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"Dedicated to professionalism in the administration of justice and public safety"

AMERICAN CRIMINAL JUSTICE ASSOCIATION

LAMBDA ALPHA EPSILON

This Association was formed at San Jose, California in 1937. It was incorporated under the laws of the State of California as a non-profit society on August 31, 1954.

American Criminal Justice Association/Lambda Alpha Epsilon is dedicated to the advancement of professionalism in the administration of criminal justice. Membership is open to collegiate and professional personnel, as well as those who have retired from the criminal justice field.

Inquiries regarding membership should be directed to the nearest local chapter or to the Grand Chapter.

Publication

Membership

Membership in the American Criminal Justice Association/ Lambda Alpha Epsilon is available at $36.00 for the first year and $30.00 thereafter. Individuals interested in membership should write the Executive Secretary, Karen K. Campbell, P.O. Box 601047, Sacramento, California 95860. Membership in the Association includes a subscription to the L.A.E. Journal.

Editorial Policy

The L.A.E. Journal of the American Criminal Justice Association publishes general interest articles on all facets of the criminal justice system. The Journal provides a forum for academicians, practitioners and students in criminal justice in order to improve communications and to increase understanding and knowledge of the system. Articles are desired which deal with issues, problems and research in law enforcement, criminology, juvenile justice, courts, corrections, prevention, and planning and evaluation. Related articles on education, career development and student attitudes will also be considered.

Submission of Manuscripts

Manuscripts should be submitted to: Fred R. Campbell, Journal Editor, P.O. Box 601047, Sacramento, CA 95860. One printed copy should be submitted along with 3½" disk stating which word processing program was used. (IBM is preferable, but we will accept Macintosh on a 3½" disk.) The author should always retain a copy of the manuscript to safeguard against possible loss of the original.

Specifications for Manuscripts

1. Manuscripts should be typewritten and double-spaced throughout on 8½"x11" quality bond paper.

2. Manuscripts should be no more than twenty (20) pages in length, and should be prepared in accordance with the Publication Manual of the American Psychological Association (2nd edition), with the exception of the metric requirements.

3. To permit anonymous review, all identifying materials should be kept out of the article. The cover page should give the author's name and institutional affiliation; the first page should contain only the title and abstract of the article.

4. Also included should be an abstract of no more than 100 words, together with a brief biographical sketch of each author covering recent publications, professional experience, and research interest.

5. It is the policy of the Journal Editor not to publish articles which have appeared or are to appear in other publications. Therefore, simultaneous submission to another journal is unacceptable. Every effort will be made to notify authors of editorial decisions within ninety days of manuscript receipt.

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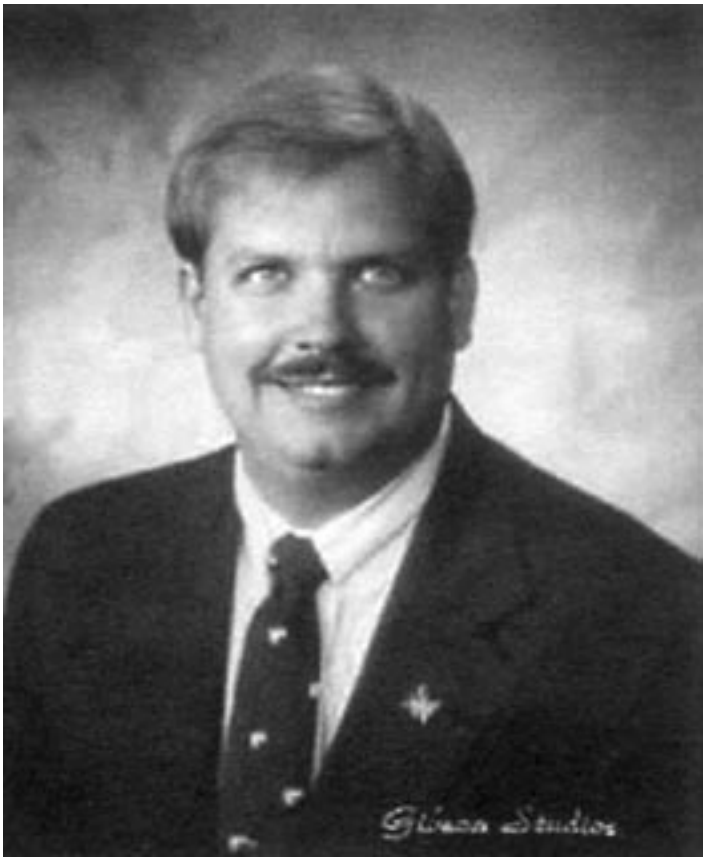

Message from the President:

This is the last time I get to speak to the members of this Association through the pages of the Journal. I want to thank all the members for making the past four years so enjoyable. The travel to the different regional conferences was always interesting because I was able to meet many students and advisors that don't attend the National Conference. These regional conferences were held in cities much smaller than those that can host a National Conference. So, I can say I've been to Manistee, Michigan, and Panama City, Florida, as well as Carlsbad, New Mexico, among other places. What a great opportunity!

That's what this Association should be for you as a member; a great opportunity. Not only can you broaden your horizons by traveling to places that might not be on the standard tourist map, but you get to meet great people within your chosen area of training. You are exposed to training from around the United States, as well as the professionals that can truly say "been there, done that".

Region 2 will continue the tradition of providing interesting training topics at the National Conference in Memphis. I hope that many of you take the opportunity to attend the 68th National Conference. See you there!

Chuck Kenyon
National President

Announcement of the 2006 ACJA/LAE National Scholarship & Student Paper Competition

Applications will be available to apply for the 2006 National Scholarship and Student Paper Competitions. Entries for the National Student Paper Competition must be original papers dealing with issues and problems in areas of criminology, law enforcement, juvenile justice, courts, corrections, prevention, planning and evaluation, career development, or education in the field of criminal justice.

Applications for both Competitions may be obtained by calling or writing the National Office after April 15, 2005. Members can also request applications by e-mail at acjalae@aol.com. The deadline for submission of papers for the 2006 National Scholarship is December 31, 2005. The deadline for submission of papers for the 2006 National Student Paper Competition is January 31, 2006. Papers are reviewed by separate committees and winners will be announced at the 2006 National Conference.

All papers must be accompanied by an application. Incomplete applications will not be considered for the awards. **Also, you must be a member-in-good-standing at the time of submission for the respective awards and at the time the awards are made.** Members can compete for both awards.

If you have any questions, please do not hesitate to contact the National Office at P.O. Box 601047, Sacramento, CA 95860; telephone (916) 484-6553; FAX (916) 488-2227; Email: acjalae@aol.com.

2004 National Scholarship Winners

Graduate Division

1st Place -- $400 Award
Angela Weber, Alpha Epsilon Phi
Southwest Texas State University, Region 2
2nd Place -- $200 Award
No Entry
3rd Place -- $100 Award
No Entry

Lower Division

1st Place -- $400 Award
Jamie Patton, Lambda Omega
Delaware Technical & Community College, Region 4
2nd Place -- $200 Award
Linda Williams, Omega Alpha Omicron
Danville Community College, Region 4
3rd Place -- $100 Award
No Entry

Upper Division

1st Place -- $400 Award
Jael Haecker, Delta Phi Upsilon
Missouri Western State College, Region 3
2nd Place -- $200 Award
Matthew Matusiak, Tau Alpha Omicron
Tri-State University, Region 6
3rd Place -- $100 Award
Cindy DeCorpo, Member-at-Large
Lincoln, RI, Region 4

2004 Student Paper Competition Winners

Graduate Division

1st Place -- $150 Award
"Police Use and Abuse of Non-Deadly Force: Research Perspectives and Criminological Theory"
By: Steven Verrill, Tau Omicron Rho
Florida Gulf Coast University, Region 5
2nd Place -- $100 Award
"The Death Penalty: A New Look Into the Historical and Legal Perspectives of the Criminal Justice" System's Most Controversial Issue"
By: Lori G. Carman, Nu Tau
University of North Texas, Region 2
3rd Place -- $50 Award
"A Review of Administrative Issues Concerning Prison Overcrowding"
By: Scott P. Chenault, Gamma Epsilon Delta
Central Missouri State University, Region 3

Upper Division

1st Place – $150 Award
"Predicting the Seriousness of Offense and Predicting Recidivism in Youthful Offenders"
By: Lawrence F. Thompson, Tau Omicron Rho
Florida Gulf Coast University, Region 5
2nd Place -- $100 Award
"Review of Contemporary Research Conducted on Conduct Disorder"
By: T. Marguelle LaRue, Tau Omicron Rho
Florida Gulf Coast University, Region 5
3rd Place -- $50 Award
"Post-Traumatic Stress Disorder's Efficacy Within the Judicial System"
By: Adam B. Smith, Tau Omicron Rho
Florida Gulf Coast University, Region 5

Lower Division

1st Place -- $150 Award
"Juvenile Violence / Gang Activity: Awareness, Prevention and Intervention"
By: Denise E. Riggs,
Delaware Technical and Community College, Region 4
2nd Place -- $100 Award
"Men and Women Are Motivated by Different Reasons and Circumstances to Commit Murder"
By: Jamie Lee Osberg Patton
Lambda Omega, Region 4
3rd Place -- $50 Award
No Entry

Star Membership

The Star Member Award is an earned recognition of members who have substantially contributed to the furtherance of ACJA/LAE. A nominee for this award must have displayed exemplary loyalty and dedication to the Association and shall have provided service which is substantially superior to that performed by other members. The right to issue Star Membership rests with the voting members of Grand Chapter. Three quarters (3/4) vote of the voting membership present at the Annual Conference is required and the voting is by secret ballot. Star Members are elected to Life Membership in recognition of their outstanding contribution to the Association and are presented with a Star Membership Certificate and Star pin.

Star Member – 2004

Susan (Suzie) Boehmer

At the 2004 National Conference held in Sacramento, California, Susan Boehmer was elected to Star Membership. Suzie was nominated for the Award by Region 4.

Suzie has been a member of the Association for 20 years. She currently serves as the co-advisor for the Chi Tau Epsilon Chapter at Irvine Valley College. She has served on the Pi Kappa Membership Committee and President, Secretary and Audit Committee to the Tri Lambda Chi Chapter.

At the Regional level, Suzie has served as Region 1 President (1995 – 1997), Region 1 Immediate Past President (1997 – 1999), Secretary – Treasurer (1989 – 1991) and has held the office of Vice-President and Newsletter Committee Chair.

Suzie has served on the Executive Board as Region 1 President (1995 – 1997) and as National Conference Director for the 1998 National Conference. She has also served on the Business Meeting Minutes Approval Committee.

Suzie Boehmer receives her Star from President Chuck Kenyon

Conference Highlights - 2004

370 members and guests attended the 2004 Conference held in Sacramento, California. Many thanks to Abby Schofield, Region 1 President, and Region 1 members for putting on a great Conference.

1. *The "Dummy Drag" was part of the Physical Agility Competition.*

2. *Sacramento Sheriff's Department's Honor Guard provided "colors" at the Opening Banquet.*

3. *Gamma Epsilon Delta chapter members displayed their trophies. The chapter also won the Sweepstakes Award for 2004.*

4. *Tammy Kenyon and members of the Executive Board attended the Opening Banquet.*

5. *Region 4's Omega Alpha Omicron Chapter toured the Sacramento Police Department and Crime Lab. The tour started with the Wall of Honor Memorial.*

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6. *Sacramento County Sheriff's Department's job recruiters also participated in the Job Fair.*

7. *Dave Stumpf, Sigma Delta Chapter, won the Top Academic Award.*

8. *Numerous State and local law enforcement agencies, including the Antioch Police Department, participated in the Job Fair.*

9. *President Chuck Kenyon presided over the Closing Banquet and Awards ceremony attended by 370 members and guests.*

10. *Beverly Curl, Sigma Pi Chapter, received the Bill Melnicoe Distinguished Service Award.*

11. *Chi Tau Epsilon members won the Spirit Award for 2004.*

12. *President Chuck Kenyon presented Conference Director, Abby Schofield with a plaque for an outstanding job of planning the 2004 National Conference.*

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CONFERENCE COMPETITION WINNERS — 2004

LAE KNOWLEDGE
Lower Division:
3rd. Samantha Heffner, Tau Alpha Omicron
2nd. Myra Valentine, Omega Alpha Omicron
1st. Jennifer Hosack, Lambda
Upper Division:
3rd. Jessica Wisniewski, Lambda
2nd. Ginny Wilson, Delta Chi
1st. Jael Haecker, Delta Phi Upsilon
Professional Division:
3rd. Janice Atchley, Lambda Omega
2nd. Mike Snow, Member-at-Large
1st. John Wilt, Omega Alpha Omicron

JUVENILE JUSTICE
Lower Division:
3rd. Courtney Earp, Delta Omicron Alpha
2nd. Grace Worden, Gamma Epsilon Delta
1st. Julie Canty, Theta Alpha Delta
Upper Division:
3rd. Alison Cooper, Lambda
2nd. Eric Thomsett, Sigma Chi
1st. Lisa Roberts, Delta Phi Upsilon
Professional Division:
3rd. Jill Miller, Delta Phi Upsilon
2nd. Maurice Matthews, Mu Gamma Gamma
1st. Steve Atchley, Lambda Omega

POLICE ADMINISTRATION
Lower Division:
3rd. Helen Ou, Sigma Pi
2nd. Jacek Olszewski, Kappa Xi Sigma
1st. Maya Gazewski, Kappa Xi Sigma
Upper Division:
3rd. Caleb Enk, Alpha Sigma Omega
2nd. Daniel White, Gamma Epsilon Delta
1st. Sharon Bradshaw, Member-at-Large

Professional Division:
3rd. David Stumpf, Sigma Delta
2nd. Roger Pennel, Gamma Epsilon Delta
1st. Robert Austin, Kappa Xi Sigma

CORRECTIONS
Lower Division:
3rd. Bonnie Saari, Delta Omicron Alpha
2nd. David Clymore, Gamma Epsilon Delta
1st. John Ruby, Sigma Delta
Upper Division:
3rd. Andrew Clark, Alpha Delta Pi
2nd. Amanda Freeman, Delta Psi Chi
1st. Scott Chenault, Gamma Epsilon Delta
Professional Division:
3rd. John Wilt, Omega Alpha Omicron
2nd. Heidi Samuels, Sigma Alpha Omega
1st. David Stumpf, Sigma Delta

CRIMINAL LAW
Lower Division:
3rd. Grace Worden, Gamma Epsilon Delta
2nd. John Ruby, Sigma Delta
1st. Daniel Clymore, Gamma Epsilon Delta
Upper Division:
3rd. Scott Chenault, Gamma Epsilon Delta
2nd. Daniel White, Gamma Epsilon Delta
1st. Ben Gatrost, Gamma Epsilon Delta
Professional Division:
3rd. Glenn Schleve, Beta Upsilon Delta
2nd. David Stumpf, Sigma Delta
1st. Randal Wood, Alpha Sigma Omega

FIREARMS (Individual)
Lower Division:
3rd. Wyatt Branham, Beta Upsilon Delta
2nd. John Ruby, Sigma Delta
1st. Jeremiah Burd, Beta Upsilon Delta,
Upper Division:
3rd. Caleb Enk, Gamma Epsilon Delta
2nd. Aaron Brownson, Beta Upsilon Delta
1st. Matthew Niewiadowski, Delta Chi
Professional Division:
3rd. Charles Tomlin, Gamma Epsilon Delta
2nd. Chuck Kenyon, Beta Upsilon Delta
1st. Richard Gillespie, Gamma Epsilon Delta

FIREARMS (Team)
Lower Division:
3rd. Brian Madison, Jake Maier, Tim Moe, Sigma Delta
2nd. Jeremiah Burd, Tom Webster Wyatt Branham, Beta Upsilon Delta
1st. Jason Gray, John Scott, Julie Canty, Theta Alpha Delta
Upper Division:
3rd. Adam Kronstedt, Cody Peterson Jacob Nygren, Sigma Delta
2nd. Ben Gatrost, Camden Atkinson, Daniel White, Gamma Epsilon Delta
1st. Aaron Brownson, Matt Rich, Nicole Meyer, Beta Upsilon Delta
Professional Division:
3rd. Glenn Schleve, Chuck Kenyon, John Wells, Beta Upsilon Delta
2nd. Eric Stangler, Terry Fairbanks, John Ruby, Sigma Delta
1st. Charles Tomlin, Richard Gillespie, Caleb Enk, Gamma Epsilon Delta

CRIME SCENE
Lower Division:
3rd. Katrina Guerrieri, Maya Glazewski Jack Olszewski, Kappa Xi Sigma
2nd. Samantha Heffner, Lisa Mickaus, Marta Brown, Tau Alpha Omicron
1st. Chris Mackai, Jayson Schenker, Maria Dearth, Kappa Theta Rho
Upper Division:
3rd. Ginny Wilson, Laura Wilson, Amanda Lewis, Delta Chi
2nd. Christina Johnson, Jared Jaksch, Robert Castagna, Sigma Chi
1st. Bobby Pruitte, James Tuggle, Jessica Smith, Delta Omicron Alpha
Professional Division:
3rd. Eric Stangler, Cindy Moe, Jacob Nygren, Sigma Delta
2nd. John Wells, Jeremy Wordell, Glenn Schleve, Beta Upsilon Delta
1st. Shelly Fritz, Jill Miller, Dell Caldwell, Delta Phi Upsilon

PHYSICAL AGILITY
Female under 25:
3rd. Jessica Helton, Beta Upsilon Delta
2nd. Jennifer Hosack, Lambda
1st. Kimberly Miller, Theta Alpha Delta
Male under 25:
3rd. David Dodge, Theta Alpha Delta
2nd. Norm Vanaman, Lambda Omega
1st. Darrel Short, Chi Tau Epsilon
Female 26 to 35:
3rd. Katrina Guerrieri, Kappa Xi Sigma
2nd. Tammy Kenyon, Beta Upsilon Delta
1st. Ginaville Villanueva, Sigma Chi
Male 26 to 35:
3rd. Marvin Jones, Omega Alpha Omicron
2nd. Jeremy Wordell, Beta Upsilon Delta
1st. Fred Mowrey, Sigma Chi
Female 36 and over:
3rd. Suzanne Powell, Kappa Xi Sigma
2nd. Suzie Boehmer, Chi Tau Epsilon
1st. Heidi Samuels, Sigma Alpha Omega
Male 36 and over:
3rd. Ben Castillo, Kappa Xi Sigma
2nd. Bob Cirtin, Theta Alpha Delta
1st. Tim Moe, Sigma Delta

2004 LIP SYNC CONTEST
3rd. David Lopez
2nd. Erika Jacho & Sigma Omega Upsilon
1st. Barry White & Linda Williams

2004 TALENT CONTEST
3rd. Lambda Chapter
2nd. Eric Thomsett
1st. John Wilt

Top Academic:
David Stumpf

Top Gun:
Richard Gillespie

Spirit Award:
Chi Tau Epsilon

Sweepstakes Award:
Gamma Epsilon Delta

Police Use and Abuse of Non-Deadly Force:
Research Perspectives and Criminological Theory.

1st Place Winner, Graduate Division, 2004 National Student Paper Competition

By: Steven Verrill

Florida Gulf Coast University, Fort Myers, FL, Tau Omicron Rho, Region 5

Abstract

Citizens empower the police to use force in the performance of their duties but generally place limits on its reasonableness. This paper explores the framework from which police abuse of non-deadly force is researched. Scholars examine police non-deadly force primarily from the individual, organizational,or situational perspective. This paper concludes that recent literature identifying the relevance of suspect resistance in a police use of force encounter, taken in conjunction with a legal definition of acceptable force, provides a basis for framing unacceptable force within the context of deviance. Organizing the emerging and existing literature in such a fashion permits analytic questions to be grounded in criminological theory, thereby suggesting a new direction for police use and abuse of force research.

Police Use and Abuse of Non-Deadly Force: Research Perspectives and Criminological Theory

Citizens empower the police to use force in the performance of their duties but generally place limits on its reasonableness. Police departments attempt to shape officer behavior through employee screening, training and standardization, controlling misconduct via policy, leadership and individual accountability (e.g. see USDOJ, 2001; Williams, 2002; Wright, 1999). Police officers are socialized to think in a proscribed manner (Engelson, 1999; Paoline, 2001) and new police employee attitudes toward the use of force are expected to be homogeneous, but abuse of force does occasionally occur.

Although not inclusive, researchers generally examine police abuse of non-deadly force from a psychological, organizational or sociological perspective (Worden, 1995), also referred to as individual characteristics, organizational characteristics and situational characteristics (Friedrich, 1980). I review research that attributes relative police abuse of non-deadly force causality to the mental processes and inherent characteristics of individual officers, as well as research that examines the influence of organizational and social interaction. I argue that the literature that identifies the relevance of suspect resistance in a police use of force encounter, taken in conjunction with a legal definition of acceptable force, provides a basis for framing unacceptable force within the context of deviance, thus permitting analytic questions to be grounded in criminological theory.

Research Perspectives

Individual Characteristics

The individual perspective ascribes police abuse of force causality to personal characteristics such as thought processes (personality), racial and gender differences or other inherent traits. This perspective gained momentum in the 1960s when police departments, facing charges of systemic corruption, attempted to assign responsibility for officer misconduct (see Braziller, 1973; Walker, Alpert, & Kenney, 2001). Resultantly, police departments consulted psychologists to assist in identifying unacceptable applicants (Scrivner, 1994). The individual characteristics perspective commonly asks two research questions: To what extent does individual police officer personality influence the manifestation of police abuse of force? To what extent can problematic officers be identified?

Researchers have examined psychological assessment tools both as an aid to screening out unsuitable candidates and as a method to selecting the ideal police officer. Distinct delineations of psychopathology have been identified in police candidates and combined and elevated Minnesota Multiphasic Personality Inventory (MMPI) subscales have been correlated with specific unsuitable police behavior (Hargrave, Hiatt & Gaffney, 1988; Hiatt & Hargrave, 1988; Lorr and Strack, 1994; Weiss, Davis, Rostow & Kinsman, 2003). Low scores on the MMPI defensiveness validity scale and the MMPI hysteria, psychopathic deviate, and mania standard scales have been correlated with a police profile of officers demonstrating behavioral consistency (Hargrave et al., 1988). Five personality factors identified in the psychological literature (extraversion, agreeableness, conscientiousness, emotional stability and openness to experience) have shown support in accurately predicting civil service exam success and peer ratings in recruits (Cortina, Doherty, Schmitt, Kaufman & Smith, 1992).

Hochstedler (1981), in contrast, was unable to find empirical support for generic typologies of police officer individual traits from the 1970's literature. Castora, Brewster and Stoloff (2003) found no statistical support for MMPI subscales predicting officer aggression as measured by supervisor evaluations. Aylward (1985) argued that psychological testing is uncertain and proper assessment should take behavior, predisposition, job responsibility, intellect and personal and work history into account collectively. Aylward concluded that police applicants are more stable than the population norm and better able to adjust to new experiences, indicating that future elevated levels of stress in police officers may be the result of subsequent environmental factors rather than predisposition. Lawrence (1984) identified distinct police personalities from job stress variables, but likewise concluded that deviance from norms was more likely an indication of an adaptation to the police occupation, rather than a representation of inherent traits. Weiss et al. (2003) further noted that officers with obvious mental instabilities are screened out during the selection process, suggesting that variable predictors of performance may be subtle because the starting pool of new employees lacks variability.

Extralegal research such as officer or suspect demographics and suspect demeanor also reveal mixed findings. Friedrich (1980) found no force differences by officer race or gender, whereas Worden (1995) found both race and gender statistically and substantively significant in both the proper and improper use of police force. Both researchers noted, however, that police officer force is often associated with suspect resistance. Terrill and Mastrofski (2002) likewise agreed that police force is sometimes a response to suspect resistance, but they found that young, non-White, male suspects were treated more forcefully than older, White suspects regardless of citizen behavior. Brandl, Stroshine and Frank (2001) found that young, White, male officers were more likely than other officers to receive citizen abuse of force complaints.

There is considerable research on the individual characteristics perspective in the literature, but empirical support is uncertain. The primary criticisms of the perspective are that individual behavior is not always reflective of attitudes and that personality is not fixed but rather changes over time (Worden, 1995). People do not always do what they think and personality may be influenced by external factors.

Organizational and Situational Characteristics Perspectives

Social dynamics and varying situational characteristics are advanced as the primary influencers of police behavior (Worden, 1995). Although some researchers make theoretical distinctions between the organizational and situational perspectives, the underlying assumptions are similar and tests of the organizational perspective tend to emphasize situational influences. I examine the two perspectives under the same construct to better capture and relate the full dynamics of relevant literature. The primary organizational or situational research question is: To what extent does social or environmental interaction influence police abuse of force manifestation?

Early observational studies examined police situational behavior from an organizational framework. Westley (1953, 1970) explored the interactions of officers within a police department, concluding that work group relationships legitimize police brutality. Westley suggested that the occupational setting collectively sanctions violence as a necessary component of the job and it serves as the impetus for individual adoption of violence as a tool to garner citizen and peer respect. Black

(1980) postulated that police behavior is explained by the sociological theory of law. He conducted a case study of Detroit police officers in 1964-1965, concluding that police power personifies social control. Black suggested that the police, through the directional dynamics of space, offer varying quantities of law depending upon race, social class, household status, age, intimacy, organization and legitimacy.

Other research has found situational characteristics, such as citizen behavior, to be most influential in the police use of force rather than personal officer characteristics (Friedrich, 1980; Worden, 1995). Specifically, suspect demeanor, suspect intoxication, the number of bystanders, suspect fighting with the officer and the seriousness of the pre-intervention crime have been found to be predictors of police use of force (Engel, Sobol & Worden, 2000). Additionally, police force has been explicitly related to suspect resistance (Garner, Maxwell & Heraux, 2002).

A Legal Framework for Police Non-Deadly Force

Citizens authorize the police to use force in the performance of their duties but regulate the privilege through law and public scrutiny. A certain research perspective generally delineates contemporary research, but the literature tends to consider and incorporate a multitude of viewpoints. Moreover, deadly and non-deadly police force are often considered distinct phenomena with unique characteristics. Subsequently, the non-deadly use of police force research is not fully integrated and each perspective singularly falls short of adequately explaining police abuse of force.

In order to better understand abuses, the acceptable use of police non-deadly force might first be clarified. Although police force is ultimately applied at an individual officer level, presumably with the varied guidance of a multitude of jurisdictional influences, there are force considerations generalizeable to all United States police officers. There is no theoretical consensus on what constitutes an abuse of non-deadly force, but the United States Supreme Court offers legal guidance.

In *Tennessee v. Garner* (1985), the Supreme Court placed restrictions on the police application of deadly force in apprehending fleeing felons. The Court applied the unreasonable seizure component of the Fourth Amendment, determining that police can only use deadly force to capture a fleeing felon when necessary to prevent the escape of a suspect. Although I ignore deadly force in this paper, the Supreme Court ruling has implications relevant to lesser forms of force: It set the stage for the interpretation that police force is a seizure replete with Constitutional protections applicable to the states (all police departments) via selective incorporation of the Fourteenth Amendment.

In *Graham v. Connor* (1989) the Supreme Court formally applied the Fourth Amendment unreasonable seizure concept to non-deadly use of police force. The Court defined objective reasonableness as the key component to determining whether or not force is excessive. Recognizing that the police sometimes need to use coercive force to perform lawful duties and that decisions are often made in a split-second, the Court artificially created a reasonable officer at the scene standard to judge action at the time of the incident, rather than from hindsight. Although allowing that each incident needs to be judged upon the particular circumstances inherent in that incident, the Supreme Court did delineate several important considerations: severity of the crime, immediacy of suspect threat and arrest resistance, for example. Simply put, acceptable non-deadly police force is the amount of force a reasonable officer would use under certain circumstances to effect a lawful purpose. From a legal standpoint, then, abuse of force is the antithesis of the Court's definition; force that is situationally unreasonable (e.g. using force when none is necessary or using more force than necessary).

A Societal Norms Framework for Police Abuse of Non-Deadly Force

There is a growing body of police misconduct science that may be interconnected, but the literature lacks clear relationships. The police abuse of force literature is bifurcated along individual and situational lines. Garner et al. (2002) imply, however, that rather than serving as a theoretical foundation, these viewpoints might best be characterized as identification of types of variables. An obvious question then, is what theoretical framework underlies police abuse of non-deadly force? A starting point for theoretical reconciliation of the abuse of force body of science may be found in the broader criminological literature—particularly if use and abuse of force can adequately be operationalized as legal phenomena. Societies form social norms that apply to specific situations and individual behavior that goes against the norms is generally considered deviant. Criminal deviancy is behavior that goes against social norms and involves societal sanctions (Akers, 1973). Criminological theory attempts to explain such deviancy.

The Supreme Court concluded that acceptable non-deadly police force is reasonable physical force applied for the lawful purpose of coercion. Police officers generally work independently and as such, exercise a great deal of individual discretion in the performance of their duties (Sutherland & Cressey, 1974). Police officers occasionally confront and control resistive people (USDOJ, 2001) and some state statutes and police department policies specifically describe types of force deemed reasonable under certain circumstances. Some police departments operationalize acceptable force through a written continuum, expressing the reasonable officer standard in policy and training (Alpert & Smith, 1994; USDOJ, 2001). Although precise descriptions vary by jurisdiction, such departments provide situational guidelines relating a subject level of resistance (e.g. no resistance, passive resistance, active resistance, assaultive) to an acceptable police officer response (Terrill, 2001; Garner, Buchanan, Schade & Hepburn, 1996). When police non-deadly force is evaluated in light of legal definitions and departmental mandates, abuse of force takes on the meaning of force that is situationally unreasonable. With such a scheme, abuse of non-deadly force is police force that violates societal norms and expectations for a given situation.

A Police Culture Caveat

There is, however, another division of viewpoints that is relevant to a discussion of police use and abuse of force within the framework of societal norms. Some scholars view the occupational setting underlying police work as a subculture having its own norms and expectations (e.g. see Bittner, 1990; Black, 1980; Kappeler, Sluder, & Alpert, 1998; McNamara, 2002; Skolnick, 1966; Skolnick & Fyfe, 1993; Westley, 1953, 1956, 1970). Is police abuse of force behavior that violates societal norms, or is it best characterized as behavior generally deemed acceptable within a police subculture? Although society in general may consider abuse of force deviancy from an otherwise acceptable level of force, does the police as an occupation consider it such? Might not all force be acceptable in the police occupation?

Beginning with the early research of Westley (1953), the police occupation has generally been viewed as having a similar set of attitudes, due in part, to isolation from the public and the intense, stressful and unique nature of the work. Police officers have long been thought to hold shared attitudes and beliefs unique to their work environment, often at odds with general population norms and expectations on certain issues (e.g. a police subculture).

Recent studies, however, have questioned such thinking—at least in respect to the concept of one set of shared values. Paoline (2001, 2003) suggested that rather than sharing a central tendency of attitudes, officers may cope with the work environment differentially. Cochran and Bromley (2003) failed to find evidence of one distinct police culture in their examination of a sheriff's department. Herbert (1998), in examining general orientation around shared values, concluded that the subculture of policing has six normative orders.

The notion that it may be inaccurate to perceive the police occupation as a subculture with its own norms and expectations, though not empirically conclusive, seems plausible. In a very large department, for example, each work shift may have sector or special unit workgroups (e.g. patrol squad, traffic enforcement, bicycle patrol, foot patrol) representing many shared beliefs and expectations, rather than congruent departmental attitudes. Roughly 90% of all local police departments in the United States, however, employ less than 50 full-time sworn personnel (Reaves & Hickman, 2002). Large police departments are not the norm. Nonetheless, even in a small department, workgroups are at least delineated by shift assignment and the possibility of varying attitudes and beliefs does not lose its plausibility. I consider the literature suggestive that rather than subcultural deviancy, the misuse of police non-deadly force may be sufficiently individual to not preclude examination via a framework of societal deviancy.

Reconciliation of the Literature

Law and public scrutiny compel administrators to contrive policy and procedures for conforming to use of force mandates. Legislators and administrators (practitioners) tend to focus on the definition of acceptable force, determining abuses on a case-by-case basis: This implies an individual perspectives explanation of police behavioral deviancy. With such a line of inquiry, it is considered important to identify specific traits of prospective officers that may be predictive of future behavior (either negatively or positively). Individual characteristics perspective researchers (e.g. psychologists) have made progress in that arena, though findings are not conclusive.

Other researchers tend to be interested in the social interactions that characterize use and abuse of police force. The organizational and situational perspectives generally argue that personality either has limited influence on behavior or that there are too many factors to appreciably attribute police abuse of non-deadly force to mental processes. With such a line of inquiry, it is considered important to examine the interaction of suspect and officer, along perhaps, with various environmental influences.

Although the individual, organizational and situational perspectives aid in organizing use and abuse of force inquiry and though they are instructive of key concepts, the implication of Garner and his colleagues (2002) that the perspectives are generally characterizations of the types of variables rather than theoretical frameworks underlying broad explanation is compelling. In order to advance understanding of the explanations implicit in police non-deadly force misconduct, a more substantive theoretical grounding seems warranted. I suggest there are three instructive aids to such a task presently emerging in the literature.

First, some researchers collectively agree that the actions of the suspect are important in a police use of force encounter (e.g. Engel et al., 2000; Friedrich, 1980; Garner et al., 2002; Worden, 1995). Although earlier research looked at suspect demeanor, more recently suspect resistance has been correlated with police use of force (Garner et al., 2002). The distinction is substantial. Instead of the police officer using force mainly in anger as implied by a suspect demeanor hypothesis, for example, the resistance correlation leaves open the possibility that a police officer may not have applied force, if not for the resistive action of the suspect.

Taken in conjunction with the second instructive aid, a legal definition for use of force, the suspect resistance hypothesis underscores a relative causality implicit to use of force. Although not conclusive to abuse of force, consensus on the use of force point advances knowledge on the subject considerably. The Supreme Court implied that acceptable non-deadly police force is the amount of force a reasonable officer would find necessary to effect a lawful purpose (*Graham v. Connor*, 1989). In fact, the Court articulated suspect resistance as an explicit example to when police force might be deemed reasonable. The State of Washington suggests, "'Necessary' means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended" (RCW 9A.16.010, 2003). In addition, departments that have a matrix or continuum of force policy specifically relate acceptable police officer force to a resistive action on the part of the suspect. Officers are expected to choose a level of force appropriate to the level of resistance offered. With such legal definitions, there is only one acceptable situation in which police force may be applied—when the circumstances dictate that force is the only reasonable alternative—and any other police application of non-deadly force is a misapplication (abuse) of the accepted norm.

Defining police use of non-deadly force in a normative manner leads to the third instructive aid to research reconciliation available in the literature: criminological theory. The suspect correlation hypothesis and legal definition for acceptable use of non-deadly police force, assuming that the characterization of one police subculture is inaccurate, combine to frame such police behavior within an individual conformity or deviancy context. Society allows that a police officer may at times use force to perform a lawful duty, but places restrictions on the privilege. The proper application of police non-deadly force is conformity to the societal norm, whereas, an improper application of force is deviancy to the accepted norm. A police officer may only use force when it is considered reasonably necessary. The police officer who applies force when not reasonably necessary acts in a manner that is deviant to societal norms. Research of societal deviancy is the bailiwick of criminological theory.

There have been some recent attempts at exploring *general* police behavior within the context of criminological theory; however, such inquiry is sparse and police abuse of force has not been examined in this light. Social disorganization has been considered as a macro level explanation of police misconduct (see Kane, 2002). Control balance theory has been examined as a micro level explanation for police deviance (see Hickman, Piquero, Lawton & Greene, 2001). Social learning theory has been suggested as a micro level theoretical framework for drug-related police misconduct (see Lersch, 2002).

Conclusion

I reviewed the police use and abuse of force literature to identify and clarify theoretical perspectives underlying research. The literature is somewhat fragmented but there are clear patterns. Research that identifies suspect resistance as a correlate of police use of force, combined with operationalization of force as legal phenomena (conformity or deviancy to societal norms), establishes analytic abuse of force questions as suitable to criminological theory. The use and abuse of non-deadly force literature has made continued progress in cumulative understanding and research has recently culminated at the point that examination within a theoretical umbrella seems not only possible, but also, perhaps imperious to continued advancement toward identifying the etiology of such behavior.

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Predicting the Seriousness of Offense and Predicting Recidivism in Youthful Offenders

1st Place Winner, Undergraduate Upper Division, 2004 National Student Paper Competition

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Abstract

The current literature on juvenile delinquency discusses risk factors and predictors for youth offenses. This paper analyzes the relationship of these correlates for youth delinquency among 1467 cases that were collected from 1996 to 2000. Both bivariate correlations and multiple regression analyses are used to assess the relative importance of each of the correlates in predicting delinquency at the felony and misdemeanor level. Those same variables are then used to try and predict the recidivism of these offenders. The prediction success in multivariate regression increased for prediction of the seriousness of the instant offense, but it did not increase for predicting recidivism.

Predicting the Seriousness of Offense and Predicting Recidivism in Youthful Offenders

The purpose of this study was to analyze the correlates for determining the seriousness of an offense (misdemeanor/felony) and for predicting if an offender would recidivate. The risk factors for youthful offenders (the independent variables) used in this study are: gender, age, number of prior offenses, delinquent peers and number of prior offenses. There is a great deal of literature available on recidivism and this paper analyzes if those same correlates will also predict the seriousness of the offense at the time of the initial assessment. The bivariate analysis compares each independent variable with the two dependent variables (misdemeanor/felony, recidivism) and the multi-variate analysis tests the relative strength of prediction for each of the independent variables.

Literature Review

There have been other studies that have attempted to find the correlates of recidivism for offenders of this age group. Almost all studies acknowledge that with better influences acting on the child such as a stable family, non-delinquent peers and a productive, successful school environment, these will result in the formation of a more law abiding child (Farrington, 1998, p. 486). While many children and young adults are guilty of youthful indiscretions (though many do not come into contact with the law as a result), the more positive influences the subjects have acting upon them, the less likely they will commit a violent crime. The positive influences are referred to as "protective factors" (Carr and Vandiver, 2001, p. 412) and include strong familial support, community ties and higher intelligence quotient (IQ) scores (p. 413).

One of the strong correlates for youth crime in males was the emotional and physical change resulting from pubertal development. Felson and Haynie (2002, p. 975) recognized that pubertal development in male offenders results in increased violence and property crime. They found that property crime is the most predominant offense committed by males at this stage of their development, followed by violence and finally by drug use. Felson and Haynie (p. 979) concluded that pubertal development is as much a reliable indicator of delinquency as school performance and peer association.

In a study done by the University of Nevada, LV (1997) found that juveniles placed in intensive supervision programs had a much lower rate of recidivism than those in the control groups that spent time in juvenile detention. For those juveniles deemed "high-risk", only thirty four percent became recidivists out of the intensive program compared to sixty percent that spent time in juvenile hall.

Katsiyannis and Archwamety (1999, p. 95) found that delinquents in their study scored lower academically when compared to the general population of non-delinquent students. They found that juveniles who were forced into academic intensive programs while serving their sentences and those that completed their GED's, were far less likely to become recidivists than those that did not (p. 98). The other important correlate they found was that the older, more educated juveniles at the time of the first offense were more likely to not become recidivist. They concluded that intensive education is a very likely factor for reducing recidivism rates in

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Continued

juvenile correctional settings.

Sharkey, Furlong, Jimerson and O'Brien (2003, p. 471) acknowledge that when departments undertake risk assessments of juveniles to determine their likelihood for recidivism, they only focus on the negative factors that influence delinquency and never attempt to count positive factors as having the possibility of offsetting the negative. They also conclude that many studies done to determine the predictors for recidivism are often not applicable outside the population that is being studied (p. 472). The factors that contribute to recidivism were not found to carry across the gender gap. In their study, peer rejection and delinquent peer groups had a much greater effect on males than females, while sexual abuse was the "most salient" cause for female offenses such as, running away.

Smith and Aloisi (1999) found that it is easier to identify the high risk juveniles that have the possibility of becoming chronic offenders due to their recidivism rates, only after their second or subsequent arrest. They contend that initial screenings of first time arrestees cannot accurately predict recidivism, but upon a second arrest, the interview accurately predicts recidivism, even though the number of priors (now being a constant) is no longer a factor.

A study done supported the usual findings that prior offenses, drug use, peer group delinquency and school performance all had an impact on recidivism in youth. At the same time, the study supported the conclusions made by Sharkey that there are certain "protective factors" (p. 412) that can overcome the usual predictors for recidivism. These protective factors range from strong familial support, to community ties, to higher intelligence quotient (IQ) scores (p. 413) They found that by increasing the protective factors, or essentially changing the environment that the delinquent youth is in, the greater chance there is for reducing the risk of recidivism.

In determining the factors that contribute to delinquency, self-report data is one of the most often used tools. But, Golub, Johnson, Taylor and Liberty (2002, p. 483) found that the data is not always correct when compared with criminal records and urinalysis screens for drugs. They found that marijuana use was the most often disclosed item (p. 483), but that violent crime was the least often reported. They concluded that if the subject's self report data on prior convictions matched their criminal history, that the rest of the data was fairly reliable (p. 484). This is important to note as much of the information used in recidivism studies is derived from self-report data.

Data and Methodology

There were 1467 subjects in the sample including 77.8% males (n=1137) and 22.2% females (n=324). The age of the subjects at the time of the assessment ranged from 7 to 16, with a median age of 15. These cases were collected by an addiction services agency in Southwest Florida in the time period from 1996 to 2000. A follow-up was done in 2001, in order to collect data on recidivism.

Our subjects had a mean of 1.0 prior adjudications with a median of 0 prior adjudications. But, with a maximum of 19 and a standard deviation of 1.808, there are some extreme outliers that affected our mean. 54.3% of our sample did not have any prior adjudications, 21.2% had one prior and 11.6% had two.

The offenses at the time of assessment were categorized as misdemeanor property (n=270, 18.9%), misdemeanor person (n=272, 19.1%), misdemeanor drug/alcohol (n=154, 10.8%), felony property (n=505, 35.4%), felony person (n=117, 8%), felony drug/alcohol use (n=30, 2.1%) and felony drug/alcohol sales (n=17, 1.2%). For the purpose of this study, this data was combined into two groups, with the offense being either a misdemeanor or a felony in order to better assess the seriousness of the offense. Of the 1365 valid cases, 51% (n=696) were misdemeanors and 49% (n=669) were felonies.

Data were also collected on repeat offenses, meaning crimes committed after the initial assessment. The number of repeat offenses ranged from 1 to 6. A total of 381 subjects had at least one repeat offense, comprising 26% of our sample. For the second repeat offense, 204 subjects, 13.9% were recorded. The third repeat offense dropped to 89 subjects (6.1%); the fourth repeat n=41, 2.8%; fifth repeat n=23, 1.6%; sixth repeat n=12, .8%. All of the aforementioned data came from official records. (See Table 1)

One important independent variable in our study was whether or not the subject had attended juvenile diversion programs. This data came from official sources. In our sample, 36.4% had attended such a program (n=506), while 63.6% had not (n=885). Diversion programs are available to first time offenders for non-violent, non-drug related crimes. The Judge orders them to the program and participants must meet strict standards, such as maintaining good grades, passing urine screens and meeting with counselors in order to remain in the program. If the subject breaks any of these conditions, the Judge can then send their case back to the State Attorney for prosecution for the original offense. If the youth successfully completes the program, their record is cleared.

Of the 1251 valid cases, 56.2% (n=825) of our subjects had peers in the Department of Juvenile Justice system (DJJ), while 29% (n=426) did not. This data was self-reported by each of the subjects in our study. For males, 66% (n=646) had peers in DJJ, while 65.3% (n=175) of females did too. Having peers in DJJ is acknowledging that the subjects do not come from a law-abiding peer group. This data did not come from official sources, it was self-report data so there is some question as to the validity of it.

Bivariate Analysis

Bivariate statistics were run with each independent variable and the two dependent variables (current offense misdemeanor/felony and recidivism, respectively).

H1: Males are more likely to commit felonies than females; males are more likely to recidivate than females.

Females were most likely to be arrested for misdemeanors; males were most likely to be arrested for felonies. The lambda statistic (= 0.054; p< 0.001) indicates that knowing the gender of the subject improves prediction of the instant offense by 5.4%. The only offense category for which males commit more misdemeanors than females is in misdemeanor drugs and alcohol and the ratio is about the same in felony drug/alcohol, indicating that males are more likely to be arrested for drug/alcohol offenses than females overall. These differences in the distribution of offenses across genders can be inferred to the population of all juveniles assessed (^{2} =112.042, p<0.001).

Males were found to recidivate more often than females did. With 1461 valid cases, 28.7% of males (n=326) were recidivists compared to 17% of females (n=55). The lambda statistic (=0.00, p<0.001) is significant but it offers no guarantee for increasing the prediction success of recidivism. These recidivism rates for each gender apply to the entire population (^{2} =17.895, p<0.001).

H2: Youth with prior adjudications are more likely to commit felonies than youth without prior adjudications; youth with prior adjudications are more likely to recidivate than youth without prior adjudications.

Using 1439 valid cases, 51.5% (n=331) of youth with prior adjudications committed misdemeanors while 48.5% (n=312) committed felonies. For those without adjudications, 51.4% (n=358) committed misdemeanors and 48.6% (n=339) committed felonies. This test is not representative of the population (^{2} =0.002, p<0.967). As this test is not representative of the population, the lambda statistic is also not representative and cannot be used to increase the accuracy of predictions.

Of the subjects with prior adjudications, 70.3% (n=491) did not recidivate, while 29.7% (n=207) did. Participants without prior adjudication did not recidivate 77.7% (n=576) of the time, while 22.3% (n=165) did recidivate. This test is representative across the population (^{2} =10.237, p<0.001).

H3: Youth who have been in a diversion program are more likely to commit a felony than youth who have not been in a diversion program; youth who have been in a diversion program are more likely to recidivate than youth who have not been in a diversion program.

There were 1391 valid cases for this analysis. Of the subjects that were part of a diversion program, 56% (n=266) committed misdemeanors, while 44% (n=209) committed felonies. Misdemeanors were committed by 47.8% (n=391) of the subjects that had not attended a diversion program, while felonies were done by 52.2% (n=427). Our test was representative across the population (^{2} =8.085, p<0.004). The lambda statistic was not representative and cannot be used to increase the prediction probability (=0.57, p<0.208).

Of the youth that attended diversion programs, 75.5% (n=382) did not recidivate, while 24.5% (n=124) did. Of those that did not previously participate in a diversion program, 73% (n=646) recidivated, while 27% (n=239) did not. This test is not representative across the population (^{2} =0.002, p<0.505) nor is the lambda statistic representative.

H4: Youth who have a peer who has been arrested are more likely to commit a felony than youth who do not have a peer who has been arrested; youth with a delinquent peer group whose members have been arrested are more likely to recidivate than youth do have not a peer who has been arrested.

There were 1169 valid cases for this bivariate analysis. Of the subjects with delinquent peers that have been arrested, 46.9% (n=358) committed misdemeanors and 53.1% (n=406) committed felonies. For those

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without peers in the DJJ system, 56% (n=227) committed misdemeanors and 44% (n=178) committed felonies. This association is representative across the population (^{2} =8.943, p<0.002) though the lambda statistic does not increase the correct prediction rate (=0.82, p<0.82).

Of the recidivists, there were 1251 valid cases for the analysis. Participant subjects with peers in DJJ did not recidivate 71.2% (n=587) of the time, while 28.8% (n=238) did. Of the subjects without those peers in DJJ, 78.9% (n=338) did not recidivate, while 21.1% (n=90) did. This test is representative of the population (^{2} =8.659, p<0.003) while the lambda statistic is not.

H5: Youth with prior offenses are more likely to commit a felony than those without; youth with prior offenses are more likely to recidivate than those that do not have any.

There were 1272 valid cases for the bivariate analysis of determining the seriousness of the offense (misdemeanor v. felony), if the subject had prior offenses. Of those without prior offenses, 51.4% (n=358) committed misdemeanors, while 48.6% (n=339) committed felonies. For the subjects with prior offenses, 50.4% (n=290) committed misdemeanors while 49.6% (n=285) committed felonies. This test was not representative of the population (^{2} =21.028, p<0.101) but the lambda statistic improves our prediction rate by 5.6% (=0.056, p<0.003).

There were 1365 valid recidivist cases for our analysis. Of the youth that did not have any prior offenses, 77.7% (n=576) did not recidivate, while 22.3% (n=165) did. For those with prior offenses, 70% (n=437) were not recidivists, while 30% (n=187) were. This test was representative of our population (^{2} =47.528, p<0.001) but the lambda statistic was not significant enough for prediction (=0.014, p<0.025).

Multivariate Analysis

Logistic Regression was performed to assess the significance and direction of each of the correlates discussed in the hypotheses above in predicting the dependent variables of interest (seriousness of offense and recidivism). Both dependent variables are dichotomous, therefore logistic regression is the appropriate regression model for these data.

Predicting the Seriousness of the Offense:

Our first logistic regression analysis used 1075 valid cases to compare our independent variables (variable name in parentheses) of age (age), sex (sex), attendance of diversion programs (jasp), number of prior offenses (numprior) and peers who have been arrested (peerdjj) with the dependent variable of the instant offense being either a felony or a misdemeanor in order to determine the relative strength of these variables in predicting whether the instant offense will be a felony or a misdemeanor. All of the variables were significant in the model (See Table 3). The older the offender is at the age of their first arrest, the more likely that their instant offense is not a felony. Subjects that had not attended a diversion program were more likely to commit a felony. Subjects with prior offenses were more likely to commit a felony. Those without peers in the Department of Juvenile Justice system were more likely to commit a misdemeanor for their first offense. Males were more likely to commit a felony. Sex, delinquent peers and attendance of diversion programs were the three independent variables that had the most change on the dependent variable. These B values can be seen in Table 3.

By simply stating that the youth would commit a felony for their instant offense, our model was correct 50% of the time. After including the independent variables into the analysis, their relative strength increased the prediction success rate to 61.7%. (See Table 2)

Predicting Recidivism:

The second logistical regression analysis had 1153 valid cases and we used the dependent variable of whether or not the youth recidivated. The independent variables remained the same as in the first test and they were used to test the relative strength of prediction for whether or not a youth would recidivate. The older the youth was at the time of their instant offense, the less likely they were to recidivate. Subjects that had not attended a diversion program prior to their current assessment were more likely to recidivate. Youth with prior offenses were more likely to recidivate than those without. Subjects without peer in the Department of Juvenile Justice system were likely to not recidivate. Finally, males were more likely to recidivate than females. Sex, delinquent peers and attendance of diversion programs were the three independent variables that had the most change on the dependent variable. These B values can be seen in Table 3.

Based on the cases available, our model predicted that the youth would recidivate 73.7% of the time but after including that independent variables, our prediction success decreased to 73.1%. (See Table 2) This change can be explained since there was very little follow-up done on the youth after their instant offense, with respect to recidivism and when the recidivism rates were examined, it was only one year after the initial study was completed. Many of these youth could have since recidivated. The author does not know.

Conclusions

While the logistic regression multivariate analysis showed that the independent variables of age, prior diversion, number of prior offenses, delinquent peers and sex all increased the relative strength of prediction success in the model for the seriousness of the offense, they did not increase the success in the recidivism model. Even so, it was shown that the same variables, sex, delinquent peers and attendance of diversion programs had the strongest effect on the dependent variable in both of the regression models.

There is little literature available for predicting the seriousness of the instant offense but the author found that the many of the correlates of recidivism mentioned in the literature review also could be used to predict the instant offense. By including these independent variables in our seriousness of offense model, the prediction success rate improved from 50% to 61.7%.

By understanding that many of the correlates for recidivism can also predict the seriousness of the offense, teachers, parents, counselors and LEO's now have a better chance of interdicting possibly delinquent youth and putting them back on the model citizen path. While youth have no control over independent variables such as age and sex, they can control their association with delinquent peers and eliminating such contact drastically reduces their chances of committing a serious offense and also reduces their chances for recidivism.

Our study also showed that diversion programs worked in this sample, so hopefully, more cases involving minor offenses would be treated in such a way in the future. Youth that had attended diversion programs were less likely to have a serious offense than those that had not and also were less likely to recidivate than their peers that had not had their cases previously diverted.

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Table 1: Repeat Offenses by Type

Offense Type	1st repeat offense		2nd repeat offense		3rd repeat offense		4th repeat offense		5th repeat offense		6th repeat offense	
	N	%n	n	%n	n	%n	n	%n	n	%n	n	%n
Misdemeanor property	116	30.4	54	26.5	22	24.7	6	14.6	3	13	2	16.7
Misdemeanor drug/alcohol	26	6.8	12	5.9	2	2.2	2	4.9	2	8.7	0	0
Misdemeanor person	32	8.4	23	11.3	9	10.1	3	7.3	4	17.4	2	16.7
Felony property	125	32.8	70	34.3	40	44.9	20	48.8	7	30.4	6	50
Felony drug/ alcohol use	12	3.1	6	2.9	1	1.1	0	0	0	0	0	0
Felony drug/ alcohol sale	9	2.4	5	2.5	0	0	0	0	1	4.3	0	0

Table 2: Prediction Model

	Predicted Yes	Observation Yes	Prediction No	Observation No	% Correct
Felony Only	0	537	1075	538	50
Full Model	571	537	504	538	61.7
Recidivate Only	0	303	1153	850	73.7
Full Model	25	303	1128	850	73.1

Table 3:

	Beta,	Standard	Error,	Significance
Model	**Variable**	**B**	**S.E.**	**Sig**
Recidivism Model	AGE	-0.141	0.046	0.002
	JASP	0.432	0.149	0.004
	NUMPRIOR	0.144	0.036	0.001
	DJJPEER	-0.451	0.155	0.004
	SEX	0.776	0.191	0.001
Felony Misdemeanor Model	AGE	-0.274	0.047	0.001
	JASP	0.538	0.167	0.004
	NUMPRIOR	0.085	0.039	0.030
	DJJPEER	-0.443	0.139	0.001
	SEX	1.088	0.168	0.001

Juvenile Violence / Gang Activity:

Awareness, Prevention and Intervention

1st Place Winner, Undergraduate Lower Division, 2004 National Student Paper Competition

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INTRODUCTION

In the year 1998, there was a surmised 28,700 youth subcultures and 780,200 participating members in the United States (Wilson, 2000, p.44). Even more concerning is the fact that, in 2001, 59% of all homicides in Los Angeles and 53% in Chicago were committed by gang members (Flores, 2003 p.1). From these two cities alone, the statistics show an overwhelming problem with gang activity.

Currently, the second largest gang is the Latin Kings (L.K's). Although they were founded 30 years ago in Chicago, they now have a presence in 34 states across the United States (Knox, 2000 p.1) Gang activity is not only limited to large cities like Chicago & Los Angeles. In contrast, in 1995 all 50 states and Washington D. C. had reported some type of gang activity. Moreover, there was a 640% growth of gangs in 1995, compared to 1970 (Miller, 2000 p1).

The L.K.'s are the most impetuous gang. The Gangster Disciples is the largest, however, membership has been declining. The Latin Kings are notorious for their fearless actions and function in two separate, but equally dangerous divisions. Both the Chicago original and the east coast splinter version operate with formal organization. They are recognized for the violence they perpetuate and their remorseless actions toward authority, rival counterparts and their own affiliates (Knox, 2000 p.1).

In addition to the growing gang subculture, the concern for escalating juvenile violence has brought attention to the nations youth. Amazingly, 57 % of all violent crimes are committed by juveniles between the hours of 3 p.m. and 7 p.m. Such reported crimes would include rape, aggravated assault and robbery. During the non-school-days (e.g. weekends, summer vacation and holidays) the reported crime rate is considerably lower. Even though curfews are implemented during the hours of 10p.m. and 6a.m, allowing 8 hours for potential crime activity, the 4 hours after-school promotes six times the amount of juvenile crime (Bilchik, 1999 p. 2). Albeit the history of gang activity in correlation to the crime rate has been increasing, young people who enter gangs are usually not doing so for criminal intents. In contrast, they are searching for elements that are not being fulfilled within their lives, such as, acceptance, family, friends and security (Allander, 2000, p.3).

WHAT IS A GANG?

A gang is a group of three or more people who perceive themselves as a distinct group. They are structurally organized, either formally or casually and share a common name (Walker, 1999 p1). Colors, gang signs and graffiti are also significant signs of gang involvement or active gangs in the community. The most obvious to the community is gang graffiti. Once graffiti has been discovered, it needs to be interpreted for violent threats, photographed and removed immediately. In doing so, it reduces the chance for retaliation among rival gang members who perceive this as a threat.

Not as obvious as graffiti, are the 'colors' gangs may use to distinguish them from others in society or rival members. 'Colors' may be displayed through labels or colors on clothing, jewelry, accessories, or hair ("Parent, nd). For example, an extricate feature for the L.K.'s of the 1960's was to wear their hair in "afros" (Knox, 2000 p3).

The least obvious and most threatening to society are hand signals. These gestures have an unequivocal meaning to each group and are used for intimidation to others and communication within the gang itself ("Parent", nd, pp1-5). Case in point, the L.K's hand symbol that represents the gang is motioned by the two middle fingers folded down to the palm, the pinky, index and thumb are extended out and upward (representing three points of a crown). When a conflicting gang wants to disrespect the L.K.'s they will flash the symbol upside down. This gesture is referred to as "throwing down the crown." This "throwing down the crown" gesture was innocently posted on a Coca-cola add and placed in a school with several L.K. members. They invoked a riot, vandalized the school and caused violent confrontations with the police (Knox, 2000 p 5). Displaying such distinctive symbols and 'colors' show a sense of loyalty and patronage to the gang ("Parent,nd pp1-2).

Granting all this, gang activity is not a criminal act in itself. However, the status and reputation of the gang is predominantly based on the type of criminal activity in which they are involved. The more crime they execute, the more respect and power the gang will earn ("Parents" nd, p.2).

GANG STRUCTURE

There are four basic attributes which shape the structure of the general gang model

(" Parent, nd, p.4). " Potentials" or "Could be's" are the youngest of possible members. They are youth that live in an area where there are active gangs or have siblings who are already involved with the gang. Next, there are the "Claimers," "Associates" or " Wanna be's." This facet of gangs are not officially members, however, they may dress, act and walk like members. Moreover, they will associate and participate in gang related activities. Lastly, are the "regular members." They comprise the biggest portion of the gang. If they are able to survive, they will gain " Hard core" status. "Hard core" members are protected by "regular members" and constitute 5-10% of the gang. As a result of their long-term status, they are often repeat criminal offenders who have authoritative roles in the gang. ("Parent, nd.).

AT RISK BEHAVIOR

Adolescents who join gangs have a variety of personal characteristics that place them at risk for potential gang involvement. Usually, those with a strong sense of self-worth do not become involved with such behavior. The early detection of "at risk behavior" is an important element in preventing negatively progressing activities. Such behavior would include, but is not limited to, alcohol or drug abuse, truancy and school misconduct (OJJDP, 2000 p.10). Moreover, early signs of antisocial behavior such as, dishonesty, values that accept violence, discord toward authority, early promiscuity and hyperactivity are pertinent warning signs for potentially violent behaviors and gang-like behaviors ("Juvenile," 2000 p.2). Lastly, a child may develop a new peer group, nickname or a decreased interest in regular activities. (Hixon, 1999 pp.3-4).

A most noticeable characteristic is aggressiveness. Such actions have been a concurrent prediction for children between the ages of six and thirteen. Boys who had displayed such aggressions were six times more likely to have criminal records before the age of 26, compared to those without aggressiveness ("Juvenile," 2000 p.3).

Early recognition for these individuals is essential for the success of intervention and prevention (Wood & Huffman, Fall 1999). This is crucial because the 1998 national youth gang survey suggests that youth gangs are aging. There was a prominent shift from 1996-1998 in the number of adult members, showing that exactly one half of the gang members were adults 18 and older, the other half is subsumed of adolescents 18 years old and younger (Wilson, 2000). When these behaviors are detected at an early age, youth have a better opportunity to learn how to foster positive values and fundamentals, which will enable them to repudiate maladaptive behavior ("Juvenile,"2000 p.3). Consequently, the components that place youth in jeopardy are integrated among community, family, learning institutes and personality traits of the individual.

ROLES OF SOCIETY

Community

Positive social groups have many similar elements that children in categories of being at risk seek in a gang, for example, social status, a "sense of belonging," apperception and efficacy or to build self-esteem. Occasionally, it is in their heritage to participate in these programs ("Gangs", nd, p.1). When children participate in constructive community programs like boy scouts, girl scouts, sports or other recreational activities, they do not feel the need to search for fulfillment from other sources such as gangs. In contrast, children who live in poverty stricken areas with disorganized communities have less social ties and are more likely to become involved in risky, deviant or criminal behavior ("Gangs", pp. 1-2).

There is no area without the potential for gang subcultures developing. However, if they are structured, economi-

cally stable and provide a sense of unity, it is less likely to be appealing for subculture formation (Allander, 2001 p.11). Unfortunately, most communities present little involvement unless these deviant cultures directly affect their neighborhood (Wood & Huffman, Fall 1999). Moreover, police are not normally directly involved until the gang has disrupted and ensconced itself in the community. As a result, some communities have been developing specialized gang units to alleviate this increasing problem. Adversely, these special teams are not effective on their own and require assistance from the educational systems.

School

There are many pertinent elements involved in detecting potentially dangerous behavior in school. These elements would include, but are not limited to, lack of learning ambitions, no connection or responsibility to school, low academic grades and being 'labeled' as having a learning disability. Moreover, interaction with peers who display negative behaviors is a major concern (OJJDP, 2000). As stated by Wood and Huffman in 1999," Adolescents value the opinions of their peers more than those of any other group."

In addition to the personal characteristics stated above, schools need to provide a consistent method of classroom management. The adults who are working in educational curriculum are unprepared, uneducated on gang awareness and have no training for mediating conflicts among peers. Furthermore, they can often have their own problems with working well with others to resolve their own contentions, let alone teach this skill to others. Schools must find ways to provide knowledge on resolving conflicts with peers in a positive manner. Also, instructors need to model a positive "set of norms" to establish security and cooperation among the students. (Coleman & Duetche, 2000 p.1).

Students also need to be educated in areas of conflict resolution, anger management and communication. The configuration of the educational system is based on competition. Students are competing for attention, social status and academic scores. To have such a competitive environment, increases the opportunity for conflict and can promote hostility. Since teachers more often have one of the first interactions with gang members, awareness education needs to be provided on the manifestation of such occurrences (Allander, 2000 p.9). There are a variety of elements that are being introduced in schools, ranging from preschoolers to "university graduates." By encouraging reciprocity and experiencing positive interactions, students can develop a foundation of skills that will be sustained throughout their daily lives (Coleman & Duetsche, 2000 pp.3, 7).

In order to lesson the violence and subculture activity, the educational system needs to collectively balance discipline and law enforcement to achieve successful interventions and prevention. (Torok, 1994p.7)

Police

Recurrent denial from police and other public representatives reporting gang activity creates a concern for the accuracy of the statistics reporting gang violence. The major factor in contributing to this discrepancy is the lack of uniform definition of what constitutes a "gang" (Allander, 2001 p. 8).

Once deviant subcultures have been brought to the attention of the police, there are several elements they need to consider. Mainly, it is pertinent that they know not all gangs operate in the same manner or respond to the same tactics for prevention. Each gang needs to be managed for the specific area and botheration in the community.

After the problem has been deciphered, they must gather ideas and elaborate on a plan. When the plan is put into motion, re-evaluation of its progress needs to be considered. If the course of action did not work, the authorities will revert back to the initial process. This operation may be repeated several times before the effects are noticed and improvements are experienced. (Allender, 2000 p.10).

Lastly, the authorities must communicate with probation officers, prosecutors and schools. Collaborative communications will enable the proper procedures to be enforced when gang members commit their crimes (Allender, 2000 p.11).

Parents

The most crucial element to prevention is family structure. A child, where needs are met within the family, becomes more socially developed. A secure family will ensure physical and emotional desiderata are met. It will provide love, acceptance and advisement. As a result, the child develops a positive self-esteem and a sense of personal responsibility ("Gangs," nd p.2). However, studies have shown if discipline techniques are capricious and supervision insufficient, the child will be more likely to participate in deviant behaviors ("Juvenile" 2000 p.4).

Unfortunately, after school hours when crime is the highest and more supervision for youth is needed, many children are left unsupervised. Statistics reveal that 75% of school age children have mothers that work outside of the residence, two thirds of which are working full time ("Education, 2000 p1). Likewise, from 1993 statistics show an alarming 11-23% more children under the age of 18 live in "mother only" households (Miller, 2001 p.6). Concluding, 39 million children ranging in ages from 5-14 are in need of guidance and programs when school is not in session and parents are not home ("Education, 2000,p.1). Such inconsistencies within the family can result in unstable family structures, thus causing youth to feel rejected or isolated. In turn, they develop a low self-esteem and poor social skills creating a lack of community ties, power struggles for control and desire for acceptance (Wood & Huffman, Fall1999 p.2).

Subsequently, parents are often incapable of making good choices for themselves. Parents that have children who display concerning behaviors need to improve their own skills by attending parenting classes in conjunction with behavior modification programs for their children. Both parents and children need to obtain a better understanding of each other, as well as, more effective ways to communicate. (Wood & Huffman, 1999 p.4).

PREVENTION/INTERVENTION

In the past, organizations focused on prevention to obstruct adolescents from consorting with gangs. Diverse tactics have been implemented through communities, schools recreational associations and after school programs (OJJDP, 2000p.1).

As early as 1934, communities had theories that social structure had tremendous impact on producing deviant subcultures. The Chicago Area Project (CAP) was created during this time to enmesh neighborhoods to improve recreation for youth and provide more supervised after school entertainment. The CAP program was the first to implement the "detached worker" system (OJJDP, 2000p.1). This is a system that allows participants (e.g. mentors, role models, social workers) to go into the community to be actively involved. This organization has been extremely valuable and continues to officiate today.

The Montreal Prevention Program (MPP) is another multi-faceted program. The MPP was directed towards children in kindergarten that displayed unruly behavior and antisocial characteristics. It was comprised of boys ages 7-9 along with their parents. Training for the children lasted 19 sessions and the parents were given 17 sessions. After assessing the groups, it was indicated less drug abuse and subculture involvement at age 15. There are several other programs much like CAP & MPP that validate the importance of parental involvement and training to impact the prevention of violence and "at risk" youth. (OJJDP, 2000 p.3).

Peer mediation programs have been integrated in many school systems. They are used as an initial attempt to prevent and resolve peer conflicts. This program does not replace the structure of discipline within the school. In contrast, it is designed to compliment the existing policies and procedures (Coleman & Duetsche, 2000pp.2, 3).

Training sessions and supervision are provided to potential "mediators". Teachers, students and deans refer these role models to the program. They range from college age down to ten years old. As a result of helping others they in turn develop a more positive self image and gain a better disposition toward school.

One distinct problem with prevention and intervention arose in the 1950-1960's. This discovery provided evidence that gang members needed to be addressed as independent people of the gang, not as a group. This is because, at this time, the more deviant the behavior, the more services were rendered to "the group." These services included such activities as vacations, boating and horseback riding. As a result, the gang was inadvertently encouraged to continue their deviant behavior in order to receive these fun activities (Knox, 2000p4).

CLOSING

This research concluded that gang activity is not a new phenomenon. However, it appears that there are several enduring characteristics which are present in gang members and "at risk" youth. The elements that have been withstanding for the members are the need to feel accepted by friends, family or community. A sense of belonging is essential element for adolescents because if this is not provided, youth will seek out other methods to fulfill their needs, such as a gang.

Also, family unity structure and integrity is another element that must be provided to intervene with "at risk" youth. As stated by Wood, "The loyalty of gang members to each other causes the traditional social institutes to serve them effectively and causes members to refrain from integrating into the mainstream."

As for society, history shows programs are continually developed and implemented and intervention/prevention is repeatedly put into action with little or no result. Concluding, methods of intervention and prevention need to be integrated throughout all factors of family, school and society.

Engaging College Students Through Role Playing in the Policing in American Course

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Abstract

Policing, as an occupation, has been described as hours of boredom, often followed by minutes of sheer terror. With the latter in mind, it is little wonder students are attracted to the study of this academic discipline. Further encouragement and engagement of students allows for them to gain a greater personal understanding of policing. To assist students with understanding, this paper discusses student instruction of the Policing in America course utilizing active learning skills through role playing and engagement.

Introduction

This paper discusses the creation and operation of a faux police organization, The Thousand Oaks Police Department, by college students at Peru State College. Students gain a greater understanding of police departments through active learning (Perkins,1999) and engagement theory (Kearsley and Schneiderman,1999). According to Sheplak (1996), students engaged in role playing and active learning gain a greater understanding of the topical matter. Students enrolled in college level criminal justice coursework and specifically policing, often desire a career in policing and become law enforcement officers(Polk, O and Armstrong, D 2001) Students can enter this career field with a thorough understanding of the theoretical aspects underlying the criminal justice system, but little understanding of the practical realities and internal and external dynamics surrounding police agencies. To assist students conceptually in understanding the dynamics of policing as an individual and as part of a police organization, the Policing in America course at Peru State College challenges students to assume the various roles of members the Thousand Oaks Police Department, actively participate and gain a greater understanding of the internal and external obligations of police departments (Gaines and Cordner, 1999) and focus on the association between criminal justice theory and practical application in a police organization. Additionally, the use of case studies, experienced guest speakers, group assignments in the form of shifts and practical field exercises assist the student in better understanding the role of the police officer in their respective organization and the role of the police organization in society

Class Structure

The Policing in America class at Peru State College is a semester long course with 16 evening sessions which simulate many of the internal and external organizational challenges members of a modern law enforcement agency encounter on a daily basis. The students in the class compete, volunteer or are assigned to assume specific roles in a police organization. The course consists of distinct modules which assist students to better understand the police organization. . These topics discussed, in order, include *Role of Policing in Society, Organizational Formation, Structure, Chain of Command and Rank, The History of Policing, Traditional v Community Policing, Crime Reporting, Victims, Witnesses and Perception of Police Officers by the Public, Problem Solving, Patrol, Search and Seizure, Patrol, Specialized Roles In Policing, Recruitment, Selection and Criteria of Law Enforcement Personnel, Internal Affairs Function* and *Specialized Topics in Policing.* Beyond the initial two sessions, this course allows flexibility in instructional order of modules, however, first two modules create the police organization..

Course Application and Assumptions

Police education, specifically at the collegiate level, endears itself to practical application.

According to Eble (1983:57), "Learning is often the highest form of play, the best game around…the learning that takes place in games…outstrips most of what goes on in a college classroom." To assist students in making a career choice conducive to their choice and provide an experiential activity, active learning through the role playing process Sheplak(1996), begins on the first day of class. Due to the author's background in policing as a practitioner, many facets of professional policing, along with the underlying theoretical foundations of criminal justice, are incorporated into the course. It is assumed students have completed a freshman level criminal justice course or reviewed a criminal justice text associated with policing; examples included Survey of Criminal Justice(Siegel & Senna, 2004), Introduction to Law Enforcement (Wrobleski & Hess, 2003) or another introductory text in criminal justice. Each module allows students to gain a better understanding by assuming the roles of patrol officers, supervisors, specialty positions or command staff in the police organization. Each week students are required to supplement their assigned course reading with collection of information, followed by presentation of information by the student or their shift supervisor in a briefing or roll call, which begins each class. Students are empowered, through their assumed roles in the organization, especially as supervisors and command staff members, to direct the activities of those subordinate to them and encouraged to cooperatively work with other supervisors to reach the individual and organizational goals.

Module 1 Role of Policing in Society

In this module, the individual and organizational role of police in society is addressed. To start the class, The Police Code of Ethics, (Papillion Police Department General Order Manual,2003) is reviewed. Complete job descriptions, along with essential job functions, of different roles within the police organization are distributed. Students are advised they should review and understand that information. Furthermore, students are advised an integral portion of this course requires student assumption of the roles of members of different levels of the police organization and consistent with those roles, will have responsibilities which equate to a member of that level of the police department. Particular attention is drawn to the syllabus is given to the grading schema for the course, which rewards students for positive group or "shift" activities, successful completion of measurement devices and significant penalization for missing class. A positive correlation is drawn between attending class and the practicality of timeliness in working hours of employment. Class discussion focuses on the different internal roles of members of a police organization and the global role of police in society. Additionally, students specifically interested in performing in the role of a specific position within the organization are required to bring current articles supporting that desire during the next class. For example, students desiring to be the police chief may provide an article on leadership, command staff officers may provide articles on organizational change or labor relations, sergeants may provide an article on front line supervision, investigators may bring an article on a specific aspect of investigations that intrigues them, canine officers an article on that function and students desiring to be officers would have the widest breadth in selecting their choice of a topic.

Module 2: Organizational Formation, Structure, Chain of Command and Rank

This session begins with the formation of a modern policing organization. All members, or officers as they are now known, submit their requests for positions in the modern police organization. In the event there is an excess of applicants for any one position, testing is utilized in the form of assessment and strengths of the article brought to class by the student, verbal defense of their desire or written measurement of contemporary policing topics. Command staff members, including the Chief of Police and his immediate assistants, Lieutenants or Deputy Chiefs, were selected by their desire to pursue that position and the content of their article and knowledge of that position. Sergeants were selected next, then investigators, canine officers and finally patrol officers. Assignment of seniority for sergeants and ranks of officers, investigators and K-9 officers are drawn using numerical values. After being informed their status in the organization is based upon their seniority, students use their seniority to bid a specific shift to reflect for

whom they will be working within the organization. Based on that seniority, students form shifts based on a decentralized police organization, which corresponds with those of the modern police organization. For purposes of this class, the organization is classified as follows; One (1) Chief of Police, Two (2) Lieutenants, one each in charge of Field or Administrative Services, Four (3) Road Patrol shifts, each respectively titled A,B,C and D and directed by a sergeant with each shift including the requisite number of officers according to the number of class participants. Additionally, Investigators (2) and K-9 officers (2) are assigned independently to each Lieutenant to provide "coverage" for road patrol shifts. The Chief of Police and command staff are empowered to direct activities of the class, delegate work and with legitimate purpose, issue discipline, which normally is in the form of 1-2 page papers on specific topics. Such discipline may be appealed by the student to the course Instructor, or Mayor of Thousand Oaks should the Instructor care to accommodate learners in course by providing an appeal mechanism.

Upon conclusion of the selection process, the Chief of Police and command staff create an organizational chart for their department. This presents an opportunity to explain such topics as chain of command (Roberg et al, 2005) and span of control. The organization is then presented their first major challenge; Determine, using a brainstorming process, the name of their law enforcement entity. As an example, one class of students chose to name their organization the Thousand Oaks Police Department, which ironically, is associated with the motto affiliated with their college campus. Additionally, students are encouraged to create a patch and motto for the organization. Prior to the beginning of the next class, the Chief of Police and Lieutenants are required to bring the completed organizational chart detailing the members patch and motto of this organization, while all other members are required to bring a distinct article on the History of Policing in America.

Module 3: The History of Policing

Module three reviews the History of Policing by utilizing the text and articles provided by members of the organization. However, certain stipulations are provided. Students were required to bring distinct articles. Supervisors were required to communicate with each other and command staff to insure that no officer or investigator brings the same article. All supervisors and command staff members oversee this process. Individual management styles of sergeants, lieutenants and the Chief are quickly brought to light, from laissez faire to micromanagement of individuals. One sergeant assigned cities to shift members, another assigned states, while a third advised officers she would supply the articles to avoid confusion. A fourth came to class with enough extra articles to remove the remotest possibility of duplication of articles. All articles are reviewed and any duplication of articles resulted in officers on that shift or division gaining the requirement of writing specific papers associated with the pitfalls of failure to communicate in the modern policing organization. The instructor then incorporated the knowledge presented by each shift into the history of policing.

Module 4: Alternatives to Traditional Policing

Students can gain a better understanding of community policing by understanding the underlying processes organizations use to determine the Mission and Values Statement. The class is advised the mission of this organization must be both educational and community based in perspective. This segment provides the instructor with the opportunity to compare and contrast traditional policing with alternative philosophies, such as community oriented policing and problem oriented policing. Differences in organizations which practice these philosophies are discussed. Due to the wide array of student experience, background and historical interaction with police in their lives, the incorporation of core institutional, educational, individual and societal values create a Mission and values statement reflecting what they, as a community, truly desire. Consideration in formation of the mission statement must include the racial and ethnic makeup of the community (Walker and Katz,2005), contemporary issues facing the community(Roberg, et al,2005) and desires of the community(Gaines and Kappeler,2003) of their law enforcement agency.

Module 5: Crime reporting, victims, witnesses and perception of police officers

This module consists of members of the class role playing as officers or investigators responding to a crime and other individuals who pose as victims of crime. Officers ask questions and take reports based on what they observed and heard from victims and witnesses, who report some type of loss or injury. Both students who role play as officers or victims,(college students or employees from outside class) are questioned on effectiveness of officer questioning or interrogation skills (Rutledge,2001) and the victim's perception of the attitude of the reporting officer. Reinforcement of the distinct roles of officers and investigators in the reporting of crime (Osterburg and Ward, 2004), officer understanding of questioning techniques (Stephens,2004) and victim-witness assessment of police service through citizen perception are addressed.

Module 6: Problem solving

During this module, assessment of problem solving (Eck 2002) and the understanding and use of the SARA model (PERF) was discussed. Using the Chief of Police as a focal point, each individual shift of officers with their immediate supervisors, investigators, canine officers and the command staff are given a problem and asked to determine viable solutions for solving the problem. Problems the shifts of officers are asked to assess include review of scenarios based on false alarms(Sampson 2002), theft of and from motor vehicles(Clarke 2002), graffiti (Weisel,2002), bullying(Sampson 2002), panhandlers(Scott 2002) and shoplifting(Clarke 2002). Feedback from individual officers, shifts and command staff were then reviewed as a whole organization. Students gained a practical understanding of downward and upward communication within law enforcement agencies during this exercise. After culmination of their assessment review, the literature by the authors listed above was reviewed to reinforce and strengthen student perception of problem solving efforts.

Module 7: Patrol

During this module, officers of the department are exposed to the myriad of functions within police work. Through the assistance of a certified law enforcement officer, the students are exposed to the daily duties of a police officer, field sobriety testing , operation of police radar, practical aspects of traffic enforcement, communication with the public and steps of the arrest (Stephens, 2001) through the adjudication process. Discussion of the handling of road rage incidents and mala prohibita crime are addressed. Types of patrol strategies, including differential police response (Worden,1993), random patrol and directed patrol are discussed to address chronological and geographical trends in crime. Patrolling utilizing traditional policing thought process versus differentiated call response or directed patrol are closely scrutinized. Shifts are geographical and chronological information, which includes calls for service, which include cold calls, crimes in progress and belated calls. The Chief of Police, Lieutenants and Supervisors are asked to assess the information and allocate the resources available, which depends on the number of students present in class that evening. Input from officers was also included in the decision making process.

Module 8: Specialized Units within the police organization

This module addresses the variety of organizational specialized units often found within larger police departments and compares and contrasts how larger and smaller police agencies function utilizing such units. Inter local agreements between law enforcement agencies are discussed. SWAT teams, juvenile officers and the entire investigation process is reviewed. UCR and crime classification in the measurement of crime is reviewed. Discussion of use of force and specific court cases, such as Graham v O'Connor, are included. Specific units within the organization, specifically K9 officer and investigators are required to present detailed information concerning their role in the organization. Guest speakers, specifically K9 units and a law enforcement officer experienced in Special Weapons and Tactics, were invited to class.

Module 9 : Recruitment, Selection and Criteria

This module started the entire organization being administered an abbreviated modified entry level law enforcement test, lasting approximately one hour, provided from a source for police testing. This module assisted students in gaining the understanding and necessity of a broad knowledge of criminal justice for successful entrance into their chosen career field and initiated conversation about hiring and retention processes within policing. Additionally, positive reinforcement was utilized by "promoting" the select officer(s) who score the highest on the test to the rank of Sergeant or Investigator, depending on their preference. During this module, the Chief of Police is required to meet with his organization, have a brainstorming session and complete a "Recruiting brochure" for prospective applicants for the organization. Testing and promotion methods, especially ones which have disparate or adverse impact, are addressed and discussed.

Module 10: Search and Seizure

This module started with a thorough overview of search and seizure(Rutledge, 1999), focusing primarily on the 4th amendment. Cases such as Mapp v Ohio, Weeks v U.S. and Brady v. Maryland are discussed. The exclusionary rule and the exculpatory rule were thoroughly reviewed. Individual officers were presented with scenarios which presented a field decision needing to be made concerning the legality of search and seizure. Officers were allowed to make a decision concerning that scenario or refer the problem through the chain of command. Sergeants, lieutenants and the Chief of Police are directed to review the decision and approve or overrule the decision. The scenarios are based on judicial precedents, personal experience of the author and current case law. A comprehensive review of all decisions by the entire organization was reviewed prior to the end of class.

Module 11: Policing and Labor

After several weeks of class and officers feeling somewhat challenged, unhappy or unsure of their place in the organization, a better understanding of a specific police subculture, specifically the labor union, is brought to their attention. All members of the organization were asked the prior week to research and bring to class one article on collective bargaining in a law enforcement atmosphere. The Chief and command staff was asked to go to the campus library during the prior week and review specific articles on collective bargaining agreements in policing. Concurrently, the officers and supervisors eligible for inclusion into a collective bargaining unit receive the information necessary to make an informed decision regarding the formulation of and representation by a collective bargaining unit. . The Chief and command staff had an opportunity to discuss the forming of a collective bargaining unit with all officers in a non threatening atmosphere and not in violation of the Taft- Hartley Act or specific state law. Officers then vote as to whether or not to form a collective bargaining unit. Numerous examples of labor law (Aitchison,1996) concerning current labor practices and court findings for police were reviewed.

Module 12: Internal Affairs Function

During this module, select citizens from outside the organization (volunteer students) are asked to come forward to make complaints against specific members of the police organization. After the complaint is received, the organization was instructed in the entirety of the Internal Affairs process, initiated with the receipt of complaint, through Garrity advisement, Miranda (If bifurcation is required) and the Loudermill process, if necessary. Neutral parties are recruited to perform in the role of civil service or police oversight board members and if the complaint is sustained, officers are brought to an administrative hearing. Students gain a thorough understanding of the complicated, complex and challenging process Internal Affairs Unit members address during the citizen complaint process. For this module, the Lieutenant who was in the division opposite the one in which the complaint was received, acts as the primary Internal Affairs Investigator for the case. Officers assigned to certain shifts are the alleged perpetrators of the action and challenged to respond to these inquiries.

Module 13: Specialized Topics

Utilizing the personal model of instruction (Rogers, 1969) students were given the opportunity to express what needs they have for specific topics within this course. Via a vote of the organization after individual suggestions, students request specific issues be presented concurrent to policing. Among the topics requested are homeland defense, the U.S. Patriot act, gangs, date rape, sexual assault and specific investigatory functions pertaining to forensic science. Individual or collaborative preparation in the form of group work by officers, shifts or divisions, are utilized. With input and guidance from the instructor, students gain a better understanding of the depth of their selected topic.

Readings and Materials

The policing course utilized various handouts, which included information concerning the police organization. Content from websites, research journals and modern periodicals was also used. After briefing, the instructor presented information using power point to the class. External resources, such as guest speakers and recorded videos, were utilized to broaden the width and depth of the student's understanding of modern policing.

Specific resources used to address contemporary policing issues were Walker and Katz's "The Police in America; An Introduction" (2002), Gaines and Kappler's "Policing in America" (2003). Siegel and Senna's " Essentials of Criminal Justice,(2004), Introduction to Law Enforcement (Wrobleski & Hess, 2003) and The Rights of Law Enforcement Officers, (Aitchison 1996).

Grading

Grading a course, which required students being actively involved, as role players, within an organization, presented some challenges. As is true with law enforcement officers or any employment function which allows a certain amount of self directed activity, active observation and evaluation can be difficult. A point scale was created with the following dynamics; individual, shift and organizational project participation, four examinations covering theoretical aspects of policing and correlation of those theories with practical policing, a final research paper on a distinct topic concerning policing, class attendance with a substantial penalty for missing class(es), submission of articles at weekly briefings by different shifts and participation in group work as assessed by supervisors and overseen by the Instructor. The grading scale was designed to reflect not only the students overall understanding modern policing theories, but additionally, the understanding by the student of the role of police organizations as a whole and as an individual within that organization. For the essay portion of this course, sergeants were required to route officer requests on a first come first serve basis through the chain of command to the Chief, who approved of and then presented such choices to the course instructor.

Benefits of the Course

Students who participate in this course gain a greater understanding of police organizations and the roles of individuals within that organization using active learning, social learning and creative learning (Perkins,1999). Through engagement in discussion, researching topics, getting physically involved in performing tasks, socially interacting with each other and creating knowledge for themselves, they become more aware of the dynamics surrounding the role of the modern police organization. The course, as designed, allowed students to view the police organization internally and externally and how the community perceives the organization Students bring to light many misperceptions, both role playing as an officer and as a student attempting to understand the culture of the modern police organization. Students quickly learned the importance of the paramilitary structure of police organizations and the vicarious liability associated with such organizations. Students also had the opportunity to observe others and vicariously through social learning (Bandura,1986), gain a broader and more personal understanding of the specific topic being addressed

Instructor Assessment of Student Response to Active learning

Participants in this experiential method of active classroom learning gained valuable insight into the roles of police in society, rules and regulations concerning policing, the citizen complaint process and actual police function. Interpersonal communication skills, based on instructor observation, improved remarkably among students as the class progressed. Managerial and leadership styles of different students appeared quickly and in fact, resembled many of the styles the author noted during his tenure as a law enforcement officer. Students become aware of the differences of the duties of a specific role in an organization, an increased awareness in chain of command and internal and external obligations of a law enforcement agency, as compared to their prior beliefs of police organizations. Students quickly formed allegiances, worked together as shifts to accomplish assignments and enjoyed the camaraderie created by formation of the organization. Interestingly, the class scrutinized the work of the Chief of Police and command staff when the organization chart was presented to insure names of all members were spelled correctly and that the organizational chart reflected the proper structure of the department, etc. Within the first three weeks of the class, the Chief of Police presented a commendation to a particular student for designing the department logo. A visually impaired student presented information concerning the comparison and contrast in training of seeing-eye dogs with police canines. During weekly briefing and organizational activities, students were required to share their ideas, information, etc with other class members. When students missed a class, fellow members of the same shift were required to substitute for that officer, under price of penalty. Opportunities to actively learn from fellow students were almost endless. The collective bargaining group formed by students in class went as far as electing the position of president, vice president, secretary-treasurer, chaplain and trustee. Finally, due to an occasional good natured heckling or untimely outburst by a student during another student's presentation during briefing, the Chief of Police, modified behavior (Skinner,1953) by requiring

completion of a report on organizational dysfunction by that student. An awareness of organizational rules for students was created by this action and students quickly became more cognizant of common courtesy. Ironically, the Chief of Police received such an assignment for violation of the Taft Hartley Act after ordering the class to complete research papers following their decision to form a collective bargaining unit.

Career Exploration

Students who undertake the rigor of this course gain knowledge of policing within the criminal justice system, as well as a thorough understanding of how the modern police department operates internally as a group and externally with their constituents. The understanding and appreciation for or lack thereof of the modern police organization is clarified in the student's mind. Students gain a far greater understanding of whether they believe the choice of a career in policing is in their future.

Teaching Opportunities

The Thousand Oaks policing course allows instructors to utilize an organizational approach to theoretical policing on a constant basis. Due to the nature of extensive topics within policing, instructors can discuss theoretical aspects of policing as the class encounters or queries as to what the proper action is in various situations. For example, when discussing the complaint of a citizen, topics such as internal affairs, discretion in policing and civilian review boards can easily be inserted into the conversation, or used as a precursor to the actual role playing taking place.

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Biography

Greg Galardi is a retired Police Lieutenant from the City of Papillion, Nebraska. He currently teaches Policing in America, Criminalistics, Corrections, Survey of Criminal Justice, Criminal Law, Judicial Systems and Processes and Criminology at Peru State College, Nebraska. Along with James Nevitt, PhD, Mr. Galardi is in the process of creating an honors seminar on serial killing.

Meeting the Multiple Missions of Criminal Justice Education in Community Colleges:
An Inclusive Model

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ABSTRACT

This article makes an argument for an "Inclusive Model" for education in criminal justice at a community-college level. After an introductory editorial regarding the state of criminal justice higher education, the author provides a brief history of criminal justice higher education, the movement toward criminal justice certification and the contemporary status of the American community college and criminal justice education. The author then presents an inclusive model for criminal justice education in the American community college. Nineteen references.

Introduction

As academic disciplines go, the study of criminal justice, justice administration or whatever else it calls itself, is relatively young. For a long time I believed that academic criminal justice was a pre-adolescent that simply refused to grow up, become an adult and put childish things away. Like many young teenagers, criminal justice had been searching, sometimes desperately searching, for an identity unique to its older siblings, anthropology, history, sociology, psychology, political science, law and especially that older sibling that seemed to get the most respect and admiration from Mom and Dad.....*medicine*. Criminal justice has argued so much with itself about who it is, where it's going and where it fits that on many occasions it could have justifiably been diagnosed as having multiple personality disorder. This metaphor is likely overstating the case, but not by much. Perhaps a bi-polar diagnosis is closer to the reality.

However, there is hope. That hope, in my opinion, is an ever-growing consensus among criminal justice practitioners and academics that a base-level of criminal justice-related knowledge, along with agreeable teaching strategies and structures, actually does exist; and this consensus, in the form of curricular standards possibly leading to voluntary program oversight certification, is being vigorously promoted by the Academy of Criminal Justice Sciences. Finally, the seeds of disciplinary personality integration will bear fruit!

In truth, this on-going extended family meeting could not be timelier in a post-9/11 America. The barbarians are at the gates and academic criminal justice can't afford to filibuster a final consensus on minimal standards regarding what should be taught, how it should taught and who should teach it. There is no time. Academic criminal justice needs to finish its housecleaning and then meet with criminal justice training and practice to work out a comprehensive criminal justice identity. Only then can all of the diverse segments of criminal justice collaborate effectively and efficiently with fire science, public and industrial security, civil defense, the military, homeland security and all of its' cousins in public safety to protect our families, friends and country.

I have formulated an *Inclusive Model for Criminal Justice Education* for the community college system. While restricted to the community college level as presented below, the model could arguably be expanded to include higher levels of education. The model is simple, logical and based on existing knowledge and practice. Certainly, there are numerous other potential model formulations that could get the job done. The purpose of this article is not to sell any particular approach, but instead to sell the belief that a workable solution is within reach. First, however, a brief history of criminal justice higher education will help to generate initial focus.

Brief History of Criminal Justice Higher Education

A review of the history of criminal justice education commonly found in basic criminal justice texts is represented in Michael Buerger's article on training and educating the police officer of the future (Buerger, 2004). First is a mention of the 1967 *Report of the President's Commission on Law Enforcement and the Administration*, followed by the questionable police handling of civil rights and anti-war protests during the middle to late 1960s. The riots during and following the 1968 Democratic Convention in Chicago put an exclamation point on the Report's conclusion that "better-educated police officers" was a big part of the answer. At the time, only a few police science programs were available as a base for the unprecedented growth in academic criminal justice programs shortly to come. This change was primarily stimulated by a huge infusion of Law Enforcement Education (LEEP) monies made available through the Omnibus Crime Control and Safe Streets Act of 1968 and administered by the newly formed Law Enforcement Assistance Administration (Buerger, 2004). However, in my opinion, a critical decision was made by those in charge of running L.E.A.A. that would ultimately shape the mentality of criminal justice higher education for years to come. That decision was to move as quickly as possible away from so-called "cop-shop" programs toward more interdisciplinary, liberal arts curricula that would produce more understanding, less reactive police officers. Buerger concluded that such curricula produced better social scientists, rather than better police officers (Buerger, 2004). I agree with Buerger's conclusion but I also believe one must travel farther back into criminal justice history to gain a deeper understanding.

In an American Bar Foundation Study of the early 1950's (Newman, D.J., 1993), the late Dr. Newman, one of the best educators that ever worked in criminal justice higher education, reviewed the results of these studies and drew some insightful conclusions. Obviously, these studies affected the nature of the 1967 President's Commission Report and the 1968 Omnibus Crime Control Act. Two conclusions of the studies were critical: First, recognition of the importance of *low-visibility* decision making by police officers where decisions do not normally result in arrest or other formal processing. Dealing with domestic disturbances and victims of crime not only took up a great deal of officer time, the typical police officer was not prepared to deal with such situations. Second, a focus at the systems level was encouraged in order for the officer to better understand the *bigger picture* (Newman, 1993). This consequential move away from any recognition of the importance of teaching skills in criminal justice higher education could very well have resulted in the tossing out the baby with the bath-water. However, one must keep in mind the times and the fact that the largest age-cohort in American history was weaving its way through the fabric of every social institution in the country and that this cohort was young. The impact of the Vietnam War and the civil rights movement affected the availability of youthful recruits to educate about dealing with and understanding people from diverse backgrounds. Many of the officers educated in the new ways were older, more experienced and possibly less responsive to the message.

After failed attempts to teach criminal justice in selected law school seminars, Governor Nelson Rockefeller paved the way for the creation of the first school of criminal justice in the State University of New York system (Newman, 1993). The School of Criminal Justice at Albany offered the first doctoral degree in criminal justice in 1966 and accepted its first students in 1968 (Newman, 1993). The American Bar Foundation research undoubtedly influenced the personality of the SUNY-Albany program, which then influenced the vast majority of criminal justice degree programs in other parts of the country. Many of the researchers who worked in the Bar foundation studies were selected as faculty at Albany. That faculty, along with others from programs at such influential universities as Michigan State University, Florida State University, the University of Maryland, Sam Houston State University and so on, permeated criminal justice educational associations, consulting groups, federal and state law enforcement agencies and was advisors at all levels of public administration. Given its' history, it is easy to understand how two significant conclusions of the Bar Foundation studies found their way through SUNY-Albany and other similarly influenced schools to the current curriculum standards of the Academy of Criminal Justice Sciences.

A.C.J.S. Criminal Justice Degree Certification

As of December 1, 2004 the Academy of Criminal Justice Sciences has published to both its' membership and website a Draft of Proposed ACJS Certification Standards for College/University Criminal Justice Degree Programs (ACJS, 2004). As I mentioned in the Introduction, these draft certification standards constitute the product of thousands of hours of work by hundreds of individuals spanning at least twenty years. I first became involved in the effort in 1990 while on faculty at Winona State University and as a planner to the work group on criminal justice curriculum standards for the International Association of Correctional Officers. Related experiences with such noted criminal justice educators as Donald Newman, Paul Hahn and Bob Barrington for a period of almost two years provided me with insights on criminal justice higher education to equal that of a graduate degree. As part of this article, I have included a general overview of the draft standards, with special attention given to associate degree programs.

All associate's, bachelor's and master's degree criminal justice programs are required to meet quality standards regarding program mission and history; program structure and curriculum; faculty; admission and articulation; resources; student services; integrity; branch campuses as well as other instructional sites; and program quality and effectiveness. Within each standard are measurement indicators and standards which vary according to level of degree. Logically, associates' degree programs are required the most minimal standards of all three degrees. However, the standards for associates' degree programs provide significantly more external oversight and accountability than do typical state P.O.S.T. requirements. This is especially important for programs with limited full-time faculty who need guidance in keeping their programs current relative to national expectations of the criminal justice workplace. Even for associate degree programs, there are requirements in each of the above listed content areas. As the reader reviews the unique needs of community colleges presented below, one can easily see how a sound, certified associates' degree, with periodic external review, can form the foundation of a multifaceted criminal justice program that is responsive to the unique mission of the college and needs of the community. At any rate, the reader is strongly recommended to visit the A.C.J.S. web site and down-load a free copy of the draft standards. The site is **http://www.acjs.org.**

Multiple Emerging Strategies and Goals in American Community Colleges

In an interview with Dr. Fred Landry, Chairperson of the Division of Business and Technology at Louisiana State University-Eunice, Dr. Landry shared with me some of the conclusions he had drawn from his exhaustive research on the responsibility of community colleges to meet the vocational needs of students and address the requirements of public and private employers (Landry, F., 2004).

According to Dr. Landry, "By the year 2012, 65 percent of all college and university degrees in the United States will be associate's degrees and 20 percent will be bachelor's degrees." He continued, "Of all students earning traditional bachelor's degrees, 50 percent will not be able to get a job in their field and 25 percent will ultimately return to community college or trade school to secure market-demand skills." In spite of such trends, a major study sponsored by the U.S. Department of Education Institute of Educational Sciences closely analyzed the results of three major community college student surveys and concluded that all three data sets report roughly 9 in 10 community college students enroll with the intent to obtain a formal credential or to transfer to a four-year institution (Hoachlander, et. al., 2003). This report also revealed that community college students tend to *want to eat their cake and have it too*. That is, students understand that the more education they have, the more likely they are to get ahead. They also understand the reality that they need marketable skills that will enable them to get jobs now, so they can take care of themselves and their families. As one of my students said, "Pell Grants are only good for a little while and loans have to be paid back. Even with this help, I need to work to survive."

John Levin (2000) reviewed a number of publications on emerging community college missions and discovered several lines of discourse on the changing face of the 21st century community college. Mission models included: academic, vocational and remedial; mission tracks regarding the purposes of the institution; education vs. training; the traditional academic 2 plus 2 concept; and strictly technical-vocational (Cohen &Brawer, 1996; McGrath &Spear, 1991; Brint & Karabel, 1989; Cross, 1985; Clowes & Levin, 1989; Dougherty, 1994; O'Banion, 1997; Dougherty & Bakia, 1998). However, the mission model for community college that seemed to be redundant in the reviewed literature was most clearly addressed by Pam Schuetz (2002). Specifically, remedial, vocational and academic models were evident throughout the reviewed literature. Regardless of individual institutional and community nuances, I strongly suspect that most, if not all, community colleges in the United States are required to provide remedial education for non-traditional students returning to college later in life. This requirement is also for traditional students who did not pick up the basics while attending K-12. This requirement would also include various special-needs students. Community colleges must also provide vocational/technical programs through technical competency certificates and diplomas for students needing immediate employability and for local current and future employer needs. In addition to the preceding, community colleges also have students who intend to go to four-year institutions but chose to take their first two years at a community college for a variety of reasons.

Criminal Justice Education in the Community College

Todd Clear (2001) echoes the essence of the Bar Foundation research in his study of the faculty qualities sought by traditional criminal justice programs, even at the community college level. One of the primary faculty assets is *scholarship*. His focus on criminal justice education is as a multidisciplinary academic discipline. However, Steven Stack (2000) conducted research that reported part-time criminal justice faculty had significantly higher student evaluations than full-time faculty. In spite of the position of traditional criminal justice higher education, criminal justice students may favor faculty with current field experience over faculty without direct experience, regardless of education. Herein lays the dilemma. Community college criminal justice students need the solid academic grounding emphasized by traditional criminal justice higher education. They are also *customers* of criminal justice higher education and *will* take their business elsewhere if they can't get the more direct employment training they need.

Criminal justice education in community colleges is required to service not only students, but also local criminal justice agency needs. Some colleges offer police or correctional officer training, even academies, on campus. Criminal justice trainers are more than ever viewing the college campus as a preferred venue (Dempsey, T. & Coffey, D., 2004). A training need that may be more directly related to traditional criminal justice higher education values is *mid-and upper- management* Such *command colleges* utilize the higher-level competency-based education offered by faculty who can teach critical thinking and other decision-making competencies (Spaulding, M.A., 2001).

An Inclusive Model for Criminal Justice Education in Community Colleges

An inescapable fact of criminal justice education in community colleges is that they must offer everything that community colleges are now required offering. The good news is that this is not that hard to pull off. A simple and inclusive approach would be to cut back on the number of different academic criminal justice courses required in an associate's degree curriculum. As was pointed out in the Introduction of this article, the draft A.C.J.S. certification standards require significantly less than is required of bachelor's degrees. In fact, the standards *discourage* associates' degree programs from directly addressing the entire curriculum content required of bachelor's programs and view associates'- level criminal justice degrees as being the first two years of a four- year program. A.C.J.S. expects associate degree students to transfer to bachelor's level programs. Such a trimmed-down set of criminal justice course requirements would necessitate students taking courses in other disciplines. Doing this not only meets several Academy standards, but it is also attractive to community college academic administrations. Combined with well- negotiated articulation agreements with four-year institutions, such a *certified* associate's degree would lose few, if any, credits during transfer.

Surrounding the traditional academic associate's degree would be various vocational/technical certificate and/or diploma programs geared toward preparing students for entry-level criminal justice employment *or* advanced training/education for management-level criminal justice professionals in the community. Special workshops, institutes, command colleges and other special programs are all possible. However, the reader should note that *this* Inclusive Model rejects curriculum tracks or options at the associate's degree level. I agree with the Academy of Criminal Justice Sciences that such academic specialization is not appropriate for associate degrees.

As the Coordinator of Criminal Justice at Louisiana State University-Eunice, I have worked very closely with all faculty and administration for the past three and one-half years to start putting this model in place at this two year institution. Effective Fall, 2004, the Associate's of Science in Criminal Justice requires only 18-credits in required criminal justice courses out of a total of 67 credits for the degree. Currently, there are articulation agreements with

Multiple Missions Continued

all of the four-year institutions offering bachelor's degrees in criminal justice or criminal justice-related areas. Effective Fall, 2005, there will be a 33-credit Certificate of Technical Studies in Criminal Justice Communication. This special certificate will provide competencies in criminal justice-related writing and interpersonal communication. Finally, Criminal Justice is collaborating with Fire Science and Hazardous Material in the development of three technical competency certificates in evidence and crime scene technology, including a Technical Diploma in Forensic Science Crime Scene Technology. This curriculum configuration is not for every college in every community, but it works for coastal Louisiana. That is the point of the inclusive model: start with a core academic associate's degree and build around it whatever is needed by the students, the college and the community.

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An Interpretation of the Second Amendment:

The Court's Dicta

By: Ferris R. Byxbe

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Abstract

For decades two opposing interpretations of the Second Amendment have clashed. The two opposing interpretations involve whether the Second Amendment guarantees the right of the individual to keep and bear arms or whether it guarantees the states freedom from governmental infringement on this right. Owing to media saturation covering stories such as the Columbine High School massacre and the "Beltway Sniper" murders, the topic immediately incites emotional response and divisiveness. This article is intended to assist the reader in understanding the controversy that feeds demand for legal interpretation of the amendment. However, despite all the controversy, there is no question where the Court stands on this issue. Gun control by the states is not constitutionally prohibited. Nor under most circumstances is legislation by the federal government. Furthermore, the U.S. Supreme Court has ruled on this issue, ...the Constitution does not guarantee the right of the individual to keep and bear arms -- the state has the ultimate power to regulate firearms and this right is absolute. However, of special interest is the recent USA v. Emerson (2001) case decided by the U.S. 5th Circuit Court of Appeals for Texas, Louisiana and Mississippi, the court ruled that the right to keep and bear arms is an individual right – a ruling totally contrary to the holdings of the U.S. Supreme Court and all other federal appeals courts.

An Interpretation of the Second Amendment: The Court's Dicta

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

The second Amendment is the most misunderstood provision contained in the Bill of Rights. The Second Amendment protects the *right of the people to keep and bear arms,* but the amendment also begins with a phrase explaining its purpose. This phrase states that a *well regulated militia* is necessary to the security of a free state. Therefore, the sole purpose of the Second Amendment is to guarantee the states ability to maintain independent militias composed of state residents available to be called upon to defend the country should its

security be threatened. The Founding Fathers reliance on state militias to perform this military task stemmed from their deep distrust of a standing federal army.

At a time when personal freedom and concerns for self-protection are on the minds of Americans, the Second Amendment is being subjected to careful scrutiny. What exactly does this brief but important amendment mean? Does this phrase mean that the people are allowed to bear arms only if they are part of a militia or defending this country? Can guns be used for national defense but not for self-protection? These questions are part of the ongoing debate over gun control and the Second Amendment. One critical question is the definition of a militia -- a group of citizens who defend their community as emergencies arise.

Relatively few such cases have been litigated at the Supreme Court level. And, when considering the fact that the Second Amendment is one of the hottest current topics of legal discussion, it becomes difficult to address it without emotion and without taking a side.

Origins of the Second Amendment

Historically, the Second Amendment, like the rest of the Constitution, was drafted in a time when fear of tyranny from a strong central government was very real. During the earliest years of the country, a permanent army was not possible. Therefore, the concept of the militia was conceived. The militia consisted mainly of civilians and few professional soldiers when necessary. In fact, the militia was considered to be the entire male populace. They were not simply allowed to keep arms, but were generally required to do so by law. If members of the militia were called to service, they were to bring their own arms and ammunition. The arms of the private populace made up the arms of the militia. The original states mandated that these persons were to be armed and taught the knowledge of military duty.

According to Black (1995, p.4), "The generation that wrote and ratified the Constitution and the Bill of Rights lived in a world in which armed citizens militias were the norm, while standing or even an armed, full-time police agencies were the exception." In addition, Black (p.6) notes, "In the Federalist Paper Number 46, Madison reminded his readers that they had the advantage of being armed, which the Americans possess over the people of almost every other nation." Indeed the United States *gun culture* arose out of the *practical* need for the pioneers to protect themselves as well as the *philosophical* belief that they needed to protect themselves from political tyranny. In fact, the *Militia Act of 1792* states that, "...each and every able-bodied white male citizen of the respective states, residents therein, who is or shall be of the age of eighteen years and under the age of forty-five shall severally and respectively be enrolled in the militia....that every citizen so enrolled and notified shall, within six months thereafter, provide himself with a good musket or flintlock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or flintlock, each cartridge to contain a proper quantity of powder and ball: or a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder."(Second Congressional Session, 1792). However, the current *Militia Act of 1958* states that, "the militia of the United States consists of all able-bodied males at least 17 years of age and....under 45 years of age are or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard." Under Title 10 USC 311, there exists two classes of the militia: (1) the organized militia, which consists of the National Guard and the Naval Militia; and (2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

It may be supposed from the phraseology of this provision that the right to keep and bear arms was only guaranteed to the militia; but this would be an interpretation not warranted by the intent. The militia, as has been explained, consists of those persons who, under the law, are liable to the performance of military duty and are recruited for service when called upon. But the law may make provisions for the enrollment of all who are fit to perform military duty or of a small number only or it may wholly omit to make provisions at all; and if the right were limited to those enrolled, the purpose of this guaranty might be defeated altogether by the action or neglect to act of the government it was meant to hold in check. The meaning of the provision undoubtedly is, that the people, from whom the militia must be taken, shall have the right to keep and bear arms and they need no permission or regulation of law for the purpose. But this enables the government to have a well regulated militia; for to bear arms implies something more than the mere keeping; it implies the learning to handle and use them in a way that makes those who keep them ready for their efficient use; in other words, it implies the right to meet for voluntary discipline in arms, observing in doing so the laws of public order. The arms intended by the Constitution are such as are suitable for the general defense of the community against invasion or oppression and the secret carrying of those suited merely to deadly individual encounters may be prohibited.

Today, the militia is generally considered to consist of National Guard units in every state armed with sophisticated modern weaponry. So, is the militia of contemporary times the same as those found in 1776? How does this affect the meaning of the Second Amendment?

The central controversy over the Second Amendment is whether people have a right to bear arms as individuals rather than only as part of a militia. There is no question that an organized society which fails to regulate the importation, manufacture and transfer of the highly sophisticated lethal weapons in existence today does so at its peril *(United States v. Warin, 1976).*

Despite all the controversy, there is no question where the courts stand on this issue. Gun control by the states is not constitutionally prohibited. Nor under most circumstances is legislation by the federal government. Federal courts, to date, have consistently held that the Constitution does not guarantee the absolute right of the individual to keep and bear arms.

In fact, the U.S. Supreme Court has ruled on the Second Amendment relatively few times when compared to contests over other amendments.

Federal Litigation and Case Law

The U.S. Supreme Court, the ultimate arbiter of the amendment's intent, has addressed its meaning in several cases. In 1886, the Court ruled in *Presser v. Illinois* that the Second Amendment functions only as a check on the power of the federal government preventing it from interfering with a state's ability to maintain a militia and in no way limits the state's powers to regulate firearms. States, therefore, are not prohibited by the Second Amendment from controlling private ownership of handguns and other categories of firearms in virtually any way they see fit. The question then becomes to what extent may the federal government regulate the ownership of firearms by citizens? According to Nowak and Rotunda (1991, p. 333) "The Court in *Presser v. Illinois (1886)* refused to selectively incorporate the Second Amendment via the Fourteenth Amendment to the citizenry of the various states the result is that the Second Amendment, at present, does not constitutionally extend an *individual right* to keep and bear arms." The history of the courts suggests that they will defer to the discretion of Congress on almost all matters concerning gun control. Thus far, it appears the only action that the courts may find constitutionally offensive is a complete nationwide ban on firearms (Blendon, Young and Hemenway, 1996).

Before 1934, the federal government made little effort to regulate the possession of firearms, giving the court little reason to interpret the amendment. The National Firearms Act of 1934 was the first such effort at federal regulation. Section II of the act made it *illegal* for a person *who has not in his possession a stamp-affixed order to ship, carry or deliver any firearm in interstate commerce.* In fact, *United States v. Miller* (1939) was one of the first important rulings on the Second Amendment, which resulted from a violation of the National Firearms Act of 1934. In this case, the U.S. Supreme Court interpreted the Second Amendment as providing for maintaining a militia.

The U.S. Supreme Court dealt directly with this question in a 1939 decision, *United States v. Miller* is the only Supreme Court case that specifically addresses the amendments scope. In Miller, the court upheld a federal law making it a crime to ship a sawed-off shotgun in interstate commerce. Refusing to strike down the law on Second Amendment grounds absent any evidence that a sawed-off shotgun had *some reasonable relationship to the preservation or efficiency of a well regulated militia,* the Court held that the Second Amendment *must be interpreted and applied* only in the context of safeguarding the continuation and effectiveness of the state militias. In addition, it should be noted that most adjudication on this issue has been done at the federal district level and has seldom gone beyond the court of appeals. The Supreme Court has repeatedly denied certiorari (refuse to review) in cases in which the individual right to bear arms is at issue. This case strongly indicates that, "only arms that bear some relation to the preservation of the militia would be protected under the amendment" (Killian, 1987, p. 1148).

Miller is very significant in that the Court recognized a state right rather than an individual one, the Court held that, *the right to keep and bear arms is not a right conferred upon the people by the federal constitution. Whatever rights in this respect the people may*

have depend upon local legislation; the only function of the Second Amendment being to prevent the federal government and the federal government only from infringing on that right.

In 1971, the Court ruled that there was no expressed right of an individual to keep and bear arms, the Second Amendment applies *only to the right of the state to maintain a militia and not to individual's right to bear arms, there can be no serious claim to any express constitutional right of an individual to possess a firearm* (*Stevens v. United States, 1971).*

However, the most significant case is the 1980 decision in *Lewis v. United States.* The majority opinion, joined by then Chief Justice Warren Burger and current Chief Justice William Rehnquist, ruled that restrictions contained in the Gun Control Act of 1968 prohibiting felons from owning firearms were constitutional. In its analysis, the Court applied a *rational basis standard,* which requires that the remedy need merely be *rationally related to a legitimate purpose.* The application of this standard is revealing. When determining whether a statute meets equal protection requirements, statutes that impinge on fundamental, individual rights such as freedom of speech or the right to counsel are judged by the more rigorous *strict scrutiny standard.* In Lewis, the Court stated, *"these legislative restrictions on the use of firearms do not trench upon any constitutionally protected liberties."* The opinion listed voting, the practice of medicine and even holding office in labor organizations as *activities far more fundamental than the possession of a firearm.*

In 1972, Justice William O. Douglas warned that one aspect of the damage wrought by the popular misinterpretation of the Second Amendment is a diminution of fourth Amendment protections against search and seizure. In a powerful dissent to a decision extending the ability of police to stop and frisk suspects, Douglas argued, *the police problem is an acute one not because of the Fourth Amendment, but because of the ease with which anyone can acquire a pistol. A powerful lobby dins into the ears of our citizenry that these gun purchases are constitutional rights protected by the Second Amendment.....there is no reason why all pistols should not be barred to everyone except the police.*

In January 1991 the U.S. Supreme Court refused to hear a challenge to the 1986 congressional ban on the manufacture of new machine guns. The Court let stand a ruling by the Eleventh Circuit Court of Appeals (Alabama, Georgia and Florida) in *Farmer v. Higgins* that denying the plaintiff a license to manufacture a new machine gun was not unconstitutional. The Eleventh Circuit's ruling was not surprising. The federal courts, in accordance with Supreme Court precedents, have consistently held that there is no individual right to own a gun.

In *United States v. Warin,* the Sixth Circuit Court of Appeals in 1976 expressed exasperation with the misguided arguments made by the defendant in attempting to persuade the court that the federal law prohibiting possession of an unregistered machine gun violated his Second Amendment rights. Upholding the defendant's conviction, the court stated, *it would unduly extend this opinion to attempt to deal with every argument made by defendant....all of which are based on the erroneous supposition that the Second Amendment is concerned with the rights of individuals rather than those of the states.*

In a decision upholding a 1981 ban on the possession and sale of handguns in Morton Grove, Illinois, the Seventh Circuit Court of Appeals stated flatly that, *possession of handguns by individuals is not part of the right to keep and bear arms.* The U.S. Supreme Court refused to review the decision. In 1984 the same court upheld a two-year-old ordinance that froze the number of handguns in Chicago. In allowing the law to stand, the court noted that it *did not impinge upon the exercise of a fundamental personal right.*

Most recently, in 1996, the U.S. Court of Appeals for the Ninth Circuit held that an individual had no standing to raise a Second Amendment claim. In *Hickman v. Block* the court held, *"...because the Second Amendment guarantees the right of the states to maintain armed militia, the states alone stand in the position to show legal injury when this right is infringed."*

In short, the federal courts have consistently given the Second Amendment a collective -- *militia interpretation.* Moreover, no gun control measure has ever been struck down as unconstitutional on second Amendment grounds. The federal government is clearly free to regulate the possession and transfer of specific categories of firearms in order to promote public safety (Brady, 1995).

The Great Debate

For several decades two opposing interpretations of the Second Amendment have clashed. The two opposing interpretations involve whether the Second Amendment guarantees the right of *individuals* to keep and bear arms or whether it guarantees the *states* freedom from government infringement on this right.

Proponents of *the right to bear arms,* including the National Rifle Association (NRA), endorse an individual rights interpretation that would guarantee that right to all citizens. Individual rights proponents see the amendment as primarily guaranteeing the right of the people, not the states (Pyle, 1991). While they concede that a state right is embodied within the amendment, that right is a product of the more central individual right. By guaranteeing the arms of the individual who make up the militia, the Constitution guaranteed the arms of the militia. The collective right that preserves the states militia is guaranteed only if the individual right is first maintained. In short, individual rights proponents claim that the framers intended to preserve the individual right, above the right of the state (Gruber, 1991). The Second Amendment is placed in close proximity to other individual rights while the states are not expressly mentioned until the Tenth Amendment. Madison's notes state the amendments were to relate first to private rights. Further, arms were such a pervasive part of colonial life that five state conventions recommended an amendment guaranteeing the right to bear arms (Stokes, 1991).

Militant groups argue that an armed citizenry is the best defense against tyranny and that their thinking is in line with those who wrote the Second Amendment. This view has not been supported by the courts. The courts throughout history have consistently rejected the individual rights view in favor of the states rights interpretation (Cavanaugh, 1991)

Those favoring a states' right interpretation see the Second Amendment as protecting and modifying Article I, Section 8 of the Constitution, which grants Congress the power *to provide for the calling forth of the Militia to execute the laws of the Union.* The purpose of the amendment is obviously to assure the continuation and render possible the effectiveness of such forces *(United States v. Miller, 1939).* Further, as Tribe and Dorf (1991, p. 11) suggests:

Unique among the provisions of the Constitution, the Second Amendment comes with its own mini-preamble, setting forth its purpose -- *to foster a well regulated Militia.* This purpose has little to do with individuals possessing weapons to be used against their neighbors; as a result, the Second Amendment has not been interpreted by the courts to prohibit regulation of private gun ownership. In short, states' rights proponents claim that the Second Amendment was adopted with the primary purpose of preserving the state militia. This interpretation is linked to the traditional Whig fear of standing armies. Not only does the amendment preserve the states' power to defend against foreign and domestic enemies, it also reduces the need for a large standing army. A large standing federal army was seen as inherently contrary to the preservation of a free democratic people.

Gun Control Laws

Although the Second Amendment has been repeatedly interpreted to protect the states' rights from federal intervention, the federal government has managed to pass several gun control laws. Congress, using its broad authority to regulate interstate commerce, has enacted federal gun control legislation. For example: In 1967, Congress passed the Omnibus Crime Control and Safe Streets Act. A portion of that act made it unlawful for convicted felons to possess a firearm. The Sixth Circuit Court of Appeal held that, *"...there can be no serious doubt that the possession of firearms by convicted felons is a threat to interstate commerce" (Steven v. United States, 1971).* In 1986, Congress banned the purchase and sale of all fully automatic weapons. On November 30, 1993, Congress passed the Brady Handgun Violence Prevention Act (The Brady Bill). According to John Magaw (1994, p.14) Director of the Bureau of Alcohol, Tobacco and Firearms, "this was the most important piece of firearms legislation since 1978."

The Brady Bill requires a waiting period of five business days and a background check in order to buy or obtain a license to carry a handgun. The primary purpose of the bill is to "stop *prohibited persons* from obtaining handguns" (Kime, 1994, p.10). And, it appears that *the public is becoming more supportive of gun control laws* (Polls Find Broad Public Support for Tougher Controls on Handguns, Assault Weapons, 1993). In September 1994, Congress passed additional legislation -- the Violent Crime Control and Law Enforcement Act of 1994, which places a ban on the manufacturing of 19 different semiautomatic guns with multiple assault-weapon features as well as copies and duplicates of such guns (Coast-to-Coast Activity on Gun Laws, 1994).

As a general rule, Congress has no legitimate constitutional authority to regulate who may and may not possess a gun. There are few exceptions; since the Constitution gives Congress authority over immigration, congress can ban gun possession by illegal aliens. Likewise, Congress can regulate gun possession on federal property. Congress, using its constitutional authority over interstate commerce, can properly regulate interstate gun sales, but the Constitution gives Congress *no authority* over simple possession of a gun within the boundaries of a single state -- this is further clarified by numerous federal court decisions, as can be found in *United States v. Miller (1939), Dred Scott v. Sanford (1857), United Ststes v. Cruikshank (1876), Presser v. Illinois (1886), Logan v. United States (1892), Miller v. Texas (1894), Maxwell v. Dow (1900), Lewis v. United States (1980) and Printz v. United States (1997).* Congress, of course, does exercise such authority and, to date, the federal courts have allowed them to do so. However, usurpation does not make such legislation legitimate.

USA v. Emerson

On November 2, 2001, the US 5th Circuit Court of Appeals (Texas, Louisiana, Mississippi) upheld, in part, a ruling of the US District Court for the Northern District of Texas.

Justices Garwood, DeMoss and Parker, in a landmark decision, stated, "…we agree with the district court that the Second Amendment protects the right of individuals to privately keep and bear their own arms that are suitable as individual, personal weapons regardless of whether the particular individual is a member of a militia." This case originated from a divorce action in the 119th district court of Tom Green County, Texas. Dr. Timothy Joe Emerson was found to be in violation of a federal statute (18 USC 922 (g)(8)(c)(ii)) that forbids possession of a firearm while under a judicial restraining order of protection. The district court dismissed the indictment of Emerson and ruled that the statute was unconstitutional on its face under the Second Amendment and as applied to Emerson under the Due Process Clause of the Fifth Amendment.

The district court held that the Second Amendment recognizes the right of individual citizens to own and possess firearms and declared title 18 USC 922 (g)(8) unconstitutional because it requires that a citizen be disarmed merely because they were suspect to a "Boilerplate" (domestic relations injunctive) order with no particular findings. The government appealed the district courts action to the US 5th Circuit Court of Appeals. The government's contention was that *stare decisis* required the justices to reverse the district courts embrace of the individual rights model to keep and bear arms. However, in it's ruling the court held, "…we find that the history of the Second Amendment reinforces the plain meaning of it's text, namely that it protects individual Americans in their right to keep and bear arms whether or not they are a member of a select militia or performing active military service or training." The court went on to say that, "…we reject the collective (state) rights and sophisticated collective rights model for interpreting the Second Amendment. We hold that it protects the right of individuals to privately possess and bear their own firearms." Contrary to the 1939 ruling of the Court and precedence of their sister circuits, the justices of the US 5th Circuit Court of Appeals chose to re-interpret *United States v. Miller.* This ruling is clearly indicative that the debate between individual rights v. collective rights will long continue in the halls of academia and justice and without doubt, in the hearts and minds of American citizens.

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Pro Se Representation

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ABSTRACT

This paper reviews issues regarding pro se representation. Three main questions form the basis of the study: (1) What are the standards of determining whether an individual has knowingly and intelligently waived right to counsel? (2) are the standards for pro se representation applied effectively to depict defendants who are more suitable to act as their own attorneys? (3) are those who opt to proceed pro se more susceptible of losing their cases? A selection of cases is used to respond to the questions. Policy implications are also discussed.

Introduction

The idea of a right to self-representation was brought to life with the codification of Section 35 of the Judiciary Act of 1789, which states "that in all courts of the United States, the parties may plead and manage their own causes personally or by assistance of such counsel or attorneys at law as by the rules of the said courts respectively shall be permitted to manage and conduct causes therein." The idea that defendants may conduct their own defense is also resonated in 28 USCS § 1654.

According to the Sixth Amendment of the Constitution, an accused has the right to the assistance of Counsel in his defense. Since criminal defendants have to answer charges brought by a prosecutor on behalf of the state, the right to assistance of counsel is deemed crucial, thus indispensable. In Johnson v. Zerbst(1938), the Court stated, "The average defendant does not have the professional legal skill to protect himself when brought before a tribunal with power to take his life or liberty, wherein the prosecution is presented by experienced and learned counsel." The court went on to say that "even the intelligent and educated layman has small and sometimes no skill in the science of law", thus highlighting the importance of legal counsel. The Court also explained that when defendants elect to waive counsel that waiver should be "an intentional relinquishment or abandonment of a known right or privilege." Finally, the most important implication that derived from this case was the fact that the burden of proof in determining if a waiver was made "knowingly and intelligently" lies within the duties of the trial judge. It is he that must ensure that a defendant is not coerced in to making such a waiver.

In regards to the actual waiver of counsel, even though Johnson v. Zerbst established the true definition of the term, other cases such as Faretta v. California (1975), elaborated on its meaning. Despite the right to an attorney, and the advantages of attorneys' services, some defendants decide to bypass these privileges in order to conduct their own defense —many of whom may be incompetent to do so. Justice Black in Von Moltke v. Gillies, 332 U.S. 708 (1948) states:

The fact that an accused may tell him [the judge] that he is informed of his right to counsel and desires to waive this right does not automatically end the judge's responsibility. To be valid such waiver must be made with an apprehension of the nature of the charges, the statutory offenses included within them, the range of allowable punishments thereunder, possible defenses to the charges and circumstances in mitigation thereof, and all other facts essential to a broad understanding of the whole matter. A judge can make certain that an accused's professed waiver of counsel is understandingly and wisely made only from a penetrating and comprehensive examination of all the circumstances under which such a plea is tendered.

Despite Justice Black's plea, many individuals are allowed to represent themselves, some without judges properly investigating their competency to waive such a fundamental right.

This study examines circumstances under which defendants proceed pro se and, whether a decision to act as one's own attorney unfavorably impacts the outcome of a case.

Methodology

A content analysis is employed to scrutinize a random selection of cases. There is a plethora of cases on pro se representation, but it is deemed that the research questions could be answered with just a handful of them. The following questions form the basis of this research: (1) what are the standards of determining whether an individual has knowingly and intelligently waived right to counsel? (2) are the standards for pro se representation strictly applied in order to depict defendants who are more suitable to act as their own attorneys? (3) are those who opt to proceed pro se in a trial more susceptible of losing their cases?

Standard to determine competency

As established in Johnson v. Zerbst, it is the judge's duty to ensure that a defendant has waived his/her right to counsel knowingly and intelligently. Usually, the judge holds a colloquy with the defendant, or as established in Faretta v. California, a "Faretta hearing" to ascertain that the defendant cognizant of his rights and, with full awareness is giving it up. In the Faretta case, the trial judge denied Faretta the right to proceed pro se based on Faretta's response to questions about the hearsay rule and the state law governing the challenging of potential jurors. Surely, these are important elements of the trial procedure; however, answering incorrectly to these questions does not hinder one's ability to conduct a pro se trial. Instead, the judge must ensure that the defendant is fully aware of his/her rights, and the ramifications of representing oneself. The defendant should be advised that counsel will be appointed to handle his/her case as proscribed by the Sixth Amendment—if he/she cannot afford a private attorney.

The trial judge must not be satisfied with the idea that a defendant has knowingly and intelligently waived right to counsel just by the defendant requesting self representation. Instead, the trial judge must ask probing questions so as to satisfy his/her own conscience. The trial judge must be persuaded that the waiver was done intelligently, but most importantly knowingly. The justices in United States v. Welty,(3d Cir. 1982) succinctly clarified the idea of determining competency when they stated:

The mere fact that an accused may tell [the court] that he is informed of his right to counsel and desires to waive this right does not automatically end the judge's responsibility. A judge can make certain that an accused's professed waiver of counsel is understandingly and wisely made only from a penetrating and comprehensive examination of all the circumstances, and only after bringing home to the defendant the perils he faces in dispensing with legal representation.

A defendant who has chosen to conduct a pro se trial should be able to comprehend basic legal concepts and procedures. Being able to make the proper motions, cross-examine, effectively speak, and conduct oneself in a decent manner are imperative in the courtroom—especially when one is "going at it alone". Angela McCravy (1997), suggests that trial judges should avoid basing their decisions solely on these elements. Judges must probe, warn, observe the defendant's conduct, and warn more about the dangers of self representation before they allow a defendant to handle his/her own defense.

There is no particular order in which a Faretta inquiry should be held, nor is there a particular set of questions that are to be asked. In order for a trial judge to adequately determine one's ability to competently waive their right to counsel, it is suggested that questions such as the ones below be explored:

What is the defendant's age, education, and background?

What is the defendant's mental condition? Does the

defendant understand the dangers and disadvantages of self-representation, including:

a) the nature and complexity of the case? b) the seriousness of the charge?

c) the potential sentence? d) the possibility of sentence enhancement, such as habitual offender, use of a firearm, or use of a mask? What is-the defendant's experience in the criminal justice system? Does the defendant understand the requirement to abide by the rules of courtroom procedure? Was the defendant represented by counsel before trial? (McCravy 1997:46)

Being able to knowingly and intelligently waive the right to counsel has nothing to do with one's legal ability. The legal aptitude of the defendant is not a required factor to be considered in determining competency. The goal of a Faretta inquiry is to ensure that a defendant knows that he/she has the right to counsel, that he/she will be provided one if he/she cannot afford one, and that at the time of the request the defendant was not mentally incompetent to waive such a right.

An individual who has been found to knowingly and intelligently waive his/her right to counsel does have the option of having a stand-by counsel. This is not a constitutional right, but a privilege. According to Faretta v. California, the trial judge is not obligated to consent with the request of a defendant to have co-counsel. "Standby counsel may be denied when the defendant refuses to cooperate with the trial court or with court-appointed counsel in their efforts to provide legal assistance" (McCravy 1997:47). Even though a defendant may be provided co-counsel, it is not necessary to heed the advice of this attorney. This is more or less a safety measure taken by the trial-judge.

Are the Standards for Pro Se Representation Effectively Applied In Order To Depict Defendants Who Are More Suitable To Act As Their Own Attorneys?

The right of an individual to proceed pro se has been established by the courts to be implicit in the Sixth Amendment. The courts also established the criteria for determining whether a person could possibly waive their constitutional right to a trial by jury. Even though these criteria have been established, they produce no assurance for those in the legal field that the pro se defendant will be able to adequately defend him/herself. In some of the most significant court cases, the judges even seem to have an issue with a defendant proceeding pro se (e.g. Johnson v. Zerbst and Faretta v. California) by constantly hinting upon the huge disadvantages it creates. Nonetheless, some defendants elect to proceed pro se.

Zacarias Moussaoui, for instance, who was indicted on several charges in the Eastern District of Virginia for numerous counts of conspiracy, including but not limited to conspiracy to commit acts of terrorism transcending national boundaries, conspiracy to commit aircraft piracy, and conspiracy to murder United States employees waived the right to counsel in order to conduct his own defense. These charges are grave, and the punishment if found guilty may be a life sentence. Despite this fact, and the fact that Moussaoui has little experience with the U.S. criminal justice process, his motion to proceed pro se was granted by the United States District Court after determining that he knowingly and voluntarily waived the right to counsel. The defendant issued numerous motions that were illegibly handwritten and legally flawed. Furthermore, the vulgarity that the defendant chose to use in his motions indicated that he should not have been found competent to conduct his own defense. For seventeen months, Moussaoui used distasteful language towards the court before the judge, Justice Leonie M. Brinkema, revoked his eligibility of presiding over his own defense (Shenon Philip 2003). It appeared obvious from his disdainful and inappropriate language that Moussaoui lacked the mental state to effectively carry out his own defense. It was evident that Moussaoui did not satisfy any of McCravy's guidelines (discussed above) for choosing defendant's who may act pro se, nor the standards set forth in Johnson v. Zerbst (discussed above).

In its March 15, 1999, issue, the New York Law Journal (pg. 25) wrote about a case that involved Daniel Louis. Mr. Louis was accused of five building zone codes violations which carry "hefty" fines as well as possible jail time of thirty days per violation. Even though the journal did not detail the outcome of the case, it did state that the "defendant has appeared pro se and appears to speak and understand limited English" (Court Finds Obligation 1999:25). The article's purpose was to make the assertion that our justice system has a responsibility to ensure that any individual who cannot retain an attorney should be afforded one so that people are not thrust with the responsibility of representing themselves. The fact that the defendant spoke and understood "limited English" should have disqualified him from acting pro se.

Even if the defendant was pro se only at arraignment, it is a known fact that "arraignment is a critical stage of criminal case proceedings where pleas are entered; a waiver or reading of the charges occurs; the defendant may demand a trial or a conference and where scheduling for pretrial motions and discovery occurs" (Court Find Obligation 1999:32). Instances such as this cast doubt as to the efficiency of the standards of determining competency. The plight of those who ultimately act pro se is discussed in the New York Law Journal:

The [pro] se defendants are often bewildered, they do not have law books and code sections at their disposal. They do not know how to open or close. Worse yet, they do not know how to ask proper legal questions; how or when to object; how to issue or serve subpoenas; how to move for a trial order of dismissal or what defenses they may have. They do not know how to make a motion, write a memorandum of law or to present evidence¼a trial is frequently a farcical, mockery of justice. The pro se defendant unavoidably becomes a sitting duck. (Court Finds Obligation 1999: 26)

Despite these type of discouraging remarks, one wonders why courts allow defendants to act pro se. To find the answer, one need only look into the dissent of Faretta v. California written by Chief Justice Burger joined by Justices Blackmun and Rehnquist. The justices state, that "this case¼is another example of the judicial tendency to constitutionalize what is thought good" (Faretta v. California, dissent). The justices also allude to the fact that the very language of the Constitution discourages a person from conducting his or her own trial, yet the majority opinion of the Faretta case insist that there is an implicit right of waiver of counsel within the language of the Sixth Amendment. What is even more intriguing about the right to waive counsel is the fact that upon appeal the right to counsel does not exist. Justice John Paul Stevens states that "during the appeal process, the government's interest in ensuring the integrity of the proceeding outweighs the defendant's interest in acting as his own lawyer" (Criminal Defendant 2000:2). One wonders hereafter whether the trial court proceeding is not concerned with integrity.

Another puzzling issue is who the court considers a competent individual. As indicated earlier, there is no true standard for determining competency. It is not clear whether competency to stand trial and competency to waive an attorney are analogous. In Godinez v. Moran,(1993) the Court stated that "a person who is competent to stand trial is competent to waive counsel" (Whitebread & Slobogin 2000:919). However, the Supreme Court stated in Westbrook v. Arizona,(1966) that "courts may not rely on a competency to stand trial finding in determining whether a person is competent to waive the right to counsel and conduct their own defense" (Whitebread & Slobogin 2000:919). Surely, there is misunderstanding and disagreement as to competency standards for self- representation amongst the justices as well.

Pro se defendants should heed the advice of Abraham Lincoln: "Anyone who represents himself has a fool for a client" (Court Find Obligation 1999:27). Words such as these pinpoint to the ineffectiveness of self representation. The standards of determining competency do not fully explore the individual and the case itself. Instead, it seeks only to abide by some implicit idea in the Sixth Amendment that one has the right to waive his/her right to counsel. Justice Stevens wrote for the court, "Our experience has taught us that a pro se defense is usually a bad defense, particularly when compared to a defense provided by an experienced criminal attorney" (Criminal Defendant 2000:1). When attorney Philip G. Butler was convicted of felony bribery, he tried to secure a reversal based on the premise that he "failed to tell himself about the danger of waiving competent counsel" (Drake 2000: 1). If attorneys who have graduated from law school cannot adequately defend themselves it is unlikely that lay persons can competently defend themselves.

Are Pro Se Defendants More Susceptible To losing their Cases?

Statistics on the number of pro se defendants who lose or win their cases is not available. Further, it is difficult to categorically say that defendants who act on their own behalf are more likely to lose their cases because factors such as strength of case against the defendant, experience and preparedness of the prosecutor, may account for why a defendant loses a case.

For the most part, however, trials that are conducted pro se create several problems including, delay in proceedings, introduction of irrelevant objections, filing incorrect motions, causing derision of justice through intemperate or inappropriate speech, among others.

A plethora of cases suggest the perils of proceeding pro se. When Dr. Kevorkian was prosecuted and acquitted thrice for assisted suicide, he was defended by counsel. When he defended himself during another suite, he was convicted of murder (Zalman, 2002, p.

288). In Townes v. Commonwealth of Virginia (1987), after insisting on acting as his own attorney because he thought he had amassed legal knowledge as a jailhouse lawyer, Townes, who was tried for a series of heinous felonies including, robbery, murder, and use of a firearm while committing robbery, was found guilty of all the charges. He received a death sentence for the murder charge, and prison terms for the others. In Edwards v. Commonwealth of Virginia (1995), Edwards was charged with malicious wounding, use of a firearm, and possession of a concealed weapon by a felon. From the onset, Edwards signed a waiver of counsel form, and prior to trial he insisted on acting as his own attorney. He was convicted on all charges, and he appealed on the basis that he was not advised of the consequences of any inadequacies that arose because of his choice to defend himself. His conviction was affirmed because he had insisted on acting pro se, moreover, the court even allowed him extra time to prepare his case in the jail library. Similarly, in United States v. Egwaoje (2003), the defendant fired his attorneys and insisted on acting pro se (even after reminders about the disadvantages of defending himself) because he thought he could speed up the trial. During the trial, not only did he engage in irrelevant interrogation, he introduced no witnesses on his behalf, and objected to none of the evidence introduced against him. He was found guilty and convicted. He appealed on the premise that his waiver of counsel was not done intelligently. His conviction was affirmed. In a well publicized case in New York, Colin Ferguson, who in 1993, had gone on a rampage in a commuter train killing six people wounding nineteen decided to act pro se. Besides coming up with some of the most preposterous assertions regarding the counts against him (as for instance, claiming that there were 93 counts against him simply because it was the year 1993), the evidence against him was overwhelming, and more importantly, he diminished any chances of successfully using the insanity defense (Zalman, 2002, p.288). Before going pro se, Ferguson dismissed the two attorneys working on his case, and ignored any advice from standby counsel. Not all pro se defendants lose their cases, but the majority do. In 1972, Ms. Angela Davis, charged with abetting murder of two brothers in California secured an acquittal acting pro se (Zalman, 2002, p.288). She, unlike Ferguson, and Edwards discussed above, was more receptive to advice during the trial.

Conclusion and Implication

Self representation, as evident in this discussion appears not to be a wise choice. Many defendants who defend themselves appeal their conviction, and a significant number of them claim that they did not knowingly and intelligently waive their right to counsel. When pro se litigants lose their cases it is not solely dependant upon the fact that the defendant chose to forego their right to counsel. Other factors, such as the evidence against the defendant, and the experience of the prosecutor, may affect the outcome of the case. A pro se defendant not schooled in law, fighting against a seasoned trial attorney—even in weak cases may face an up-hill battle in a courtroom.

According to Christian Richardson (2003, p.1), "One false move, one misleading statement, one misused piece of evidence can lead a jury to rule the accused guilty of a crime." Richardson's statement informs readers about the dangers in proceeding pro se. Unfortunately, the right to self representation cannot be relinquished altogether, due to the implicit message within the Sixth Amendment and the ruling in Faretta v. California. However, government has tried to limit the amount of pro se defendants by passing the Prisoner Litigation Reform Act of 1996. This act has six main components: (1) Inmates and detainees must pay the filing fee; regardless of their cases' outcome (2) courts can dismiss the case if they feel that it is frivolous or malicious (3) inmates and detainees are prohibited from filing actions without the filing fee if they already had three or more actions dismissed as frivolous (4) inmates and detainees must exhaust all their administrative remedies (5) inmates no longer can obtain damages for mental anguish (6) courts are limited in their ability to enter consent decrees (Rosenbloom 2002). It is yet to be known if this legislation is meeting its goal. Further, this legislation is directed more at post-conviction suites. It does not appear to relate to defendants who have not yet been tried, or convicted.

It appears as though the standard for determining competency to act pro se is applied differently. When the guidelines are not followed strictly, chances of incompetent individuals conducting their own defense may likely increase.

Even though the right of counsel is incorporated in the Miranda warnings, defendants should be reminded during the initial proceedings that counsel is available to those individuals who are financially unable to retain a private attorney. The simple fact of knowing that counsel can be provided to pro se defendants without them paying for counsel's services, may reduce the number of pro se defendants since some of them opt to defend themselves because of financial concerns. Joseph Rosenbloom (2002, p. 38) argues that "securing legal counsel for pro se litigants has been hampered by monetary constraints, lack of court initiatives, and a failure of the bar to structure a system where legal representation is always an option." It is not only knowledge that an attorney can be provided to indigent defendants, the latter must also have faith that the attorney will be efficient. Faith in the efficiency of counsel diminishes when public defenders are heavily ladened with cases, or have limited funds to properly handle them.

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