

# ACJS Today

Academy of Criminal Justice Sciences

## Reflecting on the 50<sup>th</sup> Anniversary of Lyndon Johnson's President's Crime Commission

Alfred Blumstein, Carnegie Mellon University\*

When Barry Goldwater was running against Lyndon Johnson for president in 1964, one of his favorite themes was blaming Johnson for "crime in the streets" because crime rates were on the rise. Obviously, the crime rise had little to do with any of Johnson's policies; rather, it had to do with the fact that the first waves of the postwar baby-boomers that began in 1946 were moving into the high-crime ages around 18. Whenever Johnson was faced with a complex challenge, he found it useful to establish a presidential commission, and so he established the President's Commission on Law Enforcement and Administration of Justice in 1965, to be chaired by

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### **SPECIAL ISSUE** **MARCH IS CRIMINAL JUSTICE MONTH**

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## President's Message



**Brandon K. Applegate, President,**

**A**s we approach the eve of our annual national meeting, I appreciate the opportunity to write to you one final time in this President's Message. By now, travel plans are made, and I hope that you are looking forward to seeing old friends and making new ones as we come together in Denver. It's going to be a great week, and I am very thankful for Jennifer Hartman and Shelley Listwan, my 2016 Program Committee co-chairs, for their hard work and dedication to putting on an excellent conference. I also want to thank Mary Dodge and her team for handling local arrangements. We have some exciting and unique experiences lined up! To help you plan your conference, the program is available as a smart phone app. The app is designed to provide all of the same functionality and information you can find in the printed program (yes, you can still get the program in hard copy, too), and by all reports it exceeds this goal.

Charles Kettering observed that "the world hates change, yet is the only thing that has

brought progress." There are changes afoot for ACJS, and they mark our progress and growth as an organization. A few initiatives that started some time ago have produced very exciting expansions recently. The Crime and Justice Research Alliance (a joint venture between ACJS and the American Society of Criminology) is building considerable steam in its efforts to connect criminal justice scholars with policy makers and to get more information about our members' important research out to the media. For more, check out their website at <http://crimeandjusticeresearchalliance.org>. We have also made strides in solidifying relationships with brother and sister organizations. Formal linkages are established with the British Society of Criminology and the Canadian Criminal Justice Association. We are about to finalize a similar agreement with the Australian and New Zealand Society of Criminology, and more are likely to be forthcoming. ACJS also continues to lead excellence in criminal justice education. It is my considerable pleasure to share that two universities' criminal justice programs will be recognized officially at our Awards Luncheon in Denver for achieving ACJS certification. Congratulations to Shippensburg University and the University of Scranton.

Changes on the near horizon include transitioning to a new editor of *Justice Quarterly* and a new ACJS Historian. Will Oliver has done an exceptional job over the past few years documenting and sharing the history of our field and organization. Among other things, he has given us a special issue of the *Journal of Criminal Justice Education*, a collected history of the first 50 years of ACJS, and consistently informative contributions to *ACJS Today* in the Historian's

I am pleased to announce that Dr. Mitchel Roth was recently appointed to assume the position of ACJS Historian when Will's term expires at the end of this month. During her two terms as editor of *JQ*, Cassia Spohn introduced a series of "New Directions" pieces that highlighted the current status of empirical research in critical areas as well as the key questions that still need to be addressed; brought us highly relevant, important articles; and committed herself to increasing the impact of *Justice Quarterly*. Cassia has been a dedicated steward of our premiere journal and, I am sure, is as excited as I am to see its next chapter. I expect the ACJS Executive Board to finalize appointment of the new *JQ* editor at our meeting in Denver, so look for an announcement soon!

I am not the sort of person who can retrieve quotes from memory at just the right moment, so I had to go searching for Mr. Kettering's quote. When I did, I found another that I also want to share—it makes a good transition! "Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has" (attributed to Margaret Mead). I want to thank the members of the Executive Board and all committee chairs and committee members for everything they have done this past year. I could not have asked for better people with whom to work. I also owe special thanks to Executive Director Mary Stohr and Association Manager Cathy Barth. Cathy works tirelessly throughout the year on behalf of our organization, and Mary displays an inspiring level of passion for moving ACJS forward. Looking ahead, I encourage you to serve on an ACJS committee or the Executive Board, or to become involved in leadership opportunities with one of our outstanding sections. Not only will you find the experience

personally rewarding, but you will be among the "small group of thoughtful, committed citizens" who will change ACJS in wonderful ways!

*\*Brandon K. Applegate is professor and chair of the Department of Criminology and Criminal Justice at the University of South Carolina. He received his Ph.D. in criminal justice from the University of Cincinnati in 1996 and taught for 14 years at the University of Central Florida before joining USC in 2010. He teaches undergraduate, master's, and Ph.D. courses on corrections, juvenile justice, and methodological issues. He has published more than 50 articles, book chapters, and other publications on punishment and rehabilitation policy, correctional treatment, juvenile justice, public views of correctional policies, jail issues, and decision making among criminal justice professionals. He also co-edited Offender Rehabilitation: Effective Correctional Intervention (1997, Dartmouth). Applegate previously served as secretary of the Academy of Criminal Justice Sciences and as president of the Southern Criminal Justice Association. He has served on the editorial boards of Justice Quarterly, Journal of Criminal Justice Education, and the American Journal of Criminal Justice.*

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Nicholas Katzenbach, who was then the U.S. Attorney General.

That Commission established the natural task forces on police, courts, and corrections. In addition, they created a separate Task Force on Assessment of Crime, chaired by Lloyd Ohlin, a distinguished criminologist, that focused on crime measurement and initiated victim surveys to get at the “dark figure” of crimes that occurred but didn’t get reported to police, who were the dominant source of information for the Uniform Crime Reports (UCR) maintained by the FBI and the only source of regular data about crime.

One year later, in 1966, the Commission decided that science and technology, particularly computers, could make some important contributions to the problem of dealing with crime, and somehow they found me and asked me to recruit staff and to chair their new Task Force on Science and Technology. I was then working at the Institute for Defense Analyses on issues of military systems and protested that I knew nothing about crime, but they argued that they had lots of people who knew all about crime, and so a neophyte could be well served. That initiated a fascinating career trajectory that took me, with an undergraduate education in engineering physics and graduate work in statistics and operations research, from analyzing military systems to a 50-year career in criminology and criminal justice.

The work of that task force was very stimulating. I recruited Dick Larson, a new graduate from MIT’s electrical engineering department; Ron Christiansen, then a PhD student in nuclear physics at UC Berkeley who had taken a leave to get a law degree at Harvard;

Sue Johnson, an independent consultant; Saul Gass, then at IBM; Peter Kelly, a specialist in communications and electronics; and two of my systems-analysis colleagues at IDA, Joe Navarro and Jean Taylor.

**The Commission’s Report**

The Commission published its final report, *The Challenge of Crime in a Free Society*, in 1967, along with nine task force reports on police, courts, corrections, and assessment of crime and more specialized reports on juvenile delinquency and youth crime, organized crime, narcotics and drugs, drunkenness, and, of course, science and technology.

The Commission came out with an impressive array of some 200 recommendations, some of which were obvious and generic and would still very much apply today, some of which were targeted at issues that are no longer current, and many of which were implemented and led to some of the major changes in operations of the criminal justice system and the considerable relevant research and education activity that is in place today.

A major thrust of the Commission, and of our task force in particular, was dealing with the interaction among the independent parts of the criminal justice *system*. Indeed, we developed the first version of a flow diagram of the total criminal justice system, from crime through police through courts to corrections, which emphasized those interactions.

This emphasis led to the creation by Congress in 1969 of the Law and Enforcement Assistance Administration (LEAA), which

provided federal support and funding for the establishment of criminal justice planning agencies in each state to improve the operation of its criminal justice system and its constituent parts.

A number of the Commission's recommendations responded to the striking absence of research in the Justice Department, which was then the only federal department with no assistant secretary for science and technology or the equivalent. The Commission specifically recommended the establishment of a "National Foundation for Criminal Research" as well as a national criminal justice statistics center, which led to the creation of the National Institute of Justice and the Bureau of Justice Statistics.

Some of the interesting recommendations with some commentary on their contemporary relevance were the following:

- Establish community relations units in police departments and recruit more minority police officers—minor, rather bland issues at the time but extremely salient today.
- Enact comprehensive state bail reform legislation—not much has yet been done on this one, but many jurisdictions are beginning to address this issue today.
- Revise sentencing laws—a rather minor issue at the time, when incarceration rates were close to 100 per 100,000, but a crucial one today with widespread agreement on all

sides that the current incarceration rate of 500 per 100,000 must be reduced, yet little progress in that direction.

- Upgrade education and vocational training for inmates—an issue on which there is widespread agreement within the system to enhance job opportunities and thereby lower recidivism, but it faces objections from the public who have to pay for those services for their children.
- Encourage research on organized crime—a crucial issue at the time, but there is very little attention paid to organized crime today.
- Adopt drug abuse control legislation—drug abuse was a minor issue at the time, but the drug-abuse-control legislation that has been enacted since then is a major source of concern today.
- Establish civil detoxification centers—this was targeted primarily at alcohol, an important issue at the time, but the same could well be applied to drug detoxification today.
- Prohibit potentially dangerous people from getting firearms—an issue on which there was considerable progress in the 1990s, but which is totally stalled today.
- Establish organized research units in criminal justice agencies—a number of state criminal justice planning agencies were established

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# ACJS 2016 Annual Conference

**“Advancing Justice on All Fronts”**

**March 29<sup>th</sup> – April 2, 2016**  
**Sheraton Denver Downtown Hotel**  
**Denver, Colorado**

Program Chairs:

Jennifer L. Hartman, [jhartman@uncc.edu](mailto:jhartman@uncc.edu)  
Shelly Listwan, [slistwan@uncc.edu](mailto:slistwan@uncc.edu)

**Host Hotel:**

Sheraton Denver Downtown Hotel  
1550 Court Place  
Denver, Colorado 80202



**The ACJS General Business Meeting will be held at the Denver ACJS Annual Meeting on Friday, April 1, 2016, 11:00 AM – 12:00 PM, in the Director's Row H meeting room. All members and attendees are invited to attend.**

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but with considerable variation in the degree to which they include research units.

- Establish a National Foundation for Criminal Research—this led to the establishment of the National Institute of Justice, a research institute that is grossly underfunded in light of the needs.

Of course, I found it particularly interesting to look back at some of the recommendations attributable to the Task Force on Science and Technology:

- Establish a single, uniform police telephone number—this was initially opposed by AT&T, then the telephone monopoly, because they claimed that their “0” or “Operator” was already a uniform emergency number, but they soon realized the benefits of transferring the cost of that operation through creation of the 911 standard that followed in the next year or two.
- Undertake experiments to improve statistical procedures for police manpower allocation—this was a reaction to the widespread use of merely randomized patrol patterns.
- Develop statistical aids for sentencing and treatment—the theme here was better risk assessment, but it has had very

limited implementation until recently.

### **Changes in Crime and the Criminal Justice System**

It is widely recognized that the issues of crime and criminal justice in 2016 are strikingly different from those that prevailed 50 years ago. In particular, we can note the following:

Perhaps most salient is the intense politicization of the criminal justice system that had previously operated on its own terms. This is perhaps best reflected in the widespread introduction of mandatory minimum sentences by Congress and state legislatures, thereby diminishing the authority of judges and increasing the power of prosecutors who can appeal to their electorate by adopting popular “tough on crime” appearances. As a result, we have seen the quintupling of the incarceration rate and, perhaps most troubling, with little progress in reducing that rate over the past 15 years despite the unique and singular agreement by both left and right on the desirability of reducing prison populations.

We have also seen major growth in the criminalization of a variety of undesirable behaviors. One of my task force colleagues, Ron Christiansen, analyzed arrest data and estimated that the probability that a male would be arrested sometime in his life for a non-traffic offense was 50%. My intuition at the time was that this estimate was much too high and that Ron must have slipped a decimal point, since 5% seemed much more reasonable to me. Of course, his work withstood all those challenges and was a surprise to almost

everybody who saw it. And even today, that probability of 50% is higher than most people would expect. But that estimate is appreciably lower than the current rate, since 50 years ago there were very few drug arrests, drunk driving was merely a traffic offense, and most domestic violence was seen as a private matter rather than an occasion for public intervention. This has given rise to a congressional committee charged with reducing the overcriminalization in the federal system, but that is still a small part of the nation's total criminal justice system.

As a result of overcriminalization, there is now concern in many quarters about the collateral consequences for the many individuals who have been involved with the criminal justice system, particularly at the young ages around the peak of the age-crime curves: This denies them many opportunities for education, jobs, housing, and even the right to vote. Fifty years ago, criminal records were buried in police or court basements and were available outside the criminal justice system with considerable difficulty. Their availability in electronic form allows them to be accumulated and accessed widely and rapidly, and so there are a variety of efforts, like "ban the box" policies to defer any inquiry into a job applicant's criminal history until the later stages of review, in order to prevent an employer from arbitrarily dismissing an otherwise qualified applicant before his or her qualifications could be assessed.

Another important feature that has been an increasing burden on the criminal justice system has been the widespread elimination of mental health hospitals and services in the community. As a result, the strange behavior of people with mental illness brings them into the criminal justice system. Estimates of the clinically mentally ill in

prison typically exceed 20% and will be even higher in local jails. Treatment of the mentally ill clearly calls for skills that are not typically available within the criminal justice system, and they are much more appropriately dealt with by the public health system.

An even more appropriate issue that calls on the public health system is the problem of drug offenses, which currently account for 50% of federal prisoners and 16% of state prisoners, the largest single offense type in those institutions. The "war on drugs" that began in the 1970s, largely in response to parental concerns about kids becoming addicted, made drug offenses the dominant growth area of prisons in the 1980s and 1990s. After at least three decades of frustration with the lack of marked success in effectively addressing the drug problem, we are starting to see some rethinking of drug strategies, reflected in the legalization of medical marijuana in a majority of states, the legalization of marijuana in a handful of states so far, and the growing decriminalization of marijuana. The widespread concern about the dramatic growth in overdose deaths from heroin and prescription drugs has resulted in more attention to responding with public health resources rather than turning to the criminal justice system. A number of European countries treat drug addicts in public clinics that may offer the drugs or other forms of treatment while working with the addicts to help break the addiction. Such approaches would have been unthinkable in the United States 30 years ago, but the current political environment could more readily consider them.

### **Research Advances**

While all these changes have been going on within the criminal justice system, we have



also seen major growth in research and understanding of crime and factors contributing to crime and of the criminal justice system and its impact on crime and offenders.

There has been extensive research into the nature of criminal careers. We know much more about the offending frequency of individual offenders and the duration of their criminal careers, knowledge that should inform sentencing policies as a replacement for the “longer is better” presumption of the “tough on crime” political stance. A good number of longitudinal studies have provided a rich catalog of family, peer, and environmental risk and protective factors associated with individual offending patterns.

We are also much better informed about the effects of various actions by the criminal justice system. We have measures of the effect of punishment certainty and severity and particularly of the saturation of high-severity effects. As suspects are assessed for bail or pretrial detention or for sentencing, we have much richer estimates of their risk of future offending as well as of needs they may have that could be treated in order to reduce those risks.

There have been experimental evaluations of a rich variety of treatments throughout the criminal justice system, and those have been catalogued in various places. CrimeSolutions.gov probably covers the most territory, and the Blueprints program at the University of Colorado identifies programs that passed the most demanding of rigorous evaluations.

Perhaps most important, there has emerged a much larger and stronger research community addressing issues of interest to the criminal justice system and building knowledge and methods to better address those problems in the future. That community is in a strong position to provide much better evidence to facilitate the generally vague political commitment to “evidence-based policies” by providing stronger bases for estimating the costs and benefits of those policies.

### **Need for a New Commission**

The many dramatic changes in politicization, overcriminalization, the growing concern over collateral consequences, the dominant role of drug offenders and the mentally ill within the criminal justice system, and the growing attention being paid to differential involvement and treatment of minorities by the criminal justice system have all given rise to a call for a new crime commission that would build on the work of the previous one and address the many new problems that have arisen in the past 50 years, particularly by capitalizing on the rich knowledge base that has been developed.

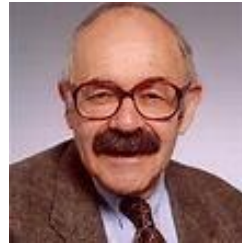
It will be particularly important that the structure of the new commission not replicate the political polarization that characterizes too much of government today. Legislation to create a new commission was proposed by Sen. Webb in 2010, and one is currently sitting in the Senate today. Both bills had each of the four caucuses of Congress appoint the large majority of the members. It would be reasonable to anticipate that any such appointments would exaggerate the polarization currently present in Congress.

It would be much more appropriate to require the caucuses to agree on members representing a diversity of perspectives such as policing, prison and jail administration, public health and mental health, interaction between criminal justice and social services, and, of course, science and technology. Also, there should be a research staff associated with the commission to bring to their attention the relevant knowledge and to carry out whatever analyses are needed.

Any such commission would have to organize task forces in areas of particular need and concern and seek both innovation and resolution of current conflict. Aside from the broadly based task forces on police, courts, and corrections, there would have to be task forces on drug policy, mentally ill in the criminal justice system, effective gun policies, and approaches to achieving major reduction in current incarceration rates.

The next steps to make this happen would be to pass legislation to simply create the commission and identify perspectives to be represented on the commission. Then, early in 2017, the newly elected president should appoint the chair, and the relevant committees or caucuses of the Congress should agree on individuals who would responsibly serve as members.

It is clear that the need is great and that there is a great opportunity for moving forward if we can avoid the polarization that has frustrated so many efforts in public policy.



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*Blumstein's research has covered many aspects of criminal justice, including crime measurement, criminal careers, sentencing, deterrence and incapacitation, prison populations, flow through the system, demographic trends, juvenile violence and drug-enforcement policy. Professor Blumstein was a member of the National Academy of Sciences Committee on Research on Law Enforcement and the Administration of Justice from its founding in 1975 until 1986. He was also director of the National Consortium on Violence Research (NCOVR), a multi-university initiative funded by the National Science Foundation and headquartered at the Heinz College. He is a fellow of both the American Association for the Advancement of Science (AAAS) and the American Society of Criminology, which awarded him its Sutherland Award for "contributions to research" in 1987. He also served as the society's president in 1991-92. In 1996, he was awarded an honorary Doctor of Laws degree by the John Jay College of Criminal Justice of the City University of New York. He was awarded the Wolfgang Award for Distinguished Achievement in Criminology in 1998 and was elected to the National Academy of Engineering in 1998. He was awarded the 2007 Stockholm Prize in Criminology. He was appointed in 2012 as chair of the Science Advisory Board for the Office of Justice Programs in the U.S. Dept of Justice.*



## ACJS Seeking Committee Volunteers for 2017-2018

Nicole Piquero, ACJS 1<sup>st</sup> Vice President, is actively seeking Committee volunteers to serve during her presidency, March 2017 – March 2018. If you are interested in learning more about how to be actively involved in service to ACJS, contact Nicole at [npiquero@utdallas.edu](mailto:npiquero@utdallas.edu) to volunteer. Every ACJS member who volunteers will be placed on a standing or *ad hoc* Committee, to the extent possible.

Committee membership is limited to ACJS members. The composition of all committees will be as diverse as possible with regards to gender, race, region, and length of Academy membership.

Every year, ACJS needs volunteers for the Academy's Standing Committees. Committee volunteers usually serve for one year, beginning with the Friday of the Annual Meeting after the Executive Board meets. Appointments to the following ACJS Standing Committees are for one year, unless otherwise stated:

- **Academic Review** (members serve three-year terms and membership is restricted to trained certification reviewers)
- **Affirmative Action**
- **Assessment** (members serve three-year terms)
- **Awards**
- **Business, Finance, and Audit** (members are appointed by the 2<sup>nd</sup> Vice President)
- **Committee on National Criminal Justice Month**
- **Constitution and By-Laws** (members are appointed by the 2<sup>nd</sup> Vice President and serve three-year terms)
- **Ethics** (members serve three-year terms and are nominated by the Trustees-At-Large and appointed by the ACJS Executive Board)
- **Membership**
- **Nominations and Elections** (members are appointed by the Immediate Past President)
- **Program**
- **Public Policy**
- **Publications**
- **Student Affairs**

*The success of ACJS depends on having a dedicated cadre of volunteers.  
Committee membership is an excellent way to make a  
difference in the future of ACJS.*

## It's All About Justice: We are *Criminal Justicians*!

Craig Hemmens, Washington State University\*

Mary K. Stohr, Washington State University\*\*

In recent years there has been some debate about the appropriate name for our discipline. Some have advocated for the use of the term *criminology*, while others have advocated for the term *criminal justice* (Hemmens, 2015). Our purpose in this essay is not to revisit that debate directly but to focus on a related issue: What should we academics who study crime and the criminal justice system call ourselves? We all practice the scientific study of criminal justice. Are we “criminal justice scientists,” similar to what those who study the political system call themselves (political scientists)? Are we “criminologists,” similar to what those who study social behavior call themselves (sociologists)?

We argue that neither the -tist nor -ologist suffix is the most accurate descriptor. We believe academics who engage in the scientific study of criminal behavior and society's response to that behavior should refer to themselves as *criminal justicians*. This term is more comprehensive in scope than criminal justice scientist or criminologist, and it focuses on what we believe is the most important part of what we study—justice. In the end, justice is what it's all about, what everybody who works in, studies, or merely observes the criminal justice system wants from the system. Since justice is the key, justice should be part of our name—both as an academic discipline and as individual scholars who study and teach others about the criminal justice system.

### How Do We Get to Criminal Justician?

The study of criminal behavior developed primarily in sociology departments, often as part of a broader study of deviance. Other disciplines also examined criminal behavior, most notably psychology (with an emphasis on understanding the motivation for an individual's actions). Later, there developed a greater interest in how society responded to criminal activity. Scholars began to study not just offenders but the police, courts, and corrections—the primary components of what came to be known as the criminal justice system. Political science and public administration departments began to offer courses in the area and to study the criminal justice system.

The academic study of the criminal justice system really took off in the 1970s, with the influx of Law Enforcement Assistance Administration (LEAA) funding and the creation of criminal justice programs within sociology or political science departments, as well as the creation of more stand-alone criminal justice departments. Over the last 50 years, there has been a tremendous increase in the number of criminal justice programs and departments, faculty, courses, students, and degrees (both undergraduate and graduate). Academic research on all aspects of the criminal justice system has also increased at a

tremendous rate, as evidenced by the increase in scholarly articles on criminal justice and scholarly journals that focus on criminal justice research.

Today, our discipline is better positioned than ever before to demonstrate the value of what we do. We have a significant number of well-educated students in criminal justice organizations (hopefully) working to implement policy and procedure changes based on the research we have been conducting, ACJS and ASC are working together to do a better job of getting that research in front of policy makers at the national level, and there is a trend generally toward support by policy makers and agency personnel for evidence-based practices in criminal justice. As the academic study of criminal justice gains legitimacy, credibility, and visibility, it becomes imperative that we unite behind a common name. This will reduce confusion among external constituencies and better explain what it is we do and who we are. The term that best encapsulates what we do is *criminal justician*.

### Why Criminal Justician?

Criminology is most commonly defined as the study of criminal behavior. Criminal justice, on the other hand, is generally defined as the study of crime and the criminal justice system. It is broader in scope, and as a result it is a more accurate description of the discipline. We believe that the term that best describes what all those of us who engage in the scholarly study of crime and criminal justice do is,

therefore, *criminal justician*. This term includes those who study criminal behavior as well as those who study the various components of the criminal justice system. We are not sociologists—we do more than just study criminals. We study—and teach our students about—the entire system. Much of what we do examines the problems with this system—those times when justice is not done, either during the investigation, prosecution, or sanctioning of crime. Those of us who study the criminal justice system seek to make it more just. We study justice; hence, we are justicians.

### Conclusion

As our discipline matures, it is imperative that we solidify the gains made over the past 50 years and continue to strive to make what we do and who we are understandable to other academics, practitioners, policy makers, and the public. One of the ways we can do this is by adopting a common name for all of us, so we are not unnecessarily divided. We have begun to use the term *criminal justician* in our daily work and encourage you to do so as well.

### References

Hemmens, C. (2015, September). Which Is Bigger—Criminology or Criminal Justice? *ACJS Today*, 15(4), 22–24.

*\*Craig Hemmens is chair and professor in the Department of Criminal Justice & Criminology at Washington State University.*

*\*\*Mary K. Stohr is a professor in the Department of Criminal Justice & Criminology at Washington State University is currently serving as the executive director of the Academy of Criminal Justice Sciences.*



## Education and Policing: An Expectation of Professionalism



*Andy Bain\**

There is no doubt that modern services in law enforcement, private policing, and the criminal justice system as a whole have already come a long way from their humble beginnings in the Victorian doctrine. However, it is strange that—for the most part—the requirements for education and training have changed little, are only very gradually and often begrudgingly changing, and all the while these same standards continue to be challenged. This short article provides an examination of the current position of education in criminal justice and questions the role of education in supporting the development of the individual, society, and a professional law enforcement service.

### **Education, the Difference**

The requirement to meet acceptable professional standards can be seen in every facet of daily life, from the contractor who installs our new heating system, to the financier who arranges our mortgage, to those we trust to educate our children. Yet, even though we are aware of these important positions and the level of responsibility that each holds, criminal justice

professionals seem to have escaped a requirement to be held to similarly high standards.

This may be a hangover from a time when (historically speaking) personal judgment and an ability to handle oneself physically were preferable to the ability to examine, report, and present the evidence. Today, however, heavy-handed (often militaristic) tactics are seen to be confrontational and fear-invoking barriers between the community and law enforcement, which can (and often will) lead to instances of public anger and disturbance, which the same officers are then required to “peaceably” control in the name of public safety. It seems that this will only ever result in a catalyst of negative action, as recently experienced in Baltimore, MD (2015), Ferguson, MO (2014), and Oakland, CA (2009). That is not to lay the blame directly at the feet of law enforcement or any other public body, but to question how different things could be.

Indeed, the report of the presidential commission (1960) concluded that law enforcement, like any other profession, should expect to be held to a higher standard of education. Yet this was never formally enacted, leaving individual states to continue to set their own standards, at their own discretion. In fact, Paterson (2011) has noted that evidence from the 1970s supported the discussions of the presidential commission and showed “positively” that

officers with a college education were less cynical, more flexible, and held greatly improved attitudes toward minority groups, while also holding to higher standards of ethical and professional behavior.

It seems logical, then, that education could provide an environment from which to improve many of the practices exhibited in criminal justice today. Education is, after all, much more than reading, writing, and speaking—although each of these is extremely important, both in college and the workplace. Education is also about adaptation; planning; management; ethical practice; learning personal, professional, and cultural respect; and so much more. If nothing else, if we left the discussion right there, there should be absolutely no doubt as to the value of education for criminal justice professionals. To this we could also add evidence presented by Cordner and Shain (2011) who suggest that although education has historically been driven by the needs of a local population, today, in an era of globalization in which much of the crime can be perpetrated transnationally, international relationships and understanding of criminal justice systems become greatly valued, if not required. Cordner and Shain (p. 281) have provided a number of examples of changes to the educational standards taking place around the world that address these and similar issues and that could see the United States left behind, in terms of understanding crime, justice, international cooperation, and more besides.

### **Comparative Examples**

Although a minority of officers may have an advanced education in the United States, the trend toward better, more adept skills are observable to a far greater extent in many other

countries. In a similar system to the U.S., Australia continues to accept candidates who have completed formal education. Entry to the Federal Police Agency includes the requirement to complete education to (at least) year 12—considered equivalent to the first year of post-compulsory education. However, as our closest neighbor (socially and culturally), it is interesting that Canada has seen calls for increased standards, which has recently led to a review of police leadership development by the Canadian Public Sector Council.

A third example comes from England and Wales, which has seen a rise in the number of recruits with bachelor's degrees and an increase in the "preferred" educational requirements in many of the local constabularies. This trend is not likely to change, and it is further supported by the recommendations of Neyroud (2012) who, in his report to government, stated a need for improved leadership and training of police officers. His conclusions suggested that as a professional service, there should be partnerships formed between police constabularies and higher education institutes, and that senior officers should be required to attain at least a master's level of education, which incorporates business management as well as policing and criminal justice. In broad terms, Neyroud sees education as resulting in improved ethical practice, professional standards, and occupational integrity.

With what seems a growing number of examples of community conflict, and increasingly professionalized standards in partnership countries, it is not surprising that there has been a resurgent move to change the current standards for policing in the United States. For example, the Minnesota Board of Peace Officer Standards and Training (MBPOST, n.d.) requires peace officers to

have at least an associate's degree but gives preference to those with a bachelor's degree. New Jersey State Police (NJSP, 2014) requires that applicants complete 90 college credits and expects successful completion of a bachelor's degree before beginning employment.

The evidence for local and state agencies continues to grow and provides for an interesting discourse to take forward. Yet it is also worth noting that it is an argument echoed in the work of Paoline, Terrill, and Rossler (2015), who noted that—at the time of writing their article—45% of all patrol officers have achieved at least a bachelor's level of education, and they conclude that this number is likely to increase in years to come. This means that the opportunity for the candidate to stand out (in terms of educational attainment) has been narrowed and requires a new direction. Indeed, the University of St. Thomas, Minnesota, provides an interesting discussion of the requirements for senior police officers and states that although hiring practices will be determined by the needs of each department, “opportunities for career advancement often come with outstanding work performance, professional training and additional educational qualifications, such as a master's degree in public safety and law enforcement leadership” (University of St. Thomas, 2014, para. 11).

Although the standards for education have yet to be formalized for law enforcement officers in the United States, this could not be further from the truth for community corrections services. Indeed, the *Ohio Adult Probation Officer Training Standards* notes that a “continued education standard was developed because a skilled workforce with knowledge of current practices is

vital to public safety” (Ohio Department of Rehabilitation and Correction, 2013, p. 2).

### **The Inevitable Cost**

Bear and Reiken (2012) note that although there exists a drive toward higher educational standards, it is not necessarily the qualification that makes the greatest difference, but the ability of the individual officer to communicate and provide a positive interaction with a local community. These are skills that can be learned outside the classroom, but without some degree of exposure it is unlikely that assurances can be given as to the individual's level of knowledge and understanding. In implementing change, there will be an increase in education standards and in the education levels of individual officers, which will inevitably lead to additional financial costs that accompany a better educated, more skilled workforce. That is a consideration, but the fact remains that the social environment in which we live is completely changed from that of 200 (and more) years ago when Sir Robert Peel proposed a professional policing service to the British government. Indeed, as we expect greater levels of knowledge, understanding, and education more generally in the wider population, the same should be expected of those who police, manage, and govern our society.

We should also consider that today we live in a far more technologically advanced world than ever before and that advancements take place at a far greater rate than ever before. This, in and of itself, is a consideration and calls for an understanding of systems and services, which has never before been experienced. Indeed, Harr and Hess (2010) state that where once the high school diploma was sufficient and acceptable, in an

increasingly complex workplace, basic education is less attractive and will certainly restrict opportunities for career development and advancement.

Regardless of our personal position or personal standard, if education means nothing else, then as a taxpayer I would be concerned to think that a police department with a budget in excess of 1, 10, or even 40 million U.S. dollars was being managed by a team with no more than the technical, mathematical, and social education required to graduate high school. No finger pointing is necessary—and is certainly not very helpful, nor is it productive—the concern is to ensure that this great nation has the same level of expectation and respect for those of the law enforcement and correctional services officers (and managers) as is expected of medical, financial, and educational professionals. This seems an excellent point in which to say—with the risk of being somewhat repetitive—greater educational standards are good for everyone. Indeed, until abundant evidence is presented to suggest that better-educated and more socially aware officers cause community conflict and disturbance, education seems the one serious action that we have not tried in the fight to reduce crime.

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## A Conversation with Stuart A. Wright Co-author of *Storming Zion: Government Raids on Religious Communities*



*Stuart A. Wright\**

*Recently, I read the book Storming Zion: Government Raids on Religious Communities, by Stuart A. Wright and Susan J. Palmer (Oxford University Press, 2016). In this book, the authors remove common stereotypes about nontraditional religious movements, which are often pejoratively referred to as “cults.” I recently had an opportunity to catch up with the lead author, Dr. Stuart A. Wright, who graciously answered several of my questions.*

**RW:** In your book, you mention that religious raids often involve paramilitary actions, in spite of the fact that very few new religious movements actually have a history of violence. Why do you suppose governments are so quick to employ aggressive use of force?

**SW:** We argue in the book that these raids do not take place in a social vacuum. They are often the product of countermovement

activism and mobilization. In particular, we show that a “white-hot,” transnational mobilization of anticult movement (ACM) organizations in the late 1980s and 1990s helps to explain a dramatic increase in the rate of government raids, primarily in North America and Western Europe. The aggressive use of force can be attributed to several factors. First, the claims lodged against new or nontraditional religious movements (NRMs), typically labeled “cults” by organized opponents, are invariably inflated or exaggerated. The escalation of claims produces a perception of threat by authorities that is grossly disproportionate to any real threat posed by the religious group. However, officials act on the perception of an inflated threat by using extreme enforcement actions such as paramilitary raids. Second, there has been a three-decade long trend toward the “police militarization” in which enforcement actions taken against groups defined as a threat to the social order are likely to be targeted. Research by criminologists, particularly the work of Peter Kraska, has documented this trend in police organization and culture.

**RW:** It seems as though the number of governmental raids on new religious movements has increased exponentially within the past several years. Why is this?

**SW:** Well, the rapid, transnational mobilization of a countermovement accounts

in part for the dramatic increase in raids. But this was predicated on a pivotal change in public attitudes and laws regarding child protection in the 1980s. Criminologist Phil Jenkins has written extensively about the “Child Abuse Revolution” that took place in the United States, significantly altering the way in which child abuse definitions were expanded and laws passed requiring mandatory reporting. The shift produced a widespread public perception that child abuse was an epidemic, leading to a “moral panic” about “threatened children.” Since many NRMs were passing through a second-generation stage, they became easy targets for child abuse allegations by opponents, even in the face of weak or unsubstantiated claims. Because the state has a mandate to protect children, these allegations triggered investigations and enforcement actions, which often were carried out in the form of police raids.

**RW:** From reading your book, it seems that the anticult movement began mainly in the United States. Why do you suppose this is?

**SW:** The American anticult movement arose in response to a growth in new or nontraditional religions in the late 1960s and 1970s. Some of these movements were part of the emergent counterculture and the social experimentation of young people that occurred during this period. We must also be aware of the influx of Eastern-based religions that followed the Hart-Cellar Immigration and Nationality Act of 1965 that abolished immigration quotas. This quota system favored immigrants from Northern and Western Europe and excluded Asians altogether. After 1965, we saw a sharp rise in immigrants from Asia (88% of immigrants now come from non-European countries). Many of these Asian immigrants brought their religion with them. As a result, there

was a surge of Eastern religions with odd-sounding names like Nichiren Shoshu, International Society for Krishna Consciousness, Parmahansa Yogananda’s Self-Realization Fellowship, Transcendental Meditation, Soka Gakkai, Deva-Light, Divine Light Mission, Sathya Sai Baba, and the Unification Church. As many young people joined NRMs, distraught parents, relatives, friends, and even religious leaders saw this as a threat to traditional values and roles. At a loss to explain the attraction of mostly youth to these religions, opponents claimed that their loved ones were being “brainwashed” and demanded action by authorities to intervene. Anticult organizations evolved out of this reactionary response, labeling new or nontraditional religions “cults” and developing an elaborate ideology to paint these groups as a dangerous threat to society.

**RW:** In the book, your discussion of deprogramming as a method to combat so-called cult brainwashing proved to be very interesting. You mention, however, that beginning around the 1980s, it began to face legal challenges, especially in the United States. Why was deprogramming so controversial in the United States but perhaps not as controversial in France?

**SW:** The justification for the use of “deprogramming” (or forcible deconversion) was based on the idea that converts to new or nontraditional religions were “programmed” (i.e., “brainwashed”). In some early legal challenges in the United States, attorneys for deprogrammers who were charged with unlawful detention or false imprisonment were able to employ “cult experts” who would testify to the existence of psychological brainwashing. Juries heard this testimony and often acquitted the deprogrammers. But the scientific research did not support the brainwashing theory, and as the evidence against the theory began to mount, the viability of this

legal argument faltered. Both the American Psychological Association and the American Sociological Association rejected the brainwashing theory as lacking credible scholarly or scientific evidence. But the theory was exported abroad and adopted by ACM organizations as credible science. In France, the concept was modified, first in the form of “manipulation mentale” and later embedded in the concept of “abus de faiblesse” (abuse of weakness). This third generation of brainwashing theory is based largely on the highly questionable work of French psychiatrist Jean-Marie Abgrall. Abgrall has been heavily criticized by other scholars, and it has been noted that he is an ACM activist as well. But for reasons I cannot possibly explain in this limited space, the French have aggressively prosecuted and repressed sectarian religions, casting them as a threat to rational thought and a hindrance to French nationalism or “la Republique.”

**RW:** I know that U.S. courts now tend to bar “brainwashing” or “mind control” theories from being introduced as evidence or in expert testimony. Why is this?

**SW:** Expert testimony advocating the “brainwashing” theory met its demise in a 1990 federal court case, *United States v. Fishman*. The defendant, Steven Fishman, was a former member of the Church of Scientology charged with mail fraud. Fishman claimed he was brainwashed by the church and could not be held accountable for his actions. The court took a serious look at the scientific viability of brainwashing and determined that it did not meet federal standards for admission into court as scientific evidence. The court barred the testimony of well known “cult experts” who had for years propped up the brainwashing theory as credible and established science. Once the government became a party in litigation and was

forced to investigate the claims of brainwashing, the use of this pseudoscience in the courts was finally stopped.

**RW:** Since deprogramming is now fairly controversial, perhaps even illegal in the United States, what is now being done by activists to dismantle new religious movements in the United States?

**SW:** Once organized opponents realized that the tactic of deprogramming was becoming problematic, they devised a different strategy that focused on child abuse. Given the changing social and political climate surrounding child protection in the 1980s, ACM actors seized upon a political opportunity to exploit a moral panic about threatened children. Many NRMs were well into a second generation and were vulnerable to sensational allegations of “cult child abuse.” New laws strengthening child protection had the effect of inverting the constitutional presumption of innocence since even the mere allegation of child maltreatment triggered the response of child protection agencies to investigate. Parents found themselves having to prove their innocence. The stigma of belonging to a “cult” placed them at a distinct disadvantage in the eyes of the courts and the public. We found this tactic to be significant in explaining the dramatic increase in government raids on NRMs. Beginning around 1990, a wave of raids were launched where allegations of child abuse were made, usually originating with organized opponents.

**RW:** In your book, the discussion of how the media rely upon “cult experts” was

extremely insightful. What qualifies someone to be a “cult expert”?

**SW:** There is a curious dynamic here involving language. If one were to Google “cult” or “cult experts,” the search would produce a virtual who’s who of anti-cult activists and self-proclaimed experts. And it would probably not produce even a single scholar of new or nontraditional religions, though there are dozens. This is because scholars have largely abandoned the term “cult” since the definition has become problematic and the concept has been hijacked by opponents and popular media.

**RW:** Interesting.

**SW:** In its original formulation, the term “cult” was benign. But in recent years, “cult” has become a pejorative term. It is not an objective or impartial description of a religious group; it is a slur, a term of derision or contempt. To call a religious group a “cult” is to condemn the group as dangerous, evil, or destructive. It plays to some of the worst stereotypes imaginable (mass suicide, child abuse, sexual abuse, stockpiling weapons). Research clearly shows that the overwhelming majority of NRMs are not violent or abusive; they present no threat to their members or society. Some scholars, such as Rod Stark, have tried to reclaim or rehabilitate the term for use in sociology, but I think the effort has largely failed. So, most scholars simply opt for neutral or nonjudgmental terms like *new* or *nontraditional religions*.

**RW:** Why do you suppose that the media tend to rely on “cult experts” rather than objective religious scholars when reporting on new religious movements?

**SW:** I have found over the years that reporters are often in a hurry to find an “expert” to comment on their story. If they haven’t already carefully cultivated contacts who are scholars and researchers in the field, they will simply go to the Internet and Google “cult expert.” Reporters typically have short deadlines and they want to get the story quickly. Consequently, after a news story breaks involving an NRM, it is not uncommon to see an anticult activist masquerading as an expert on TV or quoted in a newspaper trotting out the “brainwashing” explanation or some version of it. The public is given the impression that they are hearing or reading an expert when in fact the person in question is an anti-cult activist engaged in a political or moral campaign.

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## Some Musings About Buzzwords and Metaphors in Criminal Justice



*Howard Abadinsky\**

Academic disciplines all have their own terminology, but criminal justice is a special case because of the wide array of scholarship that falls within its vague boundaries. This would include economics, law, political science, psychology, and sociology. The result is a specialized vocabulary whose terms often encompass important policy implications. Thus, a police department that does not practice “broken windows” or “community policing” or a probation/parole agency that does not utilize a “risk/needs assessment” is subject to criticism for not implementing “proven” strategies for public safety. Terms such as *broken windows* and *community policing* or *community oriented policing services* (COPS) are like tofu: able to adapt to any flavor necessary to survive in a highly politicized environment. They become buzz words sprinkled in press releases and annual reports, even if what they mean remains cloudy and/or devoid of research support. This article considers some examples.

From deep in the lexicon of the “crime hall of shame” emerged “zero tolerance.” This get-tough buzzword promotes policy that can impact educational and employment opportunity for young persons and has been applied to the public schools despite a lack of research support and running counter to the scholarly literature on criminal behavior (e.g., Matza, 1964; Schur, 1973).

While I was a New York State parole officer, prisons disappeared. Except in the federal system (which remained the Bureau of Prisons), most prisons became correctional institutions/facilities, and the approach to offenders was purportedly based on a “medical model”—study, diagnosis, and treatment—a metaphor eventually discarded and replaced with “just deserts” or the “justice model” (Fogel, 1976; von Hirsch, 1976). While it is rare for political science or sociology research to result in significant changes in public policy, government is the primary source of funds for criminal justice research, and there is an explicit or implicit policy expectation. Indeed, the choice of what research to fund is a policy decision.

### “Nothing Works” and Abolishing Parole

Research into correctional treatment by Lipton, Wilks, and Martinson (1975) was funded by New York State, which refused to release its generally negative findings. Robert



Martinson (1974) found a way around this failure to publish by authoring a summary that became known as “Nothing Works.” While it is doubtful if many public officials read the complete report—it runs more than 750 pages—when it became available in 1975, critics of parole now had two-word justification for abolishing discretionary release from prison. About a dozen states soon abolished parole, a practice that was never popular with the public (or the FBI’s J. Edgar Hoover) and therefore incurred no political price. Since then more states have abolished the indeterminate sentence or placed significant limitations on who can qualify for parole release. When it was revealed that despite the abolition of parole, inmates were still being released early on “good time,” a new tough on crime metaphor—“truth in sentencing”—was launched that further restricted early prison release; the appeal of a metaphor that incorporates “truth” is obvious.

Policy based on “Nothing Works” has an inherent danger—prison overcrowding. The consequence of prison overcrowding led states that did not abolish parole to adopt nomenclature to help fend off parole release critics while maintaining a prison population able to pass court scrutiny for violations of the Eighth Amendment. New buzzwords appeared, such as “intermediate punishment” and “intensive supervision,” programs that tweaked those found wanting in “Nothing Works.” Intensive supervision (IPS) became a buzzword justification for placing on probation or releasing from prison high-risk offenders, despite decades-old research critical of this approach to preventing recidivism. Indeed, IPS with a robust control focus can

exacerbate prison overcrowding by increasing the number of offenders incarcerated for technical violations.

Some approaches reached back to the 19th century and New York’s Elmira Reformatory, where military discipline for inmates prevailed. The modern “Boot Camp” prison provides an example of the metaphor approach to policy: Subject young inmates to a rigorous, but relatively brief, period of incarceration and they will live happily—that is, crime free—ever after. The approach is absurd, but it offered great photo ops for agencies that adopted it. Generally negative research findings reduced the popularity of boot camp prisons, and it is rare to find them in the news. Likewise, a boot camp “cousin,” “Scared Straight,” is no longer found on network television. It is amazing that despite generally negative research findings DARE (Drug Abuse Resistance Education) remains popular with some police agencies.

### **The Nonviolent Offender**

“Three strikes and you’re out”—actually, in for 25 years or life—became a new buzzword, the baseball metaphor accounting for at least some of its popularity. Buzzword-based policy, however, may fail to consider long-term consequences: “Truth in sentencing” and “three strikes” means a growing population of elderly inmates who will eventually have serious physical or mental challenges—who cannot be released early—and the associated cost of geriatric care in prison. So what to do? Create new buzzword policy to save money: the “nonviolent offender,” who, it is argued, can be safely released from prison, has proven popular on

both the right and left of the political spectrum. However, as those who have practical experience in criminal justice understand, “nonviolent” is such a vague category as to be generally meaningless. The unskilled criminal who populates and repopulates our prisons is not specialist but an opportunist. He (most imprisoned criminals are male) may have been convicted of a nonviolent offense, but that does not make him a nonviolent criminal. As those who work on the front lines in criminal justice know, the “perps” they deal with typically have a mixed history. Is the car thief who carries a knife or a firearm a nonviolent offender? The burglar may be nonviolent until he encounters a home owner. (Some jurisdictions categorize residential burglary as a “violent crime.”) Is driving while intoxicated (or while texting) a nonviolent crime? What if the driver kills a pedestrian or occupants of his/her or another vehicle?

And there is the drug offender, a casualty in the metaphorical “war on drugs.” Was he a criminal before he began using drugs, or is his drug use simply another aspect of a criminal lifestyle? Those in the drug business, whether large scale or simply to support a personal habit, are frequently armed and quite capable of violence, although the offense that led to incarceration may be nonviolent. It is ironic that the truly nonviolent offender, the sneak who avoids any direct interaction with his victim, is often a poor candidate for rehabilitation. While anecdotal, when I was a New York State parole officer, it was the violent offender who did not fear confronting a victim who was more likely to be similarly aggressive

with respect to looking for and obtaining lawful employment, a key element in satisfactorily completing parole supervision. The sneak, on the other hand, needed to be cajoled, and his failure to look directly at an interviewer often resulted in a failure to secure a job. The “nonviolent” drug offender often returns to drug use when confronted with (what for non-drug users would be normal) stress, such as difficulty securing employment or a breakup with a romantic partner.

### **Risk/Needs Analysis and Evidence-Based Policy**

In response to accusations that parole boards were being arbitrary in their release decisions and were promoting greater inequality in criminal justice, sentencing grids and risk/needs assessments (RNA) were devised to provide transparency of decision making. The RNA is based on extensive research and offers a buzzword defense for parole boards. (This did not help the federal parole board that contracted the original research—federal parole was abolished in 1984.) However, as those working in criminal justice recognize, determining risk of recidivism requires only knowledge of three variables: the offender’s age, education (high school diploma?), and place of residence—a predictor of police activity and therefore a critical element in *uncovering* recidivism and social service agency deprivation (Hipp, Petersilia, & Turner, 2010). Because urban areas remain (de facto) segregated, using the three simple variables approach can be seen as a proxy for race and thus inherently discriminatory (although not necessarily unconstitutional; Hamilton, 2015), so better to come to the same conclusion while avoiding unseemly issues of race by using the buzzword defense—“evidence-based policy.”

The popularity of this latest buzzword is indicated by its adoption across the criminal justice spectrum—from police to parole, evidence-based policy (EBP) is de rigeur and appears in agency publications and sometimes is mandated by law (e.g., in Kentucky, Michigan, Mississippi, and Washington State). On its face, EBP is a sensible approach to programming—the proverbial “motherhood and apple pie” of criminal justice policy. After all, what would be a reasonable alternative to EBP? But like other buzzwords, it carries considerable baggage in the form of a need for public agencies to prove their worth “by the numbers.”

Comparing dermatologists to oncologists with respect to patient mortality would obviously be ridiculous. But a parallel approach in criminal justice can prove the worth of probation and parole by reserving the disposition for the “boy scouts,” a buzzword used by probation and parole officers to characterize those offenders least likely to recidivate with or without community supervision, a practice known as “selection bias.” Likewise, manipulation of stats by police executives needing to prove their worth is a tempting response to EBP, a problem also experienced when public school performance is graded by standardized testing.

EBP cannot control for variables over which police and community supervision agencies have little or no influence, such as the availability of legitimate employment for low-skilled persons or availability of social

services, employment training, and educational opportunity. And EBP encounters questions about the methodological soundness of much criminal justice research (Greenberg, 2006).

### **“Broken Windows” and “Community Policing”**

In 1982, *Atlantic Monthly* published an article by James Q. Wilson and George Kelling that became known as “broken windows.” Although Wilson and Kelling are scholars, and while *Atlantic Monthly* is a quality periodical, its articles are not subjected to peer review. Despite this, and without research support, “broken windows” became the metaphor for an approach to policing that focused attention on “quality of life” (another metaphor) offenses, such as arresting the seller of “loosies” (single cigarettes) and the “squeegee man” (who “offers” to wipe the windows of cars stopped at a red light for a tip). New York’s approach, and that of some other urban jurisdictions, such as Boston, Chicago, and Los Angeles, used a 1968 Supreme Court decision (*Terry v. Ohio*, 392 U.S. 1) to justify stopping and frisking thousands of mostly young males of color—raising the ire of minority communities. Some jurisdictions focused on other aspects of “broken windows,” such as improving the physical appearance of neighborhoods by swift removal of graffiti and abandoned cars. Some police departments, under the guise of “community policing,” use storefront/mini-police stations and monthly public meetings to bring the police closer to the community. Broken windows and community policing are the criminal justice version of tofu, a food source that can take on any flavor.

I would like to offer a new buzzword for responding to public concern, if not outrage, about some highly publicized incidents in which police officers appear to use extralegal force: *Polite Policing* or PP (pronounced “pee-pee”). While police training appropriately spends a great deal of time on the use of firearms and less-than-lethal tactics, avoiding both without a risk to life may need greater emphasis. At a minimum, officers need to be polite; they need to explain to subjects why they are taking certain action—stop and frisk, for example. If a subject is not arrested, PP suggests the police officer hand out a business card and say a “thank you” for cooperating in efforts to reduce crime. PP means police officers should never use language they would not use when talking to their mother or clergy in a place of worship. And being polite should not be a grudging response to a police directive. Treating persons subject to police scrutiny with courtesy, as they would want to be treated were the circumstances reversed, should be the prevailing mode in policing. If not already practiced during academy and field training, PP should be a priority. Nothing should unnecessarily place a police officer’s life at risk—it is, after all, a potentially dangerous job—but I believe Polite Policing does not do that. Some concluding buzzwords: “Officer Friendly” is more likely to be supported and aided by a community than “Dirty Harry.”

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# Using Principled Negotiation as a Framework for Handling Routine Contact with the Public in Policing



**Glen A. Ishoy\***

All police officers who handle calls for service and interact with the public will often be called on to use negotiating skills in the course of doing their job. Most officers think of negotiating as something only handled by specialized teams that deal with hostage situations or barricaded subjects. While these types of teams certainly provide a valuable function in these critical incidents with their specialized training, negotiating skills are also necessary and helpful for the everyday street officer in dealing with the more routine tasks police work involves and in everyday contact with the public.

When it comes to gaining compliance from the public, traditional policing has generally focused on heavy-handed and hard negotiation tactics. At times, citizens may refuse to comply with an officer's request. Since failure is not usually considered a valid option for the police, the incident will usually escalate into a heated

contest of wills. Although the very nature of police work sometimes necessitates this approach, there are many instances in which an officer can use a different approach while achieving the same desired outcome.

This type of exchange highlights the disadvantages of hard positional bargaining outlined by Fisher, Ury, and Patton (1991) in their book *Getting to Yes*. They point out that this type of bargaining often leads to unwise agreements and outcomes, is generally inefficient, and damages ongoing relationships. The solution offered by Fisher et al. is the use of principled negotiation. The method consists of four key principles: separating the people from the problem, focusing on interests and not positions, inventing options for mutual gain, and insisting on objective criteria. The use of these guiding principles in dealing with the public can limit the disadvantages that accrue with the use of hard negotiating tactics. The use of these ideas may also prevent minor incidents from escalating into major confrontations while making police work more efficient and maintaining better relations with the general public.

This is important because although an officer may not have any concern for the ongoing relationship with the person being dealt with at a given point in time, all officers should be concerned with the public's perception of the police in general. The police serve as the most visible arm of the



government and fill the role of restoring order and protecting society. The harsh treatment of citizens over time can erode the degree of respect and legitimacy afforded to the police by the public (Jonathan-Zamir, Mastrofski, & Moyal, 2015). In contrast, dealing with the public in a professional and fair manner helps to maintain the public's trust and faith, which ultimately makes policing a little easier. The use of principled negotiation tactics can assist in achieving that aim.

Before engaging in an analysis of principled negotiation, one point of clarification should be made. The nature of police work sometimes requires a swift and harsh reaction to a situation, especially when the safety of officers or other people is at risk. Nothing written here is intended to discourage or criticize that type of reaction when an officer deems it necessary. The argument presented in this article is that in everyday situations not requiring that type of response, the conscious application of principled negotiation tactics can assist officers in achieving better outcomes on calls for service, make their work more efficient, and will aid in preserving a good relationship with the public at large.

### **Separate the People from the Problem**

Separating the people from the problem is the first tenet of principled negotiation (Fisher et al., 1991). Virtually all of the situations police officers are required to deal with involve people. One challenge faced by law enforcement officers is to separate relationship issues and opinions, whether their own or those of the involved parties, from the substance of the problem at hand. This means that officers must resist the temptation to let their personal judgments of the people involved affect the way they go about resolving problems.

This is not always easy due to the jaded view of humanity officers sometimes develop as a result of dealing so frequently with some of the worst society has to offer. Police officers should also find ways to help disputing parties shift their focus away from the relationship issues involved and focus on the substance of the problem. This can be equally difficult due to the fact that officers usually become involved after a problem has escalated and emotions are running high. While officers are often more interested in restoring order in the short term rather than getting involved in the details of a dispute, using the principle of separating relationships from substance can aid in restoring order more quickly, and an officer may be able to give the involved parties a few pointers on how they might come together when emotions have calmed and find new ideas and perspectives on how to resolve the dispute after the officer has departed.

The first contact an officer makes with a member of the public is also important in this area. Exhibiting a professional demeanor and keeping relationships separate from substance are important. There are three key purposes of the first stage of the negotiation process as outlined by Shell (2006) in his book *Bargaining for Advantage*: establishing rapport, asking questions, and signaling expectations and leverage. Although police officers do not usually have the luxury of engaging in idle conversation in an effort to build rapport, the way an officer initiates contact can dictate how the encounter will unfold. In a study examining compliance with police requests, whether or not an officer was perceived as being rude had a significant impact on the level of compliance achieved. The association

was an inverse relationship in that the ruder an officer was perceived to be, the less likely citizen compliance became (Mastrofski, Snipes, & Supina, 1996).

Once contact has been made, an officer should ask questions and then listen in order to gain a view of the problem from the perspective of the reporting party. Because there are usually multiple parties involved in disputes the police are asked to handle, multiple people often need to be interviewed. As long as time and circumstances permit, the officer should ask questions and listen to all of the parties involved in order to gain a full perspective of what is going on. Even if an officer is unable to fully resolve the issue while on scene, allowing all parties to give their side of the story will allow for accurate documenting of the incident if a report is to be written. Another advantage of listening to everyone's story is the fact that many times, people simply want to be heard. Allowing people to give their account while listening intently can, by itself, diffuse sufficient tension to allow order to be restored.

In this initial phase of the conflict resolution process, the officer should take the opportunity to signal what the expectations are for the resolution of a situation and allude to what leverage may be employed as a way to ensure compliance with an officer's requests. The type of leverage most often at the disposal of police officers is to bring a negative consequence to bear on those who are deserving of it. In cases where official enforcement sanctions are possible, but not required, an officer can inform people of the options at his disposal without making it sound as if he or she is making a threat. Because most

people wish to avoid sanctions, signaling the available leverage can be useful in gaining compliance from the public.

### **Focus on Interests, Not Positions**

When attempting to forge an agreement with another party, it is helpful to know what their true interests and goals are (Shell, 2006). Focusing on a person's true interests helps avoid getting bogged down in contests of will over a particular position taken by one side or the other. For example, in a domestic dispute, one party may take the position that he will not talk to the police and that they should leave. This would naturally lead an officer to take the opposing position that the person will talk whether he wants to or not. This type of exchange frequently leads to an unnecessary escalation of tensions between the police and a citizen that, at best, make the officer's job more difficult and, at worst, can lead to a confrontation that places the officer in physical danger. If a person's true interest is that police need to leave, then an officer can use that knowledge to appeal to someone's sense of reason by saying something like, "If you want us to leave, I just need you to tell me what happened." This is a very simple example, but it illustrates the idea of using interests rather than arguing over positions. Most important, this approach works most of the time. This is likely due, in part, to the fact that deference to the police is a societal norm (Mastrofski et al., 1996) and partly due to the act of offering them a concrete way in which they can achieve their desired goal. In this way, the desires of both parties are met. The police officer gets the

information needed to do the job at hand, and the other party gets to move toward bringing the incident to an end so the police can leave.

One factor that can complicate things for police officers is the need to prioritize the interests of many parties, including victims, offenders, and themselves. Sometimes, whose interests will take precedence is determined by an officer's duty to enforce the law. It is not always possible to meet everyone's goals in all cases.

In discussing interests over positions, all police officers should remember that there is one interest that is almost universal among people: the desire to be heard and understood. Most disputes that the police respond to do not require an arrest or official sanctions against any of the people involved. In fact, many people will call the police before a dispute gets too out of control in order to prevent an argument from escalating to that level of seriousness. In most of these instances, the people involved simply want a chance to tell the officer their story. The officer's primary interest in these cases is, usually, for order to be restored and that some short-term resolution be found to prevent any further disruptions for the remainder of the shift in order to prevent the need to respond to the same location again for the same reason. Many times, simply allowing everyone to vent their frustrations will diffuse enough tension to allow order to be restored until cooler heads can prevail. Being aware of the nearly universal desire to be heard can help an officer to satisfy the interests of those he deals with as well as furthering his own goal of restoring order.

### **Invent Options for Mutual Gain**

Traditional position-based bargaining pits one side against the other in a contest to see who

can garner the most benefit for themselves while conceding as little as possible to the other side. Principled negotiation shifts the focus to devising solutions that benefit both sides. This goal requires more creativity on the part of those involved but yields more gains.

In some respects, police officers are limited in their ability to be creative in solving problems due to the confines they must operate within with respect to state, federal, and constitutional law and department policies. Even within these boundaries, however, there is often room for officers to think outside of the norm and come up with ways to solve problems that can benefit all involved. Another complication alluded to earlier is the need for officers to prioritize the interests of those being dealt with. In devising creative solutions to problems, an officer must decide for whose interest and gain he is working the hardest. As an example, the officer's interest in upholding the law and a victim's right to justice will naturally supersede an offender's interest in not being arrested. To illustrate these points, consider the following example from the author's experience as a police officer.

Officers were dispatched to a home where a domestic dispute had taken place between a male and a female. Upon arrival, the female described a violent attack made upon her person by the male. The female was clearly shaken and frightened, and it seemed clear that some type of altercation had occurred, but there was no physical evidence or visible injury on which to base probable cause for an arrest. The demeanor of the subjects made it evident to the officers that another altercation would be likely if they

were to leave without taking some kind of action. The female had expressed a desire to leave the house and go back to her family, but she didn't have a car and needed time to get a ride and gather her belongings.

In this situation, the interest of the officers of protecting a vulnerable citizen from an aggressor and those of the female to find a means to leave a potentially harmful situation clearly take precedence over any interests of the male subject, but without any concrete means to prove the allegations made, the officers were somewhat stymied. The lead officer handling the incident (the author) found a creative way to resolve the situation and serve the most important interests. I noticed that there were several empty bottles of alcoholic beverages in the house where this incident occurred and that the male subject was 20 years old. Since many of the empty containers were in the male's room, it was difficult for him to deny they were his, and a field breath test confirmed the male had, indeed, been consuming alcohol. The male was placed under arrest for underage consumption of alcohol and taken to the county jail.

In this example, the officer was able to use a creative option to serve the most important interests of the situation. The officer was able to prevent further violence upon a vulnerable female, and she was also provided with a window of time in which to gather her belongings and find a way to leave the house without any interference. Although this scenario resulted in an arrest, which under different circumstances would most likely not have occurred, it should be noted that the interests of the police do not always coincide with the implementation of the most punitive sanctions at their disposal. One strategy that can be used in gaining compliance with requests is the playing up of harsh sanctions as a possibility. This goes back to the idea of signaling

leverage. Even if an officer has no real intention of writing a ticket or making an arrest, it is legitimate to let people know what they could be facing. It is advisable to use this tactic only when the threatened sanctions are legitimate options; otherwise, the strategy becomes nothing more than a bluff. If an officer gets in the habit of bluffing to get compliance, eventually someone will call the bluff, which at best makes the officer look foolish and at worst could invite a dangerous and unnecessary physical altercation.

### **Insist on Objective Criteria**

Fortunately, police officers have no shortage of objective criteria on which to base their decisions. State, federal, and local laws and ordinances as well as department policies and case law provide an ample basis on which officers can operate. Equally fortunate is that these bodies of regulations are almost universally accepted by the public as legitimate.

The primary challenge in this area for the police is to maintain the public's trust that they do, indeed, use these objective criteria in the execution of their duties. Most people are aware that, even under the confines of the law, officers have significant discretion as to what sanctions they will apply, if any. It is this gray area of officer discretion that, if not used judiciously, can erode the public's trust in the ability of the police to be objective and fair in enforcing the law (Cihan & Wells, 2010). Conversely, if officers use their discretion wisely and in a manner that is as fair to everyone as possible, this can serve to build the public's trust in the police. In reality, officer discretion is what gives officers the best chance of meeting the needs of the public in a creative



and thoughtful way, rather than simply implementing a static and rigid set of rules.

Some of the problems encountered by the police in gaining compliance to requests are a result of a perception on the part of citizens that the treatment being received is neither fair nor based on an objective standard. Officers should always be cognizant of the need to use objective standards in the execution of their duties in order to maintain the level of professionalism that the public deserves from the police. This will help to prevent serious mistrust issues between citizens and officers and should ultimately make policing an easier task.

### **Conclusion**

The principles presented here can serve as a guideline for police officers in handling contact with the public and in gaining compliance with requests. While police work does not involve negotiation in the traditional sense that applies to the business world, many of the tasks faced by police officers routinely involve convincing someone to do or cease doing something. Officers should remember that voicing personal judgments is usually counterproductive. It is best to focus on the problem at hand rather than the people. Police officers also need to make sure they identify the real interests of all parties involved, including their own. This will enable officers to focus on coming up with useful, and sometimes creative, solutions that are based on objective criteria that will meet the most important needs of a given situation.

It is likely that many seasoned and skilled police officers already use the tactics described in this article without being aware of it. Adding principled negotiating to a police officer's training would help seasoned officers to be more purposeful in gaining compliance and give newer officers a solid foundation in successfully dealing with the public. In the author's experience, many police departments currently leave new recruits to their own devices in figuring out how to effectively deal with the public. Police departments should consider adding a module on principled negotiation tactics for all officers to the basic training given in police academies. Police departments have traditionally seen negotiating skills as being primarily applicable to hostage incidents and similar high stress situations. While crisis negotiation teams should be more highly trained in this skill than the average officer, there is still a need for all rank and file officers to be familiar with these concepts. In the final analysis, much of an officer's effectiveness on the job is demonstrated in the ability to successfully deal with people, manage citizens' unpredictable emotions, and bring situations to a peaceful end by gaining compliance with some type of request. Some situations will move beyond the ability of negotiations to resolve them, but most do not. Learning and applying the principles outlined here will aid officers in being more efficient, achieving desirable outcomes in the incidents they handle, and preserving a good relationship with the public.



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