

Journal of Colorado Policing

The Official Journal of the
Colorado Association of
Chiefs of Police



Volume 5
Issue 2
Fall 2020

EDITORIAL MISSION STATEMENT



Journal of Colorado Policing

The Official Journal of the Colorado Association of Chiefs of Police

The editorial mission statement of the *Journal of Colorado Policing* is to provide a resource of information among law enforcement professionals. The journal serves as a professional forum for the dissemination of original research, legal updates, training strategies as well as best practices and literature reviews. The journal incorporates the expertise of both practitioners and academics to achieve those goals. Promoting the publication of peer-reviewed research and providing sound advice from practitioners for law enforcement within the state of Colorado are the journal's main goals.

The editorial board of the *Journal of Colorado Policing* considers for publication the following types of articles:

Original Research: Research articles of interest to the members of the Colorado Association of Chiefs of Police are welcome.

Commentaries: Short papers of a philosophical nature addressing important issues, innovative training strategies, and best practices are invited. The journal welcomes the thoughts and comments of the association's members and its other readers.

Literature and Book Reviews: The journal publishes literature and book reviews of well-documented manuscripts on pertinent topics and newly available texts within the discipline.

Legal Updates: Pertinent reviews of legal cases and articles addressing legal issues are published as well.

Letters to the Editor: Relevant letters are published, with authorship, on important topics.

Copyright ©2020 by the Colorado Association of Chiefs of Police. All rights reserved. Authorization for personal or institutional use is granted. All other uses must be approved, in writing, by the Editor-in-Chief.

Editorial Board

Dr. John G. Reece, BA, MPA, PhD
Editor-in-Chief
Colorado Mesa University

Dr. Steven Ross Murray, BS, MS, DA
Associate Editor
University of California, Berkeley

Dr. Eric R. Watters, BPA, MPA, MS, PhD
Assistant Editor
Colorado Mesa University

Send editorial correspondence to:

Dr. John Reece
Department of Social and Behavioral Sciences
Colorado Mesa University
1100 North Avenue
Grand Junction, CO 81501-3122
joreece@coloradomesa.edu
970.248.1541

The *Journal of Colorado Policing* is published by the Colorado Association of Chiefs of Police. All rights reserved.

TABLE OF CONTENTS

<i>Editorial Mission Statement</i>	1
<i>Table of Contents</i>	2
<i>Message from the CACP President</i>	
Cory Christensen, Chief of Police.....	3
<i>Letter from the Editor</i>	
John Reece, Ph.D., Editor-in-Chief	4
<i>Police Citizen Advisory Boards in Contemporary Practice: A Practical Approach</i>	
John Reece, Ph.D., Eric R. Watters, Ph.D., & Judy Macy	5
<i>Psychiatric Disorders Arising from Cumulative Stress in Police Officers Offer Clues for Decreasing Excessive Use of Force</i>	
John S. Graves, M.D. & Matthew M. Lunn, Ph.D.....	12
<i>Citizen Perceptions of Law Enforcement Shootings Involving Imitation Firearms</i>	
Kristine Gregory, PhD.....	23
<i>Legal Update: People v. Catteneo (Is there a general expectation of privacy in a vehicle identification number?)</i>	
Philip J. Baca, Esq.....	30
<i>Guidelines for Authors</i>	34

COMMENTARY

Message from the CACP President

Cory Christensen, MS, Chief of Police
Steamboat Springs, Police Department



Chief Cory Christensen

This year has been one of the most challenging times ever seen by our profession. Not only are we facing a global pandemic, but also national strife over how policing is accomplished in communities. Many of our jurisdictions have seen

widespread rioting and disorder. Public trust in policing takes a hit each time there is a well-publicized incident involving an officer-involved shooting where non-law enforcement individuals decide the outcome long before the facts are in. Social media goes viral and the leaders of that organization are working to play catch up just to make sure the truth is known. Now more than ever we need to be unified in our approach and message to these current events.

CACP is working very hard to make sure your voices are heard, and you are supported. We have engaged with outside professionals to work on legislative issues and policy decisions. Our legislative committee is already hard at work in assessing upcoming legislative proposals and strategies to work with our elected officials so that we have new laws that we can implement successfully and meets our community's needs. CACP has also contracted with a public relations team that is working with the County Sheriffs of Colorado and the Fraternal Order of Police. This is an effort to make sure we are of a single voice in areas or police reform and in building trust with our community.

Given the operation tempo in our jurisdictions, it is not a surprise that many CACP committees go unfilled or lack involvement. Now is the time to step up and help fill these vacancies and ensure a strong association going forward. We continue to search for chiefs to fill positions on the following committees; professional standards, award committee, and membership committee. We also need a representative from the southeast region.

More than ever CACP needs a strong and robust membership that is active and unified. Thank you for your service to your community as well as our state.

LETTER FROM THE EDITOR

John Reece, Ph.D., Editor-in-Chief
joreece@coloradomesa.edu
Colorado Mesa University



Dr. John Reece

In the spring issue, I announced Colorado Mesa University's (CMU) new Master of Arts in Criminal Justice Leadership and Policy (MCJLP) degree program. The MCJLP was to start in the fall 2020 semester; however, due to COVID-19, the start of the program was delayed. We now expect the MCJLP degree program to start in the fall 2021 semester in late August, with a *Leadership in Criminal Justice* course in the first mod and *Public Policy Analysis* course in the second mod. Further, we expect to begin accepting applications for the program in April of 2021, following the program's final accreditation by the Higher Learning Commission.

I would like to take this opportunity to describe the program for you again. The MCJLP degree program is a total of 33 credit hours and is designed for the working professional. The program will be completely online. Students will be able to complete the degree remotely with no on-campus or residency requirement. The program will run in an accelerated format, with each course being only 8 weeks long. That means a student could complete the program in as little as 2 years, while taking only one course per mod (i.e., two courses in each fall, spring, and summer semester), which keeps the workload manageable for working professionals.

The MCJLP degree program is designed for developing and established leaders throughout the

criminal justice community. The coursework covers topic areas such as management and administration, leadership, budgeting, policy analysis, ethics, criminological theory, program development and evaluation, strategic planning, critical issues in corrections, and legal issues in criminal justice. The admissions requirements for the program include:

1. An earned baccalaureate degree from an accredited institution
2. A 3.0 or higher undergraduate grade point average (GPA)
3. Two years of professional experience in a criminal justice discipline is preferred, but not required.

The program does not require candidates to complete the graduate record examination (GRE). Students without a criminal justice or criminology-related undergraduate degree may be required to take leveling courses, such as an undergraduate Introduction to Criminal Justice or Criminology course, to prepare them for acceptance into the program.

Additionally, I would like to announce CMU's Bachelor of Arts and Bachelor of Applied Science (with POST) criminal justice degrees can now be completed fully online, making it more convenient for working professionals to attain their degree.

Please feel free to pass this information along to your officers and staff, and to contact me at joreece@coloradomesa.edu for more information about the MCJLP degree program.

ORIGINAL RESEARCH

Police Citizen Advisory Boards in Contemporary Practice: A Practical Approach

John G. Reece, Ph.D.
joreece@coloradomesa.edu
Colorado Mesa University

Eric R. Watters, Ph.D.
ewatters@coloradomesa.edu
Colorado Mesa University

Judy Macy, Chief of Police (decd.)
Fruita (CO) Police Department

This article was originally published in this journal and The Police Chief magazine. Considering the law enforcement use of force-related issues seen in the United States this year and the policy changes being considered in some jurisdictions as a result, the editors decided to update and republish this article for the membership of the CACP. This updated version is being reprinted here with the permission of the International Association of Chiefs of Police, Inc. The original article's copyright is held by the International Association of Chiefs of Police, Inc. 44 Canal Center Plaza, Suite 200, Alexandria, VA 22314. Further reproduction without express permission from IACP is strictly prohibited.

Democracy is a core value of American society and citizens have a fundamental right to participate. It has been widely argued that citizen participation in governmental policymaking produces many benefits. Dissent from this viewpoint is rare. Because citizen participation promotes trust in governmental operations, it has continued to be a long-standing value of American public administration. However, historically, the value has not been embraced by law enforcement in a meaningful manner, until recently.

The notion of citizen participation in policing has been an elusive ideal. Participation efforts in policing have continued to evolve without a general consensus of the meaning and goals. Some simply equate citizen participation in policing to neighborhood watch groups or citizen police academies. Conflict can arise between the types of citizen involvement and the traditional principles of public administration theory and practice. Cooper and Kathi argued the overarching administrative ethos of the administrative state can create barriers to citizen participation in governance (Kathi & Cooper, 2005).

An intellectually honest discussion about citizen involvement in policing is particularly relevant in the post-Ferguson (i.e., Michael Brown), Breonna Taylor, George Floyd environment of policing, as community involvement and transparency have become de facto mandates for law enforcement. The widespread transmission of misinformation experienced during the aftermath of the Michael Brown shooting in Ferguson brings the need for timely transparency into specific relief. Nature abhors a vacuum and if police executives do not fill that information vacuum with evidence-based facts, it will be filled with speculation and rumor by members of the public and media. In the age of 24-hour news cycles and social media, law enforcement agencies can no longer afford to withhold information while standing behind the veil of an "ongoing investigation."

Early on, the United States federal government provided the primary impetus for citizen participation programs in law enforcement; however, public entities at all levels of government have been increasingly launching such public-participation programs. Local

CITIZEN ADVISORY BOARDS

agencies have a history of seeking out citizen participation through forums such as public meetings and hearings, public workshops, feedback surveys, and steering committees. Empirical evidence has underscored the limitations of such practices, however, in terms of reaching true consensus. The practice of deciding upon policies or programs, and then introducing them to citizens in a public hearing format has proven to be a poor technique and inadequate persuasion tool (Irvin & Stansbury, 2004). Citizen advisory boards began to surface in the late 1980s and early 1990s to improve upon the one-way flow of information that traditionally took place in public meetings. Such citizen advisory boards can overcome several of the limitations inherent in other traditional citizen participation efforts.

Contemporary Views on Citizen Participation

The President's Task Force on 21st Century Policing emphasized the importance of citizen involvement in policing and improved trust between law enforcement and the public (President's Task Force on 21st Century Policing, 2015). Within the task force's report, citizen advisory boards and community involvement were specifically recommended as action items for local law (President's Task Force on 21st Century Policing, 2015). Today, it is critically important for all police agencies to promote and cultivate citizen involvement with their agency. However, implementing boards and commissions must be done thoughtfully and purposefully to establish meaningful and effective relationships. What follows is an analysis of the role of police citizen advisory boards as well as examples and discussion of police citizen advisory board implementations that proved to be either beneficial or detrimental to the agencies' administrative functions. A recommended approach to appointing, organizing, and conducting a police

citizen advisory board is also presented.

The Role of Citizen Advisory Boards

A citizen advisory board can be defined as a group of individuals appointed for the purpose of examining a public issue or set of issues, who meet over an extended period, and develop alternative solutions and/or new ideas through comprehensive interaction. Rather than being open to all members of the public, a citizen advisory board is restricted to a small number of individuals who are expected to represent the interests of the public (Thomas, 2008). A law enforcement agency can utilize a citizen advisory board for relevant expert advice, perspective, and input on a myriad of issues. A board may be asked to conduct research, generate new ideas or solutions, provide community perspective on issues, or provide informed recommendations on public policies and practices, to name but a few. Providing input on community vision and the police department's role in attaining and maintain that vision is an example of a police citizen advisory board mission. What a citizen advisory board should not be is a policy-making body; otherwise, the ability of police executives to effectively do their jobs will be compromised.

The Impact of Police Citizen Advisory Boards on Police Management

Law enforcement leaders cannot transfer their administrative accountability and legal responsibilities to a citizen advisory board. There are statutory rules and regulation that must be followed. Although some are cynical about police citizen advisory boards because of that lack of formal power, public administration, by definition, should be accomplished by professional administrators, albeit with the input of the public, either individually or through elected or appointed representatives. Such public administrators, who are educated and have specific applicable

experience, are ultimately accountable for the decisions that are made. On the other hand, forming citizen advisory boards for the purpose of providing specific policy or program recommendations, participating in strategic planning, or in the review of personnel practices can be useful in policing. The implementation of body-worn camera programs is an ideal example of a project which would greatly benefit from the perspective of a citizen advisory board. Furthermore, a citizen advisory board can be a critical component in establishing a transparent culture between a police agency and its community.

However, citizen advisory boards cannot effectively run agencies or legally enact policies. It would be *management-by-abandonment* if administrative functions were turned over exclusively to a citizen advisory board. Police executives have the managerial, legal, and political responsibility to lead their agencies. To do otherwise would be a failure of duty and leadership. The overall management and leadership of a police agency is the task of the trained and competent police professionals.

Colorado Examples of Citizen Advisory Boards

La Plata County Sheriff's Office

In 1987, William Gardner ran for La Plata County (CO) Sheriff. Gardner made it a campaign pledge to rebuild the eroding trust between the sheriff's office and the public. After being elected, Gardner became the first Colorado sheriff to implement a formal police citizen advisory board. Gardner's overall mission was to restore trust with the community, have policy oversight, raise personnel standards, and create transparency.

Gardner had no names in mind as he embarked upon creating the new advisory board. He had, what seems now, to have been a seemingly simplistic

mandate, to appoint board members who reflected the diversity of the La Plata County community. La Plata County was, and still is, a college and resort community, but also home to many hardworking ranchers. Gardner's appointed board consisted of the following members: (1) a college representative, (2) a representative from the Latino community, (3) a local business representative, (4) the president of the Cattleman's Association, (5) a school board member, (6) a ski resort representative, and (7) the incumbent major of the Colorado State Patrol. The board members were credible and well known by the residents and business owners of the La Plata County community. When the creation of the new advisory board headlined the local newspaper, most knew who the members were and supported their involvement and representation.

The board made significant progress and, by all accounts, the fundamental goal of restoring community trust was achieved. Gardner commented on the success of the advisory board by saying, "What would have taken several years to build was accomplished in less than a year. That is a home run" (personal communication, 2010). The La Plata County case demonstrates how a well-designed police citizen advisory board can assist a chief executive with agency functions and practices as well as build positive relationships with the community.

City of Fruita Police Department

The city of Fruita is a relatively small city in western Colorado's Grand Valley. It established a police commission, as a police citizen advisory board, in 1999 following several controversial police actions that had eroded the community's trust in the nine sworn officer police department. The commission was given investigatory powers, albeit with limited authority. Despite the limitations, those investigative powers

CITIZEN ADVISORY BOARDS

proved to be problematic. The stated purpose of the commission was to serve as an advisory committee reporting to the city council. The commission was, and still is, comprised of five members; four citizens who are nominated by the mayor and approved by the full council, and one sitting member of the city council. The chief of police continues to serve as an ex-officio member of the commission with no voting power. Commission members were selected based on their “ability to perform the prescribed duties” (*Fruita Police Commission By-Laws*, 1999, p. 1).

The duties outlined in the by-laws were primarily advisory in nature to city council and the police chief, including matters pertaining to police department activities, policies, personnel, and planning. However, most problematic was the duty to act as a *Citizen Complaint Review Board* with powers to investigate complaints and make recommendations to the chief of police, the city manager, and city council (*Fruita Police Commission By-Laws*, 1999). While the commission did not have authority to administer corrective actions (e.g., discipline) to department personnel, the investigative authority included the ability to request a review of initial police investigation with the assigned investigator, question the complainant and associated witnesses while in executive session, and designate an outside law enforcement jurisdiction to conduct an internal affairs investigation (*Fruita Police Commission By-Laws*, 1999).

A specific issue associated with the citizen complaint review function was that members lacked the requisite skills, expertise, and training to properly interview witnesses and officers. Some complaints involved the use of force. Without the necessary expertise, the Board’s ability to properly investigate was compromised. Additionally, the commission was

privity to confidential information, which could have been compromised with such citizen involvement.

The problem was essentially resolved in 2004 when the city charter was revised addressing the powers and duties of the police commission. The make-up of the commission remained the same; however, the duties were revised and limited to recommending “policies, standards, procedures, and limitations for the police department,” and to “receive public comment on the operations and management” of the agency, upon the direction of the city council (*City of Fruita City Charter*, 2004, p. 13). Additionally, the commission provides “input to the city manager on the appointment of the police chief” and, upon the direction of the city council, “may provide assistance to the Chief of Police in selecting members of the department” (*City of Fruita City Charter*, 2004, p. 13).

Since the charter revision in 2004, the police commission has been instrumental in several important decisions. For example, decisions to implement equipment like Tasers and body cameras, as well as, taking part in the oral board assessments for new police chiefs and officers. In its role as a police citizen advisory board to the city council, city manager, and police chief, the police commission has proven to be a valuable asset to all entities as well as an effective sounding board for the community.

Recommended Approach

Police executives and elected officials should decide upon the amount of authority a new police citizen advisory board should have yet remain open to the importance of having citizen perspective, input, and oversight. Effective government is based on trust and trust is reinforced through transparency. A central tenet of a police citizen advisory board should be to build trust and open and honest two-way communication. Police citizen advisory board

members should be seen as the public's connection to those efforts.

The citizen advisory board should be limited in scope and purpose. Discussions with elected officials should not be focused on whether or not an advisory board should be formed, but rather the amount of authority that should be granted to the board; keeping in mind the agency head and command staff will be less accountable for the overall operations and effective in their leadership and management of the organization if too much power is reallocated to an advisory board. There will always be a certain amount of tension between accountability and notions of community trust and transparency. The operational needs of the agency and the authority given to the board should be based on the situation and/or issues being addressed. If too much power and authority is delegated to the police citizen advisory board, the ability of the agency head to be an effective leader will no doubt be questioned and, therefore, impacted.

Once the purpose, mission, and authority of the police citizen advisory board are established, membership selection should take place. Importantly, the composition of any such advisory board must reflect the demographics of the community and may, therefore, affect the size of any such board. The agency head should retain limited authority in the appointment of board members and appointments should be accomplished through an established and transparent search process. That process may include components like a written application and in-depth interviews with the chief of police, existing advisory board members, and/or city council members, as in the city of Fruita model, to reveal any hidden agendas the applicant may have.

The agency head must also avoid even the appearance that he or she is selecting friends or

associates who may support a particular agenda or policy position. Ultimately, each applicant should pass a rigorous litmus test prior to becoming a sitting member of a police citizen advisory board. The agency should widely advertise that a board is being formed and request applications. The optimal size of the advisory board may also depend on the established mission of the board, with it being large enough to represent a variety of interests, yet small enough for each member to be involved without decision-making dragging on interminably (Thomas, 2008). Establishing a term limit should also be considered. The priority should be to establish a diversified board and to balance the interests and expertise found within the community as a whole.

The police citizen advisory board cannot be politicized. Each member must genuinely represent the community, or the fundamental objective of the advisory board will be lost. Members are only a small segment of a community. They must clearly represent a constituency to be influential in and supported by the population. Because advisory board members volunteer their time, the agency head must ensure the board does not become dominated by partisan members or overpopulated with participants who have the economic means to donate their time. The advisory board should be culturally diverse and have broad geographical representation.

When creating a police citizen advisory board for the task of reviewing complex law enforcement incidents, it would be wise to utilize the talents of the academic community in terms of organizing the internal processes of a citizen review. Garnering the organizational and facilitation skills of an expert who can teach the advisory board about problem analysis and decision-making will influence the overall process and outcome. The outside facilitator should be

CITIZEN ADVISORY BOARDS

concerned with process, not the content of the issues being addressed by the board. The use of such a facilitator can have the added benefit of dispelling concerns the advisory board is simply a rubber stamp for the city or department. Advisory board members should mutually agree upon a consensus process in the development and approval of recommendations. Transparency in the decision-making process is key and will build trust among the participants and populace.

Cost can be a barrier to advisory board implementation. The per-decision cost of a police citizen advisory board is arguably more expensive than that of a single professional administrator. A citizen advisory board will have significant time commitments, whereas an agency administrator can make more timely decisions. Notwithstanding that, what cannot be measured when utilizing a police citizen advisory board is the social capital gained by such transparent oversight.

Determining if citizen advisory boards truly work is difficult because of limited empirical studies and the diversity in criteria for success. Furthermore, success is difficult to define. One cannot gauge success on a hunch. Researchers and practitioners have historically measured success within two broad categories: the success of the process and the success of the outcome (Chess & Purcell, 1999). The evaluation of the process is characterized by analyzing the means used rather than focusing solely on results. When evaluating outcomes, it is important to be cognizant of the fact an effect could be due to the citizen participation process or some other spurious variable. A balance between process and outcome goals should be met.

Conclusion

The wise selection and use of citizen advisory

boards is becoming an important component of most law enforcement organizations and, it seems clear, a more democratic and effective organization will be the result. Police leaders should encourage an engaged citizenry. Passive communities can sometimes be an indication of acceptance or apathy and disconnectedness, which has the potential to evolve into hostility. With citizens as an active part of the organization, the public may be less critical of the hard decisions often required of police administrators. Effective law enforcement programs can improve legitimacy and trust. The best programs and policies emerge from the collaborative efforts of the community and agencies. The design and implementation of police citizen advisory boards can be a vital component in accomplishing such goals.

References

- Chess, C., & Purcell, K. (1999). Public participation and the environment: Do we know what works? *Environmental Science and Technology*, 33(16), 2685–2692. <https://doi.org/10.1021/es980500g>
- City of Fruita city charter. (2004).
- Fruita police commission by-laws. (1999).
- Irvin, R. A., & Stansbury, J. (2004). Citizen participation in decision making: Is it worth the effort? *Public Administration Review*, 64(1), 55–65. <https://doi.org/10.1111/j.1540-6210.2004.00346.x>
- Kathi, P. C., & Cooper, T. L. (2005). Democratizing the administrative state: Connecting neighborhood councils and city agencies. *Public Administration Review*, 65(5), 559–567. <https://doi.org/10.1111/j.1540-6210.2005.00483.x>
- President's Task Force on 21st Century Policing. (2015). *Final report of the President's Task Force*

on 21st Century Policing.

Thomas, J. C. (2008). *Public participation in public decisions: New skills and strategies for public managers*. Jossey-Bass.



Dr. John Reece

Dr. John Reece is a Professor of Criminal Justice and the former director of the Western Colorado Peace Officers Academy (WCPOA) at Colorado Mesa University. Dr. Reece was employed with the Grand Junction (CO) Police

Department for nearly twenty years. During his tenure at the GJPD, Dr. Reece was a Patrol Officer, K-9 Handler, Field Training Officer, Rifle Team Member, and Detective. He was promoted to Police Sergeant and in this capacity was assigned to Patrol, Training and Recruitment, and Internal Affairs. Dr. Reece holds a bachelor's degree in Criminal Justice from Colorado Mesa University, a master's degree in Public Administration from the University of Colorado, and a Ph.D. in Public Administration from Northcentral University. He serves as the Editor-in-Chief of the Journal of Colorado Policing.



Dr. Eric Watters

Dr. Eric Watters is an Assistant Professor of Criminal Justice at Colorado Mesa University. Dr. Watters worked for the Miramar (FL) Police Department for 20 years, where he began his career as a communications officer and worked his way

up the ranks, eventually retiring as the Executive Commander. The last 10 years of his law enforcement

career were spent at the management level where he led all the administrative functions of a department that served 140,000 fulltime residents with a \$50 million annual budget. Dr. Watters also served as an Adjunct Professor of Public Administration at Barry University in Miami Shores, Florida, for 10 years. Dr. Watters holds Bachelor and Master of Public Administration degrees from Barry University, and Master of Science in Justice Administration (Homeland Security specialization) and PhD in Leadership (Criminal Justice specialization) degrees from the University of the Cumberlands. Dr. Watters is also a graduate of the 136th Administrative Officers Course at the University of Louisville's Southern Police Institute. Dr. Watters serves as the assistant editor of the Journal of Colorado Policing.

 <https://orcid.org/0000-0001-9886-8147>



Chief Judy Macy

Mrs. Judy Macy (decd.) worked in law enforcement for over 27 years. She began her career with the Douglas County Sheriff's Office (Colorado) in 1988, working in the Detentions Division, transferring to the Patrol Division where she was promoted to Sergeant, and the Investigations Unit, where she also managed the Crime Lab. In 2002, her family moved to the Western Slope of Colorado. She continued her career with the Fruita Police Department, promoting to Lieutenant in 2006. She was appointed Chief of Police in 2014 and retired from this position. Ms. Macy held a bachelor's degree in Public Administration from Colorado Mesa University.

ORIGINAL RESEARCH

Psychiatric Disorders Arising from Cumulative Stress in Police Officers Offer Clues for Decreasing Excessive Use of Force

John S. Graves, M.D. (ret.)
jsgraves2@comcast.net

Matthew M. Lunn, Ph.D.
matthew.lunn@denvergov.org
Denver Police Department

Psychiatric disability evaluations of 34 police officers who experienced many years of cumulative stress revealed significant incidences of serious psychiatric disorders and substance abuse, which often led to impairments in judgment, decision-making and the tendency to overreact to stress with aggressive behavior. In many instances, officers suffered from combinations of clinical depression, post-traumatic stress disorder, and post-concussion syndromes similar to those found in combat veterans. These data offer clues for policymakers who are currently addressing the issue of excessive use of force in the nation's law enforcement departments. The authors explore the implications of these findings with a case vignette illustrating several aspects of three common themes: 1) Police officers' personal and professional identities; 2) Difficulties accessing resources and treatment; and 3) Agencies' response to critical incidents. Recommendations are made for improvement: 1) Normalizing and improving mental health evaluations and care; 2) Increasing the consistent application of critical incident stress management; and 3) Increasing opportunities for understanding related racial, ethnic, and gender differences. Perhaps the widespread applications of these recommendations will serve to reduce the incidence of often tragic use of excessive force by patrol officers.

A review of 34 disability evaluations performed during an 18-year period for a public safety pension group by Dr. Graves revealed significant incidences of post-traumatic stress disorder (PTSD), major depression, panic and anxiety disorders, drug and alcohol abuse, post-concussion syndromes, bipolar disorder, personality disorders, and the development of domestic violence and assaultive behavior in law enforcement officers. All of the evaluation subjects in this sample, which included 30 men and 4 women from 20 urban, suburban, and rural jurisdictions throughout Colorado, were found to be temporarily or permanently disabled from discharging their regular duties.

Several of the subjects exhibited two or more

of the above diagnoses concurrently which led to more profound impairment of their judgment and decision-making. Three subjects presented with combinations of PTSD, major depression, and post-concussion syndrome; a triad frequently seen in military combat veterans. These combinations may create a perfect storm of cognitive impairments rendering officers prone to irrational thinking, impulsively aggressive behavior, and decreased problem-solving capacities while under stress. Such a combination of impairments could also result in an officer using inappropriate force.

The finding of so many acute and chronic psychiatric disorders in law enforcement officers who become occupationally disabled is especially important to understand in light of the widespread

national protests following the death of George Floyd in Minneapolis. While such incidents generate widespread media attention, few investigations probe beyond the issues of self-defense and racial bias and ask the question: why do some experienced police officers over-react to situations?

The authors of this article explored how cumulative stress from police work can lead to the development of major psychiatric disorders which, in turn, could predispose officers to aggressive reactions with often fatal and tragic outcomes. The authors explored common themes in police work described by disabled officers who experienced cumulative stress and provide recommendations regarding cultural changes in departments, more effective use of critical incident stress management, and more pro-active understanding, diagnosis, management, and treatment of stress-related disorders. It is hoped that following these recommendations will assist police chiefs and their officers in decreasing the incidence of excessive use of force and improve career performance and satisfaction.

Literature Review

Police work in the United States ranks among the highest in non-military occupations in terms of physical and emotional trauma. A recent review indicated 228 police officers died by suicide in the United States compared to 132 deaths from all other line of duty causes. Colorado ranked 5th of 50 states with 12 officer suicides (Barr, 2020). The diagnoses of PTSD and closed head injury with post-concussion syndrome are associated with difficulties with impulse control and managing aggression (Herman, 1992, McAllister, 2005; & Van der Kolk, 2014). This can be complicated by further loss of short-term memory and executive functioning associated with clinical depressions (Van der Kolk, 2014). According to a New

York Times article, 900-1,000 people are killed per year by police officers (Smith, et al, 2017). In Colorado 32 people died in 2016 as a result of police shootings, ranking 9th out of 50 states plus the District of Columbia (Guardian, 2016). These data suggest there is an urgent need for more regular comprehensive mental health evaluations and treatment for police officers facing line of duty cumulative traumatic stresses.

These data and clinical findings need to be understood in the context of widespread civilian gun ownership. Recent studies indicate 57 million Americans own guns with an average of five per person (Mann & Michael, 2016). Police shootings are occurring in awareness of a highly armed public, often generating significant levels of anxiety and vigilance regarding possibly fatal risks for officers. Despite these alarming data, there is still no reliable published annual national database detailing shootings and non-lethal forms excessive use of force by police.

The prevalence of officers' mental health and use of force has not previously been described in the literature. However, many other issues related to the use of force by law enforcement, such as the disconnect between policies and the perspective of officers, strength of policies related to options of force based on subject actions, and the distrust between officers and the community have been explored (Fairburn, 2016; Law Officer, 2016; Lunn, 2017; National Association of Police Organization, 2016; Terrill & Paoline, 2017; Van Craen & Skogen, 2017). Additionally, in this time of discussion on police reform, agencies must be focused on disparate findings related to race/ethnicity and use of force (Edwards, Lee, Esposito, 2019; Kahn, Steele, McMahon, & Stewart, 2017; Paoline III, Gau, & Terrill, 2018).

Previous studies have found the most important factor in predicting violence is a history of violent behavior (Guthiel & Appelbaum, 2007). Finding appropriate means for identifying those who may resort to violence is key. A meta-analysis of 68 violence risk assessment tools found the Structured Assessment of Violence Risk in Youth (SAVRY) tool had the highest rate of predictive validity (Singh et. al., 2012). The studies examined individuals in a criminal justice context, but were not performed on law enforcement professionals.

While psychological testing has been used extensively since the late 1940s in applicants to police academies, the use of these tests varies widely and many have questioned their predictive validity regarding the fitness for duty of prospective trainees (Mark, 2014). To complicate matters, there is a growing controversy in case law regarding whether, and under what circumstances, detailed psychological testing in police academy applicants should be mandatory (Mayer & Corey, 2016). This is an issue requiring further examination, so police departments can more effectively evaluate potential recruit officers for resilience, empathy, emotional maturity, impulse control, and capacity to make sound decisions in crisis situations.

Methods

The clinical psychiatric evaluations were done in a private office for three to five hours with each officer. They included a thorough review of job descriptions, medical and psychiatric records, and disability applications prior to all clinical interviews. Officers were told they could request breaks at any time if they became overwhelmed with recall of traumatic events. The main focus of the evaluations was to determine if the officer was temporarily or permanently disabled from performing the specified

tasks of their employment as law enforcement officers. A determination was also made regarding whether their disability was causally related to their work experiences.

The clinical evaluation consisted of a review of incidents leading up to the disability application, a medical, surgical, and psychiatric history, family history, education and employment history, and a detailed mental status evaluation including assessment of orientation, attention, concentration, short and long-term memory, psychotic and delusional thinking, capacity for abstract reasoning and insight, suicidality and dangerousness. The Beck Depression and Anxiety Inventories, DSM-IV checklist of PTSD symptoms, and the Young Mania Scale were utilized when indicated. Family members and current healthcare providers of the clients were consulted to corroborate information provided.

Findings

The study included 34 police officers with a racial/ethnic breakdown of 26 Caucasians, 6 Hispanics, 1 African American, and 1 Korean American. Their average age was 43.5 years. Average time on the job as a law enforcement officer prior to evaluation was 12.4 years. The average time from reported psychiatric symptom onset to initiating treatment was 3 years. Three officers had refused treatment altogether despite multiple recommendations. One officer denied he suffered from depression even though he had been prescribed antidepressant medications by a psychiatrist. Summaries of diagnostic data on study subjects appear below in Table 1.

Table 1

Summary of Diagnostic Data

Diagnosis/Problem Behavior	Number of Officers	Percentage of Total
Major Depressive Disorder	27	79.4
Suicidal episodes while at work	5	14.7
Post-Traumatic Stress Disorder	26	74.3
Panic or Anxiety Disorder	14	41.2
Traumatic brain injury with post-concussion syndromes	6	17.1
Alcohol and/or substance abuse	13	38.2
Complicated bereavement with excessive guilt related to shootings	2	6.0
Personality Disorders	3	8.8
Bipolar Disorder	3	8.8
Paranoid Psychosis, unspecified	1	2.9
Work-related severe marital stress	25	73.5
Domestic violence/aggressive behavior*	8	23.5

*Five of these officers shared significant histories of childhood abuse and neglect

None of the subjects evaluated provided reason to suspect either symptom exaggeration or malingering. Most of the men and women were exhausted, aggrieved by the loss of their ability to work and of their professional identities. At the same time, the officers interviewed were relieved to have professional confirmation of how painful it had been to work for extended periods handicapped by their disabilities. Table 2 outlines the prevalence of degree of disability found in the study population.

Table 2

Prevalence of Degree of Disability

Summary of Disability Findings	Officers	Percentage of Total
Temporary Occupational Disability	4	11.5
Permanent Occupational Disability (POD)	26	76.5
Total Occupational Disability	4	11.5
Disabilities causally related to work	31	91.2
Work-related physical injuries contributing to their psychiatric disorders	12	35.3

Average DSM-IV Global Assessment of Functioning was 48.6, in Severely Impaired range

The cumulative stresses of being exposed to events where individuals or colleagues were injured, seeing people who died by violent means, taking part in disturbing calls for services, and having to use force were all events that were found to be contributing to

the officers' current psychological condition(s).

The need to apply for disability often evoked intense feelings of shame, embarrassment, and loss. These feelings sometimes emerged for the first time in the context of diagnostic interviews and required rapid transitions from evaluation mode to crisis interventions as these men and women relived the intense feelings associated with traumatic events. Several officers dissociated during the interviews and needed to pause for time outs to re-compensate.

Over the course of the interviews, three significant themes emerged related to cumulative stress experiences:

1. Police officers' personal and professional identities
2. Difficulty accessing resources and treatment related to institutional bias
3. Agencies' response to critical incidents

When psychological vulnerability is seen as a sign of weakness and cowardice in a "macho" culture, the stigma of being referred for treatment can be unbearable, adding insult to injury. As a result, *cumulative stress may become internalized* in the form of anxiety, depression, and PTSD symptoms or *externalized* in the form of aggressive behavior or domestic violence, often aggravated by drug and alcohol abuse. These issues may hinder communicating more openly with health care professionals who themselves then minimize their patients' needs, thus leading to substandard treatment regimens.

Case example: "Suck it up and carry on."

A poignant example of this involved a police Officer whose disability evaluation was triggered by two critical incidents in the past year. In the context of a department that rarely offered critical incident

debriefings and a negative attitude towards counseling, the officer had refused both counseling and medications to address their acute and chronic PTSD and a serious clinical depression.

The first incident involved the officer finding a badly decomposed body of a man who had committed suicide by gunshot wound to the head ten days previously. The horror of the scene and the strong odor of human decay haunted them for weeks. In nightmares, the officer saw the man look directly at him and "blow his brains out." He awoke with feelings of profound helplessness and terror.

This event reminded him of a man he found with his supervisor during his training who had just died from a self-inflicted shotgun blast to the head. His supervisor had shut down emotionally and never inquired how he was handling this trauma. From this, the officer learned that "suck it up and carry on" was the best attitude.

Shortly before evaluation, the officer was called to assist as a crisis negotiator at the scene of a mentally ill man who was delusional, muttering incoherently, and wielding two machetes. The officer barely had time to order the man to lay down his weapons when the deranged man threw one of the machetes, the handle striking the officer's thigh. As the agitated man lifted his arm to throw the second machete, the officer shot him in the chest. While attempting to apply pressure to the chest wound, the man died. Recalling the incident, the officer sobbed deeply:

"I go in there to help him and I end up having to kill him ... His family was there waiting outside the building ... All I see lately is neglect, more neglect, suicidal people...part of me wishes he would have stuck me (with the machete) ... this job has taken so much from me...my box was full and after this it just

burst open.” Soon after this incident the officer resigned. The officer had been a dedicated and highly-decorated police officer for over 20 years.

Consistent Themes

The three themes discussed below emerged spontaneously and consistently during the course of the interviews.

Police Officers’ Personal and Professional Identities

Male officers often defined themselves by their courage, physical prowess, and a strong identification with and protectiveness of their mostly male coworkers. Many reported a pervasive distrust of dependency and emotional vulnerability and shared a widespread skepticism regarding the usefulness of psychological treatment. Male co-workers who appeared weak, vulnerable, or dependent were viewed with suspicion or shunned as defective.

Of the four female officers, three of them complained bitterly about gender discrimination in their work situations. All four spoke of the need to be “twice as good as their male counterparts” to advance beyond entry level ranks. Two of them described experiences with derogatory comments and practical jokes from male co-workers. Contrary to their male counterparts, they were more likely to use supportive treatment and to reach out for empathy and support from friends to cope with stresses.

Difficulty Accessing Resources and Treatment Related to Institutional Bias

The frequency of denial and minimization was prevalent in the subjects interviewed with 7 out of 34 (20.6%) having shot and killed one or more suspects during their career and several more had severely injured suspects in the course of shootouts or high-speed vehicle chases. These officers struggled to hide their intense feelings of guilt and remorse following

these events and many “sucked it up and carried on” for up to three years with serious psychiatric symptoms before seeking treatment. These coping mechanisms were viewed as necessary to handle ongoing threats to one’s life, but unfortunately, they often handicapped the officers from acknowledging and responding to their own heightened distress signals, thus interfering with their assessment of their own work capacity.

Many officers experienced an institutional bias against mental illness and treatment. When asked about how their police chief responded to their need for mental health treatment following a critical incident, 15 officers (44.1%) indicated that they were frustrated by a lack of support. In those departments with critical or unsupportive chiefs, subjects complained of feeling painfully disconnected from their co-workers. The combination of decreased support from their Chiefs and subtle social ostracism by their peers was excruciating. The Chiefs’ explicit or implicit expressed attitudes regarding psychological treatment often set the tone for entire departments.

The difficulties officers encountered continued as they attempted to obtain worker’s compensation. Several officers who had applied for worker’s compensation at the same time as their disability evaluations spoke of their frustrations of hearing from occupational medicine specialists that their psychiatric disorders and symptoms were viewed as “expectable occupational hazards” and therefore not compensable since they were aware from the beginning that their work involved dealing with life and death situations.

For those officers who had successfully navigated the systems in place to obtain psychiatric services, 13 of the 34 cases (38%), in Dr. Graves’ opinion, were receiving care that appeared to be

significantly below community standards. Many officers were prescribed sub-therapeutic doses of antidepressants and anti-anxiety medications by non-psychiatric practitioners with infrequent follow-ups.

Medication adherence was inconsistent, resulting in frequent relapses and recurrences of mood, anxiety and PTSD symptoms. Insomnia and nightmares were minimally addressed, resulting in sleep deprivation, with many self-medicating with alcohol and/or pain medications. Neurologic follow-up for the six officers with traumatic brain injuries and post-concussion syndromes was minimal to non-existent. As a result, these officers had struggled for many months with cognitive impairment in crisis situations which demanded quick decision-making.

Agencies' Response to Critical Incidents

The inconsistent application and use of critical incident reviews was noted by the officers both across and within departments. In some departments, attendance at reviews was mandatory, in others, voluntary. A few had no regular reviews available. Some reviews focused on "tactical" issues such as handling back-ups and use of ancillary medical rescue, while others were more psychologically-focused "debriefings" to enable participants to tell their stories regarding incidents involving fatalities. Several officers resented the lack of regular debriefings in their departments; others felt they were either worthless or "made me feel worse than before." Some felt left out when officer-involved shootings took precedence over painful exposure to gruesome remains of suicides or serious bodily mutilation from motor vehicle accidents.

Discussion

While these evaluations did not directly involve officers who had documented use of excessive

force on the job, the findings summarized above have important implications for future detection of officers who are likely to represent higher risks for aggressive over-reactions. As mentioned, several officers had multiple diagnoses which can cause cognitive distortions, impaired reasoning capacity and decision-making, loss of impulse control and aggressive behavior. The tendency to self-medicate with prescription pain killers and alcohol by officers who are averse to mental health treatment can only aggravate these impairments.

The development of domestic violence and other aggressive behaviors at home in 8 out of 34 officers (23.5%) is an ominous sign that aggressive over-reactions may already be taking place during patrol duty while remaining below the radar. It is important to recognize that men who become violent are often expressing pain that they have no words for. Domestic violence perpetrators typically are most violent when they are attempting to ward off acute feelings of devaluation, helplessness and panic about loss of control in their relationships (Ewing, Lindsey, & Pomeranz, 1984). Future studies should examine police officers who use excessive force to determine if similar indicators of psychological conditions are present. Domestic violence complaints involving officers need to be monitored proactively and responded to rapidly with both medical evaluations and legal consequences.

Due to the retrospective nature of this study, there are some limitations in applying these findings to the issue of excessive force: First, the individuals included in this paper were all applying for disability benefits related to psychological conditions. As such, their data does not address the prevalence of psychiatric disorders in policing as a whole. Additionally, while cumulative stress and the disorders

described could create an environment where uses of force would be more prevalent, the officers evaluated did not disclose difficulties regarding using excessive force on the job. This retrospective study found anecdotal evidence that officers with significant histories of early childhood abuse and neglect were more prone to aggressive behavior off duty and more hesitant to utilize mental health counseling, consistent with findings by Brucia, Cordova, and Ruzek (2016).

Recommendations

Based on the findings associated with this review and the current literature, the following recommendations are made.

Normalize and improve mental health evaluations and treatment.

The process for normalizing mental health care and evaluations should begin with candidates for police academies by identifying those who are most vulnerable for developing PTSD, mood disorders, substance abuse, and personality or psychotic disorders and especially those who are likely to use high levels of aggression to handle danger situations. This can be further reinforced through annual mental health evaluations required for all law enforcement officers. Mental health proficiency is as important as firearms proficiency. The daily expectation and responsibility of using deadly force to protect oneself and fellow citizens demands nothing less. Mental health care for officers should involve increasing proactive stress reduction efforts within each department. Modifying military practices such as regular R and R breaks for recuperation from life threatening and traumatic events and implementing mandatory periodic rotations to lower-risk assignments should be considered.

Implementing a "Buddy System" pairing new

recruits with experienced, empathic officers who are able to address the challenges of cumulative stress, therapy aversion, racial bias and gender discrimination would be helpful. These individuals would be available to attend all debriefings and critical incident stress management groups. Continuing education programs which address the occupational risks of police work should focus on the signs and symptoms of the common psychiatric disorders discussed above along with the risks of domestic violence and managing racial conflicts. These programs may be done collaboratively with community mental health centers and local mental health professionals.

Critical incident stress management needs to be developed and applied more consistently.

Follow-ups across all departments should address not only the needs of those involved in fatal shootings but also those who have witnessed fatal or mutilating injuries, including suicides, over which they have no control (Bohl, 1995 & Mitchell, 2003). Additionally, understanding the literature and the potentially adverse psychological effects of performing critical incident stress debriefings is essential (Bisson, Jenkins, Alexander, & Bannister, 1997; Bledsoe, 2003). Mental health professionals and "Buddies" should be an integral part of any critical incident stress management to assist officers in processing these complex, traumatic exposures. Mental health treatment must be de-stigmatized at all levels, with rewards built-in for officers who use health and wellness programs pro-actively and who complete successful treatment programs. Psychological rehabilitation should be viewed on a par with successful medical or surgical rehabilitation.

Increase opportunities for understanding racial, ethnic, and gender differences.

Much of the current discussion around policing

involves the perception of minority individuals being treated differently than white individuals by police. To address this, departments should develop workshops in collaboration with the community to address issues of racial and/or ethnic bias. Creating a shared understanding of perceptions related to interactions could address misunderstandings as well as improve relations simply through humanizing each other. This could also increase the line officers' ability to be heard.

Lastly, address gender bias by proactively addressing the underrepresentation of women in departments and as part of your leadership team. Women are generally more comfortable than men in addressing issues of emotional trauma. Given more opportunities to lead, they have the capacity to transform training programs and departments, thus encouraging employees to receive the psychological help they need to sustain their honorable tasks.

Conclusions

This paper contributes to the literature by illuminating the significant impacts of chronic and acute exposure to high-stress environments during the routine work of police officers. Future studies should examine the impact of psychological conditions present in police officers and their subsequent reliance on force compared to officers in general. Lastly, further studies should be performed to better predict those officers who will likely need to utilize psychological care options to improve their health and career performance.

As a society, we need to honor the pain and suffering of our police officers by promoting better awareness of the cumulative stresses they endure, the benefits of finding strength, resilience and healing in their work environments and the best preventive and ongoing medical and psychiatric diagnosis and treatments available. A better understanding of the

psychiatric disorders arising from cumulative stress and the combined effects of PTSD, depression and post-concussion syndrome along with other factors which predispose to aggressive behavior will enable police departments to reduce the incidence of often tragic use of excessive force by their patrol officers.

References

- American Psychiatric Association (2013). *Diagnostic and Statistical Manual of Psychiatric Disorders* (DSM-5), APA Publications.
- Barr, L. (2020, January 2). Record number of U.S. police officers died by suicide in 2019, advocacy group says. *ABC News*.
<https://abcnews.go.com/Politics/record-number-us-police-officers-died-suicide-2019/story?id=68031484>
- Bisson, J. I., Jenkins, P. L., Alexander, J., & Bannister, C. (1997). Randomized controlled trial of psychological debriefing for victims of acute burn trauma. *British Journal of Psychiatry*, 171, 78–81.
- Bledsoe, B. E. (2003). Critical incident stress management (CISM): Benefit or risk for emergency services? *Prehospital Emergency Care*, 7, 272–279.
- Bohl, N., (1991). The effectiveness of brief psychological interventions in police officers after critical incidents. In J.T. Reese and C. Dunning, eds., *Critical Incidents in Policing*, revised, Department of Justice, Washington, D.C., 31-38.
- Bohl, N., (1995). Measuring the effectiveness of critical incident stress management, *Fire Engineering*, 125-126.
- Brucia, E., Cordova, M. J., & Ruzek, J. I. (2017). Critical incident interventions: Crisis response

- and debriefing. In C. L. Mitchell & E.H. Dorian, (Eds.). *Advances in psychology, mental health and behavioral studies (APMHBS)*. Police psychology and its growing impact on modern law enforcement, 119–142.
- Bykov, O. (2014). Police academy training: An evaluation of the strengths and weaknesses of police academies. *Themis: Research Journal of Justice Studies and Forensic Science*, 12(1), 141-158.
- Edwards, F., Lee, H., & Esposito, M. (2019). Risk of being killed by police use of force in the United States by age, race–ethnicity, and sex. *Proceedings of the National Academy of Sciences*, 116(34), 16793-16798.
- Ewing, W., Lindsey, M., & Pomerantz, J. (1984). *Battering: An AMEND Manual for Helpers*. Loretto Heights College Press, Denver, CO.
- Fairburn, R. (2016, March 07). PERF’s UOF report illustrates disconnect between street cops, administrators. *PoliceOne*. [https://www.policeone.com/use of force/articles/153364006-PERFs-UOF-report-illustrates-disconnect-between-street-cops-administrators/](https://www.policeone.com/use-of-force/articles/153364006-PERFs-UOF-report-illustrates-disconnect-between-street-cops-administrators/)
- Gutheil, T. G. & Appelbaum, P. C. (2007). *Clinical Handbook of Psychiatry and the Law* (4th Ed.), McGraw Hill, New York, NY.
- Herman, J. (1992). *Trauma and Recovery: The Aftermath of Violence from Domestic Abuse to Political Terror*, Basic Books, Harper Collins, New York, NY.
- Kahn, K. B., Steele, J. S., McMahon, J. M., & Stewart, G. (2017). How suspect race affects police use of force in an interaction over time. *Law and Human Behavior*, 41(2), 117–126.
- Law Officer (2016). *Response to PERF’s 30 guiding principles document*. <http://lawofficer.com/exclusive/perfresponse/>
- Lunn, M. M. (2018). *Change in use of force policy: The experience of officers* [Doctoral dissertation, University of Colorado]. Kraemer Family Library.
- Mann, J.J. & Michael, C. (2016). Prevention of firearm violence in the United States: What works and what is possible. *Journal of the American Psychiatric Association*, 173(10), 969-979.
- Mark, R.S. (2014). *The Consistency of the use of psychological evaluation during the selection process around law enforcement agencies*. [Master’s thesis, Rowan University].
- Mayer, M. J., & Corey, D. M. (2017). Current Issues in Psychological Fitness-for-Duty Evaluations of Law Enforcement Officers: Legal and Practice Implications. In Mitchell, C. L., & Dorian, E. H. (Eds.), *Police Psychology and Its Growing Impact on Modern Law Enforcement* (pp. 93-117). IGI Global. <http://doi:10.4018/978-1-5225-0813-7.ch005>
- McAllister, T. (2005). Mild brain injury and the post-concussion syndrome. In Silver, J., McAllister, T., & Yudofsky, S. (Eds.), *Textbook of Traumatic Brain Injury*. American Psychiatric Publishing, Inc.
- Mitchell, J. (2003). *Crisis Intervention and Crisis Intervention Stress Management: A Research Summary*, International Critical Incident Stress Foundation Publication.
- National Association of Police Organizations (2016, Feb 08). *Police executives propose dangerous new use of force rules for line officers*. <http://www.napo.org/washington-report/latest-news-updates/police-executives-propose->

[dangerous-new-use-force-rules-line-officers/](#)

Paoline III, E. A., Gau, J. M., & Terrill, W. (2018). Race and the police use of force encounter in the United States. *The British Journal of Criminology*, 58(1), 54-74.

Singh, J.P., Graun, M., et. al. (2011). A Comparative Study of Violence Risk Assessment Tools, *Clinical Psychology Review*, 31(3), 499-513.

Smith, M., Alcindor, Y., and Healy, J. (2017, June 18). Grim echoes for families: Officer shoots and jury acquits. *The New York Times*, National Section, 13.

Terrill, W., & Paoline III, E. A. (2017). Police use of less lethal force: Does administrative policy matter? *Justice Quarterly*, 43(2), 193-216.

Can Craen, M., & Skogan, W.G. (2017). Officer support for use of force policy: The role of fair supervision. *Criminal Justice and Behavior*, 44(6), 843-861.

Van der Kolk, B. (2014). *The Body Keeps the Score: Brain, Mind and Body in the Healing of Trauma*, Penguin Books.

The counted: People killed by police in the U.S. (2016). *The Guardian*.
<https://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>



Dr. John Graves

Dr. John S. Graves retired in 2016 after 44 years of practicing general adult psychiatry. He received his M.D. at the Albert Einstein College of Medicine, trained in psychiatry at the University of Colorado School of Medicine and served there on the Volunteer Psychiatry Faculty. Dr. Graves is a diplomate of the American Board of Psychiatry and Neurology and a life fellow of the American Psychiatric Association. He performed evaluations of over 50 police and fire department employees during his career.



Dr. Matthew Lunn

Dr. Matthew M. Lunn is the Manager of Strategic Initiatives at the Denver Police Department. His focus is on developing short- and long-term strategic goals, driving innovation and evaluation efforts, and maximizing organizational efficiency and effectiveness. Dr. Lunn holds a Ph.D. from the University of Colorado, Colorado Springs and is a graduate of the Police Executive Research Forum's Senior Management Institute for Police. He has faculty appointments at the University of Colorado, Colorado Springs and at The State University of New York, Binghamton. Dr. Lunn's areas of research include use of force and program evaluation.

ORIGINAL RESEARCH

Citizen Perceptions of Law Enforcement Shootings Involving Imitation Firearms

Kristine Gregory, Ph.D.
kgregory@coloradomesa.edu
Grand Junction Police Department

The purpose of this ethnographic study was to explore citizen perceptions of law enforcement shootings involving an imitation firearm. The conceptual framework was Kingdon's multiple streams approach. Hundreds of pieces of secondary data were paired with primary data collected using semi-structured face-to-face interviews with 23 citizens and field observations at 17 locations. Results from domain and taxonomic coding revealed the themes of accountability, safety, and responsibility. Findings may be used to develop imitation firearm policies that could mitigate unnecessary shootings and reduce community conflicts between citizens and police.

Nationally, police have reported officer involved shootings where the subject was holding an imitation firearm (Gregory & Wilson, 2018; Spector, 2016; Steinmetz, 2013; Sullivan, Jenkins, Tate, Courtney, & Houston, 2016). From 2014-2015, at least 86 people died in police shootings while holding an imitation firearm (Sullivan et al., 2016). In 2016, 5 percent of all police shootings involved a realistic looking BB gun or airsoft gun (Fatal Encounters, 2018). The last detailed study of imitation firearms occurred in the late 1980s (Carter, Sapp, & Stephens, 1990) and the data in that study were considered "dated and insufficient for providing a national perspective" (Ekstrand, 2003, para. 3). Social scientists, limited by legislative loopholes, funding restrictions, and a lack of tracking databases, have been unable to define the scope of the problem.

The lack of useful and accurate imitation firearm data made it hard for legislatures to develop effective policies. Less than 3 percent of gun control bills proposed during the 114th Congressional sessions made it through the policy process (Govtrack, 2018).

Many of the failed bills cited a lack of data as the reason for not gaining ground with all constituents (O'Donovan, 2017), which meant the gap in quality research was impacting the ability of policy makers to develop useful legislation.

Definition of the Term Imitation Firearm

For this research, guns were divided into three categories: *toy*, *real*, and *other*. There was little debate over the definition of *toy* guns and *real* guns. *Toy* guns were items manufactured specifically for children's playtime (Carter et al., 1990), such as water pistols, cap guns, or laser tag guns. *Toy* guns were usually bright colored pieces of plastic with obvious markings indicating it was meant as a toy. This study was conducted in Colorado, and per Colorado Revised Statutes, a *real* gun, or *firearm*, was "any handgun, automatic, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges" (Keatley, 2017, sec. 18-1-901(3)(h)).

SHOOTINGS INVOLVING IMITATION FIREARMS

The category *other* included pneumatic guns and replica guns (Carter et al., 1990). Pneumatic guns propel a projectile through the air from the force of pneumatic pressure. Per the Police Executive Research Forum, pneumatic weapons were “clearly not firearms but they also could not be classified as a toy” (Carter et al., 1990, p. 16). Replica guns were designed to look real but not function as a gun (Carter et al., 1990, p. viii).

Pneumatic weapons and replicas were excluded as firearms based on semantics. Real guns used some type of explosive charge. Pneumatic guns also propelled an object forward, but they used the power of air. The terminology alone excluded pneumatic guns from qualifying as firearms per Colorado law. Similarly, replica guns were defined as such because they were unable to fire, which also excluded them as a firearm in Colorado. If the pneumatic weapons were not firearms, but they were also not toys, what were they?

A report published in 1990 used the term *imitation gun* to reference realistic looking water guns, BB guns, air guns, and replicas (Carter et al., 1990). Imitation means an object simulates or copies something else (Oxford English Dictionary, 2018). The term firearm was used in place of gun, to align with Colorado terminology, which led to the phrase *imitation firearm* to account for pneumatic guns and replicas.

Based on the above information, the phrase *imitation firearm* was defined as any BB gun, airsoft gun, pellet gun, replica, or other device, that a reasonable person would believe was a real firearm because of the shape, color, or overall appearance.

Focusing Event in Mesa County, Colorado

In the fall of 2016, police were dispatched to

an unusual call at a two-story apartment complex in Mesa County, Colorado (McDaniel, 2016). The anonymous caller told 911 that an agitated man was in the area with a handgun. The scenario quickly unfolded, and less than an hour after the call, a radio transmission announced ‘shots fired’.

The incident started with an emergency call for an ambulance. The unidentified caller said Michael Camacho accidentally shot himself and was bleeding from the chest (McDaniel, 2016). When police arrived, Camacho stood on a balcony overlooking the parking lot, ignoring Officers. Camacho briefly went into his apartment before returning to the balcony with something dark in his hands. Officers heard Camacho yell unintelligible words before he slowly lifted his hands and extended his arms outward toward the parking lot. A reporter wrote that Camacho threatened the police and “pointed what appeared to be a large gun” at an officer (McDaniel, 2016, para. 4). Police repeatedly told Camacho to put down the weapon, but he refused. A corporal, with over a decade of experience, fired his rifle, injuring Camacho. Investigators later revealed the weapon Camacho pointed at police was a realistic looking BB gun.

Police conducted a debrief after the shooting. The seasoned officer that shot Camacho said the BB gun looked real and nothing he saw suggested it was a fake. The incident sparked a conversation about imitation firearms within the department. Officers talked about finding pellet guns on shoplifting suspects, having juveniles point BB guns at them, and almost discharging their service weapon because a toy looked real. Most of the officers said their incident was not documented because it did not meet reporting requirements. The personal statements from local law enforcement suggested an undiagnosed problem in Mesa County with realistic looking firearms.

Purpose

A condition elevates to the level of a problem when an indicator, or focusing event, leads people to believe something needs to be done (Beland, 2016; Kingdon, 1995). In the aftermath of the Camacho shooting several concerns were identified; experienced officers struggled to differentiate a non-lethal BB gun from a real handgun during a tactical situation, law enforcement reported an increase of realistic looking fake guns in the area, and the county did not have any legislation specific to imitation firearms. Researching the phenomenon in Mesa County provided invaluable information that may reduce officer involved shootings and provide insights to guide policy writers, police administrators, community educators, and health and safety officials.

Study

Research subjects, ranging in age from 21-years-old to 68-years-old, were divided into four sub-groups; law enforcement, parents of children aged 10 to 17-years-old, citizens with no law enforcement experience, and no children aged 10 to 17-years-old, and leaders in the community. Law enforcement and leadership participants were identified using purposeful sampling. Parents were identified using a combination of purposeful and snowball sampling. Each person was interviewed using a 10-question template with pre-written follow-up, or clarifying questions, as needed. All interviews took place in January 2019 in Mesa County, Colorado. The average length of non-law enforcement interviews was just under 5-minutes. Law enforcement interviews were nearly three times longer, with one lasting 36 minutes. At least a quarter of the participants had advanced degrees and there was an equal distribution of male to female.

Results

The primary themes identified after domain and taxonomic coding were accountability, safety, and responsibility. The letters used for interview subgroups included: LM for leader/manager, P for parent, O for non-parent with no law enforcement background, and LE for law enforcement.

Theme 1: Accountability

The first major theme that emerged was accountability. Non-law enforcement participants that had no experience with imitation firearms suggested oversight from a responsible adult or gave no opinion on the topic. LM2 said, "Since I don't know the rules, I'm not sure." All other participants in the research wanted to see legislation that held subjects accountable for their actions when using imitation firearms during a crime.

The reaction of officers was surprising. Officers focused their frustration and anger at the judicial system, not at the subject holding the imitation firearm. Law enforcement expressed disappointment that an apprehended criminal would not get charged with a weapons offense despite having a very real looking gun on, or near, their person at the time of the crime. Per the examples given, most of the situations involved delinquent youths, drugs, and crimes like shoplifting. Follow-up research confirmed the officer's frustrations; many states do not convict criminals for the same level of crime if they used a fake gun instead of a real firearm (*Washington v U.S.*, 2015). Law enforcement officers wanted to see subjects held accountable with increased penalties for felons that used a fake gun during the commission of a new crime. Similarly, law enforcement wanted criminal charges involving an imitation firearm to parallel regular firearm charges. In other words, law enforcement wanted to see a more uniform approach to charging

SHOOTINGS INVOLVING IMITATION FIREARMS

subjects involved in criminal activity regardless of the operability of the associated firearm.

When asked his thoughts on police shootings involving BB guns, P1 provided a thoughtful statement about law enforcement “mak[ing] their best judgment call” when they “don’t have time to distinguish” real from a look-alike. As such, P1 thought future legislation should ensure anyone committing a crime with a fake gun should be “treated as though it were an actual firearm”. Similarly, LM1 said, “it should be against the law” and using an imitation gun during a crime is serious and should have the “same implications as using a bona fide weapon.”

Study participants believed the use or presence of an imitation firearm was for the sole purpose of threats and intimidation. None of the interviewees could think of a viable reason for an adult to possess a BB gun or airsoft gun out in the community unless they were supervising children or actively participating in a tournament or game.

Theme 2: Safety

The second major theme that emerged was safety. P3 made a poignant statement during his interview. “You know, I think about it from the officer’s perspective. And protecting themselves.” P3 continued on to say the officer had to consider all weapons as real because “they don’t know. And I wouldn’t want to get close enough to find out.” The sentiment P3 stated was replicated by most law enforcement interviewees. LE5 said he planned to go home to his family after each shift, so he refused to let his guard down and assume something was fake. When asked about imitation firearms specifically, he said he treated all weapons like they were real because he remembered [the death of a local deputy]. LE5 said, “The kid that shot [the local deputy] was only, what, 17 ... I don’t care if it’s a kid with a BB gun. I’m

not taking the chance.”

None of the study participants assumed an orange tip or bright color meant the weapon was less deadly. If officers disregard training and procedures because they assume something is a toy, or less lethal, then criminals could capitalize on that false belief. It would be just as easy to paint the barrel of a 9mm orange, as it would be to remove the orange tip on a BB gun. LE4 added an interesting element to his interview. LE4 told me some real firearms are made brightly colored for aesthetics. LE4 said, “My wife has a pink gun. A little thing that fits in her purse. You know, for protection. At a glance, it looks fake. But it’s deadly.”

When the idea of altering the appearance was introduced, participants viewed any action to alter a weapon, whether it was making a real gun look fake, or making a fake gun look real, as manipulation, deceit, and trickery. Officers agreed that not only should having an imitation firearm during the commission of a crime be a chargeable offense, they believed any alterations to a firearm or imitation firearm should also result in criminal charges.

Theme 3: Responsibility

Mesa County parent opinions were not shaped by existing policies, but rather by personal experiences. Most citizens, including county leadership, did not know the local rules for imitation firearms. Non-verbal cues, like sighs, giggles, and smirks, preceded answers like “I don’t know” and “I’m not sure.”

P5, a transplant to the state from the southeast, told me some of his BB guns looked so realistic they “fall into a bad spot” and he had to keep them just as safe from his kids as a real gun. P5 also said he believed the sale and possession of imitation

firearms should have an age limit. When asked for clarification, P5 said, “Maybe not 18. But in the later teens. Or of a teen age.” P5 said he bought his first air rifle when he was 12-years-old, saying, “I think that’s a legit age.” O2, an aesthetician, said “I think you should have to be 18 and have a clear record to buy them.” P1 specified that no one under “maybe 12, or 14, should be able” to buy an imitation firearm. P1 clarified and said, “I mean, under 18 is a big category ... but I think you can be too young.”

In addition to specifying age restrictions for juveniles purchasing or using imitation firearms, interviewees wanted to see more parental supervision. P4 said it depended on the kid. P4 named a family from her childhood neighborhood and passionately said, “If [he] had a BB gun, and was just wandering around, I’d feel uncomfortable.” Another parent thought it was okay for kids to use imitation firearms without a parent on scene, but the adult had to know what the kids were doing, and the area should be enclosed. LM2 summed up the trend with her statement, “Probably not a good idea unless they have some parental supervision.”

Recommendations

First, the majority of participants wanted to see local legislation on imitation firearms. Policy changes should include a charge for altering an imitation firearm to look real or for altering a real firearm to look fake. Policy changes should also include a charge for anyone using or possessing an imitation firearm during the commission of a crime, including a sub-section for felons in possession of any type of firearm, including imitation firearms.

Second, based on a lack of available data, it would behoove law enforcement agencies to track imitation firearm incidents separate from regular firearms. Correctly tracking the frequency and type of

weapons used would provide a more comprehensive picture of the problem.

Third, police departments could host training/safety sessions on imitation firearms. Many agencies already host classes on a variety of topics from correct installation of a car seat to auto theft prevention. The courses are free and range from 30-minutes to 3-hours. A similar course, intended for juveniles aged 8 to 15-years-old, that highlighted airsoft and BB gun safety, could help curtail injuries and reduce high-risk behaviors. Three interviewees mentioned the benefits of attending hunter safety courses prior to handling firearms as a child. The course could parallel the format used for hunter safety curriculums.

Conclusion

The Police Executive Research Forum (PERF) published their toy gun study results in 1990. One of the pivotal themes of the research was that current toy gun designs were overly realistic and even under optimal lighting conditions, officers could not differentiate a toy from the real thing (Carter et al., 1990). Nearly 3 decades after the PERF research, the same themes still exist; BB guns and airsoft guns are overly realistic and even in the best conditions officers struggle to identify a fake.

In the absence of quality information, policy reform loses focus and becomes a knee-jerk reaction instead of an intelligent process. The opportunity for policy reform is limited and requires alignment of the problem with the current political climate (Beland, 2016; Jones, Peterson, Pierce, Herweg, Bernal, Raney, & Zahariadis, 2016; Kingdon, 1995). In recent years, a dozen states attempted to implement imitation firearm legislation more restrictive than federal laws. A small percentage of proposed bills made it through the policy process (Govtrack, 2018). Legislatures cited

various reasons for a bill failing to advance, including a lack of useable data to support the proposal (Govtrack, 2018). The results of this qualitative study help fill a gap in understanding the phenomenon from the perspective of Mesa County citizens, which in turn can lead to more effective local policies.

References

- Beland, D. (2016). Kingdon reconsidered: Ideas, interests and institutions in comparative policy analysis. *Journal of Comparative Policy Analysis: Research and Practice*, 18(3), 228-242. <https://doi.org/10.1080/13876988.2015.1029770>
- Carter, D. L., Sapp, A. D., & Stephens, D. W. (1990, June). *Toy Guns: Involvement in Crime and Encounters with Police*. Research Project mandated by the United States Congress and published by the Police Executive Research Forum, Washington, DC.
- Ekstrand, L. E. (2003). [Letter to The Honorable Edolphus Towns, House of Representatives]. General Accounting Office Archive (GAO-03-1135R, Use of Toy Guns). <https://www.gao.gov/new.items/d031135r.pdf>
- Fatal Encounters. (2018). <https://www.fatalencounters.org/>
- Govtrack. (2018). Tracking the United States Congress. <https://www.govtrack.us/>
- Gregory, S., & Wilson, C. (2018, March 22). 6 real ways we can reduce gun violence in America. *Time*. <http://time.com/5209901/gun-violence-america-reduction/>
- Jones, M. D., Peterson, H. L., Pierce, J. J., Herweg, N., Bernal, A., Raney, H. L., & Zahariadis, N. (2016). A river runs through it: A multiple streams meta-review. *Policy Studies Journal*. <https://doi.org/10.1111/psj.12115>
- Keatley, R. (Ed.). (2017). *Colorado Peace Officer's Handbook* (34th ed.). Blue 360 Media.
- Kingdon, J. W. (1995). *Agendas, Alternatives, and Public Policies*, (2nd ed.). HarperCollins College Publishers.
- McDaniel, J. (2016, November 02). Officer will not be charged in Monument Inn shooting. *KJCT8*. <http://www.kjct8.com/content/news/Officer-will-not-be-charged-in-Monument-Inn-shooting-399672571.html>
- O'Donovan, K. (2017). Policy failure and policy learning: Examining the conditions of learning after disaster. *The Review of Policy Research*, (4), 537).
- Oxford English Dictionary. (2018). <https://en.oxforddictionaries.com/definition/imitation>
- Spector, N. (2016, October 07). In wake of accidental deaths, bans on toy guns gaining ground across America. *NBC News*. <https://www.nbcnews.com/business/consumer/wake-accidental-deaths-bans-toy-guns-gaining-ground-across-america-n660171>
- Steinmetz, K. (2013, October 25). Toy guns, deadly consequences. *Time*. <http://nation.time.com/2013/10/25/toy-guns-deadly-consequences/>
- Sullivan, J., Jenkins, J., Tate, J., Courtney, S., & Houston, J. (2016, December 18). In two years, police killed 86 people brandishing guns that look real – but aren't. *The Washington Post*. <https://www.washingtonpost.com/investigation/s/in-two-years-police-killed-86-people->

[brandishing-guns-that-look-real-but-arent/2016/12/18/ec005c3a-b025-11e6-be1c-8cec35b1ad25_story.html?utm_term=.74fb6b07e2b4](https://www.coloradopolice.com/brandishing-guns-that-look-real-but-arent/2016/12/18/ec005c3a-b025-11e6-be1c-8cec35b1ad25_story.html?utm_term=.74fb6b07e2b4)

Washington v. U.S. (2015).



Dr. Kristine Gregory

Dr. Kristine Gregory is a practical-academic with over a decade of law enforcement experience. Kristine is a detective with the Grand Junction (CO) Police Department and a member of the Hostage Negotiations Team. Her

most recent research focused on two years of data collection as a member of the GJPD Co-responder Team, handling calls for suicidal subjects, emotionally disturbed persons, and the gravely disabled. Kristine teaches part-time at Colorado Mesa University and the Western Colorado Peace Officer's Academy. Dr. Gregory holds a Master of Science in Management from the University of Saint Francis and a PhD in Public Policy and Administration from Walden University. She is a member of the National Society of Leadership and success, the Golden Key International Honor Society, and the International Society for Public Affairs and Administration. Kristine is a decorated combat veteran, mother, and avid mountain biker.

LEGAL UPDATE

People v. Cattaneo
Colorado Court of Appeals 2020CO40
Decided March 12, 2020

Philip J. Baca, Esq.
pbaca@csoc.org

Legal Proposition

Is there a general expectation of privacy in a vehicle identification number?

Facts

Police Agent Rob Albrets responded to a call that employees of a Walmart store had detained Cattaneo on suspicion of shoplifting. When Agent Albrets arrived at the store's loss prevention office, he arrested Cattaneo. A subsequent search revealed keys to a Lincoln sedan and over \$2000 in cash, but no personal identification. Per his department's procedures, Agent Albrets planned to release Cattaneo on a summons, but that was possible only if Cattaneo had ID. Cattaneo said his ID was in the car, and he gave Agent Albrets permission to use his key fob to enter the car and retrieve the ID from the center console.

Agent Albrets found the Lincoln backed into a parking spot against a fence. It had a temporary tag in place of the rear license plate and no front plate. The agent's call to police dispatch revealed that the temporary tag was associated with a dealership but not a specific vehicle. The agent unlocked the car, opened the center console, found the ID, and closed up and locked the car.

Suspecting that the car might have been

stolen, Agent Albrets called for assistance to determine whether it was stolen, and he returned to the loss prevention office. In response, Agent Sean Radke arrived at the parking lot and attempted to find the car's VIN by looking at the dashboard through the windows. The VIN was obscured, however, by a crumpled paper that Agent Radke believed had been intentionally shoved into the dashboard to hide the VIN.

Meanwhile, Agent Albrets released Cattaneo from the loss prevention office but followed him (at a distance) to his car, where Agent Radke was waiting. As Agent Radke approached, Cattaneo walked quickly to the car's passenger side, removed a backpack from the car, and locked the car. Fearing that Cattaneo might be grabbing a weapon and wishing to investigate if the car had been stolen, Agent Radke "separated" Cattaneo from the backpack. Agent Radke explained that he wanted to find the VIN. Because Cattaneo had the keys, Agent Radke asked him to open the door so the agent could see the VIN on the car door.

Cattaneo used his key fob to unlock the car. Agent Radke opened the door, located the VIN on the doorjamb, and closed the door without entering the passenger compartment. Agent Radke asked dispatch to check the VIN. Within two minutes, dispatch responded that the car had been reported stolen. The

agents arrested Cattaneo on suspicion of motor vehicle theft and searched the backpack, where they found a large number of OxyContin and Oxycodone pills.

Issue

Did the officer's actions to obtain the parked car's VIN based on reasonable suspicion that the car had been stolen violate Cattaneo's Fourth Amendment rights? No.

Court Decision

No. The Kansas district court granted Glover's motion to suppress. The Kansas Supreme Court upheld the trial court's decision to suppress. The U.S. Supreme Court reversed.

Restatement of Law

A warrantless search or seizure is presumptively unreasonable and therefore unconstitutional. *People v. Allen*, 2019 CO 88. Because "the ultimate touchstone of the Fourth Amendment is 'reasonableness,'" **however, the warrant requirement is subject to exceptions.** *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). The prosecution bears the burden to establish that a warrantless search falls within an exception to the warrant requirement. *Allen*, para. 16.

One such exception is an investigatory stop based on less than probable cause. *People v. Rodriguez*, 945 P.2d 1351, 1359 (Colo. 1997). **"An officer may engage in an investigatory stop of a car and then question the driver without running afoul of the Fourth Amendment's prohibition against unreasonable searches and seizures** provided three conditions exist:" (1) the **officer has reasonable suspicion that criminal activity has occurred, is taking place, or is about to take place;** (2) the **officer has a reasonable objective for the stop;** and (3) the **scope**

and character of the intrusion is reasonably connected to its objective. *Id.*

The United States Supreme Court has explained that "the VIN is a significant thread in the web of regulation of the automobile." *New York v. Class*, 475 U.S. 106, 111 (1986). The VIN allows the easy identification of a particular vehicle, which assists governments in many ways. *Id.* For instance, "by making automobile theft more difficult, the VIN safeguards not only property but also life and limb." *Id.* In light of the important interests served by the VIN, "the Federal and State Governments are amply justified in making it a part of the **web of pervasive regulation that surrounds the automobile.**" *Id.* at 112. As relevant here, the **VIN is required by law to be placed in the doorjamb and on the dashboard where it is readable by an observer located outside the vehicle.** See *Rodriguez*, 945 P.2d at 1361; 49 C.F.R. § 541.5 (2019); 49 C.F.R. § 565.13(f) (2019). An express legislative purpose of this requirement is **to assist law enforcement officers in recovering stolen vehicles.** See *Rodriguez*, 945 P.2d at 1361.

Because of the extensive regulation of vehicles, a person "must surely expect that such regulation will on occasion require the State to determine the VIN of his or her vehicle, and the **individual's reasonable expectation of privacy in the VIN is thereby diminished.**" *Class*, 475 U.S. at 113.

Indeed, "it is unreasonable to have an expectation of privacy in an object required by law" to be placed "in plain view from the exterior of the automobile." *Id.* at 114. Therefore, **the Supreme Court has held that there is no reasonable expectation of privacy in a VIN located "either inside the doorjamb, or atop the dashboard."** *Id.* at 118-19 (distinguishing between checking the doorjamb and intruding into the vehicle's interior).

Court Reasoning

The *agents had reasonable suspicion to believe the car was stolen*. Cattaneo had just been detained for shoplifting. He had the keys to a vehicle that lacked a front license plate. The temporary tag in the rear was associated only with a dealership, and the car was parked in manner that obscured the rear plate. The VIN on the dashboard appeared purposefully obscured. Agent Radke testified that, in his experience, the combination of these facts indicated that the car was stolen and led to reasonable suspicion.

Turning to the *scope of the stop* (and whether it was reasonable), courts consider a nonexhaustive list of factors, including the following: *(1) the length of the detention; (2) whether the officer diligently pursued the basis for the initial stop; (3) whether the suspect was required to move from one location to another; and (4) whether there were alternative, less intrusive means available*.

The *length of the stop* was merely the amount of time the agents needed to find and run the VIN, which was only a few minutes. During that short time, the agents diligently pursued their objective. They did not require Cattaneo to relocate himself or the car.

As for possible alternatives, the *officers employed the least intrusive means available* to obtain the VIN. The officers attempted to investigate whether the car was stolen by first checking the rear license plate, which indicated that it was not associated with a particular person. They then attempted to obtain a VIN with a plain view investigation, only to discover that the dashboard VIN was obstructed. When those measures did not assuage their suspicion, *they did not forcibly enter the vehicle*. Rather, they waited for Cattaneo to return to

the car and asked him to unlock it so they could inspect the VIN. *After Cattaneo unlocked the car, Agent Radke opened the door and remained outside the car while he found the VIN on the exposed doorjamb. He did not intrude into the passenger compartment*.

Overall, then, *the scope and character of the agents' actions were reasonably connected to the stop's objective*. The Court thus rejected Cattaneo's view that the seizure of the car required probable cause. *Where the seizure of property is minimally intrusive, police may temporarily seize it for purposes of investigation based on less than probable cause. People v. Tallent, 174 P.3d 310, 313 (Colo. 2008)*.

Specifically, *the limited intrusion into the car to view the VIN and the earlier seizure of Cattaneo and the vehicle were within the permissible scope of an investigatory stop* justified by reasonable suspicion that the car was stolen.

Bottom Line

Motor vehicles are highly regulated by state and local laws; vehicles must have properly issued license plates, must be registered, insured, they drive on public roadways, operators must have a valid driver's license. For all these reasons vehicles are deemed to have a lesser expectation of privacy.

Cattaneo argued that the seizure of the car and his person in the parking lot was illegal because it was not supported by probable cause and, therefore, the backpack's contents were the fruit of an illegal seizure. The court did not agree.

The limited intrusion into the car to view the VIN and the earlier seizure of Cattaneo (shoplifting) and the vehicle were within the permissible scope of an investigatory stop justified by reasonable suspicion that the car was stolen. Additionally,

Cattaneo did not have a reasonable expectation of privacy in the doorjamb VIN. Therefore, the seizure of the car did not require probable cause, and the seizure of Cattaneo did not escalate to an arrest.



Mr. Philip Baca

Mr. Philip J. Baca is the former director of the Jefferson County Sheriff's Office and Lakewood Police Department Combined Regional Law Enforcement Academy. Mr. Baca served for 15 years with the Denver Police Department in various

positions, reaching the rank of lieutenant. Mr. Baca left law enforcement for approximately 7 years to practice law, during which time, he continued to develop law enforcement training programs and materials. Mr. Baca was selected as the initial Director of the Highlands Ranch Law Enforcement Academy in Douglas County (CO). Two years later, Mr. Baca went to the Jefferson County Sheriff's Office to manage its training academy and Support Services Division. While at Jefferson County, he served as the captain of the Support Services and Patrol Divisions, and as the division chief of the Criminal Investigations Division. Mr. Baca was appointed the Chief of Police in Commerce City (CO) and served in that position from 2008-2012. In 2012, Mr. Baca earned his bachelor's degree in Pre-Law/Political Science from Colorado State University, a Juris Doctor from the University of Denver, and is a member of the Colorado State Bar. Mr. Baca is admitted to practice law in all Colorado courts, the United States District Court, and the 10th Circuit Court of Appeals. Additionally, he is a graduate of the 216th Session of the FBI National Academy.

GUIDELINES FOR AUTHORS

Please see the *Editorial Mission Statement* for a more detailed description of these article types located on the inside cover of this journal. All accepted manuscripts may be edited, formatted, and abridged to meet the needs of the journal. Authors do have final approval of the manuscripts. All manuscripts published become the property of the Colorado Association of Chiefs of Police; however, personal and professional use of the articles shall be granted to all authors provided the original publication is attributed. Please consider the following guidelines when submitting a manuscript:

1. All manuscripts should follow the style guidelines of the American Psychological Association's (APA) 7th edition publication manual, to include the formatting of the text, tables and figures, citations, and references.
2. Each table, figure, chart, graph, photograph, or other illustration should be placed on a separate page apart from the written text. Each must be numbered, titled, and described as to be easily understood without the aid of the written text.
3. Original research articles should be approximately 1,000 to 3,000 words. Historical and pragmatic articles are welcome. All research articles must include an abstract between 150 and 250 words in length. If the article is a traditional research article, the following headings should be used: Literature Review, Methods; Results; Discussion; and References. The Editor-in-Chief recognizes that other headings may be appropriate in certain instances for clarity and their use is encouraged.
4. Commentaries on important issues within the discipline are welcome. They should be no longer than 1,000 words (please note that shorter is better) addressing a specific criminal justice issue. The full name of the author must be submitted as anonymous commentaries will not be published.
5. Letters to the editor should be 250 to 1,000 words in length. The full name of the author must be submitted as anonymous letters will not be published.
6. A brief biographical sketch describing any degrees earned, certifications awarded, current or previous relevant positions held, ORCID's (if applicable), and a recent ¾ portrait photo of each author must be provided. A contact email for at least one corresponding author must be provided to be published with the manuscript.
7. Electronic submissions are required. Please email a typewritten file labeled with an abbreviated title, the corresponding author's last name, and the year (e.g., Title (Smith 2020)). Files must be saved using the .docx file extension. All articles are peer reviewed after editorial clearance.

Please email submissions to: joreece@coloradomesa.edu

Authors are generally notified of acceptance, provisional acceptance, or rejection within 6 weeks of receipt of the manuscript. Please include the full contact information of the corresponding author.

The *Journal of Colorado Policing* is published by the Colorado Association of Chiefs of Police. All rights reserved.

A UNIQUE
**CRIMINAL
JUSTICE DEGREE**
INCLUDING POST CERTIFICATION

Colorado Mesa University (CMU) is the only institution of higher learning in Colorado to offer a four-year bachelor's degree in Criminal Justice that includes simultaneous POST Academy training. Students completing the BAS in Criminal Justice may transfer in existing coursework from an associate degree and/or other college credit.

Prospective students can explore CMU's Credit for Prior Learning program at coloradomesa.edu/academics/programs/credit-prior-learning

The BAS in Criminal Justice at CMU combines technical skills, required for policing positions, with the academic rigor of a bachelor's degree; positioning graduates for accelerated career advancements. Many classes in the program are offered online.

For more information, please visit coloradomesa.edu/social-behavioral-sciences/degrees/criminal-justice





The Official Journal of the
Colorado Association of Chiefs
of Police