’ search for “perverted deviancies” in this case, because of the complete lack of standards for the inquiry. The risk that an infringement of an important constitutionally protected right might be justified on the basis of individual bias and disapproval of the protected conduct is too great. (Id.)

Finally, the Ninth Circuit concluded that “Even had the questions in this case been permissible, the use of the information in the decision to disqualify Thorne was not” (Id. at 471). The affair had ended. Thorne had been truthful in the polygraph exam. There was no evidence of deviant behavior. Thus,

In the absence of any showing that private, off-duty, personal activities of the type protected by the constitutional guarantees of privacy and free association have an impact upon an applicant’s on-the-job performance, and of specific policies with narrow implementing regulations, we hold that reliance on these private non-job-related considerations by the state in rejecting an applicant for employment violates the applicant’s protected constitutional interests and cannot be upheld under any level of scrutiny. (Id.)

The appellate court recognized, “The affair was not a matter of public knowledge, and could not therefore diminish the department’s reputation in the community. There was no reason to believe Thorne would engage in such affairs while on duty, or that the affair which had ended was likely to revive or cause morale problems within the department” (Id.). Furthermore, Thorne’s conduct would not be a ground for discipline (Id.). Therefore, “the district court erred in finding that neither the questioning of appellant regarding her sex life nor reliance on the information obtained about her sex life violated her privacy and associational interests” (Id.).

Despite the conservative drift of social and judicial views in the generation since Thorne was decided, the bedrock principles of the decision remain firm: absent strong justification, usually related to job performance, a public employer must respect the privacy of employees and applicants on intimate matters of association and sexual relations, and can be held liable under federal civil rights law for unjustified questioning, unnecessary public disclosure, and unwarranted reliance on these categories of sensitive information.

Conclusion

In general, as can be perceived from the preceding discussion, the tension between the needs of internal investigation and the interests of intimate relationships raises issues that have no easy answers. In proposing resolutions to this tension, it is not always clear which party benefits from a particular solution.
For example, consider a situation where a law enforcement employer conducting a misconduct investigation that involves both members of a married couple refuses to issue a no-contact order to subjects of an investigation out of fear of violating employee constitutional rights. Suppose then that one of these married employees for some reason prefers to have the protection of a no-contact order. That employee could probably obtain a temporary restraining order under the circumstances. But temporary restraining orders have their own adverse consequences to a police career. So the employee may feel that an internal order is preferable to a court order in this situation, despite its suspect constitutionality. This hypothetical illustrates that these issues are not purely legal, political, or ideological in character or impact, and can rarely be reduced to a simple formula or a generic solution.

As an employer or supervisor, one helpful thought process to avoid running afoul of your employees’ constitutional rights when contemplating giving a no-contact order is to remember your own past as a subordinate employee and ask yourself if you would have had the ability to obey such an order if it was given. As an employee, the best way to protect your interests is to be sure you understand the precise scope of your instructions, and if you suspect the lawfulness or constitutionality, try to get the instructions reduced to writing. If an order severely burdens an important personal relationship, consult qualified legal counsel at once.

Stay safe!
Michael P. Stone

Michael P. Stone is the firm’s founding partner of Stone Busailah, LLP. He has practiced almost exclusively in police law and litigation for 29 years, following 13 years as a police officer, supervisor, and police attorney.

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Book Review

Police Ethics: A Matter of Character

If only the name of a book would say it all! Not long ago, a book entitled Police Ethics by Crank and Caldero (2000) was published by Anderson Publishing Company. The book in this review is also titled Police Ethics. This one is written by Doughlas W. Perez and J. Alan Moore. A closer look exposes the emphasis: the one by Crank and Caldero focused on “The Corruption of Noble Cause.” Perez and Moore appear to emphasize what Aristotle pronounced some 2,300 years ago. Revisited in the form of this current book review, what is now known as “ethics of virtue” appear to be emphasized by Perez and Moore, at least in the title of their book published in 2002.

“Honest,” “good,” and “competent” police officers are not necessarily an offshoot of studying “ethics”; the authors believe that such characteristics of an individual are imbued “before he or she enrolls in the police academy. It comes from a person’s character and upbringing” (p. 13). Though the authors were afraid that the title of the book Police Ethics: A Matter of Character might invite “police officers to be egocentric,” the contents, exhibiting “competence and insight” from police leaders and officers, have indirectly contributed to the ideas which are far different and greater than that. What has emerged and transformed is an easy-to-read book. Character is something, like virtue, that one develops not just by applying reasoning skills but by doing, which the authors Perez and Moore believe enables us in the process of understanding right and wrong.

Perez, a graduate of the University of California at both Davis and Berkeley, currently serves at the Plattsburgh State University in New York where he emphasized (noted in its website) that “the process of obtaining an education is most critically focused upon learning oral, written, and critical skills that will last a lifetime. Learning how to analyze arguments, how to weigh information, how to see through perspectives, and so forth is what college is all about.” Such a perspective is in sync with what is explored in Police Ethics: A Matter of Character. Co-authored by Moore, they both argue that “police officers cannot be considered to be competent if they do not underwrite their behavior on the street with personal ethics that [are] thoughtfully created and maintained. Ethics and competence are directly linked and inseparable. And they are both largely determined by individual police officer character” (p. 12).

The entire 216-page book, encompassing 14 chapters, is divided into four parts. Part 1, entitled “The Setting,” sets the tone for points of view that resonate all through the book. Chapter 1, entitled “The New Police Professionalism,” renders ethics as the driving force behind the professionalization of the police as an occupation. Chapter 2, “Why Be Ethical,” is a discourse on considering ethics not only as important but to invite ethics, to understand its deeper significance, as an integral part of one’s life.

Part 2, “Ethical Frameworks,” expands the comprehension of a number of schools of thought about ethics. Chapter 3, “What Is Character?,” utilizes these schools of
thought by incorporating the notion of personal character and virtues and linking it to police officer ethics. Chapter 4, “The Development of Character,” explores the development of one’s character and delves into how an individual officer, usually an adult human, can have an impact on her or his own character and in the potential development of a person as the most consummate professional. Chapter 5 utilizes ideas of “Ethical Formalism” where a person’s intent, and not the consequences of one’s actions, matters. This section probes absolute rules of morality offered by philosopher Immanuel Kant. Chapter 6, “Utilitarianism,” makes a case of ethical belief that relies exclusively on weighing beneficial or harmful consequences. This school’s leading proponents—John Stuart Mill and Jeremy Bentham—determined what is right versus wrong by taking the consequences such a person’s actions have for the greatest number of people. Chapter 7, “An Ethic to Live By,” is what the authors call a “hybrid” of Utilitarianism and Ethical Formalism together into a concise set of ideologies that every officer can use as a guide on the street. Perez and Moore reflect on the multiplicities of occasionally conflicting and vague laws, and the difficulty of applying such law in Chapter 8, “Judgment Calls.” It presents how a competent officer of good character—a professional law enforcer—practices making the right choices from the available alternatives.

Part 3 seeks to get the reader to take the theories presented to practical applications of such ideas and, as such, is aptly titled “Applications.” Chapter 9 discusses “Types of Police Misconduct” and scrutinizes the range of mischief or deviance to which some officers every so often descend. Chapter 10, “Corruption of Authority and Police Crime,” investigates the causes of transgression and the rationalization used by such officers. It also discusses the roots of corruption of authorities with power and police crime. Chapter 11 examines “Noble Cause Corruption” where, ironically, those officers who involve themselves in noble cause corruption turn out to be part of the very predicament they are trying to resolve. The authors point out that “the unethical nature of noble cause corruption is often not clear” (p. 156). Chapter 11 also examines the “Dirty Harry Problem.” Perez and Moore put it like it is: “breaking the rules involves breaking the law. And no amount of rationalizing can change police law breaking into something noble and just” (p. 161). The last section of Part 3, Chapter 12, discusses police misconduct at two levels “Ineptitude and Personal Misconduct.” The reality of inadvertent actions/inactions conducted without malicious intent is explored. The responsibility of the police leader in such situations is examined closely. Perez and Moore find personal misconduct more troublesome. The book addresses more universally acknowledged off-duty misconduct. They are not bashful about exploring the sometimes conflicting, off-duty conduct of police officers and really ask readers to “confront American values” (p. 166) and seek to make a case for why and how they should be avoided.

Part 4 is quite appropriately titled “Implications,” and it makes an effort to bring the reader back from these deliberations of particular modes of delinquency, discussed in previous chapters, to engage the question of how an officer can be successful on her or his own integrated (and hopefully developed) viewpoint of police ethics. Despite the criticism that a Code of Ethics is impracticable (and subsequently ineffectual), Chapter 13 looks at how “a thoughtful, educated, and professional code, “The Law Enforcement Code of Ethics,” can be utilized sensibly. The code, the authors argue, is a good frame of reference to draw on as a foundation for understanding ethics “on the street.” In the end, Chapter 14 discusses how, even with the reality of stressors in life and in one’s profession, prospects for failure, and
ethical predicaments, a person might evolve into a competent professional. Aptly titled “On Becoming a Good Officer,” Perez and Moore put the theory and the practice together, allow the experience of the “ideal” and the “real” concurrently, and allow the readers to ruminate on what being a good officer means today and what they potentially can be!

Each chapter is consistently presented and provides a common theme throughout the book. The introductions with relevant quotes, the outlines, and the highlighted information, listed in the text as Box 1-1 through Box 14-4, are very useful as “food for thought.” The writing is straightforward and makes its reading relatively effortless. There are sufficient substantive discussions throughout the book. The authors combine all the above characteristics and fully develop the concepts and ideas introduced in each chapter. It is presented in an organized manner, with structured and successfully intertwined chapters each with a purpose, skillfully presented, and it twists and turns smoothly from one chapter to the next. Discussion on the topics is sufficiently comprehensive and is backed by supporting materials related to the core of the subject presented which adds to its effectiveness and significantly to the usefulness of the book. The result is a book that has continuity and appears to maneuver through the material with a clear objective.

The work of Police Ethics: A Matter of Character by Perez and Moore is timely. They offer relevant examples and sufficient ideas for administrators of law enforcement agencies to consider applying directly to the appropriate areas of law enforcement and justice administration ethics and morality. As a final point, the authors not only offer quotable quotes but make reference to several published documents and provide appropriate citations in their composition. In presenting materials from their personal and professional experiences in enforcing the law and presenting materials to academia, there appears to be a skillful integration of ideas that has accomplished its objective as a handbook (or a text) in both academia or a police training academy. This publication will be of assistance to both the untrained and possibly inexperienced workforce, utilizing the guidelines and the cautionary signs, and to the experienced officers (or administrators) to develop as needed and hone the moral abilities so significant to modern police organizations. Thus, the authors can be said to have provided a concise overview of basic ethical issues facing the contemporary police occupation.

Dr. Emran W. Khan

Prior to teaching in the Department of Law Enforcement and Justice Administration at Western Illinois University, Dr. Emran W. Khan was a professor at the Fort Valley State University in Georgia for two years and an instructor at the Employee Training and Development Center in Stillwater, Oklahoma, for more than six years. In his 16-year correctional career, mostly with the Oklahoma Department of Corrections, he has been a Correctional Officer and a Case Manager in a maximum security prison; a Probation & Parole Officer; a Senior Probation & Parole Officer; a Grievance Review Officer, reviewing all levels of offender appeals; a Detention Officer at a juvenile facility; a Senior Correctional Training Officer; a Contract Monitor; and a Local Administrator of community sentencing.
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