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Detecting Deception



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Evaluating Truthfulness and Detecting Deception

By DAVID MATSUMOTO, Ph.D., HYI SUNG HWANG, Ph.D., LISA SKINNER, J.D., and MARK FRANK, Ph.D.



@ Mark Frank, Ph.D.

While interviewing the suspect who claims ignorance about an incident, the witness who saw it happen, or the informant who identified the perpetrator, the detective asks a question that will eviscerate the perpetrator's story. As the suspect prepares to answer, he looks up and to the left, purses his lips, tenses his eyelids, and brings his eyebrows down.

The investigator knows that a suspect displaying shifty eyes and gaze aversion and looking up and to the left when answering uncomfortable questions is exhibiting signs of lying. The suspect is not totally disinterested, but he is reluctant to participate in the interview. Because the suspect's behavior suggests dishonesty, the detective prepares to drill still deeper in the questioning.

Unfortunately, this investigator likely would be wrong. Twenty-three out of 24 peer-reviewed studies published in scientific journals reporting experiments on eye behavior as an indicator of lying have rejected this hypothesis.¹ No scientific evidence exists to suggest that eye behavior or gaze aversion can gauge truthfulness reliably.

Some people say that gaze aversion is the sure sign of

lying, others thatidgety feet or hands are the key indicators. Still others believe that analysis of voice stress or body posture provides benchmarks. Research has tested all of these indicators and found them only weakly associated with deception.²

Relying on false clues, or signs, about lying can have dire consequences.³ It can lead to inaccurate reads that witnesses, suspects, or informants are lying when they are not or that they are telling the truth when there is more to the story. Reliance on false clues leads to misplaced confidence about the strengths and weaknesses of cases and can lead an investigator down dead-end paths. Moreover, a false read can have deadly consequences.

BEHAVIORAL CUES

Years of research have led the authors to focus solely on the most verifiable behavioral cues to lying.⁴ Many studies have involved a randomly selected sample of people assigned by chance to lie or tell the truth. Unfortunately, such studies feature participants with no personal, financial, or emotional investment in the lie or any fear of exposure to sanction if they are caught. No stakes are involved—no punishment for getting caught and no reward for fooling the investigator.

The authors' studies involve people motivated to act against a person or group with a different ideology, placed in a situation where they choose whether to commit a crime (e.g., steal a check made out to

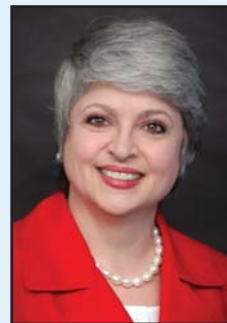
the group they despise), and then interviewed by a retired law enforcement officer, offering them the opportunity to tell the truth or lie. The stakes involved include facing detention, enduring blasts of white noise, or, for instance, having the stolen check donated to the group they hate. These consequences would occur if the person were not believed regardless of the truth because, in real life, consequences stem from judgments, not reality. Thus, truthful individuals often are nervous in police interrogations. The authors strive to make their research practical and analogous to real-world law enforcement situations and have found that, clearly, the behavioral cues to lying differ when people are not vested in



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having their story believed and have no fear of detection.

The authors monitor their participants with sensors that record and analyze their facial behaviors, gestures, body movements, voice and speech characteristics, physiological indicators (e.g., heart rate, blood pressure, skin conductance, respiration), heat emanation from their faces and heads, pupil dilation, and gaze direction. In addition, the authors record their participants' spoken words and then examine their verbal statements and style. The results have demonstrated that when motivated people lie and face consequences upon detection, clues to deception emerge and appear as *leakage* across multiple channels. Four of these are nonverbal (facial expressions, gestures and body language, voice, and verbal style). A fifth channel of leakage is in the actual words spoken—verbal statements.

It is not the mere presence or absence of behaviors, such as gaze aversion or fidgeting, that indicates lying. Rather, it is how these nonverbal cues change over time from a person's baseline and how they combine with the individual's words. And, when just the behavioral cues from these sources are considered, they accurately differentiate between lying and truth telling.⁵

The findings from these studies also have clearly indicated that no one indicator of lying exists; if so, research would have identified it by now, and almost everyone could unerringly detect when people lie. Of course, this would put an end to most competitive card games and prove generally destructive to society. No one could be polite, society would not function, and most groups and relationships would fall into chaos.

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nonverbal behaviors,
and statement analysis
to better evaluate
truthfulness...
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Because liars facing stakes betray their untruth by leakage that comes across as a complicated mass of signals, investigators make adequately processing this stream of information more difficult when focusing on inconsistencies in the story, rather than how it is told. The problem is that the liar also focuses on presenting a consistent, albeit

false, story. Ironically, liars also wrestle with their emotions and thoughts, actively trying to manage facial and body expressions, voice tone, verbal style, and words—all while monitoring the investigator's reaction. This allows reliable indicators of lies to pop out in the verbal and nonverbal leakage, which investigators often overlook because of their intense focus on the story.

VERBAL AND NONVERBAL LEAKAGE

Lies can be betrayed in verbal and nonverbal leakage independently. However, the authors have chosen to further examine this area, analyzing the *combined contribution* of verbal and nonverbal leakage to the prediction of deception or truthfulness. In their latest study, the authors examined videos of dedicated members of ideologically motivated groups. Separate studies analyzed two types of lies. One involved participants in a situation in which they chose whether to steal \$50 in cash from a briefcase and later were interviewed about their guilt (the crime scenario). In another analysis, participants decided to lie or tell the truth about their beliefs concerning their political cause (the opinion scenario). Each instance involved stakes—if researchers judged them as lying, the

subjects lost their participation fee and faced 1 hour of white-noise blasts while sitting on a cold, steel chair in a small, cramped room.

The authors selected videos of 10 individuals from each scenario and knew beforehand that half told the truth and half lied. After coding their nonverbal behaviors—facial expressions and gestures—the authors judged their consistency with the speech content according to time and context. The authors also transcribed what the participants said and annotated their statements using the concepts and linguistic features of statement analysis, such as examining minimizing and intensifying adverbs, editing adverbs, alterations in verb tense, equivocation, unique sensory details, and changes in nouns.

Analyses by the authors indicated that the liars produced significantly more nonverbal behaviors *inconsistent* with the context or content of their words than truth tellers. For example, a participant in the crime scenario may have denied stealing the check, but showed fear or distress while making that claim. Conversely, the nonverbal behaviors (e.g., nodding their heads up and down while saying “yes”) of truth tellers remained much more consistent with their verbal statements. Interestingly, the nonverbal

behaviors by themselves were not as indicative of truth telling or lying; instead, it was their level of consistency with the verbal statements or context that determined truthfulness at a high degree.

Also, the various statement analysis categories that were coded could differentiate liars from truth tellers at statistically significant levels. Greater use of minimizing and editing adverbs and changes in nouns and verbs

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Microexpressions are fleeting expressions of concealed emotion, sometimes so fast that they happen in the blink of an eye....

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all were associated with lying, while equivocation and spatial details indicated truth telling. These findings confirmed previous research on statement analysis.⁶

While these findings remained consistent with previous research, the authors also combined the nonverbal leakage and statement analysis cues in

attempting to differentiate truth tellers from liars. The authors found that inconsistent facial expressions combined with statement analysis annotations could correctly classify 90 percent of the participants in the videos as to whether they lied or told the truth. This seems to indicate that behavioral cues in both verbal statements and nonverbal behaviors collectively provide a much better source for gauging truthfulness. This potentially provides investigators with powerful aids in conducting investigations and interrogations.⁷

DETECTION OF LIES

Nonverbal Examination

Investigators can improve their ability to detect lies by becoming more aware of and skillful in reading the nonverbal cues to lying. In examining such important nonverbal behaviors as gestures, voice, and verbal style, officers first must focus on the facial expressions of emotion, especially those known as micro- and subtle expressions, because these both are involuntary and have demonstrated association with deception.⁸

Microexpressions are fleeting expressions of concealed emotion, sometimes so fast that they happen in the blink of an eye—as fast as one-fteenth of a second. This results from

The Seven Universal Facial Expressions of Emotion



the individual's attempt to hide them. They generally go unnoticed in daily social interactions; the most reliable evaluations are done by the review of slow- and stop-motion videotape of the speaker.

However, people can learn to see them in real time. For instance, trainees at the FBI National Academy typically can increase their recognition of microexpressions to above 70 percent, in some cases over 90 percent; studies on other populations, including U.S. Coast Guard senior investigators of officers, have shown average posttraining accuracy of better

than 80 percent.⁹ These same officers almost doubled their ability to accurately read individuals who displayed these microexpressions in real-world, real-time settings. This ability is retained weeks after initial training.¹⁰

Facial expressions of emotion, including macro-, micro-, and subtle expressions, are universal and independent of race, culture, ethnicity, nationality, gender, age, religion, or any other demographic variable. All people express emotions on their faces in exactly the same ways. Moreover, they are immediate, automatic, and

unconscious reactions. These are incredible characteristics of facial expressions because learning to read them means that someone can have a bigger window into the soul of almost anyone. It is a powerful tool for investigators because facial expressions of emotion are the closest thing humans have to a universal language.

Statement Analysis

Investigators also can improve their ability to detect lies by becoming skillful at statement analysis, which applies internalized grammatical rules that stem from the language

acquisition part of the brain to an individual's written or spoken words. In fact, people apply these rules to what they read and hear every day when they make a judgment about whether or not something is truthful or deceptive. While people may say that their belief is based upon their "gut," in reality, their brain is applying these internalized grammatical rules to the information. By doing so, investigators can gain valuable insight into a person's thoughts, motivations, and ideas.

Statement analysis involves examining several aspects of someone's words, including verbs describing communication and uncompleted action; changes in verb tense; minimizing, intensifying, and editing adverbs; extraneous information; unique sensory details; and statement structure, which identifies the person's focus—on the incident or somewhere else. Research has shown that distinct differences exist between a deceptive statement and a truthful one. By using the techniques of statement analysis, investigators can more readily detect truthfulness or deception in an individual's words. With these insights, investigators become more efficient and effective in their abilities and gain better focus on the investigation.

Proper Perspective

Investigators must remember that no "silver bullet" for identifying deception exists. Detecting microexpressions or inconsistent facial expressions of emotion and identifying areas of interest in a verbal statement via statement analysis never should be considered indicative of lying by themselves. Instead, they comprise tools that officers can use to guide them through

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In many situations, interviewers focus primarily on a suspect's story, rather than how they tell it or what they show while conveying it.

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an interview or interrogation. They help identify areas that need further probing—concealed thoughts, feelings, opinions, and omissions of parts of the story. But, investigators should keep in mind that these behaviors could result from reasons other than lying; perhaps, the suspect or witness feels embarrassed or fears retaliation by talking to the police. Or, maybe, the officer has not

established a relationship or has physically threatened the suspect. This shows the importance of building rapport; it reduces the amount of ambient anxiety found in any law enforcement interview.

Thus, recognition of facial expressions of emotion and statement analysis represent important tools that investigators can add to their toolkit to help them conduct interviews and interrogations more efficiently and accurately. But, like any such tool, they need to be supplemented with corroborating statements, physical and forensic evidence, and hard work. And, in the authors' experience, the best lie catchers do not jump to conclusions early based solely on facial expressions or word usage. Instead, they use them as a guide through an interview to get the best information possible. This enables further elicitation of information and better comparisons and contrasts with other statements and physical evidence—all of which lead to more informed decisions.

PRACTICAL APPLICATIONS

Training and practice can help individuals and groups leverage facial expressions of emotion, other nonverbal behaviors, and statement analysis to better evaluate truthfulness, detect deception, and assess

credibility. Improving these skills makes for a better interviewer and investigator. Although difficult, mastering such methods can make the officer faster, more efficient, and more accurate in conducting interviews. Investigators can follow some pointers to apply these skills in their police work.

If, while interviewing suspects, witnesses, or informants, investigators see a microexpression inconsistent with the words spoken or the emotions described, they should follow up until they can achieve reconciliation or get a more complete answer. For example, if suspects flash fear, distress, or contempt when saying they were nowhere near the scene of the crime, they may be omitting some of the story. Interviewers should probe that particular statement.

Similarly, if suspects show disgust when talking about another person, what does that mean? It depends on the context. Saying, for instance, they are “not a fan” of someone suggests that they truly dislike the individual. A statement like “He’s a great guy” suggests the suspect is lying.

Informants who show contempt when investigators request of them a particular action show a level of distrust. This suggests a need for better rapport before officers make the request.

When witnesses leak expressions inconsistent with their statements, their emotions show investigators how to dig deeper to unearth the hidden story. For instance, flashing fear when talking about the suspect may indicate that a witness feels threatened by the individual and, thus, apprehensive about sharing all details. Or, witnesses may fear getting caught lying about their relationship to the



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suspect. Regardless, something about the suspect has produced an involuntary reaction in the witness. If investigators identify the emotion, they can leverage it to obtain the real story.

After taking a written statement from a suspect, investigators should apply statement analysis techniques to identify key areas to pursue in the interview. For example, if a

suspect’s statement jumps in sequence from the early evening to the next morning, ignoring the time that the crime occurred, it likely would be noted by editing adverbs (e.g., then, later). Additionally, noting changes in noun and pronoun usage and verbs of communication can prove critically important as they can signify areas for further exploration. Once officers complete their analysis, they can begin the interview by jumping straight to such areas in the statement, thereby catching suspects off guard because of the immediate attention on the part of their statement where they feel vulnerable.

When questioning the suspect, investigators should watch their emotions and other nonverbal behaviors. Signs will arise that something meaningful was glossed over. For instance, suspects showing fear or distress when officers jump straight to a particular point in time may indicate that there was something to hide. Conversely, displaying surprise or, perhaps, nothing, may show that the skipping was incidental.

When an interview turns into an interrogation, officers can use the signs of emotion to know when to push further or retreat. For example, if suspects show anger, contempt, or disgust, it may, but not always, be best to stop and try another

approach. However, if they show fear, it might be time to drill deeper. If they show distress, they may be about to call it off. In this instance, investigators should use logical reasons as to why the suspect may have committed the crime and continue to press for the confession.

Understanding facial expressions also can let investigators know when someone fakes an emotion. Sometimes, a person may express anger at being accused. Is it real? A liar more likely will fake anger. Officers who know all of the signs of anger more accurately can determine the authenticity of anger. The same rules apply to happiness. There is a reliable signal within a smile for a genuine feeling of happiness, and, if investigators know that, they can tell whether a person who says they feel very happy at that moment actually are experiencing happiness.

CONCLUSION

Because of the subtlety of microexpressions, other facial expressions of emotion, and cues in verbal statements, investigators must devote focused attention to detect them. In many situations, interviewers focus primarily on a suspect's story, rather than how

they tell it or what they show while conveying it. Investigators must do more than simply be aware of expressions while not allowing such multitasking to dilute their skills.

With training and practice, investigators can become more aware of what they see in the form of microexpressions and hear as they apply the concepts of statement analysis. Officers should become aware of microexpressions and how to spot them, as well as the basic techniques of statement analysis. They should learn them well enough so that they become automatic and, rather than interfere with their processing of interviews, augment their skill set. In doing so, they will be armed with powerful investigative tools that leverage the most cutting-edge science available. ♦

Endnotes

¹ C.F. Bond, A. Omar, A. Mahmoud, and R.N. Bonser, "Lie Detection Across Cultures," *Journal of Nonverbal Behavior* 14 (1990): 189-204.

² B.M. DePaulo, J.J. Lindsay, B.E. Malone, L. Muhlenbruck, K. Charlton, and H. Cooper, "Cues to Deception," *Psychological Bulletin* 129, no. 1 (2003): 74-118.

³ The use of popularly held beliefs about indicators of truth and untruth still proves relevant for investigators, particularly if others, such as suspects, believe them and investigators can leverage those beliefs to obtain truth.

⁴ M.G. Frank, T.H. Feeley, T.N. Servoss, and N. Paolantonio, "Detecting Deception by Jury, I: Judgmental Accuracy," *Journal of Group Decision and Negotiation* 13 (2004): 45-59.

⁵ M.G. Frank, "Thoughts, Feelings, and Deception," in *Deception: Methods, Motives, Context, and Consequences*, ed. B. Harrington (Palo Alto, CA: Stanford University Press, 2009), 55-73; and M.G. Frank, M. O'Sullivan, and M.A. Mena-sco, "Human Behavior and Deception Detection," in *Handbook of Science and Technology for Homeland Security*, ed. J.G. Voeller (New York, NY: Wiley and Sons, in press).

⁶ A. Vrij, "Criteria-Based Content Analysis: A Qualitative Review of the First 37 Studies," *Psychology, Public Policy, and Law* 11 (2007): 3-41.

⁷ Moreover, post hoc forensic analyses of the 10 percent misclassified strongly suggest a unique role for minimizing and editing adverbs. These occurred in individuals relatively sparse in their expressivity, as well as verbal output. Thus, the cues to deception in such individuals may be very subtle, and the authors believe that one area in which such cues may occur may be in the use of minimizing or editing adverbs.

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¹⁰ D. Matsumoto and H.S. Hwang, "Training the Ability to Read Microexpressions of Emotion Improves Emotional Competence on the Job" (manuscript submitted for publication).

Perspective



Determining the Best Fit for University Policing

By Robert A. Johnson, M.S., M.P.A.

Photos provided by University of Maryland, Office of External Affairs

When police officers transition from large law enforcement agencies to small university police departments, they may not think about the many significant changes that accompany this move. After all, these lateral officers already have experienced different policing styles, investigated crimes, and maintained relationships with the community.

However, this same prior experience may cause difficulties when lateral hires must assimilate to a new policing environment. For instance, firearms instructors often say that they can more easily instruct an inexperienced trainee because they have had little opportunity to develop bad

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habits. Similarly, unique challenges arise when experienced officers from large agencies must fit into a small department.

For experienced recruits, the university policing model may seem counterintuitive at first glance, especially because the policing philosophies and services differ so greatly from other agencies. Recruiters and trainers must help candidates learn the unique traits of their new position and teach them to embrace new strategies and philosophies that may conflict with learned experiences. If university police departments do not hire well-suited candidates, provide proper orientation and training, and continue officers' professional development, they risk low retention rates and poor morale among their personnel.

Understanding the University Environment

Although large agencies and small departments exhibit many similarities in their organizational structures, certain fundamental differences exist, and university police departments need to prepare their lateral hires for what to expect. Most important, recruits must remember that many campus police departments' policies depend on the incentives of the university's leadership. Officers must appreciate the balance between the school, students, and faculty members who act as their stakeholders. The university wants to establish a level of campus security that will allow it to maximize student enrollment and employ the most competent faculty—the two key components of a university's success—without overpolicing the community.

As such, campus police departments hesitate to employ certain practices common in other law enforcement agencies. For instance, aggressive traffic enforcement programs increase department

visibility, but may not align with the goals of the university, and an increase in traffic stops and written citations may produce more complaints than praise. To this end, experienced recruits must fully understand the logic behind campus law enforcement and take a more moderate approach to keeping the peace.

Understanding these common scenarios requires flexibility and discretion from the university officers who handle these incidents. For instance, in a typical precinct, arresting a perpetrator may be the traditional knee-jerk response to resolve a conflict quickly, but in a campus setting, a more moderate approach that simply removes the suspect from university property may be the correct decision.

Because of these unique requirements of campus police departments, an effective university police officer exhibits different skills and characteristics than traditional law enforcement professionals. Usually, a university police officer is a sworn, state-certified officer who works in an organization with a distinct organizational philosophy, procedural style,

and "officer brand." Experienced law enforcement professionals must understand the new roles they take on; university police officers act as a unique blend of law enforcer, crime prevention expert, security specialist, community organizer, public relations specialist, and safety facilitator.

None of these duties diminish the gravity of university crime suppression or the importance of the campus police officer. On campus, even relatively minor crimes can draw unwanted media attention to the university, especially when the victim is a student or faculty member. Similarly, a university can anticipate some scrutiny after an on-campus arrest, use of force, or weapons-related

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incident. Therefore, an effective police department contributes to both the safety and public image of the university.

The stark differences between traditional and campus law enforcement likely will cause some anxiety for experienced police officers. When unprepared for these significant changes to their work environment and job requirements, lateral police officers can quickly become disenchanted with their new role. Experienced recruits who do not understand the rationale behind a university police department's methods may view them as too restrictive in procedural guideline; too closely supervised; too sedentary; and too focused on fixed posts, courtesy escorts, and crime prevention initiatives.

Some officers will adapt easily to the new philosophy and change their habits, while others will resist. Not all seasoned officers reject the, at times, sedentary nature of the campus community; in fact, many lateral hires desire this change because they are approaching retirement age, feeling disenchanted with their current agency, or simply seeking what may be slower-paced work. But, if recruits from divergent police agencies demonstrate destructive behaviors and a poor attitude as a result of their dissatisfaction, then too many of these lateral officers can damage an organization's culture, morale, and retention rates. In such a small



policing community, the whole department's effectiveness can suffer as a result.

Assessing the Best Fit

Police administrators should thoroughly assess candidates for their ability to fit into the campus environment. Too often, recruiters hire officers with impressive resumes, but fail to screen them for their attitudes regarding a less dynamic atmosphere. The better the candidate understands the philosophy of university policing and displays a willingness to acclimate to it, the better the chance for individual and organizational success.

Of course, there are logical motivations for university police administrators to hire law enforcement professionals from large agencies. Experienced officers provide an infusion of new ideas, require less technical training, and reduce hiring costs. However, agencies should look beyond financial benefits to assess the best fit of an officer. Because campus policies and procedures differ so greatly from those in other law enforcement agencies, a lateral officer must be prepared for this

new philosophy and the sometimes sedentary work that accompanies it.

Despite the financial burden, a combination of lateral officers and new academy graduates may best serve the agency and the community. The right balance between the two helps preserve and



protect organizational culture, maintain a level of agency experience, and properly prepare personnel for supervisory positions.

Often, however, departments struggle to find young candidates who want to begin their career as a campus police officer. Typically, young recruits prefer the fast pace and excitement of a large agency, and campus policing may not provide the sort of crime-fighting experiences that they desire. Therefore, if administrators cannot hire new candidates, then they must find well-suited lateral hires and help them transition smoothly into the university environment.

Improving Retention

Assuming a department selects appropriate candidates, administrators must take the steps necessary to help these recruits not only assimilate to their new environment but also remain with the agency for a significant period of time. By

keeping employees engaged and satisfied with their work, the department likely will retain employees for a period of time sufficient to recoup the investment in their training. To accomplish this, the agency must provide opportunities for learning and development, emphasize leadership and promotion, and establish a salary progression that motivates employees throughout their careers.

Also, administrators should learn about the factors that drive experienced law enforcement officers to seek employment with smaller departments. In 2004, a research study reported several common traits of lateral hires. Most had left larger agencies after about 3 years of service, usually because of insufficient promotional opportunities, lack of salary increases, and budgetary restrictions.¹ Also, the study found that more than 8 out of 10 new hires in small police departments were experienced officers from other agencies. Although the study did not specifically address campus law enforcement, anecdotal information suggests that these patterns ring true in university police departments as well.

Small departments can use this research to learn what administrative pitfalls to avoid in their organizational structures. This will increase satisfaction among their lateral hires and, thus, improve retention. For example, because many officers leave large agencies due to insufficient salary progression, small departments may improve retention if they increase officers' salaries after 3 years on the job rather than offer high starting salaries. This restructured pay scale accounts for job experience, prevents discontent after several years in the agency, and may be the most important tactic to retain the best of officers.

Conclusion

Traditional law enforcement models stress active crime suppression through stopping, interviewing, interrogating, and arresting perpetrators.

Police officers in large agencies carry out these duties in a fast-paced, dynamic environment. Often, they enjoy the freedom to develop ongoing cases, make traffic stops, and handle calls for service on their own schedule and without close supervision or control.

However, personnel who leave large agencies to work in a university police department must accept that their duties will change. They must understand certain realities of their work (e.g., a sedentary jurisdiction) and embrace new job responsibilities (e.g., fixed posts and crime prevention campaigns). Inevitably, university policing strategies limit officers' control over their daily routine, and this may require lateral hires to re-evaluate their learned behaviors and attitudes.

Because these small departments cater to numerous different stakeholders and work closely with the university administration, they ascribe to a unique philosophy that drives their organization. As such, finding the proper personnel who can acclimate to this environment remains the most important task of police administrators. Recruiters should target candidates who will embrace new law enforcement strategies and the daily tasks that accompany them. If not, ill-suited personnel will lead to poor morale and low retention rates.

Additionally, administrators cannot underestimate the importance of orientation and training for both young recruits and lateral hires. Even the most experienced law enforcement veterans must be informed of new policies, policing methodologies, and philosophies to ensure that they are a best fit for a university police department. This will ensure the satisfaction and effectiveness new hires, current officers, and the department as a whole. ♦

Endnotes

¹ Douglas L. Yearwood and Stephanie Freeman, "Recruitment and Retention of Police Officers in North Carolina," *The Police Chief* 71 (March 2004): 43-49.

Wanted: Photographs



The *Bulletin* staff always is looking for dynamic, law enforcement-related images for possible publication in the magazine. We are interested in those that visually depict the many aspects of the law enforcement profession and illustrate the various tasks law enforcement personnel perform.

We can use digital photographs or color prints. It is our policy to credit photographers when their work appears in the magazine. Contributors sending prints should send duplicate copies, not originals, as we do not accept responsibility for damaged or lost prints. Send materials to:

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Self-Centered Leadership

People learn much from hard times, bad examples, and, even, defeat. This certainly holds true in their working relationship experiences with leaders who promote themselves and act selfishly.

At first glance, self-centered leaders may be difficult to identify. Perhaps, they find it easy to appear as organizational supporters, mission-driven people, or, even, individuals who genuinely care for the well-being of those they supervise. However, as their subordinates realize over time, these leaders tend to make decisions and take actions that boost their own welfare, career, or reputation. Many examples exist of actions that such self-centered leaders may take.

- *Work-related travel:* Self-centered leaders will take advantage of desirable or potentially career enhancing travel opportunities. Their attendance even may be unnecessary.
- *Favors:* They will fulfill requests from outside sources to benefit personally or professionally, even in spite of burdening their subordinates or, perhaps, ignoring questionable ethics. To self-centered leaders, everything and everyone else is secondary to personal gain.
- *Performance awards:* Seldom will these individuals recognize outstanding employees unless doing so is beneficial politically or professionally. In regard to subordinates' performance, self-centered leaders only care how it may impact them.
- *Involvement:* At first glance, these leaders appear to have a laid-back approach.

However, this remains true only until their image or reputation is in jeopardy. Then, although, perhaps, misinformed or unfamiliar with the situation at hand, they make a snap decision based, of course, on self-interest.

- *Patience:* When these leaders perceive that a situation negatively may impact them, they have little or no patience for the issue or persons involved. Often, their concern for themselves will make them quick to anger when under perceived scrutiny or question.
- *Self-promotion:* These individuals skillfully can claim credit for others' successes and distance themselves from negative situations. Further, in the interest of career enhancement, self-centered leaders shamelessly will placate higher ranking or influential persons.
- *Negative motivation:* Employees reach a point where merely seeing or interacting with a self-centered leader has a negative effect on them. Additionally, these leaders often may emphasize the difficulty of their job and the accompanying stress to others, perhaps, even conducting meetings for this sole purpose.
- *Intimidation:* Self-centered leaders often will use their position to intimidate subordinates and manipulate them into responding to directives or requests. They even may threaten unfounded disciplinary actions. These leaders find this necessary because their employees will not respond to them out of respect or from a healthy relationship.

How do workers deal and coexist with such leaders? This is a difficult question to answer. One thing remains certain—the self-centered leader cannot and will not change. Their narcissistic personality and value system has taken shape for years. Perhaps, the best advice for those under the supervision of a self-centered leader is to remember that, ultimately, everyone should strive to work to the best of their ability for personal pride and a greater good, regardless of poor leadership.

Those outside of the work unit may find it difficult to assess and identify a

self-centered leader. However, persons under the direct leadership or supervision of such a leader quickly will realize what type of person they work for. Successful employees can learn from the situation and have success despite the presence and interference of a self-centered leader in their work environment. ♦

Special Agent Kevin J. Crawford, an instructor in the FBI's Leadership Development Institute at the FBI Academy, prepared this Leadership Spotlight.

Wanted: Bulletin Honors



The *FBI Law Enforcement Bulletin* seeks submissions from agencies who wish to have their memorials featured in the magazine's Bulletin Honors department. Needed materials include a short description, a photograph, and an endorsement from the agency's ranking officer. Submissions can be mailed to Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Quantico, VA 22135, or e-mailed to leb@fbiacademy.edu.



Coping with the Career A Review of Acquired Life Patterns of Veteran Officers

By Gary L. Patton, Ph.D.

Research and literature have helped to identify that police work can prove more emotionally dangerous than physically threatening.¹ “Police officers are susceptible to many job related stressors that have both immediate and long-term physiological and psychological consequences.”² Officers certainly have experienced depression, anxiety disorders, chemical dependence, suicidal ideation, and burnout.

In fact, data have indicated that officers who continue to experience stress following a critical incident were more likely to resign or to commit suicide.³ Such findings have demonstrated the urgent need for a comprehensive approach to counseling law enforcement officers.

To this end, the author conducted a study to acquire new and additional understanding of the experience of being a law enforcement officer, with particular attention to personal wellness and spirituality. His research focused on gaining these insights from veteran officers about how their work, with all of the unique problems and challenges, affected their personal lives from a perspective of belief systems and sense of wellness.

Two basic questions prompted this research. How is a law enforcement officer's spirituality and belief system affected by continuous exposure to crime, danger, violence, and suffering? And, does a state of spiritual wellness assist veteran officers in coping with the stress in their lives and, if so, how?

METHODOLOGY AND PURPOSE

The author used a qualitative phenomenological methodology with participant observation. Nine sworn veteran law enforcement officers (with 6 or more years of service) participated in the research. The author spent approximately 35 to 40 hours with each officer over the course of 6 to 8 months, observing and discussing issues during ride-along patrols or at other meetings.⁴ Three research questions generally guided these discussions and observations.

- 1) What does the continuous exposure to crime, danger, violence, and suffering do to the coping and wellness of law enforcement officers?
- 2) Does a state of spiritual wellness assist police officers in coping with the stress in their lives and, if so, how?
- 3) What interventions are suggested by an analysis of the data to provide a holistic approach to counseling officers?

For the purpose of his study, the author defined *spirituality* as “the capacity of all people to possess—and know that they possess—beliefs, values, and convictions that give meaning and purpose to life.”⁵ The literature on this topic has indicated that a body of knowledge relates spirituality as one component of overall wellness and a resource for coping with life issues. For example, Bollinger felt that spiritual needs were the deepest of all human needs and that when a person's spirituality is addressed, it can facilitate the development of a meaningful identity.⁶ In addition, one officer reported in Meredith's work that often it is others who have been close to the officer who note that a change in behavior, disposition, and mental state has taken place.⁷

Law enforcement officers are known as a population that often exhibits some particular and debilitating physical and emotional symptoms, such as cynicism, alienation, and emotional numbing. Therefore, the relevant question is, Are some of the emotional and personal distress and effective coping demonstrated by veteran law enforcement officers related to spiritual issues?

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LIFE PATTERNS

In his research, the author summarized some of the issues identified as both useful and distressful under nine life patterns: desacralization, alienation, affiliation, unique life experiences, searching and yearning, search for excitement, preserving integrity, affirmation, and reformation and renewal. The participating officers identified and agreed that they demonstrated these patterns in their thinking, emotions, and behavior.

Desacralization

In the experience of desacralization, people lose contact with the aspects of their lives that they previously had considered sacred and special. In effect, their previously cherished and sacred dreams, hopes, and plans become common and questionable.⁸ In the process of desacralization, people tend to lose their sense of wonder, and life becomes somewhat common and ordinary. The process can continue to a point where the person exhibits detrimental changes in previously cherished and honored beliefs and convictions.

Given the sense of disappointment and disillusionment that law enforcement officers frequently encounter in their work, it is reasonable to conclude that they seem to experience a loss of some of the special reasons and motivations that they had set out to fulfill and experience. For example, they routinely see human suffering and the effects of crime and human cruelty, and justice sometimes is not administered as immediately or thoroughly as they would have expected or hoped.

Certainly, officers encounter times of high drama and intense excitement, yet they do not spend a shift racing from one call to another as some

people assume. When this repeated experience of waiting and watching is linked with the times of heightened adrenaline, officers feel like they ride an emotional roller coaster. While they can get excited and dismayed, they frequently deal with the events they encounter with a sense of apathy. The officers in the author's research indicated that they would not be able to cope if they "took their work too serious" or let themselves feel too much.

Another aspect of desacralization is the sense of futility that officers often feel. They deal with many of the same people on a frequent basis, which prevents them from realizing a sense of completion and finality in their work. Such numerous encounters with people who exhibit dysfunctional problems or criminal conduct have prompted some officers to express that they sometimes wonder whether they are part of the solution or part of the problem.

It appears that these officers have learned not to let themselves experience intense emotions, either pleasant or unpleasant, very often. Boredom and monotony are apparent in the officers' lives and can result in a sense of

apathy that helps keep their feelings from going too high or too low as they learn not to care as much as they did.

As a result, officers live with frequent and prolonged exposure to situations that people outside of law enforcement do not encounter. Through these experiences and attempts to cope with them, it is understandable that officers acknowledge that their belief systems become altered to accommodate the world realities they see and respond to. Consequently, people and practices once highly valued and sacred to officers may become less so as a result of coping with a world where they

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regard few things as special. Further, even if officers try to keep people, places, and experiences maintained as sacred, given the losses that occur in the profession, they wonder whether they can retain them permanently. Because many of the participating officers indicated that being a police officer became their primary way of identifying themselves, the sense of desacralization was how they came to see themselves as well.

Alienation

Law enforcement officers believe that in all ways it is dangerous to trust people too much. The extent of danger certainly applies to their physical safety but also to what people will want from them. The officers in the author's study spoke about people wanting favors from them and to become acquainted with them to get some benefit by "knowing a policeman." It became evident that the officers expect people to take advantage of them or lie to them. In every aspect of relating to others, officers develop a suspicious nature.

One officer commented, "We are raised to believe that other people are telling us the truth until we discover otherwise. As police officers, we learn to believe that everybody is lying until we find a reason to believe otherwise." This pattern is consistent with the findings of Lockard and Niederhoffer as they addressed cynicism among law enforcement professionals.⁹ They demonstrated through statistical analysis that police officers became increasingly cynical with length of service, but this cynicism eventually leveled off. This begs the question, Is this leveling off an

improvement in their cynicism or the beginning of a sense of apathy and indifference?

Because officers experience a change in their perspective of other people, they also begin to respond to them in different ways. Some of these include being emotionally distant, cynical, and very reserved or cautious in their interactions.

Alienation is regarded as an issue of spiritual distress because it is related to the spiritual concept of belonging, as in the absence of belonging. Therefore, it is important to note that another pattern revealed in the author's study is the need for affiliation. His research identified that officers experience a substantial degree of loneliness. It



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is critical to discuss this in conjunction with the data that suggest officers also have a need for acceptance and a desire to reconnect with others. Not only did the officers recognize how much time they spent alone in their patrol cars but they also talked about how "most people do not like us very much." Obviously, officers recognize a definite disrespect from

many citizens. Along with this lack of respect comes a vivid awareness that they often are not appreciated.

Affiliation

Human beings have innate needs for socialization and connection with other people. Indications from various stages in life reveal that healthy emotional, intellectual, and even physical functioning include aspects of relating to other individuals.

In 1989, the National Institute of Child Health and Human Development (NICHD) began to

investigate the relationship between early child care experiences and children’s developmental outcomes.¹⁰ The researchers focused on measuring facets of children’s development, including social, emotional, intellectual, language development, behavioral problems and adjustment, and physical health as related to how they were cared for. With data based on more than 1,300 children from various ethnicities, races, and socioeconomic backgrounds between 1991 and 2008, the researchers found academic and obedience problems among children who received the poorest child care during their first 4.5 years of life.

These conditions were noted to continue into adolescence.

Because law enforcement officers have a sense of alienation from others, they find their belonging needs met among each other. Data from veteran officers reveal comments based on a sense of conviction about the “blue line,” a demarcation between those who are police officers and those who are not. Officers are convinced that nobody can understand them as they

understand themselves. Research has shown that officers demonstrated, both by behavior and comments, that part of their affiliation with each other was because they have shared unique experiences in life that few other people can appreciate fully.

Unfortunately, at times, the blue line can cause those people closely related to officers also to experience alienation. For example, officers commonly discussed times when they chose to spend substantial portions of their off-duty hours with other officers, rather than their immediate families.

Unique Life Experiences

Three consistent and recurring themes in the law enforcement profession involved concerns

about compromise, threats, and enticements. People wanting and expecting favors or special treatment, having to make decisions that potentially violate their sense of integrity, and the possibility of reprisal constitute profound issues that officers must address on an ongoing basis.

Evidently, officers encounter experiences and events that civilians either never face or, at least, rarely do. A prevailing view in the literature holds that officers experience a high incidence of burnout.¹¹ However, Robinette proposed that instead of burnout, many officers demonstrate a complex state of unresponsiveness.¹²

Data from the stories the officers told supported that their experiences are uncommon due either to the type, unpredictability, and chaos of the situation or the degree of damage or death. Rather than identifying the state of unresponsiveness demonstrated by the officers as burnout, the researcher concluded from the data that the needs they represent are related more to disruption in their spiritual lives and

personal belief systems.

Law enforcement officers live in a world where death, while not a constant threat, is an ever-present possibility. Each of these participants told stories of dangerous situations that could have resulted in death due to either accident or assault. Living with the awareness and presence of danger creates stress that threatens the officer on and off duty. According to their explanation, officers are taught levels of readiness for action, ranging from a completely relaxed state—not often experienced unless they are outside the realm where they work—to being involved in a situation where injury or death is possible. Between these two extreme states are the positions of being ready

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Alienation is regarded as an issue of spiritual distress because it is related to the spiritual concept of belonging, as in the absence of belonging.
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for the possibility of danger and remaining alert to the realization of imminent danger. The participating officers shared that they seldom—if ever—live in a state of relaxation and complete sense of calmness. Certainly, such a unique life experience has profound and lasting effects on officers' bodies, minds, and spirits. These concerns are heightened by the fact of the frequency, intensity, and duration of the uncommon life experiences encountered in law enforcement.

Searching and Yearning

The human quest for meaning and purpose in life is expressed in the terms of a pattern of personal searching and yearning that the literature has identified as related to spirituality.¹³ In different terms, researchers have addressed the tendency humans have to question their experiences and to wonder about how present situations fit into their destiny and desires. They concluded that it is an aspect of spirituality to have the ability and the urge to search for meaning and purpose in the events of life.

In the author's study with veteran law enforcement officers, themes emerged that appeared to be related to what Frankl referred to as "metaclinical problems," the distress that people feel when faced with experiences that force them to deal with questions about life and suffering.¹⁴ They concluded that it is an aspect of spirituality to have the ability and the urge to search for meaning and purpose in the events of life. In addition, the author found that the consensus among the officers participating in his study was that if anything was going to continue to be disruptive to them professionally and personally, it would be situations involving the death and suffering of children.

Search for Excitement

While the need for excitement and to some degree a willingness to take risks is part of what attracts people to law enforcement, it also seems that these urges are what keeps officers going when

they become veterans. This pattern is consistent with the work of Reiser who stated that law enforcement recruits have been noted to need action and recognition.¹⁵

In conversations with law enforcement officers, it is common to hear discussions of the need and desire for excitement. Officers in the author's research indicated that not only was it their duty but their desire to be involved in dangerous and risky situations. He heard the officers discuss their disappointment at missing an exciting event while off duty or on a particularly slow shift.



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Preserving Integrity

The author's research revealed that the participating officers continued to maintain a strong conviction for justice well into veteran status. Both in conversation and behavior, the author noted that these veteran officers held to a strong sense of right and wrong. Accordingly, these participants would stir to action when they perceived something to be unfair or unjust. This is significant given that it could appear to be inconsistent with the other patterns previously noted.

An interesting observation of this sense of keeping their integrity occurred in situations where a "true victim" was at risk or actually harmed. Despite previously identified patterns of alienation and desacralization, the veteran officers in this study could easily relate to a sense of compassion for vulnerable people who experienced harm. The author particularly noted this in calls involving children and the elderly.

The pattern of preserving integrity also is specific to the honor of their badge and sense of duty. Even after prolonged exposure to crime, danger, suffering, and violence, these veteran officers strongly identified with the pride and honor of duty and service to maintain justice and a sense of order in society. The participants in this study, while having to relate to some people not regarded as honorable, appeared to value a distinction between these individuals and the suspects and criminals they had to contend with.

Affirmation

Even with a realization that the exposure to crime, danger, suffering, and violence has predicated some losses and changes in their lives from a spiritual and belief perspective, the participating

officers also affirmed that they viewed their role in law enforcement from a sense of calling. That is, they did not view it as just a job they chose but as a profession that requires a sense of purpose and conviction to do well. They often explained this by saying, "Some people are not cut out for this work." Despite long and sometimes irregular hours, low pay scales, and the scrutiny of the public on their decisions, these veteran officers believed that eventually their efforts would make a difference.

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The pattern of preserving integrity also is specific to the honor of their badge and sense of duty.

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Reformation and Renewal

Finally, these veteran law enforcement officers recognized a need to find some fulfillment in the very environment that often caused them to experience profound disillusionment. This approach of finding fulfillment in life is easily associated with a spiritual quest for meaning and purpose in life. Some of the participants in this study

discussed the need for peace and joy in life and to find some sense of contentment.

Some officers talked about how the environment of law enforcement gave them time alone when they could think and reflect on their work, their future, and their relationships. The participants also stated that they found a sense of hope and renewal by realizing that their work may have prevented a tragedy or wrong from happening or possibly helped to correct something. In various terms, the law enforcement officers participating in this research conveyed the hope that at some point, they will have made a difference through their work. This proves consistent with the idea that law enforcement is a profession that people are called to and that in that calling, some transforming experience leads to work being fulfilling

and meaningful. Again, these are aspects of living often associated with the spiritual dimension of life.

CONCLUSION

The patterns identified through the author's research may not be generalizable to all people in the law enforcement profession. However, they can provide a place to begin to understand the context of law enforcement careers and to supply some understanding about how continued exposure to crime, danger, suffering, and violence affect the lives of those who serve as sworn officers of the law.

The author offers two general recommendations. First, because some identifiable life patterns are named in relation to serving in a law enforcement capacity, it could be effective to begin to address these patterns in academies and training programs as people enter the field of law enforcement. Second, given that these patterns are created through a continued exposure to crime, danger, suffering, and violence, interventions for officers struggling with these life patterns can be more efficacious by relating assistance to these specific patterns. This contrasts with the concept of attempting to assist officers by simply letting them talk. While that also can be useful, sometimes the officers themselves may be talking without fully recognizing the specific issues troubling them. If identifiable patterns can be named in conversation, then officers and those helping them can be more intentional about the kind of assistance and training provided.

Overall, the information furnished by veteran law enforcement officers provides a new approach to assisting the entire profession of those sworn to serve the citizens of the United States. By identifying specific life processes, more research and innovation can be implemented to enhance healthy life patterns and to assist with those that confound wellness and spiritual vitality. ♦

Endnotes

¹ P.S. Trompetter, "The Paradox of the Squad Room: Solitary Solidarity" in *Psychological Services for Law Enforcement*, eds. J. T. Reese and H. A. Goldstein (Washington, DC: U.S. Government Printing Office, 1986), 533-535.

² A.D. Yarmey, *Understanding Police and Police Work: Psychological Issues* (New York, NY: New York University Press, 1990), 106.

³ M.D. Mashburn, "Critical Incident Counseling," *FBI Law Enforcement Bulletin*, September 1993, 5-8.

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¹⁴ V.E. Frankl, *Man's Search for Meaning*.

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Girls' Delinquency

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, U.S. Department of Justice, has released a fact sheet (NCJ 228414), available at the National Criminal Justice Reference Service's Web site (<http://www.ncjrs.gov>), that examines rising trends in girls' delinquency. In 1980, females represented 11 percent of juvenile arrests for violent offenses. By 2004, that proportion had grown to 30 percent. Although arrest numbers remained higher for boys than girls during that period, arrest rates for girls increased while those for boys decreased. This caused juvenile justice specialists to question why girls were becoming more involved in delinquency. Of particular interest was whether girls were becoming more violent or if other factors contributed to their higher arrest rates. However, because most studies had involved boys, juvenile justice researchers could not account for the increase in girls' arrest rates.

Research

To address this need and provide comprehensive information on female delinquency, OJJDP created its Girls Study Group in 2004. This team of multidisciplinary experts consisting of sociologists, psychologists, criminologists, gender studies experts, researchers, and practitioners with legal and girls' program development experience came together to address some basic questions.

- Which girls become delinquent?
- What factors protect girls from delinquency?

- What factors put girls at risk for delinquency?
- What pathways lead to girls' delinquency?
- What programs are most effective in preventing girls' delinquency?
- How should the juvenile justice system respond to girls' delinquency?

The Girls Study Group's initial findings suggested that girls were not more violent than before and confirmed that they engaged in far less crime and delinquency than boys for nearly every offense. Also, the group observed that mandatory arrest policies and other changes in the juvenile justice system impacted higher arrest rates for girls.

Although a number of delinquency risk factors affect both boys and girls (e.g., family dynamics, school involvement, neighborhood environment, and the availability of community-based programs), others directly increase a girl's risk of delinquency. These risks include early onset of puberty, sexual abuse or maltreatment, and depression and anxiety.

Of importance, researchers found that a number of protective factors exist to prevent girls from becoming juvenile offenders even when faced with risks. These protections include the involvement of a caring adult, school connectedness, school success, and religiosity.

Programs

OJJDP funds a number of programs focused on girls' delinquency. Girl Scouts

Beyond Bars helps girls and their incarcerated mothers maintain their relationships. Girl Scouting in Detention Centers provides girls who have been adjudicated, are wards of the court, or are court-referred delinquents with opportunities to participate in activities that promote positive social development. Friendly PEERsuasion helps middle school girls gain knowledge, skills, and support systems to avoid substance abuse. And, PACE (Practical Academic Cultural Education) Center for Girls offers delinquency-prevention programs that work toward deterring school withdrawal, juvenile delinquency, teen pregnancy, substance abuse, and welfare dependency. In addition, many states have used funding under OJJDP's Formula Grant program to promote gender-specific programming.

Resources

OJJDP has published the findings of its Girls Study Group through a series of bulletins, available at OJJDP's publications page (<http://www.ojjdp.ncjrs.gov/publications/index.html>). These include "The Girls Study Group—Charting the Way to Delinquency Prevention for Girls"; "Violence by Teenage Girls: Trends and Context"; "Resilient

Girls—Factors That Protect Against Delinquency"; "Suitability of Assessment Instruments for Delinquent Girls"; "Causes and Correlates of Girls' Delinquency"; "Developmental Sequences of Girls' Delinquent Behavior"; and "Girls' Delinquency Programs: An Evidence-Based Review."

Also, OJJDP's National Training and Technical Assistance Center has developed a training course to specifically address girls' needs. More information on the Girls Study Group can be accessed via its Web site, <http://www.girlsstudygroup.rti.org>. Also, OJJDP's Girls' Delinquency Web page, <http://www.ojjdp.ncjrs.gov/programs/girlsdelinquency.html>, offers an overview of female juvenile delinquency and the Girls Study Group's efforts to address it. ♦



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“Donning and Doffing” Police Uniforms and Protective Gear Under the Fair Labor Standards Act

By RICHARD G. SCHOTT, J.D.



Congress passed the Fair Labor Standards Act (FLSA) in 1938 in an effort to relieve unemployment brought on by the Great Depression. To accomplish this, the legislation required (and still requires) employers to pay overtime wages to covered employees working more than 40 hours during their workweek.¹ Recognizing that law enforcement is not a 9-to-5 job and, therefore,

does not lend itself to a traditional 40-hour workweek, the FLSA allows law enforcement agencies to use a different pay period for its sworn personnel.²

While this so-called 7K allowance gives police employers flexibility in scheduling, it does not relieve them of all overtime payment obligations. For example, the lengthiest pay period allowed under 7K provides that employees working

more than 171 hours in a 28-day pay period are legally entitled to time-and-a-half (one-and-a-half times their regular hourly wage) for all hours in excess of 171. Because of this, employers always must recognize which activities engaged in by their employees go into the calculation of hours worked.

In recent years, the most hotly contested issue confronting law enforcement agencies

has been whether the time spent “donning and doffing” the police uniform and other protective gear goes into the calculation of hours worked during any given pay period. If a department learns that it is legally obligated to pay every uniformed officer for the time spent donning and doffing the uniform and protective gear required during their shift (and this is repeated for 3 shifts per day and for 365 days every year), it has to take this new financial obligation into account for scheduling and budgetary purposes. Resolving whether agencies must pay officers for these activities preceding and following their actual shift assignment has significant legal implications.

This article examines the recent Supreme Court decision involving the issue of donning and doffing in a non-law enforcement context which stoked this controversy, and it will discuss several lower federal court opinions that have explored whether the Supreme Court ruling applies to law enforcement officers. Familiarity with these lower court decisions involving law enforcement personnel may affect departmental policies that address uniform and equipment issues.³

DEFINITION

The literal definition of *don* is “to put on (an article of clothing),”⁴ while the literal

definition of *doff* is “to remove (an article of wear) from the body.”⁵ Employees in most occupations do not expect pay for putting on or removing their clothing in preparation for or following their workday. Many people in law enforcement and the unions that represent them feel that there is a uniqueness to the donning and doffing of a police uniform and the accompanying protective gear that entitles them to be paid for these activities. Their argument gained momentum following a recent Supreme Court decision.

In *IBP, Inc. v. Alvarez*, the U.S. Supreme Court considered claims made in consolidated cases by employees of a meat processing facility in one instance and workers in a poultry processing plant in the other.⁶ The defendant in the first of the consolidated cases was IBP, Inc., a large producer of beef,

pork, and related products. Its production workers must wear outer garments, hard hats, hairnets, earplugs, gloves, sleeves, aprons, leggings, and boots. Many of them, particularly those who use knives, also must wear a variety of protective equipment for their hands, arms, torsos, and legs, including metal aprons, vests, arm guards, and special gloves. IBP requires its employees to store their equipment and tools in company locker rooms where most of them don their protective gear.⁷ In 1988, IBP began to pay these employees for 4 minutes of clothes-changing time.⁸ In 1999, IBP employees filed a class action lawsuit to recover compensation for their preproduction and postproduction work, including the time spent donning and doffing protective gear, and for the time spent walking between the locker rooms and the

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...employers always must recognize which activities engaged in by their employees go into the calculation of hours worked.

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Special Agent Schott is a legal instructor at the FBI Academy.

production floor both before and after their assigned shifts.⁹

In the second of the two consolidated cases considered by the Supreme Court, a group of current and former employees of Barber Foods, Inc. brought an action against Barber to receive compensation for time spent donning and doffing required protective gear and for time spent walking to and waiting at their assigned work areas.¹⁰ Barber operates a poultry processing plant in Portland, Maine, which employs approximately 300 people. The employees perform a variety of tasks requiring different combinations of protective clothing. However, they are paid hourly only after punching into computerized time clocks at the entrances to the production floor, and this occurs after the donning of the protective clothing.

Based on the appeal presented in the IBP fact pattern, the Supreme Court did not have to consider whether the donning and doffing of the equipment at issue was covered under the FLSA. Rather, “IBP [did] not challenge the holding below that...the donning and doffing of *unique* protective gear are ‘principal activities’ under § 4 of the Portal-to-Portal Act”¹¹ and, therefore, covered by the FLSA. Further, the Court was not asked to consider the accepted proposition that the donning and doffing of nonunique gear are

categorically excluded by the same Portal-to-Portal Act.¹²

Congress passed the Portal-to-Portal Act in 1947 in direct response to Supreme Court decisions mandating that employees be compensated for any time during which they are required to be on their employer’s premises, on duty, or at a prescribed workplace. In a 1946 case,¹³ the Court held that this included the time “necessarily spent by employees

“**Many...feel that there is a uniqueness to the donning and doffing of a police uniform and the accompanying protective gear that entitles them to be paid for these activities.**”

walking from time clocks near the factory entrance gate to their workstations.”¹⁴ With the passage of the Portal-to-Portal Act, Congress excepted two activities that had been found to be compensable by the Supreme Court: one, walking on the employer’s premises to and from the actual place of performance of the principal activity of the employee and two,

activities that are “preliminary or postliminary” to that principal activity.¹⁵

When considering the Barber fact pattern, the Supreme Court again left undisturbed the proposition that donning and doffing gear that is “integral and indispensable” to employees’ work is a principal activity and, thus, covered by the FLSA. Therefore, the only issue left for the Supreme Court to decide was whether the wait time following the donning and doffing fell under the FLSA.¹⁶ While the Supreme Court did not explicitly consider the time spent actually donning and doffing—as opposed to time waiting to do that or for walking following it—its tacit confirmation that the time spent doing it is compensable set the law enforcement argument in motion.

No one disputes that the police uniform and protective gear are important, but that does not necessarily mean that the time spent donning and doffing these items is compensable under the FLSA. The issue is whether the police uniform and protective equipment are “integral and indispensable” to performing the job and, therefore, if the time spent donning and doffing them are compensable activities. If they are “integral and indispensable,” then the donning and doffing of them are not excepted preliminary and postliminary activities as described in the

Portal-to-Portal Act, and, therefore, the time spent doing them must be compensated.

LAW ENFORCEMENT CASES

The *IBP* case triggered a spate of law enforcement cases addressing the donning and doffing issue. Each will be examined briefly, followed by an analysis of the results.

Martin v. City of Richmond

In *Martin v. City of Richmond*,¹⁷ an officer of the Richmond, California, Police Department brought a lawsuit on behalf of himself and other similarly situated officers seeking compensation for the donning and doffing of their uniforms, as well as for required safety and protective gear.¹⁸ The city sought summary judgment, which would preclude a trial on the matter, based on the claim that it did not have to compensate its officers for these activities because the police department allowed them to don and doff their uniforms and safety equipment at home. After a lengthy discussion on the department's policy allowing officers to don and doff at home, the court ruled that summary judgment was appropriate on the uniform issue as "Plaintiff and his fellow consenting officers [were] not entitled to compensation for the time they spend donning and doffing their police uniforms."¹⁹ However,

the court found summary judgment to be inappropriate on the "duty equipment" portion of the lawsuit because in spite of the "Defendant's formal policy of permitting officers to put on and take off their protective gear at home...there was a triable issue of fact...about whether the 'nature of [a peace officer's] work' actually requires them to don and doff their gear at the station."²⁰



Abbe v. City of San Diego

In *Abbe v. City of San Diego*,²¹ more than 1,000 San Diego, California, police officers sued the city for, among other things, a claim that their time spent donning and doffing police uniforms and safety gear had to be compensated under the FLSA. The plaintiffs contended that they were "entitled to compensation for time spent donning and doffing their uniform (including uniform and safety gear) because such activity is an integral and indispensable part of

the principal activities for which they are employed."²² While conceding that the uniform is essential to the discharge of law enforcement duties, the city contended that it did not have to compensate for such donning and doffing because such activities did not have to be done at work.²³ The court ruled that the city was entitled to summary judgment because "there is nothing about the process of donning and doffing a class 'B' uniform that must be done at work in order for an officer to safely carry out his or her law enforcement duties."²⁴ In making its ruling, the court pointed out that it had "been directed to no evidence suggesting Plaintiffs are required by law, policy, or the nature of their work to don and doff their uniform or safety equipment *at work*...."²⁵

Lemmon v. City of San Leandro

The issue in *Lemmon v. City of San Leandro*²⁶ was whether San Leandro, California, police officers were entitled to compensation for the donning and doffing of their Class B uniforms. Relevant factors argued by the officers and the agency included the department's claim that officers had the option of donning and doffing at home based on there being "no written policy allowing the officers to don and doff at home, or conversely, requiring the officers to don and doff at the station";²⁷

the fact that the department “does provide lockers to police officers in which officers may store uniforms, equipment and personal items”;²⁸ and, finally, that “most of officers don and doff entirely at the police station.”²⁹

The court ruled in this instance that the time spent donning and doffing the uniform and protective gear was compensable because the “integral and indispensable nature of the donning and doffing makes those activities principal to a police officer’s duties.”³⁰ In this case, the court did not look to the location of the donning and doffing in making its decision. Rather, the nature of the uniform and equipment alone made their donning and doffing compensable. The court did point out, however, that if officers chose to don at home, their commute time did not then become compensable.³¹

Maciel v. City of Los Angeles

Among many FLSA issues litigated in *Maciel v. City of Los Angeles*³² was the donning and doffing of personal safety equipment.³³ Finding that the donning and doffing of this personal safety equipment was work done for the benefit of the Los Angeles Police Department (LAPD), the court deemed it compensable. The court pointed out that “most of officers are required to wear their personal safety equipment while on

duty” and “that for all practical purposes, the equipment must be donned and doffed at the assigned station,”³⁴ noting LAPD’s desire to have such activities take place onsite and that officers are discouraged from wearing their uniforms while off duty.³⁵ The court further ruled that this time was compensable because the time spent doing these activities was not *de minimus*.³⁶

Valladon v. City of Oakland

In *Valladon v. City of Oakland*,³⁷ the issue of donning and doffing the uniform and protective gear was treated as a single activity. The court, after accepting the notion “that donning and doffing of police uniforms and gear is not, as a matter of law, compensable under the FLSA where neither the law, the employer’s rules, nor the nature of the work requires officers to don and doff on police premises,”³⁸ refused to grant summary judgment on the issue. The court found a material issue of fact surrounding the officers’ ability to dress at home even though police department policy of ficially permitted plaintiffs to don and doff there.

Bamonte v. City of Mesa

In 2010, with these lower court cases as a backdrop, the Ninth Circuit Court of Appeals weighed in on the issue in the case of *Bamonte v. City of Mesa*³⁹ and held that because

the employer in this case did not require that the donning and doffing occur at the workplace, these activities were not compensable work. The circuit court of appeals adopted a bright-line rule for whether donning and doffing is compensable—the location where it is performed—after an analysis of governing statutes, Department of Labor interpretations,⁴⁰ their own circuit precedents, and other analogous cases.⁴¹ In this case, “[n]o requirement of law, rule, the employer, or the nature of the work mandate[d] donning and doffing at the employer’s premises.”⁴²

Dager v. City of Phoenix

Following the Ninth Circuit Court of Appeals decision in *Bamonte*, courts have consistently applied that court’s rationale in rejecting claims by law enforcement officers that the donning and doffing of their uniform and protective gear is compensable. For example, in *Dager v. City of Phoenix*,⁴³ officers from the Phoenix, Arizona, Police Department lost their argument that they were entitled to compensation for their donning and doffing of the uniform and protective gear. As was the situation in the *Bamonte* case, the city maintained lockers for patrol officers at the various stations for them to store uniforms and equipment “but did not require that the officers change at the work site.”⁴⁴

Reed v. County of Orange

Similarly, in *Reed v. County of Orange*,⁴⁵ the district court held that sheriff's deputies from Orange County, California, were not entitled to compensation for their donning and doffing time. Again, the decision rested on the location of the activity. In fact, the court pointed out that "the County's rule manual directs many of its deputies to change into and out of their uniforms at work, but that policy does not apply to all deputies, and even with respect to those to whom the policy does apply, it is not followed by many of them."⁴⁶

Musticchi v. City of Little Rock

At least one federal court not bound by the Ninth Circuit Court of Appeals' rulings has now adopted the reasoning of *Bamonte*. In *Musticchi v. City of Little Rock*, a group of Little Rock, Arkansas, police officers alleged entitlement to compensation for their time spent donning and doffing the Little Rock Police Department (LRPD) uniforms and equipment.⁴⁷ Recognizing that neither the Eighth Circuit Court of Appeals nor any district court in that circuit had ruled on the matter, the district court pointed to the Ninth Circuit's rulings in *Bamonte* and *Dager* as "helpful precedent."⁴⁸ The court, not surprisingly, held that the time spent by Little Rock officers

donning and doffing their uniforms and equipment was not compensable. As in the *Bamonte* and *Dager* cases, "[n]either the law nor the LRPD requires officers to change at the station. Instead, the LRPD gives officers the option to change at home or at changing facilities provided by the LRPD. However, most officers choose to don and doff at home."⁴⁹

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Wright v. Pulaski County

In *Wright v. Pulaski County*, a case decided on the same day and by the same judge who ruled on the *Musticchi* case, a group of Pulaski County, Arkansas, Regional Detention Facility (PCRDF) correctional officers lost in their bid to be compensated for donning and doffing.⁵⁰ Again, "the County [did] not require PCRDF employees to don or doff their uniforms and safety gear at work, and the record contain[ed] no evidence that the nature of Plaintiffs' work, safety concerns, laws, or

anything else necessitate[d] that PCRDF employees don uniforms and safety equipment at work."⁵¹ The only unique aspect of the case was that the deputies also were required to wear a radio and body alarm that they obtained only after arriving for work, and it was unclear whether they were paid for the time it took to obtain those items. However, the court found that the time spent obtaining them was *de minimus* and, therefore, not compensable under the FLSA. Citing Supreme Court precedent, the judge explained a *de minimus* amount of time by stating that "[when] the matter in issue concerns only a few seconds or minutes of work beyond the scheduled working hours, such trifles must be disregarded."⁵²

Mory v. City of Chula Vista

In *Mory v. City of Chula Vista*,⁵³ the plaintiff brought her claim in the Southern District of California seeking compensation for overtime she allegedly worked as a police officer before being terminated in 2008. Among her claims for compensation was time spent donning and doffing her uniform and related gear. Arising in the Southern District of California, the district court judge found the Ninth Circuit Court of Appeals decision in *Bamonte* controlling. The plaintiff's attempts to distinguish her situation from that litigated in *Bamonte* fell on deaf ears. The judge simply pointed out that

neither of the state statutes identified by the plaintiff in support of her argument required “California law enforcement officers to don and doff their uniforms and related gear on their employers’ premises.”⁵⁴

CONCLUSION

Federal courts, especially in the western part of the United States, have addressed the issue of donning and doffing in the context of law enforcement departments numerous times. A common theme runs throughout the decisions—as an old real estate adage says, it usually is all about “location, location, location.” Simply stated, if there is a law, custom, or department policy mandating that the uniform and equipment be donned and doffed on premises, compensation for those activities will be required. Conversely, if no such law, custom, or policy exists, then no compensation will be required, even if the donning and doffing take place onsite for the convenience of the officers. Departments should take a close look at their uniform and equipment policies, specifically as to the donning and doffing of these important items, to determine how the policies may affect their financial obligation to compensate for these activities.

Endnotes

¹ Title 29 U.S.C. § 201, *et seq.* Overtime pay is one requirement of the FLSA. The legislation also provides for the minimum wage. As

originally enacted, the requirement for time and a half (overtime pay) was not applied until the employee had worked 44 hours during the workweek.

² Title 29 U.S.C. § 207(K).

³ The scope of this article will be limited to the issue of whether departments are legally obligated to compensate certain employees for donning and doffing their uniform and other protective gear. For a more thorough discussion of the basic provisions found in the Fair Labor Standards Act and Police Compensation,” *FBI Law Enforcement Bulletin*, June 2004, 24-32.

⁴ *Merriam-Webster’s Collegiate Dictionary*, 345 (10th ed. 1999).

⁵ *Id.* at 342.

⁶ 126 S.Ct. 514 (2005).

⁷ *Id.* at 521-522.

⁸ *Id.* at 522. Footnote 4 points out that in the current litigation IBP did not contend that pay for 4 minutes fully compensated the employees for their actual preproduction and postproduction time.

⁹ *Id.* Because cases brought by or on behalf of law enforcement officers following the decision in the *IBP* case have only argued that officers engage in similar donning and doffing (and not walking to or waiting in a work area), the remainder of the discussion of the *IBP* decision in this article will address only the donning and doffing issue.

¹⁰ *Id.* at 526. For the reason explained in footnote 9, the remainder of the discussion of the *IBP* decision in this article will address only the donning and doffing issue and not the walking and waiting issue.

¹¹ *Id.* at 523, emphasis added.

¹² *Id.* at 522.

¹³ *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

¹⁴ *Id.* At 691-692.

¹⁵ 29 U.S.C. § 254(a).

¹⁶ *Supra* note 6, at 527.

¹⁷ 504 F.Supp.2d 766 (N.D. Cal. 2007).

¹⁸ *Id.* at 767.

¹⁹ *Id.* at 776.

²⁰ *Id.* at 777, citing 29 C.F.R. § 790.8(c) n. 65.

²¹ 2007 WL 4146696 (S.D. Cal. 2007). Not reported in F.Supp.2d.

²² *Id.* at *4.

²³ *Id.*

²⁴ *Id.* at *7.

²⁵ *Id.*, emphasis added.

²⁶ 538 F.Supp.2d 1200 (N.D. Cal. 2007).

²⁷ *Id.* at 1202.

²⁸ *Id.* at 1203.

²⁹ *Id.*

³⁰ *Id.* at 1209.

³¹ *Id.*

³² 569 F.Supp.2d 1038 (C.D. Cal. 2008), *appeal dismissed*, 336 Fed. Appx. 678 (9th Cir. 2009).

³³ Based on a collectively bargained agreement, the LAPD did not compensate its officers for donning and doffing the standard police uniform, including a vest and belt with its contents. Neither party called into question the validity of the collective bargaining agreement.

³⁴ Note 29, *supra*, at 1049.

³⁵ *Id.*

³⁶ *Id.* at 1053.

³⁷ 2009 WL 3401263 (N.D. Cal. 2009). Not reported in F.Supp2d.

³⁸ *Id.* at *9.

³⁹ 598 F.3d 1217 (9th Cir. 2010).

⁴⁰ The panel reviewed Department of Labor (DOL) general policy statements on the Portal-to-Portal Act’s effect on the determination of compensable activities. While noting that the policy statements are not entitled to deference but are entitled to respect, the court noted that among the activities recognized by DOL as examples of being an integral part of a principal activity (and therefore compensable) was “changing clothes *on the employer’s premises* at the beginning and end of the workday.” 598 F.3d at 1223, *emphasis added*.

⁴¹ *Supra* note 39, at 1232.

⁴² *Id.* at 1233.

⁴³ 380 Fed.Appx. 688 (9th Cir. 2010).

⁴⁴ *Id.* at 689.

⁴⁵ 716 F.Supp.2d 876 (C.D. Cal. 2010).

⁴⁶ *Id.* at 877.

⁴⁷ 734 F.Supp.2d 621 (E.D. Ark. 2010).

⁴⁸ *Id.* at 626.

⁴⁹ *Id.*

⁵⁰ 2010 WL 3328015, slip op. (E.D. Ark. 2010).

⁵¹ *Id.* at *5.

⁵² *Id.*, quoting, *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 692 (1946).

⁵³ 2010 WL 3748813, slip op. (S.D. Cal. 2010).

⁵⁴ *Id.* at *6.

Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

Bulletin Notes

Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize those situations that transcend the normal rigors of the law enforcement profession.



Deputy Schreader

Deputy Roger Schreader of the Niagara County Sheriff's Office in Lockport, New York, responded to an emergency call for a traffic accident. While en route to the scene, Deputy Schreader received news that the vehicle had caught fire while a victim remained inside. When he arrived at the accident, the deputy observed a female trapped in the locked vehicle. The deputy used a fire extinguisher to break the car windows and partially extinguish the flames. Then, he cut the driver's seatbelt and pulled her to safety. When the fire soon intensified and spread to the second vehicle, Deputy Schreader rescued the driver of that vehicle as well. The victims recovered fully at a nearby hospital.



Sergeant Walton



Deputy Bennett



Deputy Long

On his first day as the commander of a mountain substation, Sergeant William Walton of the Placer County, California, Sheriff's Department drove over a local bridge that has served as the site of many suicides since its construction. As he passed across the span, Sergeant Walton noticed a woman acting suspiciously. Sensing something was not right, he turned around. As he approached her, she climbed over and hung onto the outside of the bridge's railing. Immediately, Sergeant Walton went to her and, accompanied through most of the ordeal by Deputies Michael Bennett and Paul Long, spoke with her, trying to convince her to return to safety. After 4 hours, the woman climbed over voluntarily and was transported for psychiatric care.

Nominations for the **Bulletin Notes** should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions can be mailed to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Quantico, VA 22135 or e-mailed to leb@fbiacademy.edu.

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Patch Call



The Aberdeen, Maryland, Police Department patch focuses on the Maryland state seal as the central image. The graphic displays the farmer and the soldier, symbols of Maryland's primary industries during colonial times, standing on either side of the coat of arms for Cecilius Calvert, the 2nd Lord of Baltimore. Calvert was an English colonizer and the first proprietor of Maryland. The banner below the seal displays the Latin motto "Fatti Maschii, Parole Femine," which translates to "Manly Deeds and Womanly Words."



The patch of the Edina, Minnesota, Police Department shows the rich history and traditions of the town that the department serves. The central image displays the city's seal, which it adopted in 1974. The seal recalls the Irish and Scottish immigrants who first settled in the community, as well as the mill they used to process their crops. The cloverleaf design that encompasses these symbols follows the general pattern of the city's major highways. Below the image, the patch displays 1888 as the city's year of incorporation.