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

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

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

**Publication**

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**Membership**

Membership in the American Criminal Justice Association/Lambda Alpha Epsilon is available at $40.00 for the first year and $35.00 thereafter. Individuals interested in membership should write the Executive Secretary, Karen K. Campbell, P.O. Box 601047, Sacramento, California 95860. Membership in the Association includes a subscription to the L.A.E. Journal.

**Editorial Policy**

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

**Submission of Manuscripts**

Manuscripts should be submitted to: crimjust@jps.net. Please be sure to include an Abstract of no more than 100 words, together with a brief biographical sketch or the author(s) covering recent publication, professional experience and research interests. Manuscripts can also be mailed to Fred R. Campbell, Journal Editor, PO Box 601047, Sacramento, CA 95860. Please include a CD or “jump / flash drive” along with a printed copy of the Manuscript. Please be sure the Abstract and biographical sketch are included on the CD or “jump / flash drive.”

It is the policy of the Journal Editor not to publish articles which have appeared or are to appear in other publications. Therefore, simultaneous submissions to another journal is unacceptable. Every effort will be made to notify authors of editorial decisions within ninety (90) days of receipt of the Manuscript.

**Specifications for Manuscripts**

Manuscripts should be double-spaced and be no more than twenty (20) pages in length. All footnote references should be added to the of the manuscript, not on each individual page where the footnote appears.

Manuscripts should be prepared in accordance with the Publication Manual of the American Psychological Association (2nd Edition), with the exception of the metric requirements.

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

The L.A.E. JOURNAL is the official publication of the American Criminal Justice Association; National headquarters in Sacramento, California. The Journal is currently published annually from the Association’s headquarters office. The L.A.E. JOURNAL is the official publication of the American Criminal Justice Association; National headquarters in Sacramento, California. The Journal is currently published annually from the Association’s headquarters office.
Message from the President:

One of my very favorite speeches is one that Theodore Roosevelt gave at the Sorbonne in Paris, France on April 23, 1910. This is an excerpt from the speech “Citizenship in a Republic”.

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.”

You are already employed or working towards a field where you will take an action and then face criticism, second guessing, analyzing, and misinterpretation of your action. You will take these actions based upon your education, experience, training and whatever moral compass you follow. You will also be successful because of those very things and you will have learned some of those beliefs, behavior and actions through your education, and interaction with mentors and friends, including people whose ideals and actions you admire. Roosevelt is talking about people who make things happen versus the people who sit on the sidelines and watch things happen. Later in his speech, he talks about the duties and responsibilities of citizenship and I believe he is speaking in part to criminal justice professionals. Men and women who work in the criminal justice field are held to a higher standard because of the work that they perform and the public arena they perform it in. I believe that you are a member of ACJA-LAE because you want to be in Teddy’s arena.

I watch you compete and I mean seriously compete with each other. I know the amount of work and preparation that goes into competing and winning. I believe that your work ethic in preparing for conference competitions helps to prepare you for the professional world. It also applies to the professional who is continually working to improve their skills. A Roman philosopher named Seneca said that “Luck is what happens when preparation meets opportunity”. You have heard me say it before but it remains true. Get lucky.

In the 22 years I have been a member of ACJA-LAE, I have seen many fine ACJA-LAE men and women graduate from college and go on to work professionally in the criminal justice field. I have seen professionals grow in their career, both pursuing their dreams, and it is not by coincidence that their lives are going in the direction they are going. I watch them continue to go to college and pursue graduate level degrees. I see them ask for and accept training from their departments whenever it is available. The necessity of becoming a lifelong learner is but one of the many commitments you will face because it is not just a job that you perform but a calling.

Part of that calling is going to be mentoring and being of service not only to the community but to those who follow you into the field of criminal justice. Many people over the years have taken me aside for a conversation both personally and professionally to give me that “gift of their presence”, I am truly grateful. I am not the person I once was, and not the person I would like to be, but I am a better person today because of that gift. That has particularly been my experience in ACJA-LAE during my time here. I have learned a tremendous amount from the student and professional members I have met over the years in ACJA-LAE and have developed numerous friendships which have enriched my life tremendously to this day.

When I retired from Delaware Technical Community College, I formed a professional chapter, Gamma Epsilon Zeta Rho, better known as GEZR Chapter. GEZR has members in several states and I talk frequently to my friends across the country. Those relationships have and continue to be of tremendous importance in my life. Friendships like those have contributed to my personal, professional, emotional, and spiritual growth.

So, continue to trudge your own path to happy destiny. Your professional career has already begun so choose your companions and activities wisely. Keep your eye on the prize. Be the type of individual that others wish to emulate. When you observe a brother or sister who needs help, pick them up and carry them a little ways down that path. Others will do the same for you.

I was very much humbled by the privilege to become your National President early this year and will work to the best of my ability to deserve that trust. Do not be surprised if I see you at a conference, walk up to you, and ask you for your help or what you think about a particular topic. None of us walk this journey alone.

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“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.”
Conference Highlights - 2016

307 members and guests attended the 2016 National Conference held in Sacramento, CA. Many thanks to Abby Schofield, National Conference Director and Brian Meloy, Conference Coordinator for putting together an excellent Conference.

(clockwise from top right)
Motorcycle display at the 2016 Job Fair, • Many members took the five written exams • Rangemaster Ian Frazer reviews member’s scored targets • The Physical Agility Competition was held inside the Hotel’s large rotunda area • Sacramento Sheriff’s Honor Guard participated in both the opening and closing banquets • National Registrar Lori Schmitz prepares to register members for the Conference with help from Jeremy Reimer
Member addresses assembly during the Region 4 Business Meeting • Star Members attended the 2016 National Conference • President Preston Koelling presided over the Awards Banquet • President Preston Koelling presented Abby Schofield with a plaque for serving as the 2016 National Conference Director • Mark Mitchell received his winning trophy from Brittany Robison. • Danny Maxwell, Psi Omega Advisor, competed in the 2016 Lip Sync/Talent Show
Conference Highlights - 2017

336 members and guests attended the 2017 National Conference held in Austin, TX last March. Many thanks to Christina Fouse, the 2017 National Conference Director for putting together an excellent Conference.

(clockwise from top right)
The San Diego Police Department participated at the Job Fair
John Wilt gets ready to sing the National Anthem at the Opening Banquet
Craig Lake, Cisco Ortiz and Region 6 members attend the Closing Banquet
Dorothy Davenport and John Webb
Brian Meloy addresses the assembly at the Region 1 caucus
Cassidy O’Neal receives a plaque from President Preston Koelling for serving as the 2017 National Student Representative.

Region 6 President, Joe Davenport and Region 6 members display their winning trophies.

Danny Hayes, Chapter Advisor for the Kappa Omicron Rho Chapter, display their winning trophies.

Greg Bridgeman is sworn in as National Vice-President by President Preston Koelling.

Steve Atchley is sworn in as National President by President Preston Koelling.

Many members competed in the Firearms competition which was held at an indoor range.
Conference Competition Winners - 2016

Top Gun: Richard Gillespie, Gamma Epsilon Delta, Region 3

Spirit Award: Rho Beta Psi, Spokane Community College, Region 1

Sweepstakes Award: Gamma Epsilon Delta, University of Central Missouri, Region 3

LAE KNOWLEDGE

Lower Division:
3rd Place: Erica Volkart, Gamma Epsilon Delta
2nd Place: Cassidy Padgett, Omega Alpha Omicron
1st Place: Brice Karigan, Gamma Epsilon Delta

Upper Division:
3rd Place: Marissa Blanton, Gamma Epsilon Delta
2nd Place: Michael Hawkins, Gamma Epsilon Delta
1st Place: Mackenzie Carreon, Gamma Epsilon Delta

Professional Division:
3rd Place: Nicole Young, Chi Omega Pi Sigma
2nd Place: John Wilt, Omega Alpha Omicron
1st Place: Alyssa Webb, Pi Lambda Alpha

JUVENILE JUSTICE

Lower Division:
3rd Place: Patrick McKernan, Psi Omega
2nd Place: Brianna Schmidt, Gamma Epsilon Delta
1st Place: Maria Ramos, Beta Sigma Omega Lambda

Upper Division:
3rd Place: Timothy Muano, Psi Omega
2nd Place: Rebecca Long, Chi Omega Pi Sigma
1st Place: Mackenzie Carreon, Gamma Epsilon Delta

Professional Division:
3rd Place: Sherri Dioguardi, Gamma Epsilon Delta
2nd Place: Mark Mitchell, Zeta Sigma Alpha
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

POLICE MANAGEMENT & OPERATIONS

Lower Division:
3rd Place: Jonathan Henderson, Sigma Tau Omicron
2nd Place: Amanda Schullkowski, Sigma Tau Omicron
1st Place: Trevor Landkammer, Beta Sigma

Upper Division:
3rd Place: Harrison Allton, Nu Tau
2nd Place: Timothy Muano, Psi Omega
1st Place: David Maruchue, Psi Omega

Professional Division:
3rd Place: Nicole Young, Chi Omega Pi Sigma
2nd Place: Mark Mitchell, Zeta Sigma Alpha
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

CORRECTIONS

Lower Division:
3rd Place: Brianna Schmidt, Gamma Epsilon Delta
2nd Place: Ryan Clancy, Gamma Epsilon Delta
1st Place: Robert Sramek, Rho Beta Psi

Upper Division:
3rd Place: Victoria Hughes, Tau Sigma Upsilon
2nd Place: Grant Jensen, Kappa Omicron Rho
1st Place: Stacia Potorff, Gamma Epsilon Delta

Lower Division:
3rd Place: Lindsey Greenbaum, Beta Alpha Delta
2nd Place: Gregg Eiter, Gamma Epsilon Delta
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

CRIMINAL LAW

Lower Division:
3rd Place: Destiny Stallo, Pi Lambda Alpha
2nd Place: Andrew Myers, Omega Alpha Omicron
1st Place: Agnese Nadalini, Phi Omega Alpha

Upper Division:
3rd Place: Harrison Allton, Nu Tau
2nd Place: Brittany Stapleton, Phi Omega Alpha
1st Place: Kyle Fiest, Gamma Epsilon Delta

Professional Division:
3rd Place: Joe Walsh, Chi Omega Pi Sigma
2nd Place: David Redford, Beta Alpha Delta
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

FIREARMS (Individual)

Lower Division:
3rd Place: Ryan Clancy, Gamma Epsilon Delta
2nd Place: Robert Sramek, Rho Beta Psi
1st Place: Geoffrey Goble, Chi Tau EPSILON

Upper Division:
3rd Place: Taylor Bryan, Gamma Epsilon Delta
2nd Place: Kyle Fiest, Gamma Epsilon Delta
1st Place: Harrison Allton, Nu Tau

Professional Division:
3rd Place: Nicole Young, Chi Omega Pi Sigma
2nd Place: Brian Meloy, Sigma Chi
1st Place: Richard Gillespie, Gamma Epsilon Delta

FIREARMS (Team)

Lower Division:
3rd Place: Robert Sramek, Taylor Lunde, 
Christopher Vanderford, Rho Beta Psi
2nd Place: Keith Mateo, Makle Seger, Nicholas Dyk, Rho Beta Psi
1st Place: Derek Schwert, Christian Nilmes, Ryan Clancy, Gamma Epsilon Delta

Upper Division:
3rd Place: Edward Fleetwood, Andrew Schwartz, Michael Hawkins, Gamma Epsilon Delta
2nd Place: Harrison Allton, Carly Coker, Roy Rhiddlehvover, Nu Tau
1st Place: Kyle Fiest, Taylor Bryan, Gregory Tow, Gamma Epsilon Delta

Professional Division:
3rd Place: Geoffrey Goble, Alex Greene, Kia Golbad, Chi Tau EPSILON
2nd Place: Joe Walsh, Nicole Young, Jeremy Reimer, Chi Omega Pi Sigma, Beta Alpha Chi

1st Place: Lynsey Sciolaro, Jon Glueckert, Richard Gillespie, Gamma Epsilon Delta

CRIME SCENE

Lower Division:
3rd Place: Kaitlyn Monck, Meriel Leavy, Sabrina Garcia, Iota Beta Phi
2nd Place: Megan Rivera, Amanda Neely, Jordan Vitala, Gamma Alpha Epsilon
1st Place: Mohammed Ramadan, Ryan Austin, Patrick McKernan, Psi Omega

Upper Division:
3rd Place: Daniel Waterman, Janessa Davis, Justin Mendez, Psi Omega, Kappa Omicron Rho, Zeta Sigma Alpha
2nd Place: Cassie Bone, Michael Hawkins, Hannah Socha, Gamma Epsilon Delta
1st Place: Eboni Smith, Miranda Rickell, John Rickell, Kappa Sigma Upsilon

Professional Division:
3rd Place: Alexander Greene, Kira Mendenhall, Kia Golbad, Chi Tau EPSILON
2nd Place: Nicole Young, Joe Walsh, Jessica Lehman, Chi Omega Pi Sigma
1st Place: John Wilt, Jackie Jones, Mary Pratt, Omega Alpha Omicron, Lambda Chi

PHYSICAL AGILITY

Female 25 and Under:
3rd Place: Amber Feirera, Psi Omega
2nd Place: Caitlin Miller, Phi Omega Alpha
1st Place: Sydney Roberts, Rho Beta Psi

Male 25 and Under:
3rd Place: Andrew Ide, Pi Lambda Alpha
2nd Place: Zachary Kies, Rho Beta Psi
1st Place: Entry Left Off

Female 26 to 35:
3rd Place: Brittany Stapleton, Phi Omega Alpha
2nd Place: Jessica Decaruso, Chi Tau EPSILON
1st Place: Amanda Istenes, Chi Omega Pi Sigma

Male 26 to 35:
3rd Place: Joe Walsh, Chi Omega Pi Sigma
2nd Place: Christopher Vanderford, Rho Beta Psi
1st Place: Rico Dozier, Nu Tau

Female 36 and over:
3rd Place: Andrea Lewis, Nu Tau
2nd Place: Lori Schmitz, Beta Alpha Chi
1st Place: Nicole Young, Chi Omega Pi Sigma

Male 36 and over:
3rd Place: Robert Sramek, Rho Beta Psi
2nd Place: Daniel Hayes, Kappa Omicron Rho
1st Place: Marty Pannel, Rho Beta Psi
Conference Competition Winners - 2017

Top Academic: Leslie Palmer, Beta Sigma Omega Lambda, Region 6 • Top Gun: Richard Gillespie, Gamma Epsilon Delta, Region 3 • Outstanding Region: Region 6

Spirit Award: Beta Sigma Omega Lambda, Region 6 • Sweepstakes Award: Gamma Epsilon Delta, University of Central Missouri, Region 3

Professional Division:
3rd Place: Gregg Etter, Gamma Epsilon Delta
2nd Place: Danny Hayes, Kappa Omicron Rho
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

CRIMINAL LAW

Lower Division:
3rd Place: Margaret Nelson, Lambda Omicron Pi
2nd Place: Christian Hilmes, Gamma Epsilon Delta
1st Place: John Hoover, Sigma Tau Omega

Upper Division:
3rd Place: Agnes Nadalin, Phi Omega Alpha
2nd Place: Emily Wible, Psi Omega
1st Place: Brenna Turner, Sigma Tau Omicron

Professional Division:
3rd Place: James Henchey, Sigma Pi
2nd Place: Francisco Ortiz, Tau Alpha Omicron
1st Place: Leslie Palmer, Beta Sigma Omega Lambda

FIREARMS (Individual)

Lower Division:
3rd Place: Derrek Schwartz, Gamma Epsilon Delta
2nd Place: Christian Hilmes, Gamma Epsilon Delta
1st Place: Brant Guidici, Gamma Epsilon Delta

Upper Division:
3rd Place: Roy Gutierrez, Iota Kappa Chi
2nd Place: Collin Wright, Gamma Epsilon Delta
1st Place: Kyle Fiest, Gamma Epsilon Delta

Professional Division:
3rd Place: Jon McGary, Region 2, Beta Alpha Delta
2nd Place: Michael Staat, Gamma Epsilon Delta
1st Place: Richard Gillespie, Gamma Epsilon Delta

FIREARMS (Team)

Lower Division:
3rd Place: Dakota Persinger, Emily Stone, Justin Andrews, Gamma Epsilon Delta
2nd Place: John Hoover, Preston Moyer, Joseph Beesley, Sigma Tau Omicron
1st Place: Derek Schwartz, Christian Hilmes, Brant Guidici, Gamma Epsilon Delta

Upper Division:
3rd Place: Jason Flores, Roy Gutierrez, Isaac Tamez, Iota Kappa Chi
2nd Place: Jackson Liu, Ryan Clancy, Liam Clare, Gamma Epsilon Delta
1st Place: Collin Wright, Kyle Fiest, Marissa Blanton, Gamma Epsilon Delta

Professional Division:
3rd Place: Joe Walsh, Todd Istenes, Amanda Istenes, Chi Omega Pi Sigma
2nd Place: Jon McGary, Brian Meloy, Mark Mitchell, Beta Alpha Delta, Sigma Chi, & Alpha Omega Chi
1st Place: Richard Gillespie, Michael Staat, Gregg Etter, Gamma Epsilon Delta

CRIME SCENE

Lower Division:
3rd Place: Dakota Persinger, Allison Batts, Sabrina Morgan, Gamma Epsilon Delta
2nd Place: Steven Mansy, Justin DeLeon, Herbert Hurtado, Sigma Pi
1st Place: Ian Maloney, Alyssa Stolecki, Jenna Luallen, Psi Omega

Upper Division:
3rd Place: Thomas Fleming, Gabe Hendrickson, Charles Mahren, Alpha Delta Pi
2nd Place: Kolby Bengston, Brandy Painter, Chelsey Blankenship, Psi Gamma Epsilon
1st Place: Kelly Dowd, Parker Johnson, Shelby St Clair, Psi Omega

Professional Division:
3rd Place: Timothy Alvarez, Kyle Reid, Jeanne Hopkins, Delta Psi Chi & Eta Alpha Mu
2nd Place: Timothy Boone, Nathaly Gonzalez, Joe Walsh, Region Sigma Pi & Chi Omega
1st Place: Chris Przemieniecki, Jon Henderson, Brooke Lombardo, Sigma Tau Omicron & Psi Omega

PHYSICAL AGILITY

Female 25 and Under:
3rd Place: Danielle Meraz, Psi Omega
2nd Place: Karen Eitzler, Iota Kappa Chi
1st Place: Lauren Balesstri, Psi Omega

Male 25 and Under:
3rd Place: Erik Barroso, Iota Kappa Chi
2nd Place: Derek Schwartz, Gamma Epsilon Delta
1st Place: Devin Salas, Alpha Delta Pi

Female 26 to 35:
3rd Place: Nakeema Harvey, Omega Alpha Omicron
2nd Place: Brittany Stapleton, Phi Omega Alpha
1st Place: Amber Mahan, Kappa Omicron Rho

Male 26 to 35:
3rd Place: Andrekus Dixon, Nu Tau
2nd Place: Humberto Perez, Phi Omega Alpha
1st Place: Jesus Galvan, Iota Kappa Chi

Female 36 and Over:
3rd Place: Jessica Jones, Nu Tau
2nd Place: Alejandra Montes, Gamma Alpha Epsilon
1st Place: Alejandra Hernandez Delta Sigma Omicron

Male 36 and Over:
3rd Place: No Entry
2nd Place: John Will, Alpha Omega Omicron
1st Place: Danny Hayes, Kappa Omicron Rho
National Scholarship Competition

In 2016, a total of four (4) Applications were received to compete in the National Scholarship Competition. Members must be in good standing to be considered and be a student enrolled with a minimum two-thirds (2/3) of a full load as established by the institution. Awards are judged on overall GPA or 3.0 or better on a scale of 4.0 and Statement of Goals. Financial need, race, age, sex, religion, or national origin are not considered in selecting recipients. Those receiving the 2016 National Scholarship Awards are as follows:

**Lower Division:**
- 3rd Place: No Entry
- 2nd Place: No Entry
- 1st Place: No Entry

**Upper Division:**
- 3rd Place: David, Marucheau, Region 4, Psi Omega
- 2nd Place: Eric Whitlock, Region 4, Delta Xi Omega
- 1st Place: Habib Olapade, Region 1, At-Large

**Graduate Division:**
- 3rd Place: No Entry
- 2nd Place: No Entry
- 1st Place: No Entry

Student Paper Competition

In 2016, a total of 34 Applications were received to compete in the National Student Paper Competition. This competition is open to any degree-seeking student currently enrolled in an academic program at either the undergraduate or graduate level who is a member of ACJA/LAE. All papers must be by a single author and all entries must be original papers which deal with issues and problems in the areas of criminology, law enforcement, juvenile justice, courts, corrections, prevention, planning and evaluation, career development, or education in the field of criminal justice. Entries are sorted by category and judged by professionals in the field. Entries are judged on such criteria as relevancy of the topic, topic coverage, clarity of presentation, organization, writing style and quality, and contribution to the field. The winning papers in each of the three categories (Lower, Upper and Graduate) are printed in this issue of the LAE Journal. Those receiving the 2016 National Student Paper Competition Awards are as follows:

**Lower Division:**
- 3rd Place: Timothy O’Donnell, Region 3, Gamma Epsilon Delta
- 2nd Place: Ryan Clancy, Region 3, Gamma Epsilon Delta
- 1st Place: Taylor Lloyd, Region 3, Gamma Epsilon Delta

**Upper Division:**
- 3rd Place: Habib Olapade, Region 1, At-Large
- 2nd Place: Elizabeth Helis, Region 3, Gamma Epsilon Delta
- 1st Place: Mackenzie Carreon, Region 3, Gamma Epsilon Delta

**Graduate Division:**
- 3rd Place: Tyler Benson, Region 4, Chi Omega Pi Sigma
- 2nd Place: Gregory Towe, Region 3, Gamma Epsilon Delta
- 1st Place: Michael Hawkins, Region 3, Gamma Epsilon Delta

2016 Executive Secretary’s Report

Between February 27, 2015 and February 26, 2016 the Association chartered 32 new or re-chartered chapters. The number of active chapters totaled 142. The largest chapters nation-wide as of the cut-off date were:
- Psi Omega, University of New Haven, CT (Region 4): 148 members
- Delta Chi, Sam Houston State University, TX (Region 2): 134
- Phi Omega Alpha, Fresno State University, CA (Region 1): 128 members

A total of 307 members and guests attended the 2016 National Conference held in Sacramento, CA. The theme of the Conference was “Understanding and Investigating Sexual Predators.” Members enjoyed five days of competitive competitions, banquets, workshops, and entertainment. As of the 2016 National Conference, the number of active members and chapters nation-wide included:

<table>
<thead>
<tr>
<th>Regions</th>
<th>Members</th>
<th>Chapters</th>
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<tr>
<td>Region 1</td>
<td>457</td>
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<td>Region 2</td>
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<td>476</td>
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<td>Total</td>
<td>3,336</td>
<td>142</td>
</tr>
</tbody>
</table>
National Scholarship Competition

In 2017, a total of nine (9) Applications were received to compete in the National Scholarship Competition. Members must be in good standing to be considered and be a student enrolled with a minimum two-thirds (2/3) of a full load as established by the institution. Awards are judged on overall GPA or 3.0 or better on a scale of 4.0 and Statement of Goals. Financial need, race, age, sex, religion, or national origin are not considered in selecting recipients. Those receiving the 2017 National Scholarship Awards are as follows:

Lower Division:
3rd Place: Lisneisy Gonzalez, Region 3, Delta Upsilon
2nd Place: Sabrina Morgan, Region 3, Gamma Epsilon Delta
1st Place: Roberta Essman, Region 3, Gamma Epsilon Delta

Upper Division:
3rd Place: Casey Higgins, Region 3, Delta Tau Omega
2nd Place: Gabrielle Hartley, Region 4, Psi Omega
1st Place: Melanie Campodonico, Region 4, Psi Omega

Graduate Division:
3rd Place: No Entry
2nd Place: Anthony Bouchard, Region 4, Chi Omega Pi Sigma
1st Place: Chris Traxson, Region 2, At-Large

Student Paper Competition

In 2017, a total of 38 Applications were received to compete in the National Student Paper Competition. This competition is open to any degree-seeking student currently enrolled in an academic program at either the undergraduate or graduate level who is a member of ACJA/LAE. All papers must be by a single author and all entries must be original papers which deal with issues and problems in the areas of criminology, law enforcement, juvenile justice, courts, corrections, prevention, planning and evaluation, career development, or education in the field of criminal justice. Entries are sorted by category and judged by professionals in the field. Entries are judged on such criteria as relevancy of the topic, topic coverage, clarity of presentation, organization, writing style and quality, and contribution to the field. The winning 1st papers in each of the three categories (Lower, Upper and Graduate) are printed in this issue of the LAE Journal. Those receiving the 2017 National Student Paper Competition Awards are as follows:

Lower Division:
3rd Place: Julie Harris, Region 3, Gamma Epsilon Delta
2nd Place: Michael Fost, Region 4, Psi Omega
1st Place: Sabrina Morgan, Region 3, Gamma Epsilon Delta

Upper Division:
3rd Place: Gabrielle Hartley, Region 4, Psi Omega
2nd Place: Sirena Pangelinan, Region 4, Delta Xi Omega
1st Place: Timothy O’Donnell, Region 3, Gamma Epsilon Delta

Graduate Division:
3rd Place: No Entry
2nd Place: No Entry
1st Place: Chris Traxson, Region 2, At-Large

2017 Executive Secretary’s Report

Between February 27, 2016 and March 3, 2017 the Association chartered 17 new or re-chartered chapters. The number of active chapters totaled 123. The largest chapters nation-wide as of the cut-off date were:

Phi Omega Alpha, Fresno State University, CA (Region 1): 166 members
Psi Omega, University of New Haven, CT (Region 4): 130 members
Lambda, Florida State University, FL (Region 5): 97 members

A total of 336 members and guests attended the 2017 National Conference held in Austin, TX. The theme of the Conference was “Human Trafficking.” Members enjoyed five days of competitive competitions, banquets, workshops, and entertainment. As of the 2017 National Conference, the number of active members and chapters nation-wide included:

<table>
<thead>
<tr>
<th>Region</th>
<th>Members</th>
<th>Chapters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region 1</td>
<td>472</td>
<td>17</td>
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<tr>
<td>Region 2</td>
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<td>494</td>
<td>21</td>
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<tr>
<td>Total</td>
<td>2,954</td>
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Awards and Recognitions – 2016

Jim Hooker Outstanding Advisor Award

At the 2007 National Conference held in Wilmington, Delaware, the membership voted to establish the Jim Hooker Outstanding Advisor Award. The Jim Hooker Outstanding Advisor Award is an earned Award granted to Advisors of ACJA-LAE in recognition of outstanding service to a chapter and/or region of ACJA-LAE. Nominations for this Award may be submitted by any member in good standing and the Award is granted upon the favorable vote of a majority of the voting membership present at the National Conference. The minimum criteria for the nomination of this Award shall be membership in the Association; at least five (5) years continuous service to at least one ACJA-LAE chapter; and attendance with said chapter(s) at the National Conference during that period. A distinctive plaque of recognition is presented to the awardee.

Star Membership

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

Jim Hooker Outstanding Advisor Award – Mark Mitchell

At the 2016 National Conference held in Sacramento, CA, Mark Mitchell was elected to receive the Jim Hooker Outstanding Advisor Award. Mark was nominated to receive this Award by Star Member and Region 6 President, Joe Davenport. President Preston Koelling presented the Award to Mark.

Mark Mitchell started and is the Advisor to the Zeta Sigma Alpha at Northwestern Business College in Bridgeview, Illinois, now known as Northwestern College. He also started another chapter at the other Northwestern College campus in Chicago, the Alpha Omega Chi. Mark has attended every Regional Conference in Region 6 with the exception of 2010 when he had neck surgery. Mark also assisted with the planning of the 2016 Regional Conference.

Mark has assisted as one of the range officers at all of the National Conferences he has attended. During the 2012 National Conference hosted by Region 6, Mark was the Firearm Competition Range-master. He also serves as a member of the National Firearms Committee. Mark has shown leadership and encourages his students to become the best they can be as they enter the criminal justice field.

Star Member 2016 – Roger Pennel

At the 2016 National Conference, Roger Pennel was elected to Star Membership. Roger was nominated by Gregg Etter, Gamma Epsilon Delta’s Chapter Advisor.

Roger Pennel became a professional member of ACJA in 1998 at the University of Central Missouri. He served as the assistant faculty advisor to the Gamma Epsilon Delta Chapter from 1982-1998, and as the senior faculty advisor to the GED chapter since 1998. Roger has served as the Vice President of Region III from 2003-2007. He was elected as the President of Region III in 2007 and continues to serve in that capacity. Roger has served the national ACJA/LAE organization on the Membership Committee from 2003-2007. He has attended every Regional and National Conference since 2003. Roger was also the National Conference Director for the 2008 Conference held in Kansas City.

As the senior faculty advisor for the GED chapter of ACJA/LAE, he has tirelessly promoted LAE among the criminal justice students and has developed one of the largest chapters in the nation with over 100 members. He has developed a strong tradition of student leadership in the chapter and has promoted a tradition of excellence among the members.
11

Awards and Recognitions – 2017

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Jim Hooker Outstanding Advisor Award – Dr. Gregg Etter

At the 2017 National Conference held in Austin, TX, Gregg Etter was elected to received the Jim Hooker Outstanding Advisor Award. Gregg was nominated to receive this Award by Stacia Pottorff, a member of the Gamma Epsilon Delta Chapter at the University of Central Missouri. President Preston Koelling presented the Award to Gregg.

Dr. Gregg Etter is the senior faculty advisor for the Gamma Epsilon Delta chapter of LAE sponsored by the University of Central Missouri. He has been active in the American Criminal Justice Association since 2009. Dr. Etter began his association with LAE-GED as a junior faculty advisor under Dr. Roger Pennel. Upon Dr. Pennel’s retirement from the University of Central Missouri, Dr. Etter became the senior faculty advisor. Dr. Etter consistently attends both the Regional and National Conferences of LAE and always brings many students to compete in these competitions.

As the senior faculty advisor, Dr. Etter has pushed academics among the students involved in GED and increased student involvement in the LAE Student Paper Competition. Dr. Etter also assists Major Gillespie in coaching the GED firearm’s team and has taught CJ 3005 Introduction to Firearms after Major Gillespie’s retirement. He is constantly seeking ways to improve GED or new sources of funding so that the students of GED can participate in ACJA/LAE conferences. Dr. Gregg Etter is a dedicated faculty advisor that always attempts to advance the education of his students. He has shown dedication to LAE and the students of GED.

President Preston Koelling presents Dr. Gregg Etter with the Outstanding Advisor Award Plaque

Star Member 2017 - Lori G. Schmitz

At the 2017 National Conference, Lori G. Schmitz was elected to Star Membership. Lori was nominat ed by National President and Star Member, Preston Koelling.

Lori has been a member of ACJA-LAE since 2001. Lori was the co-advisor to the Lambda Chi chapter at Grayson County College in Denison, TX from 2010 to 2012 where she was an instructor and advised many students. She serves as Chair of the Historian Committee beginning in 2006 to present. She has served on the Membership Committee from 2009 to 2011 for Region 2 and from 2013 to 2015 for Region 6. Lori also serves as the National On-Site Conference Registrar from 2007 to present.

In addition, Lori was instrumental in chartering the Beta Alpha Chi chapter in February 2016 and serves as the chapter’s President. She has worked tirelessly in her efforts to help expand the general membership and professional ranks within ACJA-LAE first in Region 2 and now in Region 6. Lori has always helped anyone or a chapter that needs assistance or support.

In addition, Lori was instrumental in chartering
Frequency and Effect of Witness Immunity: An Examination of Recent Literature and Cases

1st Place Winner, Graduate Division, 2016 National Student Paper Competition
By Michael L. Hawkins, Gamma Epsilon Delta, University of Central Missouri, Region 3

Introduction and Statement of the Problem

The Fifth Amendment of the United States Constitution includes a provision that says no person shall be compelled in any criminal case to be a witness against himself. This generally applies who do not wish to testify, but when subpoena compels a witness to testify or face remand or contempt, he or she could be provided a grant of immunity in exchange of waiving the 5th Amendment privilege against self-incrimination. With the creation of the Organized Crime Act of 1970, along with the Racketeer Influenced and Corrupt Organizations (RICO) Act, the government gave itself power to protect witnesses through a Witness Protection Program. With the advent of this, many criminals, especially those dealing with organized crime, upon their arrest would agree to become cooperating witnesses. That usually utilizes their testimony to convict other members, typically higher valued targets than themselves (Makris, 1991). They are also referred to as criminal or government informants, in exchange for leniency and less pursuance of the charges filed against them by the prosecution.

Government entities such as the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA) and Drug Enforcement Administration (DEA) have come under scrutiny because the government witness immunity methods allow many criminals to receive far less of a punishment than they would have if tried for their initial crimes. On the other hand, it can be viewed as a way to exchange the little fish (criminals with smaller charges, though some very serious or violent) in exchange for the bigger fish (leaders of crime syndicates, cult leaders etc.). Prosecution has a duty to figure out which witnesses would be valuable in their case against others, as well as if granting them immunity is worth the conviction of those they give testimony about. Similar to plea bargaining, the exchange of immunity from persecution in return for withheld testimony is a difficult tool for prosecutors to utilize at both the state and federal levels.

One of the most prolific cases involving the use of witness immunity in court has to do with the Italian Mafia and organized crime. One of the major crime bosses, John “The Teflon Don” Gotti, was the boss of the Gambino Crime Family. His underboss, Sammy “The Bull” Gravano, was his second in charge and “turned coat”, breaking his oath to omerta (secrecy), to become a cooperating witness, testifying against Gotti and many other members of the Gambino Crime Family. In the end, his testimony was key in finally getting federal charges to stick to Gotti and Gotti was sent to prison for life. Gravano was convicted on other charges not stemming from his testimony and only served 5 years before his release.

Throughout his testimony, Gravano was able to freely divulge information in form of testimony, which may have very well also implicated him in crimes, but also lead to solid evidence against his co-conspirators, such as Gotti. He was given immunity for 19 murders, among other serious felonious charges in exchange for his testimony implicating other members of the Mafia in their respective crimes. His testimony led to the conviction of 36 additional Mafia associates (The Smoking Gun, 1997).

With opposing viewpoints in question, a problem is created when recognizing the moral issues associated with letting compelled witnesses who may also be criminals go or face less punishment/reduced sentencing in exchange for testimony implicating other criminals. This paper will focus on the following topics: the frequency of using witness immunity, a brief summary of the effects of using immunity and an examination of recent literature and cases. These topics are of importance because of the scrutiny granting immunity to witnesses pose, as well as the consequences shown to the public.

Literature Review

As stated previously in the introduction, the Fifth Amendment of the United States Constitution includes a provision that says no person shall be compelled in any criminal case to be a witness against himself. The right against self-incrimination stems from English Common Law, under the witness immunity doctrine (McCahey, 2006). This doctrine was formed on the basis of giving freedom from defamation liability when giving testimony at trial. In more modern times, it has developed its breadth to extend not only to testimony given at trial, but also to information gathered in pre-trial stages. Grants of immunity are known generally in two forms: Transactional and use or derivative use. Transactional immunity refers to total immunity, meaning that any crime that a person is compelled to testify for, he or she is given immunity. Affording this grant of immunity is extremely attractive to many criminals who may have been directly involved, some even the primary wrongdoer in criminal cases. Use immunity prohibits information given in that compelling testimony from being used against the witness but does not restrict them from facing prosecution using evidence obtained independently of their compelled testimony (Abadinsky, 2010).

One of the first Supreme Court decisions that helps define the parameters and purpose of witness immunity through the 5th Amendment is Brown v. United States (1896). Through this decision, the court held that “the primary function of the Fifth Amendment is to ‘secure the witness against prosecution which might be added directly or indirectly by his disclosure’” (O’Brien, p. 1148). The Federal Immunity Act of 1954 gave some more explanation of immunity, stating that grants of immunity are considered as broad as the privilege against self-incrimination that those individuals forfeit. This basically meant that the government wishes to uphold the 5th Amendment privilege to citizens, but in situations where witnesses forfeit their privilege, immunity should still give them similar protection against self-incrimination.

Following the Federal Immunity Act of 1954, Ullman vs. United States (1956) held that people may be forced to forego their Fifth Amendment
privilege when compelled to testify and granted immunity, even though their testimony opens them to infamy and disgrace. This decision was highly important because it widened the reach of the government to force witnesses to give truthful testimony, even if it involved self-incrimination and personal disdain or humility in front of the court.

In Murphy v. Waterfront Commission (1964) the court held that defendants who are granted immunity by states may not later be prosecuted under federal law on the basis of their incriminating testimony. It must be stated that though their incriminating testimony would be withheld for federal charges, defendants may still be prosecuted under federal law. This stands so long as the prosecution is able to establish guilt with evidence and testimony other than that which is withheld, which may often make cases difficult depending on the amount of available evidence.

Kastigar v. United States (1972) is the most often discussed Supreme Court decision pertaining to witness immunity. In a 5-2 decision with two justices uninvolving in the proceedings and decision, the court held that the government’s assertion to grant immunity to a compelling witness can overcome the 5th Amendment privilege against self-incrimination. In addition, it clarified that use or derivative use immunity is a sufficient grant of immunity as it encompasses the scope that the 5th Amendment privilege would accord and would be used in place of claimed privilege. It was also noted that transactional immunity would provide a wider protection against self-incrimination than the 5th Amendment privilege holds, but that according transactional immunity is not constitutionally required.

Though the above cases concern self-incrimination in the form of speech, a point of clarification was made in Fischer v. United States (1976) where the court held that the 5th Amendment prohibits compelling a person to speak and incriminate himself, but it does not prohibit compelled revelation of written thoughts. The defendant had given written documents to his attorney, but by doing so, his right against self-incrimination for the content of those documents was waived. This decision sort of tightened the grasp in which immunity can be granted and was affective in the benefit of prosecution. With the power of granting immunity to compelled witness being so important and selective, some wiggle room was given when prosecutors recognized that they could persecute the witnesses who had written thoughts prior to immunity. The court can subpoena those documents from an attorney and would seem to some as a loophole in order to still prosecute the witness based on the written evidence provided, absent his spoken testimony that is granted immunity.

No criminal justice paper concerning witness immunity would be complete without some reference to the large role it has played in the take down of organized crime groups, namely the mafia and other large-scale drug gangs or organized crime rings. Without grants of immunity, many members of criminal enterprises are very reluctant to come forward as a witness against their peers, in fear of retaliation against them or their family members and friends. With the oath of omerta, mafia members know that forgoing their oath of secrecy can and have proven to be a deadly or dangerous decision made by other members. Oaths of secrecy are seen among gang culture as well as prison culture and it is likely that in order to dismantle larger organization, some cooperation of witnesses will be needed in order to broaden the power of the criminal justice system and courts. In addition to organizational secrecy, much consideration must be taken on hidden crimes, such as prostitution stemming from human trafficking. For example, many direct witnesses who have paid for services of a prostitute, unknowingly through a human trafficking ring, may feel embarrassed and outright deny any involvement. However, the ruling in Ullman applies to them as well if compelled to testify.

Methodology

The initial steps for gathering research were to search the OYEZ database for Supreme Court cases involving “Immunity from Prosecution”. The OYEZ database is an excellent source of information, providing both text and audio clips of court proceedings such as the oral arguments. This search resulted in 22 cases. From those cases, those with unanimous decisions were reviewed first, followed by those with three or more justices siding against the majority as they appeared to be the most helpful. Further, in order to establish a presentation of knowledge, some adjustments were made to limit the number of cases presented, in order to present them in a thorough way while still providing necessary content for a literature review and historical perspective. This revision led to five cases: Brown v. United States (1896), Ullmann v. United States (1956), Murphy v. Waterfront Commission (1964), Kastigar v. United States (1972) and Fischer v. United States (1976).

Next, a computer search of a database stored by the JCKL involving “Immunity from Prosecution” produced 170,015 results. Due to the nature of the database, the search was narrowed by criteria, such as books/eBooks and journal articles and changing the search title to “Immunity from Prosecution United States”. This narrowed the search down to 39,732 results. Other topics were searched to narrow down the scope and find opposing viewpoints, using the following words: use immunity, transactional immunity, sovereign immunity and witness immunity. From these searches, a select few sources will be analyzed in the paper to establish the perspectives on the following topics: prominence and frequency of using immunity, the effects of using immunity and predictions about the future use of granting immunity in criminal cases. It was determined through drafts and revisions that the concepts originally chosen for this paper were too ambitious for the paper requirement and also too abundant while also not being descriptive enough to constitute the wide variety of topics. With this in consideration, the paper focuses primarily on criminal cases, rather than bringing in comparisons to civil suits and international law (Fye & Sheptyki, 2006). This successfully narrowed down the topic to be more concise. From these results, 7 sources in the form of scholarly articles or books were picked based on relevance and credibility. To add more of a relative application, a newspaper article was used. Abadinsky (2010) provided information on the ties granting witness immunity has to organized crime, while O’Brien (2014) gave a small summary on the court decisions stemming from the 5th Amendment.

Findings and Analysis

As one could imagine, the breadth of witness immunity and its power can be seen as a very controversial issue in criminal justice. Cases and policy has worked to mold immunity in to a process both beneficial to those directly involved and society in general. Without witness immunity, it is believed that vital, truthful, testimony could be withheld from the courts by witnesses in fear of self-incrimination or other possibilities. The threat of reprisal or intimidation for expunging information by fellow or associated criminals is definitely a major factor in why some witnesses won’t voluntarily come forward. In the case that a witness is compelled to testify via subpoena in a grand jury proceeding, mandating a minimum form of immunity has helped to ease the minds of witnesses.

In addition to being afforded immunity, the Witness Protection Program is also a necessary protection provided to some witnesses by the
government in exchange for their testimony. To ensure safe testimony, some witnesses are protected prior, during and after trials take place. This may also include family members, or whoever may have a threat to their safety as a direct result of the witness’s testimony. While the Witness Protection Program is connected with some witnesses who utilize immunity, a full discussion of it would overextend the scope of this paper. The government and further the prosecution, understands the level of critical information that can be attained from witness testimony and has developed policy to accommodate that witness whom they require testimony from.

When looking at the development of organized crime and the fall of some major crime syndicates, such as mafia or other gangs, it would be essential to explain the matter in which immunity has widely enhanced the case for prosecutors. Though granting witness immunity has many benefits to the prosecution, its frequency is not as common as one might expect. As referred to above in Kastigar v. United States (1972), transactional immunity is not automatically guaranteed to witnesses compelled to testify and the use immunity in which they would be given is partial compared to the power of transactional.

Being that an immunity grant is seen as an exchange of pardons for crimes in return for testimony, prosecutors must really consider who they grant immunity to and evaluate how strong their case would be in addition or less the testimony of the witness. They must also consider the culpability of prosecuting the witness and the weight of the case against him or her, versus the culpability and weight against the defendant in which the testimony would be against (Abadinsky, 2010).

Another problem limiting the frequency of granting immunity is the element of blindness and unpredictability of what crimes will be exonerated as a result to the testimony given, some of which may come as a surprise during court proceedings. A compelled witness granted transactional immunity in a federal case may fully release all details of crimes the court is concerned about and depending on the questions asked in their examinations, may also implicate themselves in other crimes that their association was previously unknown to, but nonetheless contributes to testimonial evidence against the defendant. Tying back to transactional immunity, that witness would then be immune to prosecution for the crimes he or she detailed, which could be seen as unfair.

Weighing the costs and benefits, it was virtually impossible to gather empirical research that waged whether or not the effects of immunity, to include its success and unfortunate abuses of immunity, contributes to a more solid case against many organized crime groups. Many argue that immunity has been so favorable to witnesses and jurors, that it is impossible to not give credit for the hundreds of co-conspirators brought down as a result of compelled witnesses testifying under immunity (Fye & Sheptyki, 2006).

Summary and Conclusion
The government’s willingness to uphold 5th Amendment rights in the form of granting immunity to compelled witnesses is often considered an unsavory tool in the criminal justice system. Much like the dilemmas associated with plea bargaining, strong opinions against granting of immunity have surfaced. The potential to have witnesses who could potentially be convicted of their own crimes given immunity in exchange for their testimony implicating others is a risky situation, but seemingly necessary for getting convictions on many crimes (Marmaro & Sloan, 2011).

The frequency of granting immunity should be highly selective, but once granted it has the potential to highly influence jury members. After being granted immunity, the witness knows what information they can expunge, which often appears to make their testimony more credible to jurors, as their immunity grants them no reason to lie. One of the only risks associated with testifying under immunity is if the witness commits perjury, by which then he or she could be held in contempt of court and serve time for such crime.

Without the grants of immunity, vital testimony could be withheld that may be necessary for the prosecution to bring solid charges against defendants. John Gotti is a prime example of an organized crime leader who, if not for testimony of his peers, could have likely been acquitted or had his charges dismissed much like his previous crimes. Sammy “The Bull” Gravano is seen as one of the key gang members that began a large wave of members turning into government informants in order to be granted some form of immunity and help law enforcement dismantle the larger organizations.

References

Cases
Brown v. United States, 161 U.S. 591 (1896)
Ullmann v. United States, 350 U.S. 422 (1956)
Murphy v. Waterfront Commission, 378 U.S. 52 (1964)
Kastigar v. United States 406 U.S. 441 (1972)
The Disaster That Could Have Been Prevented: Intelligence Failures of 9/11

1st Place Winner, Upper Division, 2016 National Student Paper Competition
By Mackenzie J. Carreon, Gamma Epsilon Delta, University of Central Missouri, Region 3

Introduction
The events that took place in New York as well as Washington D.C. on September 11th, 2001 will not be forgotten. Several lives were lost and America was changed as a result of the tragedies faced. While it may be unclear as to why the attacks were not prevented, it is clear that domestic intelligence failed, especially on this day.

There are two agencies associated with the attacks of 9/11. The Federal Bureau of Investigation (also known as the FBI) and the Central Intelligence Agency (or the CIA) were the two primary agencies that received intelligence related to the attacks. These agencies have been criticized for a number of different reasons. These reasons include but are not limited to: lack of communication, not taking threats seriously and failing to report information.

It was clear after the attacks that change was needed. There needed to be a change in the way intelligence functioned. There also needed to be a way in which the different agencies communicated. With any change come questions, however. When change was discussed, one of the major concerns was safety.

Although 9/11 was a very serious tragedy, there are a number of ways in which it could have been prevented. The Federal Bureau of Investigation and the Central Intelligence Agency had internal problems, which played a role in the intelligence failure. Another factor of failed intelligence was the lack of communication between the agencies. Examining the roots of these failures has helped the agencies grow and develop their strategies for approaching and dealing with leads or threats. These new tactics can be used to prevent other attacks from taking place.

The Federal Bureau of Investigation
There were a number of different situations in which if the FBI had taken action, the 9/11 attacks could have been prevented. It is believed investigations did not take place due to the nature of the FBI prior to 9/11. Before the attacks, the main concern and objective was to “arrest and convict,” not to investigate intelligence leads (Atkins, 2011). Focus was on gathering evidence to make a legal case, not to gather intelligence from a questionable source (Atkins, 2011). The FBI at the time was “primarily a law enforcement organization” that was “unsuited to the intelligence mission” which if inclined, could risk civil liberties (Dahl, 2011, p. 2). However, these points were ignored as the FBI continued to try and deal with incoming intelligence information.

Another issue the FBI faced when trying to investigate intelligence was the use of their 1990’s computer system. The development and continued use of this system lead to “internal communication problems,” and also “created additional obstacles in carrying out [their] mission” (Atkins, 2011). When an ineffective computer system is paired with an overloaded lead system, errors should be expected. The lead system, according to Atkins (2011), was a system where “communications and memos,” which are referred to as leads, are assigned to agents in specific headquarters. Once assigned, the agents conduct a greater investigation over the lead. It was later discovered that as of 1995, there had been more than “68,000 outstanding unassigned leads” (Atkins, 2011). The Phoenix Memo was one of these uninvestigated leads.

An FBI special agent drafted the Phoenix Memo. Kenneth Williams, an ex cop with border crime experience, drafted the “five page memorandum” to act as a warning to the FBI (Gertz, 2002, p. 85). Within the warning, it was made clear that there was a possibility that bin Laden was sending his followers to flight schools in the United States. There were two men in particular that were strongly associated with al Qaeda. However, all of the men attending the flight schools showed different interests, such as: “aircraft construction [and] airport security” (Gertz, 2002, p. 84). Once the memo reached the headquarters of the National Security Division, it did not travel any further. The failure of the FBI to read and react to William’s memo, specifically to investigate the Islamic radicals who were attending United States flight schools, could be considered a “blunder of monumental proportions” (Gertz, 2002, p. 85). But instead, the information was not taken seriously and as a result was not shared. Had the information reached the Minneapolis field office, William believes “the terrorist attacks [could] have been thwarted” (Gertz, 2002, p. 85). Along with ignored or uninvestigated threats within the FBI, there were also questionable steps taken in regards to staff.

FBI top management should have taken threats more seriously and in one specific case, listen to its own members. Sibel Edmonds, who was a FBI translator, informed her superiors “that she was ordered to slow up her productivity” with the hopes of the budget request being approved (Perrow, 2006, p. 6). The budget increase was going to be used to hire a “translator who had… failed to translate messages in Arabic languages… [and was also] married to a man… on the terrorist watch list” (Perrow, 2006, p. 6). When the message reached the superiors, the charges were dismissed and she was fired. It was not too long after the attacks of 9/11 that the newly hired translator and her husband fled the United States (Perrow, 2006, p. 6-7). This specific event proves while the FBI was having issues dealing with outside information, they were also ineffectively dealing with internal information.

Central Intelligence Agency
Much like the Federal Bureau of Investigation, the Central Intelligence Agency failed to take action towards preventing the devastating attacks of 9/11. Angelo Codevilla, an intelligence specialist, once said the Central Intelligence Agency, “may not always be right. But [they] are never wrong” (Gertz, 2002, p. 5). It was this mentality that led the CIA to be ineffective, to make mistakes and to fail as a government organization in a time of great need.

One of the agencies’ main problems during this time and the time leading up to the attacks, was the scarce resource of human intelligence. The CIA and other intelligence agencies (such as the FBI), “had adopted the high-technology
approach to gathering information,” which led to a decrease in the number of people who were able to be in a position within al Qaeda to know and understand their plans (Gertz, 2002, p. 11). The CIA can no longer be effective “if it [does not] penetrate terrorist organizations” (Gertz, 2002, p. 61). Of the CIA agents assigned to work in the bin Laden station, a large number of them did not have experience with serving abroad and did not speak the necessary foreign language (Arabic) to be able to translate information. It was under these conditions that an incorrect assumption about bin Laden was made: he was assumed to be “primarily a financier of terrorism rather than a major organizer” (Gertz, 2002, p. 13). Without putting agents in the field, it is near impossible to develop an accurate understanding of what is actually taking place.

Another mistake made by the CIA was the failure to recognize information from a former agent. Robert Baer left the CIA after being accused of an assassination attempt of Saddam Huessein (Gertz, 2002, p. 54-55). Baer claimed that he was “tired of the CIA and it was tired of [him] too” (Gertz, 2002, p. 55). Even after his employment with the CIA had come to an end, Baer still possessed an extensive amount of intelligence relating to al Qaeda and more specifically, the terrorists. Baer was informed of the action being taken by the Doha government and the Qatari support being given to Islamic terrorists and felt it was important to relay the message to the appropriate authorities (Gertz, 2002, p. 56). Because he was no longer an agent, he “sent an E-mail to a friend at the CIA who forwarded it to the Counterterrorist Center” only to never hear back from anyone (Gertz, 2002, p. 56). There was no response email, no returned phone call. There was nothing. Despite being ignored, Baer continued on with his collection of information. It was because he chose not to give up that he was able to come across “a list of… six hundred people who were known Islamic extremists” that also had ties to bin Laden (Gertz, 2002, p. 57). This information was also ignored and never investigated due to the mistrust of the source, Baer.

Another reason the CIA was not successful at recognizing and acting upon the threat of 9/11 is because of its leadership. Within a period of six years, there had been five different directors (Gertz, 2002, p. 66). While each director made their share of mistakes, the most damaging mistake made was the passing and implementation of the Deutch Rules. John Deutch, a Massachusetts Institute of Technology graduate, studied physical chemistry. While in graduate school, Deutch obtained a position within the Office of Secretary Defense working as a system analyst. He then became a professor at a university, involved himself in energy studies and held several other government positions before becoming director of the CIA in 1995 (Absher, Desch, & Popadiuk, 2012, p. 363). When he became director, he imposed the Deutch Rules, “which restricted the recruitment of agents by CIA case officers” and also led to more than one thousand recruited agents being fired (Gertz, 2002, p. 66). Among the agents fired were some who had ties to “Middle Eastern sources,” which would not be regained or replaced (Gertz, 2002, p. 66). These rules most critically impacted the ability of the agency to recruit spies. The rules were set up to prohibit the CIA case officers from “recruiting agents with criminal or questionable pasts” unless prior approval was obtained, which was highly unlikely (Gertz, 2002, p. 67). Several critics of the rules say they made the agency dysfunctional, ineffective and inefficient. If Deutch had not put the rules into place, the CIA would have been more likely to stop the 9/11 attacks. More spies would have been hired which would have increased human intelligence.

Lack of Communication

Intelligence analysis, in order to be successful, entails individuals working together to for the common good. Each agency, such as the FBI and the CIA, has their own agents; it is also important that the agents within the different agencies work together. However, this did not happen during the time leading up to the 9/11 attacks. Had the two agencies communicated more effectively and worked together instead of competing, the attacks would have served as less of a surprise.

The CIA and the FBI clearly have different missions. The FBI, as mentioned before, is primarily law enforcement, while the CIA is focused more on intelligence. Expecting the two agencies to work out their differences was not a good plan. And instead of putting the differences aside, competition arose. When you combine “two missions that operate in different worlds and possess different challenges… operational ineffectiveness” will be the end result (Burch, 2007, p. 3). Having separate agencies work towards the same goal creates “competition between law enforcement and intelligence for resources and focus” which is not related to the goal of thwarting terrorists attacks and discovering relevant intelligence (Burch, 2007, p. 3). While creating a separate agency solely responsible for the handling of intelligence is not only unnecessary but also time consuming, there were communication measures that could have been implemented in order to ease the tension between the FBI and the CIA.

Creation of New Domestic Intelligence Agency: Is it Necessary?

Some people believe the only way to prevent further attacks, such as 9/11, is to implement a new and revamped domestic intelligence agency. There are also, however, some that disagree with this idea. This has been one of the most important questions asked in regards to the intelligence reform that took place after the 9/11 attacks.

Supporters of the idea that the U.S. is in need of a new domestic intelligence agency have a number of reasons for making such a claim. It has been pointed out that the U.S is “the only Western country without” an “equivalent of the British MI-5” (Dahl, 2011, p. 1). Supporters also believe that in order to develop a “completely new organization [that] would be able to provide fresh thinking and strength of focus” needed to combat modern intelligence, the U.S should develop an American version of the British MI-5 (Dahl, 2011, p. 1). On the other side of the argument are the critics, who believe a new agency is unnecessary. Critics believe that “the Federal Bureau of Investigation… [is] already well on its way to reinventing itself” and would serve the same purpose as a new agency (Dahl, 2011, p. 1). They also point out the costs associated with creating a new agency. It did not take much arguing before the debate settled in favor of the critics. However, the critics fail to realize that the U.S. “has created a vast domestic intelligence establishment” which goes misunderstood and unrecognized by many Americans (Dahl, 2011, p. 1).

Conclusion

There were several lessons intelligence agencies learned as the result of 9/11, but the lessons came with a great cost: the unnecessary loss of life. The actions, or inactions, of two specific federal agencies, ultimately ended in a failed attempt to prevent a terrorist attack. The Federal Bureau of Investigation, primarily a law enforcement agency, was not able to adapt to handle the incoming intelligence. Other internal challenges were the computer system, the lead system and mistrust of former agents. The Central Intelligence Agency was experiencing internal issues, which also led to ineffective management of information. The internal issues at hand for the CIA were harmful leadership, lack of human intelligence and disregarding information from a trusted source.

When the agencies’ internal problems are paired with a lack of interagency communication,
it is no surprise mistakes were made. Competition arose out of the FBI and the CIA trying to work towards the same goal. This could have served as a distraction to the agents.

The 9/11 attacks were a large sign that change was needed. There needed to be a change in the way the agencies communicated and there needed to be a more centralized system for effective communication. A debate developed over the development of a new domestic intelligence agency. It was argued that it was not necessary because the current agencies were making changes that mimicked the roles and functions of a new agency.

As Dan Millman (1980) once said, “the secret of change is to focus all of your energy, not on fighting the old, but on building the new.”

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Most people, especially those who have been pulled over and had either their person or vehicle searched without a warrant or probable cause, has most likely heard of reasonable suspicion. It is known as a reasonable belief by a sound or also reasonable law enforcement officer that someone is, was or is about to be involved in some type of unlawful activity. Reasonable suspicion came around in 1968 thanks to the Supreme Court who presided over the case, Terry v. Ohio. Since then the evidence that goes into justifying reasonable suspicion and what can be defended in court as reasonable suspicion is changing case by case.

Reasonable Suspicion was decided by the case, Terry v. Ohio (1968) 392 U.S. 1, 27 [20 L.Ed.2d 889, 909]. It states that there is enough evidence or information that a “reasonable” law enforcement officer, reasonably believes that a person is, was or is about to be, involved in some type of criminal activity. Reasonable suspicion is the basis for most stop and frisk, better known as Terry Frisks. These frisks allow officers to do a basic pat down of a person, attempting to feel if there is anything on the person that may be a part of some type of criminal activity. Terry Frisks are less intrusive than a full fledged search, more of a pat-down or in case of the search of a vehicle, the things that are more in plain view, the search is more designed to search for weapons that could harm the officer.

In the court case, Terry v. Ohio, a Cleveland police detective, who had been on the force for thirty-nine years, observed three men acting suspicious, two of the men appeared to be casing a store for a possible robbery, when the detective confronted the three men, telling them that he was a police officer, he then proceeded to pat the men down and seized two weapons off of the men. The detective arrested all three men, the two men whom the weapons were seized from, argued that the seizure of the guns was unconstitutional, and soon after adjudged guilty. The issue then became whether or not stop-and-frisks without probable cause were constitutional. The Supreme Court held that warrantless stop-and-frisks, without probable cause, were constitutional as long as there was a reasonable belief that a person posed a threat to either the officer or anyone else.

The Fourth Amendment in the Bill of Rights in the United States Constitution states that it is “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (Amendment Four, Bill of Rights). In other countries there are similar definitions of probable cause, in Sweden, probable cause is just a higher level of suspicion than justifiable grounds.

There are different versions of probable cause in different situations, in the case of New Jersey v. T. L. O., 468 U.S. 1214, 1985, the U.S. Supreme Court ruled that schools do not actually require probable cause but only reasonable suspicion to search through students’ things (New Jersey v. T. L. O., 1985). The case was about a couple of girls who were caught smoking in the school bathroom, when they were taken to the principal’s office and met with the assistant vice principal they denied all claims of smoking.

The assistant vice principal searched the girls purse and found cigarettes, cigarette rolling paper, marijuana, a pipe, a large amount of money, plastic bags, an “I owe you” list, and other implications of drug dealing (New Jersey v. T. L. O., 1985). The state court brought delinquency charges against the girl and held that the fourth amendment was not violated when the school official searched the girls purse, stating that school searches were constitutional when done by a school official or law enforcement officer (New Jersey v. T. L. O., 1985).

In the case, United States v. Ramsey, 431 U.S. 606 (1977), the Court held that the search of eight suspiciously bulky envelopes from Thailand, all appearing to have been addressed by the same typewriter, suspecting that they may have contained contraband was reasonable and did not violate the Fourth Amendment (United States v. Ramsey, 1977).

In past years there has been some debate on what constitutes as “reasonable” suspicion and how they regulate it so that racial bias or profiling is not a factor. The journal article by Renee McDonald Hutchins, Stop Terry: Reasonable Suspicion, Race, and a Proposal to Limit Terry Stops, goes on to describe how Terry Frisks were approved by the Supreme Court in a time where racial confrontation was a big issue. Today there is still that issue of racial profiling and police abuse of the Terry Frisks. Most media coverage now shows mostly only the rougher side of the job, the people who have abused the system to search people without so much as reasonable suspicion, they are simply profiling someone based on their race, religion, or geographical location.

In the article, Factors for Reasonable Suspicion: When Black and Poor Means Stopped and Frisked by David A. Harris, it is said that there is an increase in stop-and-frisks by law enforcement officers on African Americans, other minority groups, and the impoverished in higher-crime-infested areas. The article goes on to say that the case, Terry v. Ohio, has been revisited and gone over so many times that the basis for a stop on reasonable suspicion is widely weathered down to two elements, when the person in question is in a crime prone location and when they present evasive mannerisms towards the police. Since 1968, many people have shared the common experience of being pulled over or stopped for little to no reason. Since these search methods of “location plus evasion” seems to be targeting a specific group, those who would be living in a higher crime prone area making the same people recurrent targets.

The conclusion of the article went on to say that it appears that there is less and less evidence needed to find reasonable suspicion, making it easier for law enforcement officers to pull over any one they deem “suspicious.” Since the war on drugs became a higher priority than other issues, all it took to justify Terry stops and frisks was being in the area of criminal activities and failing to cooperate with law enforcement.

The article by Adina Schwartz, “Just Take Away Their Guns”: The Hidden Racism of Terry v. Ohio,
states that “two of America’s foremost policy makers and criminologists, James Q. Wilson and Lawrence Sherman, have advocated increased use of stops and frisks as a means for fighting gun crime,” knowing that it would most likely result in minorities being searched more often than caucasians (Schwartz, A., 1995). Schwartz says that the increase of stop and frisks of black people is to blame for the stereotypical association of being black and being dangerous.

In the paper, Terry v. Ohio in the Trenches: A Glimpse at How Courts Apply “Reasonable Suspicion” by George C. Thomas III, it shows discusses two different papers one by Saltzburg (1998) and another by Harris (1998), with both authors have very different opinions of the case Terry v. Ohio. The paper by Harris (1998) is very critical of the case, stating that the language is too loose, that it is too easy for prosecutors to defend unconstitutional stops or actions by law enforcement; the paper by Saltzburg (1998) on the other hand is aspirational in its stance, commending it for its flexible and used for the protection of law enforcement and the public, while still requiring the officers to give evidence or demonstrate specific actions that could give any indications that some type of crime or criminal activity has, is, or would by occurring (Thomas, G.C. III, 1998). The author of the paper, Terry v. Ohio in the Trenches: A Glimpse at How Courts Apply “Reasonable Suspicion,” seems to agree with both authors on a certain level but both authors appear to perceive the world in very different ways, Harris seems to think that the police are too aggressive, especially against minorities and those living in or around crime prone areas, and Saltzburg believes that there is danger out there and that law enforcement officers need the ability to use their instincts in order to maintain their safety and the safety of the community (Thomas, G.C. III, 1998). The majority of cases that involve reasonable suspicion are appellate cases, people that feel their constitutional rights were violated when an officer searched them or their belongings, whether it be a car or home, and discovered “unrelated” evidence of some crime or contraband rather than or including weapons. Many cases, possibly thousands or tens of thousands that were “Terry” cases must have been decided at the trial stage and many involved motions to suppress evidence, things not related to the case in the defendants eyes, things the prosecutor can bring to light and possibly tarnish the appearance or reputation of the defendant (Thomas, G.C. III, 1998).

Though there are similarities between reasonable suspicion and probable cause, there are also many differences, the foremost being that in order for probable cause to be in effect for an arrest “when the facts and circumstances within their knowledge and of which they had reasonably trustworthy information” would lead a prudent person to believe that the arrested person had committed or was committing a crime (Beck v. Ohio, 1964). Probable cause is necessary for arrest, “don’t leave home without it” (Etter, 2015) while reasonable suspicion is just something needed for a stop-and-frisk pat-down of an individual or a protective and/or plain view search of a vehicle.

In the case, Dumbra v. United States 268 U.S. 435, 1925, the Court ruled that probable cause means “less than evidence that would justify condemnation” (Dumbra v. United States, 1925).

When probable cause and reasonable suspicion are questionable in traffic stops they are called pretextual stops. When a law enforcement officer makes a traffic stop for no valid reason, but they behave reasonably enough for a prosecutor to defend later, and uses it to search the vehicle for contraband, paraphernalia, or other illegal items (Visser, C. K., 1999). In the article, Without a Warrant, Probable Cause, or Reasonable Suspicion: Is There Any Meaning to the Fourth Amendment While Driving a Car? By Chris K. Visser, it states that the court held that in the case of Ohio v. Robinette 519 U.S. 33 1996, the court reaffirmed its position that the Fourth Amendment does not require law enforcement to tell drivers of their right to refuse consent to a search of their vehicle (Ohio v. Robinette, 1996).

In Michigan v. Long, 463 U.S. 1032, 1983, the Court went on to extend the Terry Stops to include protective searches of a vehicles’ interior although it is limited (Michigan v. Long, 1983). The Court rationalized the decision by saying that there could still be a threat to the law enforcement officer by weapons that they may not see but could still be within reach of the driver. During this search, the officers are allowed to search inside the passenger compartment and inside all closed containers, by law, there is nothing in the Fourth Amendment saying that the officer has to ignore any drugs found while searching for weapons, therefore the interior protective search is for weapons and drugs both. The “plain view” doctrine also applies to vehicle searches, if there is some type of illegal contraband or evidence of a crime in plain view of the officer, the doctrine gives the law enforcement officers the right to seize that evidence without a warrant (Visser, C. K. 1999).

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Police and Citizen Tension: Explanations & the Case for Engagement as an Agency Strategy

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Abstract

How to change police behavior or ways to reduce conflict between the police and their communities has been the million dollar question since police became a formal institution in the early 20th century. Based on the very unique tasks and roles police officers must carry out, officer’s feel like outsiders based on the uniqueness of their job, ongoing media misconceptions and the fact that the public served by the police present a danger element in the officer’s job, has created an ongoing conflict and gap in understanding between citizens and their cops. The police agencies that have the most success with citizen relations have adopted community-policing models or pieces of the model that are useful in increasing citizen awareness of the realities of police work. Citizens do not know much about how police operate and this is a condition easily amended if police agencies are willing to open themselves up to being understood. This lack of access by the police for citizens to understand their department creates misconceptions about police, typically labeling them as oppressors. The only way for police and the community to reduce conflict is to boost interaction and understanding between both segments through community policing initiatives and practices.

Since the advent of modern policing over 100 years ago, there has always been a disconnect or conflict between the police and their communities, rooted mostly in misunderstandings and perception by citizens of police as community oppressors because of the role police play in the community. Police feel like outsiders due several elements: 1.) misperceptions by citizens about what police do and represent, 2.) officers are trained that the public they serve is the same public they must protect themselves from, a condition also ingrained through the occupational socialization process, 3.) police typically interact with citizens at their worst moments and this contributes to their feelings as outsiders and their views of citizens as a danger to their safety and 4.) ongoing media misconceptions related to high-profile incidents. The only way to bridge this gap is through understanding and interaction. The police departments that have the most success in community relations have used community-policing efforts to engage their citizens and reduce the barriers to understanding. By allowing citizens access to knowledge of what officers do and engaging citizens for feedback and allowing them to assist in solutions for crime-reduction, this will reduce conflict and make the community and the police better partners.

The police have carved out a niche as a profession that serves a nationwide citizenship in a multitude of ways, which are too many to describe here. While each police agency tailors their policing practices to the community they serve, the tactics and best practices by which policing is carried out are fairly standard around most jurisdictions in the country. The U.S. population, as a whole, is one of the most ethnically, racially and religiously diverse of any country in the world. Because of this huge diversity and the wide variety of roles played by the police, it is an impossible mission the police have taken on to bring about total satisfaction with the policing function to the population (Manning & Van Maanen, 1978). Banton emphasized this point best when he stated that the many differing views of correct conduct held by various classes and cultures in a strongly heterogeneous society often see the police and their powers as insufficient symbols of authority (Wilson, 1968, p. 32). Police are also perceived as oppressors of the working class and poor who work in the interests of maintaining the status quo of society’s elites; this is a perception that goes back to the early roots of policing in the 19th century, one that has been difficult to shake off due to past corruption in the profession.

The media holds some of the blame for the conflict between police and citizens. When a high-profile incident, such as an officer shooting an unarmed person, becomes front-page headlines. Where the media creates the conflict is how the story is reported, typically with emphasis on the race of the officer and victim involved and whether the victim was armed or not. When video or audio is released of these high-profile cases and shown on national news, only sensational parts of the clip are played and don’t tell the whole story of what lead to the shooting. Even a person who has never had contact with police in their life will see this and develop a generally negative perception of police, not just as a profession, but as people.

The routine nature of police work is to generally interact with the citizenry at their worst moments, such as when people are victims of a crime against themselves or their property, when involved in a dispute, among many countless others. Combine this reality with the way officer training is directed toward individual protection and survival from the potential attacks and lies of the citizens they serve and this creates a recipe for officers performing their duties with a mental and social distance from their public. The environment of police work is charged with emotion and suspicion, but police often perceive it as hostile and uncooperative as well (Wilson,
1968, p. 27). This awareness of the ever present danger of police work makes the individual officer suspicious and cautious in the performance of their duties.

When an individual makes the decision to enter the police ranks, they also enter a socialization process stronger than any other known profession, other than possibly the U.S. military. Civilians that enter the police force become remarkably different people after going through all four steps of socialization outlined by Van Maanen: 1.) the choice to enter the profession, 2.) their introduction to policing at the basic officer academy, 3.) the field training process that takes place in the encounter phase after basic training, when the realities of the job are understood and 4.) and the metamorphosis into an officer who is able to conduct the job on their own (1974, p. 3-8).

Van Maanen also pointed out that when an officer puts on their uniform, they enter a unique subculture with its own set of norms, values and beliefs, of which this subculture is designed to manage the strain of their very stressful and contentious community role (1974, p. 85). The socialization process is meant to build the new officer’s camaraderie with other officers, as well as loyalty to the agency. However, without realizing it, these agencies create the unintended outcomes of social distance from the community. This distance manifests itself when the officer and citizen meet together on the street when the officer is summoned for assistance by the citizen and they don’t understand or work well with each other to solve the problem at hand. Agencies have to be aware of their informal socialization processes within their FTO instructional practices and adjust accordingly to reduce the unintended effects that manifest themselves on the street in interactions between officers and citizens, a difficult endeavor to say the least.

The largest area of conflict between police and citizens lies with the police and urban, lower-income, high-crime neighborhood populations, where police authority is highly visible and applied more often than in other parts of a community. Donald Black has stated that patrol work in middle and upper class areas like the suburbs is different than for people living in the inner city (1980, p. 8). By this, Black means that lower-income neighborhoods in the city tend to have higher crime rates and more heterogeneous populations and are typically policed in a legalistic style. The suburban areas are typically lower crime, more homogenous populations subject to a more service or watchman style of policing. In the suburban areas, people tend to have a more positive outlook and respect for the role of police in their community while the high-crime areas tend to hold the opposite view, because of the more heavy-handed approach used by police to maintain order.

Agencies with these sorts of high-crime areas in their communities should focus the most community policing efforts to bridge the police and the community in these areas. For example, the Springdale Police Department in the city I live in has had a recent rash of gang-related shootings and fights involving teenagers in specific, lower-income areas of the city containing Marshallese and Hispanic populations. According to Springdale Police Officer Jason Becker, the department put together several outings and programs where they went into these areas affected by the violence in plain clothes and helped clean up trash, landscape yards for people, gave treats out to the children in the neighborhood, played basketball with the teenagers and built rapport with those citizens by making themselves available (Personal Interview, Nov. 12, 2016). The department has continued to go out periodically and engage in these events and there has been little to any headline-making violence in these parts of town since they began these outings several months ago.

Whether the outings have contributed to the lack of violence is obviously difficult to determine, but it is a proactive step on part of the department to be visible and engage the community in solving a crisis of order. The events have probably assisted in strengthening the community social control of the teenagers in the area. Black has cited that societies where forms of informal social control fail, there will be a heavier application of formal governmental social control (Travis & Langworthy, 2008, p. 298). By engaging the community, Springdale Police Department is channeling the informal social controls of the community instead of responding with heavily-handed patrol tactics. The department realizes that heavy patrol tactics may or may not solve the violence problem on a short-term basis but will definitely create more social distance between the community and the police, a problem that is more challenging to overcome than the crime problem itself.

While police should focus heavily on community policing the troubled areas of their communities, a focus on the entire community should also be included in this strategy. In the Northwest Arkansas area, which has several clustered cities with 50,000 plus people in each, the police departments do a very good job of community engagement. Each department puts on a Citizen’s Police Academy, designed for ordinary citizens who can experience how their department operates and what the real job of policing involves. The Citizen Police Academy is typically a 4-hour per night, one night each week, for approximately a 6-8 week period where the citizens learn about different areas of policing specific to the department that serves them. For example, the citizens get to shoot OC spray, handle unloaded weapons, ride in patrol vehicles, listen to speeches from high-ranking officers within the department, experience a K-9 demonstration, among many other things. Each topic covered is taught by an officer in the department which helps build relationships between the citizens and the individual officers. These programs have received very good reviews from the community and one of these academies is typically put on 1-2 times per year at each department.

Each jurisdiction also has a Shop-with-a-Cop program at Christmas time. One agency puts on a community day every year in the parking lot of their department where they have inflatable bounce houses for kids, they display their SWAT vehicle, patrol cars, as well as other equipment and give citizens hands-on exposure to these items and officers of the department participate in dunk-tanks and other games with the community. Each of the agencies also has regular, advertised community forums where citizens can voice concerns, suggestions, complaints or any other general feedback they want to with the Chief of Police and top-level administrators. These events help shed light on the humanity of these officers; citizens drop their preconceived notions about police officers and see the human element of these public servants, instead of the view of them as an indistinguishable uniform that wants to oppress them using the law. These strategies can also reduce or eliminate the unintended effects of the socialization process for new officers that result in officers building social distance from the community.

These events also achieve the objective of bringing a highly heterogeneous community
together not just to meet their police, but to build relationships amongst each other. Building these relationships can create a more highly organic community where more agreement exists about the norms and values of the overall community and an increasingly positive perception of the police. By helping bring together this agreement within the community, police can reduce their reliance on the law as a form of social control to maintain order and more on the informal means of social control and community authority such as peer pressure and parental control.

Huey and Wilson both note that the style of policing and officer behavior is a function of differences in communities (1968). By this, Wilson means if the public has highly differentiated views on the norms and values of the community and the police are viewed negatively, which usually resulting in little cooperation by citizens, the department and its officers will police in a tougher manner as these communities typically have higher crime rates. If the police can reduce the differences in communities, it can have a ripple effect in the way the department polices the community.

The police will never completely do away with all the conflict between themselves and their citizens but they can take measures to bridge the gap. Much of the conflict is a result of misconceptions by citizens about the role of police based on a few negative incidents or ongoing negative media perceptions which create a feeling by the officers as outsiders from the community. Further conflict is inadvertently created through the officer socialization process which emboldens the feelings by new officers as outsiders from their community. By increasing the interaction and engagement between police and the community through community policing practices, officers can bring down their walls of outsider feelings, citizens can see their police force as people and not uniformed oppressors and the togetherness of the community will be strengthened and contribute to hopefully lowering reliance on formal governmental control through policing.

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“First of all, do any of you here think it’s a crime to help a suffering human end his agony? Any of you think it is? Say so right now. Well, then, what are we doing here?” said Jack Kevorkian in a 1996 press conference. This question from Jack Kevorkian still lingers in the air today concerning the morality of physician-assisted suicide particularly in the United States: “What ARE we doing here?” Through examining the historical background of physician-assisted suicide and euthanasia, exploring the work and trials of Jack Kevorkian and delving into the great debate over this question, this paper will give greater knowledge and understanding to the long debated controversy.

Physician assisted suicide is an ever-so-present controversy today, however it is not a new concept in our breadth of history Merriam-Webster (2016) states physician-assisted suicide as “suicide by a patient facilitated by means or information (as a drug prescription or indication of the lethal dosage) provided by a physician aware of the patient’s intent” and defines euthanasia as “the act or practice of causing or permitting the death of hopelessly sick or injured individuals (such as persons or domestic animals) in a relatively painless way for reasons of mercy.”

Dating back to the ancient Greeks and Romans, the acts of suicide and euthanasia were supported, as they did not hold the same values for human life as we do today (Dowbiggin, 2005). Rather, Dowbiggin (2005, p. 8) asserts that such acts were thought of as “tolerated practices” and did not present issues concerning personal morals or ethics at the time. Great philosophers such as Plato held suicide as “noble and heroic” when the act ended the suffering of an illness (Dowbiggin, 2005, p.8). In the 13th Century, during the Middle Ages, religious views of euthanasia started to take hold, especially with Christians and Jews, who held strong opinions concerning God’s gift of life as a sacred one (“When Death is Sought”, 1994). This view continued for many centuries thereafter. Sparked in the 17th to 18th Centuries, writers challenged church views of suicide and euthanasia while secularists and agnostics tried to revitalize the support of this practice (Dowbiggin, 2003). Dowbiggin (2003) found that this revitalization was hindered during the Second Great Awakening by evangelists in the early colonies: “The rejection of suicide and euthanasia remained firm, even after many of the new states decriminalized suicide in the wake of the Revolutionary War”. Jumping to the period of the Great Depression, people’s views shifted as suicide regained momentum. This became a crucial period in American history concerning euthanasia as families struggled economically (Dowbiggin, 2003, p.11). As a result of this shift, legislation was popularized regarding the legalization of euthanasia, showing additional interest in this topic (Samuelson, Buroker, Jenson, Lesh, Peck, & Teteberg, 2016).

This controversy presents many ethical and moral issues dealing with personal autonomy. According to the Internet Encyclopedia of Philosophy, personal autonomy is “the capacity to decide for oneself and pursue a course of action in one’s life, often regardless of any particular moral content” (Dryden). The meaningful concept of autonomy not only presents predicaments in one’s personal being when facing moral and ethical decisions, but also presents a value of respect for oneself. Thomas Hill’s “The Importance of Autonomy” (as cited in the Stanford Encyclopedia of Philosophy, Christman, 2015) defines “moral autonomy” as “the capacity to impose the moral law on oneself…it is claimed as a fundamental organizing principle of all morality” (1989).

The dilemma of ethics and morals are themes often brought up in conjunction with Jack Kevorkian, “Doctor Death.” To some he was considered a compassionate, loving man, but to others he was looked upon as a murderer. Born in 1928, in Pontiac, Michigan, Jack Kevorkian as a young child struggled with his faith in God even though his family was religious. He was effortless in his academic skill and soon began his medical career as a pathologist earning a degree from the University of Michigan. His career took a pause when he was drafted into the United States Army as a medical officer in Korea. Kevorkian took an uncommon interest in death and the act of dying fascinated him (“Jack Kevorkian”, 2015). He began photographing the eyes of terminally ill patients in an effort to determine the exact moment of death, coining him the nickname “Doctor Death” (Chapman, 2013). Kevorkian invented a death machine termed “Thanatron” in which patients self-administered a fatal drug by pulling a switch (Chapman, 2013). Chapman (2013) remarks, “Kevorkian envisioned a society in which suicide clinics equipped with death machines would be legally sanctioned.” Michigan would go on to make physician-assisted suicide a felony offense in 1992. Several years later, a Michigan jury found Kevorkian guilty of second-degree murder and sentenced him to 10-25 years in prison (Chapman, 2013). Judge Jessica Cooper, presiding on Jack Kevorkian’s trial, stated at the time of verdict: “You are not licensed to practice medicine when you committed this offense and you hadn’t been licensed for eight years. And you had the audacity to go on national television, show the world what you did and dare the legal system to stop you. Well, sir, consider yourself stopped” (Quoted in “Judge Assails ‘Lawlessness’” 1999). Chapman (2013) reveals that Kevorkian assisted 130 people commit suicide and was paroled in 2007 after promising to refrain from this practice. He later died of liver cancer in 2011, electing to forego life support.

This debated controversy is one that continues to make headlines today and will for years to come. Currently, doctor-assisted suicide is mandated in five states, which include Oregon, California, Vermont, Washington and Colorado by legislation and Montana by court ruling (Physician-Assisted Suicide Fast Facts, 2016). For example, the Oregon Death with Dignity Act “allows terminally-ill Oregonians to end their lives through the voluntary self-administration of lethal medications, expressly prescribed by a physician for that purpose” (Death with Dignity Act). According to CNN Physician-Assisted Suicide Fast Facts, in Washington Oregon and Vermont alone there has been in excess of 1,700 physician-
assisted deaths (2016). In countries such as Belgium, Luxembourg and The Netherlands, both physician-assisted suicide and euthanasia are legal (Euthanasia & Physician-Assisted Suicide (PAS) around the World).

This worldly historical debate holds strong opinions on both sides of the argument. Factors such as religion, morals and beliefs play a quintessential part in determining one’s side against legalizing physician assisted suicide. Such beliefs hold the sixth commandment “thou shall not kill” as God’s word and instruction. They believe that killing is wrong and sinful, as human life is sacred. Another stance against legalizing physician-assisted suicide is violation of the Hippocratic Oath. Doctors take this oath, stating “I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.” Lastly, as decided in Washington v. Glucksberg, having assistance to commit suicide is not a right protected by the 14th Amendment Due Process Clause (Washington v. Glucksberg).

After weighing the cons to this controversy, there are still several pros to be considered. The argument of respecting autonomy holds that a person has control over their own life and can therefore have free choice in their right to die. Moreover, a sense of dignity may be characterized in those who choose to end their pain and suffering in a peaceful manner. Stephen Hawking adds his thoughts on this subject in an interview with Dara O'Briain: “To keep someone alive against their wishes is the ultimate indignity… I would consider assisted suicide only if I were in great pain or felt I had nothing more to contribute but was just a burden to those around me.” (Elgot, 2015). Proponents for physician-assisted suicide hold that it is for patients who are terminally ill and have less than six months to live. In a study by the League of Women Voters in Utah titled “Death with Dignity”, the researchers revealed that “a small fraction of dying people confront a dying process so prolonged and marked by such extreme suffering that they determine hastening impending death to be the best alternative” (Samuelson, Buroker, Jenson, Lesh, Peck, & Teteberg, 2016). As seen in these powerful quotes, the personal decision to commit to physician-assisted suicide or euthanasia is one that thousands of people have to face, while weighing both the positive and negative sides and tying these back to their own personal ethics and morals.

Considering the views of Jack Kevorkian, the dilemma of church versus state arises. Kevorkian took a stance against the courts, stating that the laws should not interfere with medicine: “What’s the court got to do with medicine? They are dictating how medicine should be practiced. You know the court is dominated by religion… ‘Life is sanctity, this and that…’ so what!” (Christian Research Institute, 2009). Ethics have played a major role in the legislature in making and shaping laws today when dealing with religious views of the people. Whether combating these issues to bring a balance or a middle ground to the church versus state controversy or violating ethical morals by passing laws that oppose such views is a reality that stems from this complex argument.

Jack Kevorkian was the first to fully test and challenge not only personal autonomy, but beliefs and religious views, ethics and morals, church versus state and the medical field here in the United States dealing with physician-assisted suicide. The facts presented in this paper give the reader an understanding of what has happened in situations concerning physician assisted suicide and euthanasia. Is it right or wrong? Is physician assisted suicide a crime? Is the result better than the alternative? In other words, should a human continue to suffer? Does a human have a right to die? Should we as a people hold all human life as sacred or should we allow death with dignity? Can we as a people truthfully answer these questions? Going back to Kevorkian’s question…”What ARE we doing here?”

References


At a young age, people are taught the difference between right and wrong. Parents teach their children that lying is wrong and telling the truth is always better in the end. People are also taught that someone that breaks the law will be punished accordingly. Parents teach this by punishing their children for doing something bad, such as lying. What if the person doesn’t know that what he/she is doing is wrong, or can’t stop himself/herself from committing that crime because of a mental illness or defect? This is the case for the defendants that qualify for the insanity defense. These individuals suffer from mental illnesses/defects that impair their sense of right and wrong and/or prevent them from controlling their actions. When a mentally ill defendant commits a crime, he/she should not be incarcerated in prison, but instead be put in a facility where he/she can get the treatment and help that he/she needs to control his/her illness or defect. This is the goal of the insanity plea. The insanity plea is a viable defense for criminals with a mental disease or defect who commit violent crimes because they should be hospitalized, not incarcerated.

The insanity plea is a defense tactic that is used in cases where the defendant has a severe mental illness or defect. The defendant’s lawyer must prove that the person’s actions were, in fact, not meant to be criminal in intent, but were caused by his/her mental illness or defect. According to Ronald Schouten (2012) in his article in Psychology Today, a person committing a crime must have mens rea. Without criminal intent, a crime did not actually occur (What is the Insanity Defense? section). The insanity defense is based upon the Model Penal Code which “...provides for acquittal on the basis of insanity if, as the result of a mental disease or defect, the defendant lacked substantial capacity to appreciate the wrongfulness of his actions or lacked substantial to conform his behavior to the requirements of the law” (What is the Insanity Defense? section). This code protects those who were not mentally capable of controlling his/her actions.

The Model Penal Code is just the latest of the many laws that have been in place for the insanity plea. The very first insanity defense law, the M’Naghten Standard, originated in Britain in 1843. The M’Naghten Standard says that if the defendant had a mental disease or defect that impaired his/her ability to understand his/her actions at the time of the crime, then he/she did not actually know it was wrong. Many states that accept insanity pleas still go by the M’Naghten Standard or some modified form of it.

The M’Naghten Standard is just one of the many legal rules and standards involved in an insanity defense. Throughout the years, there have been five main laws associated with the insanity defense: the M’Naghten Standard, the irresistible impulse standard, the Durham rule, the Comprehensive Crime Control Act and the more modern Model Penal Code. The irresistible impulse standard is a version of the M’Naghten Standard that focuses on the defendant’s control over his/her actions. The Durham rule, often called the “product rule”, tries to determine whether the person committed the crime because of his/her mental disease or defect. The Comprehensive Crime Control Act is a basic rule that focuses on being able to know right from wrong. These laws are in place to protect the rights of the mentally ill and to clearly separate them from the criminals that knew the implications of their actions.

Not only are there different laws, but many different versions of the insanity plea itself. Each state has been given the right to decide whether it accepts the insanity plea as a viable defense and what regulations are required for qualifying for this plea. Some states, such as Idaho and Nevada, have abolished any form of the insanity defense altogether because of the controversy that the plea brings about. This takes away the possibility of the defendant getting the mental help that is needed. To fully rehabilitate the defendant and control his/her mental illness, treatment is needed. This treatment will not be attained in prison. Most other states recognize either the plea of “Not Guilty by Reason of Insanity” or “Guilty but Mentally Ill”, which gives the defendant the chance of treatment and control of his/her mental illness.

The “Guilty but Mentally Ill” (GBMI) plea is one common insanity defense. With this plea, the defendant is taking responsibility for his/her crime, but trying to prove that the actions were committed because of a mental illness. If this plea is successful, the defendant is institutionalized in a mental hospital for treatment. When sanity is restored according to the court’s standards, the defendant is put into a prison for the rest of the sentence. This seems to be the less controversial plea since the defendant is still put in prison, but this can also still be dangerous for the mentally ill. While in prison, the defendant is not getting the counseling and medical care that might still be needed. The defendant is also not being monitored as closely to make sure he/she is actually taking the proper medication. The other common insanity defense is “Not Guilty by Reason of Insanity.” When attempting this defense, the defendant is trying to prove that he/she isn’t guilty of the crime because his/her actions were caused by the mental illness or defect. If this defense is successful, the defendant is institutionalized in a mental hospital for treatment for his/her mental illness/defect for the full sentence. The defendant does not get any jail time with this verdict. While this is the most controversial form of the insanity plea, it is the more safe option for the defendant. The defendant does not go to jail and will receive the treatment he/she needs to control his/her illness. Most defendants will not be released, so they will continue to be monitored and not be a threat to themselves or others.

Fear of defendants being released without jail time has brought about a lot of controversy for the insanity defense over the years. Accord-
ing to Van Horne (2015), many believe that the insanity defense is an “excuse” defense because the defendant is claiming that he/she committed the crime but is not responsible for doing so (p. 599). The people that are against the insanity defense believe that, because the defendant is not put in prison, he/she is not held accountable for his/her crimes. The same people fear for the safety of the community because the defendants have the chance of getting out when their sanity is restored in accordance with the court. With this being said, there is a chance that the defendant can go out on his/her own and stop taking the medication needed to keep the mental illness/defect under control. This poses a risk of the defendant committing more violent and dangerous crimes and hurting more people. These arguments have created skepticism against the insanity defense and its viability.

Despite the skeptics, many people are for the insanity defense. As Richard J. Bonnie (1983) put it, from a moral standpoint, the defendants with mental illnesses can not be justly blamed and punished for their actions when they are so out of touch with reality (p. 194). The main argument against the insanity defense is that the defendant doesn’t get a proper sentence and punishment. This is incorrect. Feehan (2015) said “[Not guilty by reason of insanity] is not a way to beat the case,’ recently retired Lucas County Common Pleas Judge Frederick McDonald said. ‘A lot of times defendants will spend more time in the hospital and under the system’s control than they would have if they had pled [guilty] to some offense and just been sentenced” (last paragraph, first section). With the guilty but mentally ill verdict, the defendant also receives prison time after spending time in the mental institution and his/her sanity is restored. The defendants found not guilty by reason of insanity also spend more time in the mental institution than in prison. According to Van Horne (2015), most of these defendants spend more time in the mental institution than the perfectly healthy defendants that are found guilty spend in prison (p. 599). The critics that are worried about early release should be more worried about criminals with legitimate criminal intent getting out before they worry about mentally ill defendants being released.

Defendants being released from the mental institution is rare. The few that are released are still under the control of the court, like Mr. Rodgers from Wood County. According to Feehan (2015), Mr. Rodgers became delusional one day and was convinced that people were trying to kill him with snipers. He saw a woman walking and stabbed her multiple times until bystanders stopped him (first section). Mr. Rodgers was found not guilty by reason of insanity in 2002 and was sentenced to eight years under the court’s jurisdiction. Mr. Rodgers was required to stay in contact with the court and a psychiatrist even after being released from the mental hospital. Although Rodgers was released, this is not the case for many other NGRI defendants. D.J. Jaffe (2010) says that most judges don’t want to risk releasing the person from the safety of the mental hospital, so a lot of these defendants are kept committed even after sanity is restored (fifth paragraph). This has been the case for John Hinckley, Jr., the man who attempted to assassinate Ronald Reagan. Hinckley was committed to St. Elizabeth’s Hospital in 1982 and remains there still today. The defendants remaining in the mental institutions keep the public safe and prevent the defendants from committing any more crimes. Despite the critics, the insanity defense is a viable way for mentally ill defendants to get the help they need while keeping the public safe from harm.

Though the insanity defense helps the mentally ill defendant, it is rarely used. Schouten (2012) said “It [the insanity defense] is used in only about 1% of cases in the U.S. and is successful less than 25% of the time” (What is the insanity defense? section). These low percentages can be, in part, because of the qualifications needed for the defendant to use the insanity defense. In order for this defense to work, the defendant has to prove that he/she, without a reasonable doubt, had a mental illness or defect at the time of the crime that caused his/her actions. According to the Mayo Clinic staff (2015), “Mental illness refers to a wide range of mental health conditions-disorders that affect your mood, thinking and behavior” (Definition section). Many different mental illnesses exist, but few qualify for the insanity defense. Some of the illnesses/defects that do qualify include schizophrenia and psychosis, severe types of depression and brain injuries and defects in certain parts of the brain that affect behavior and mood. According to Schouten (2012), voluntary intoxication and antisocial behavioral disorders such as kleptomania and pyromania are not accepted for the insanity defense (What qualifies… section).

These are considered antisocial behaviors and can be controlled. For the insanity defense to be valid, the actions must be attributed to the mental disease or defect, not a voluntary action such as drinking.

Schizophrenia is the most commonly used mental diseases in valid insanity defenses. According to the Mayo Clinic staff (2015), schizophrenia is a type of psychotic disorder that causes hallucinations, delusions and a in general, detachment from reality (Classes of mental illness section). Many people that suffer from this disease are paranoid, so they tend to do whatever they can to protect themselves. A lot of schizophrenic people also hear voices that are not actually there, telling them to do or say things that they would not normally do if they didn’t have schizophrenia. Seiffer (2011) said “A world where nothing looks real and no perception can be trusted-where the TV is sending cryptic messages and the face of loved ones are distorted masks- is at best unsafe; at worst, intolerable” (first paragraph). This description best tells of the life of a schizophrenic person. These types of symptoms often go untreated, except for self-medication with drugs and alcohol. The combination of drugs, alcohol and paranoia can lead to extreme acts of violence that could be avoided with proper treatment and medication.

In a prison environment, a defendant would not get the treatment needed to properly handle the symptoms of the disease. When the insanity defense is used, the defendant is given the chance to seek medical treatment and the symptoms of schizophrenia are kept under control.

Some of the most famous insanity defense cases in U.S history involved a schizophrenic defendant, including John du Pont and the American Sniper case. The most notable case is John Hinckley, Jr., Ronald Reagan’s attempted assassin. After watching Taxi Driver, Hinckley became obsessed with actress Jodie Foster. Hinckley began taking antidepressants in 1979, around the same time he bought his first gun. He later moved in with his parents and received psychiatric treatment. He also decided to try to get Jodie Foster’s attention by killing president Reagan. He decided to do so on March 30, 1981, outside the Washington Hilton Hotel in Washington, D.C. Four people were shot, including President Reagan. Hinckley was found not guilty by reason of insanity. He still resides in St. Elizabeth’s Hospital in Washington, D.C. today.
treatment for schizophrenia. If Hinckley had been found guilty and sent to prison, he would not be getting treatment for his illness.

Treatment is also needed for severe depression, another mental illness associated with the insanity defense. The Mayo clinic staff (2015) explains that a depressive disorder is one “that affects how you feel emotionally, such as the level of sadness and happiness and it can disrupt your ability to function” (Classes of mental illness section). An example of this kind of case is Andrea Yates, a mother from Texas that drowned her children. Yates had what is known as postpartum depression. According to Eileen Meier (2002), the APA says that the symptoms of postpartum depression include fatigue, hopelessness, lack of interest in the baby, mood swings, disrupted sleep/eating habits and fear of harming the child (p. 296). Meier (2002) goes onto say that the APA reports that infanticide is many times connected to psychotic episodes caused by postpartum depression (p. 296). The hallucinations of these psychotic episodes mimic those of someone with schizophrenia. Yates said that she thought her children were marked by the devil and that killing them was the only way to save them. Because of her mental illness, the legality of her actions did not occur to her, only that she had to save her children. Since Texas goes by the M’Naghten test, Yates was found guilty on all charges and the insanity defense was ruled out. Yates knew that her actions were wrong, but she didn’t have the mental or emotional capacity to control herself. In the U.S., postpartum depression does not qualify for the insanity defense, but it should. In Britain, postpartum depression is a defense in cases of infanticide. Kevin Anderson from British Broadcasting News Online said this to Meier (2002):

The United States differs from many other Western countries on how it handles mothers who kill their infants, such as the case in Texas where a woman said she killed her five children… Postnatal psychosis, an extreme form of postnatal depression that affects less than 1% of mothers, has been blamed for some two dozen babies’ deaths in the U.S. in the last 20 years. (p. 299)

In the case of Andrea Yates, the insanity defense should have been used because of the psychotic episode. Instead of jail, Yates should be in a mental health facility receiving treatment for her depression, not be in a prison with no treatment at all.

Depression and schizophrenia are two common qualifications for the insanity defense, but brain lesions are a third common qualification for insanity defenses. With brain imaging technology, using brain lesions as the basis for the insanity defense has become more common. Since a brain lesion is just an abnormality found on the brain during a brain scan, it can have many different forms and effects depending on its size and location on the brain. One common form is a tumor. Some forms of brain lesions that are commonly found are in the frontal lobe region or in the amygdala.

The frontal lobe, also known as the prefrontal cortex (PFC), region of the brain control rationality, intellectuality and morality. According to Mobbs, Lau, Jones and Frith (2007), neuroscientists have found abnormal blood flow in the PFC of violent criminals. Studies from these and other scientists have found that violent acts are connected to diminished activity in the PFC’s inhibition system (Studies of the prefrontal cortex… section ). This is the point that most defense lawyers stress when using a frontal lobe brain lesion to achieve acquittal. The most famous example of a frontal lobe injury is that of Phineas Gage. Gage had an iron bar blast through the front of his brain and surprisingly lived. Before the accident, Gage was polite and very hard working. After the accident, he regained all intellectual abilities, but his personality took a turn for the worst. Gage seemed to be a totally different person. He was mean and antisocial. This led to studies of the prefrontal cortex and the eventual theory that the PFC controlled our behavior. The story of Phineas Gage has been a basis for many studies on brain lesions in the PFC and even for the insanity defense.

Brain lesions in the amygdala also play a role in violence. The amygdala functions in aggression and recognizing fear and sadness in faces. Mobbs, et al. (2007) say that the violence inhibition model shows that sad and fearful facial expressions play an important role in determining if humans are violent to each other or not (Beyond the PFC section). This research shows that amygdala dysfunction can lead to unexplained violence or criminal acts. It has also been found that levels of head injury affecting the amygdala are much higher in violent criminals. These studies clearly show the connection of brain injuries/defects and violence.

Psychopaths, for example, do not recognize facial expression and do not feel empathy. Psychopaths attempting the insanity defense can use studies on the amygdala to show that their violence was associated with a brain lesion and that they could not control their actions. Therefore, they would need to be found not guilty by reason of insanity and be institutionalized instead of put in prison for their crimes.

One specific type of brain lesion is a tumor. A tumor is an abnormal growth of tissue. Tumors on the brain can cause pressure on certain areas and inhibit normal brain functioning. One example of the effects of tumors is the 40-year-old-man who suddenly became a paedophile. The man had no history of misconduct, but soon attempted to molest his step-daughter. Soon after being found guilty of child molestation, a large tumor was found on his right orbitofrontal cortex. After removal of the tumor, all sexual urges were gone until the tumor grew back and was removed once again. The man had no control over his actions while the tumor was affecting his brain. One key factor in determining guilt is having specific intent to commit a crime, called mens rea. The man did not have mens rea due to his brain tumor. This and countless other evidence shows that tumors and other brain lesions impact the functioning of the brain which, in turn, affects the behavior of the defendant with the mental illness/defect.

When the U.S. courts find someone to have mens rea and find him/her guilty of a crime, there are four goals that the criminal justice system is trying to reach: retribution, deterrence, incapacitation and rehabilitation. When someone with a mental illness commits a crime and is put in prison, these goals can not be met properly because they are not getting treatment that they need. The point of retribution is to punish the blameworthy. A mentally ill defendant can not be blamed for actions that he/she could not control and/or he/she did not know were wrong. Deterrence involves the assumption that people act of their own free will and know the costs of their actions. Mentally ill defendants have altered states of reality that prevent them from understanding the consequences of their actions. Treatment is the only way to change this perception. Incarceration provides the public safety from the criminal. Being put in a mental health facility would also provide the public with safety, while providing the defendant with the treat-
ment he/she needs to overcome his/her illness. Rehabilitation attempts to change the person for the better. For mentally ill defendants, the only way to do this is with medication and treatment. The mental illness will not just go away without proper medical and treatment. The defendant can not get this treatment in prison, only in a mental health facility.

Though the insanity plea is rarely used, it still has caused much controversy throughout the United States. Each state has its own version of the insanity plea and its own way of handling mentally ill defendants. Mentally ill defendants that are put in prison for actions they could not control are being dealt a huge injustice. These defendants should have the opportunity to get the treatment and medication that they need to cope with their mental illness/defect. The insanity plea is a viable defense for criminals with a mental disease or defect who commit violent crimes because they should be hospitalized, not incarcerated.

References


examining The Difference Between Law Enforcement Wellness Programs and Operational Stress

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INTRODUCTION

An officer’s inability to perform both physically and remain mentally competent on the job can be detrimental to the public, the agency and those who serve alongside them (McCreary & Thompson, 2006). The information gained from this study provides additional support for continued research in the area of stress and law enforcement. The focus of this research was to determine if having a wellness program concentrating on physical fitness for law enforcement officers, lowers operational stress while controlling for officer participation. Specific operational stress variables for this study include fatigue, eating habits, handling traumatic events and occupational health related issues (McCreary & Thompson, 2006). The participating officers are from four different law enforcement agencies across a Midwestern state. Two agencies offer a wellness program concentrated on physical fitness and two agencies do not offer a wellness program. It remains unclear how wellness programs concentrated on physical fitness relate to the management of stress for law enforcement officers. Without proper stress management, continued excitement leads to inappropriate anger and overreactions within an officer’s professional and personal life. Given the unclear link between wellness programs and stress, the purpose of this research is to determine if there is a difference between wellness programs concentrated on physical fitness and law enforcement perceived stress, specifically operational stress.

Research Question and Hypotheses

This quantitative study is guided by the following research question: Is there a statistical difference between law enforcement agencies that have and do not have a wellness program regarding (a) occupational related health issues, (b) handling traumatic events, (c) healthy eating habits and (d) fatigue as reported by officers while controlling for participation?

Hypothesis: The law enforcement agencies that have a wellness program and agencies that do not have a wellness program; will have a statistical difference in operational stress as reported by officers related to occupation related health issues, handling traumatic events, healthy eating habits and fatigue while controlling for participation.

A BREVIALITERATURE REVIEW

Angry Aggression Theory

Bernard (1990) first premised the Angry Aggression Theory with associated violent responses by individuals considered “truly disadvantaged.” Bernard (1990) stated that crimes such as murder occurred because of the displacement of anger and generalized the occurrence with lower class subculture especially black males. Griffin and Bernard (2003) used the initial explanation of aggression and added the police subculture versus solely the lower class or disadvantaged. The premise of this theory surrounds biological and psychological research that suggests individuals with continual physiological excitement tend to see reoccurring threats and their method of managing the perceived threat is to react with aggression (Griffin & Bernard, 2003). In addition, when threats persist as chronic, the automatic response of aggression becomes internal as a subculture and is personally valued. Lastly, the theory states the individual is unable to respond to normal forms of arousal, therefore transfers aggression to more vulnerable targets within his or her immediate environment (Griffin & Bernard, 2003). The link between Angry Aggression Theory to law enforcement is associated with poor stress management that leads to possible negative actions because of the reoccurring excitement on the job and subculture acceptance. Additionally, because of the culture of police work, internalizing aggression based on constant perceived threats becomes habitual and a part of a subculture (Griffin & Bernard, 2003). The subculture further develops on mismanaged coping skills and poor stress relief attempts, which become the norm amongst other officers.

Pertinent Literature on Law Enforcement Operational Stress within Law Enforcement

Operational stress refers to stressors associated within an employed position to include fatigue, back pain due to wearing a duty belt, ability to handle traumatic events, etc. (McCreary & Thompson, 2006; Symonds, 1970). As stated by Ramey et al. (2012), the generalization of stress is one-dimensional and the sources of the generalization are lacking. Research clearly indicates that those working in law enforcement encounter physically stressful situations on a routine occurrence (McCreary & Thompson, 2006; Moreno, 2011). Continued research shows that officers encounter mental stress or psycho-stress during stressful situations (Anderson et al., 2002; Garner, 2008; Richter, Lauritz, Preez, Cassimjee, & Ghazinour, 2013). Each officer handles psycho-stress differently as the stress level corresponds with each officer’s interpretation of the event or situation as it is occurring or thereafter (Anderson et al., 2002; Garner, 2008). A method of handling stressful situations develops based on the individual’s ability to cope with arising circumstances. As stated by Richter et al. (2013), coping is “cognitive and behavioral efforts to manage specific external and/or internal demands that are appraised as taxing or exceeding the resources of the person” (p. 88).

Due to the heightened level of operational stress of law enforcement officers and their inability to find ways of releasing stress brought on by the profession, they are at risk to take their own lives (Violanti, 2005; Wang et al., 2010). Additionally, the law enforcement profession may rank similar to other professions in suicides; however, officers are at a higher risk (Violanti, 2004; Wang et al., 2010). The higher risk consists of the availability of the officer has to firearms, the stress of being around death more often than other professions and stress contributions (Violanti, 2004; Violanti, Fekeilegnek, Charles andrew, Hartley, Mmatsakana-

va, & Burchfield, 2009). Stress is a known constant factor in the law enforcement profession. Research associated with stress and fitness has not always found to be significant.
Occupational related Health Issues and Law Enforcement Officers

The decline of occupational health related retirement is undisputable for law enforcement officers. Heart disease has shown to account for up to 20 – 50 percent and lower back pain for 15 – 35 percent of early retirement for law enforcement officers (Smith & Tooker, 2010). Despite Berg, Hem, Lau, Hasen and Ekeberg (2005) findings that older officers experience less physical injuries, Smith and Tooker (2010) offers that older officers have a higher risk of physical health injuries and ailments. Without a proper understanding of the increased nature of these obstacles, law enforcement officers continue to be vulnerable for physical ailments at the cost of their position. The law enforcement profession ranks high among occupational injuries. In 2011, sprains and strains causing tares resulted in approximately 38 percent of the reported injuries, soreness and pain in the back, knee and shoulder accounts for 12 percent (BLS, 2012). To decrease occupational illnesses and injuries that cost the employer money, offering a wellness program may show a decrease in rankings among law enforcement officers.

Handling Traumatic Events and Law Enforcement Officers

There are obvious sources of traumatic events that law enforcement officers are privy to such as shootings and child abuse cases. However, other occurrences may cause conflict within the officer to include responding to domestic violence calls or working the aftermath of a homicide, suicide or fatality accident (Chapin, Brannen, Singer, & Walker, 2008). As stated by Mitchell and Everly (2001), traumatic events consist of “any event which has a stressful impact sufficient enough to overwhelm the usually effective coping skills of either an individual or a group are typically sudden, powerful events outside of the range of ordinary human experiences” (McKoy, 2010. p. 12). Traumatic incidents become second nature for law enforcement officers that force the officer to endure both positive and negative emotions. According to Joseph et al. (2009), exposure to a traumatic event could include physical danger, violence, death, criminal actions, homicides, accidents and even injury. Due to the exposure, law enforcement officers have a need for effective stress management skills to regulate those emotions. Additionally, officers are required to make split second decisions during the exposure with the possibility of attracting negative attention for those actions afterwards. A review of the literature revealed a lack of research that can provide strong evidence that any stress management program or intervention can show significance for behavioral, psychological or physiological measures in police officers.

Healthy Eating Habits and Law Enforcement Officers

Irregular eating patterns and intake of non-planned meals consumed on the go continue to plague the lives of law enforcement officers. As determined by Gu et al. (2012) law enforcement officers admit that their inability to remain healthy and diet appropriately stems from shift work, fatigue, unpredictable daily routines and random uncontrollable events. It seems that law enforcement officers quickly become accustomed to the fast food restaurants and convenience stores available within their jurisdiction instead of packing meals that remain in a patrol car all day. A recent police cohort study aiming to link sleep disorders and self-reported health, safety and performance outcomes in law enforcement officers provides useful information (Rajaratnam et al., 2011). The outcome of the study showed that the frequency of obesity was 33.6 percent among law enforcement officers in North America (Rajaratnam et al., 2011). Furthermore, Gu et al. (2012) offered that a positive association between longer working hours and obesity is due to regular consumption of unhealthy foods by officers. In addition, the correlation is stronger with officers that work midnight shifts because of the availability of higher caloric and higher fatty foods available during working hours (Gu et al., 2012). Moreover, officers have sedentary working positions within their patrol car causing lower physical activity associated with overweight and are a result of poor eating habits (Gu et al., 2012).

Fatigue and Law Enforcement Officers

For law enforcement officers, there are a series of contributing factors associated with fatigue. Those contributing include; shift work in general, shift lengths, shift assignment policies, wearing and use of technologically advanced safety gear, long commuting to and from home, personal issues and stress levels (Fiedler, 2011). As stated by Martin-Doto (2011), an officer’s fatigue level decreases his or her ability to handle perceived stress and the stress in turn decreases one’s ability to manage contributing fatigue. Fatigue can lead to counterproductive behavior by officers to include anger outbursts, irritability, impulsiveness and aggression (Vila, 2009). Increased lack of sleep increases stress loads putting the officer at a safety risk on and off the job. Fatigue has shown to increase stress levels in officers. Ramey et al. (2012) reported that fatigue increases psychological stress among officers, yet fatigue remains typical in the law enforcement profession especially on-the-job demands.

Physical Fitness Wellness Programs and Law Enforcement

Research shows physical fitness alone does not constitute less of a stress level for law enforcement officers. For instance, MacDonald (2007) shows that based on a sample of 106 law enforcement officers that physical fitness was not associated with perceived stress. However, the observational, cross-sectional study also shows that frequency and difficulty of law enforcement officers are associated with increased stress levels as measured by the Law Enforcement Officer Stress Survey (MacDonald, 2007). The point of the study aimed to show how physical fitness level relates to law enforcement officers perceived stress (MacDonald, 2007). Although the study was unable to show a direct relationship between perceived stress and physical fitness levels, MacDonald (2007) was able to show increased frequency among the law enforcement population. Although there is a continual progression of wellness programs, agencies are either reluctant to offer wellness programs due to fear of costs or fail to understand the benefits of an efficiently ran wellness program (Panos, 2010).

METHODOLOGY

Research Design & Sample

This research employed the use of a quantitative research design with a purposeful sample. The purpose of this quantitative data analysis was to explore the difference between law enforcement agencies that do and do not have a wellness program and occupational related health issues, handling traumatic events, healthy eating habits and fatigue while controlling for participation levels as reported by law enforcement officers. The target population for this study was law enforcement officers across a Midwestern state employed by four difference agencies that do and do not offer wellness programs. The wellness programs are concentrated on physical fitness. Four agencies with similar population size and jurisdiction that do not have a wellness program participated. Giving the two agencies with a wellness program, the sample size must consist of a minimum of 168 participants. This power analysis uses 270 law enforcement officers from four different participating law enforcement agencies. Each participant received electronically a confidentiality statement, informed consent letter, information on the study and information on the researcher in order to request participant signature (Owens, 2010).
Instrumentation

This research design utilized an online self-administered survey questionnaire, *Operational Police Stress Questionnaire (PSQ-Op)* created by McCreary and Thompson (2006) to answer the research questions (McCreary & Thompson, 2006) and a demographic sheet to control for wellness program participation among agencies. Scores for each dependent variable according to a 7-point Likert-like scale using the PSQ-Op (McCreary & Thompson, 2006). Law enforcement officers answered the questions based on their experience over the past six months (McCreary & Thompson, 2006). The sum of the ratings for each participant serves as the composite score for each agency per each dependent variable. The PSQ-Op has been tested for psychometric properties showing that the survey has excellent internal consistency reporting Cronbach’s alpha > .90 and corrected item-total correlations report between .30 and .60 (Field, 2013; George & Mallery, 2003; McCreary & Thompson, 2006). A stress rating for the PSQ-Op correlates with the respective frequency ratings $r = .70$ (Ho, 2006; McCreary & Thompson, 2006).

Data Analysis

Based on the chosen approach, a multivariate analysis of covariance (MANCOVA) analyzed the relationship of the variables to answer the primary research question (Grimm & Yarnold, 2008; Mertler & Vannatta, 2002; Tabachnick & Fidell, 2007). An analysis of variance (ANOVA) answered the research sub-questions (Mertler & Vannatta, 2002; Tabachnick & Fidell, 2007). A MANCOVA allowed the researcher to control for sources of variation when using multiple variables (Hair et al., 2010). The one-way MANCOVA represented a 2 X 4 X 2 model (Grimm & Yarnold, 2008; Mertler & Vannatta, 2002). The researcher inputted all data into SPSS version 22 for statistical analysis. The study utilized descriptive statistics for all variables as a foundation for the inferential analyses (Brown, 2010). Descriptive statistics for the dependent variables included a summary of statistical calculations for the constructs occupational-related health issues, handling traumatic events, healthy eating habits and fatigue. Descriptive statistics consisted of frequencies and percentages for all categorical variables and central tendencies or mean, median, mode and standard deviation from the participant’s responses.

RESULTS

Descriptive Statistics

One hundred and seventy-two officers took part in the study as participants out of the 270 officers surveyed. According to the participating officers, a wellness program is available by the employing agency to 97 officers or 56 percent of the surveyed population. Only 38 percent or 65 officers took part in a wellness program concentrated on physical fitness offered by their respective agency. The majority of the 38 percent have been participating in a wellness program for 0 – 3 years resulting in 14 percent and most spent 0 – 3 hours per week participating resulting in 43 percent.

Scores revolve around the officer’s answers to survey questions from handling traumatic events, eating healthy at work, fatigue and occupational related health issues (McCreary & Thompson, 2006). Scores for each dependent variable ranged from 1.00 to 7.00 (McCreary & Thompson, 2006). Officers answered according to 1.00 = No Stress At All; 4.00 = Moderate Stress; and 7.00 = A Lot Of Stress (McCreary & Thompson, 2006). Of the four scores, fatigue had the highest mean (4.27) while handling traumatic events had the lowest mean (3.75). Fatigue also had the lowest standard deviation (1.51), suggesting the responses were most clustered around the mean. Responses to occupational related health issues had the highest standard deviation (1.73) and thus varied the furthest from the mean.

The primary research question utilized a multivariate analysis of covariance (MANCOVA) to assess if handling traumatic events, healthy eating at work, fatigue and occupational related health issues were significantly different by if a wellness program is available. The MANCOVA controlled for years of participation and hours of participation per week for the wellness program. Results of the MANCOVA did not show significance for differences in the four research scores by whether or not a wellness program was offered, $F(4, 165) = 1.03, p = .391$, partial correlation.

DISCUSSION, IMPLICATIONS, RECOMMENDATIONS

Discussion of Results and Conclusions

The primary concern for this study surrounds law enforcement officers and stress endured based on the job function. The study surveyed officers to determine operational stress levels based on four dependent variables (handling traumatic events, fatigue, eating healthy at work and occupational health related issues) (McCreary & Thompson, 2006). The dependent variables selected were to show if offering a wellness program shows a difference in reported stress by officers. The research indicated that fewer officers had access to wellness program by their respective agency and fewer officers choose to participate in those programs when offered. Additionally, majority of officers that choose to participate only did so for 0 – 3 hours weekly and have been participating for 0 – 3 years.

No significance was determined between the independent and dependent variables while controlling for participation levels with a score of $p = .391$.

The findings suggested limitations to the study, yet offers additional research in the area for clarification to determine if the lack of significance was because of the limitations. For instance, the officers answered similarly for both groups (with and without a wellness program) thus causing havoc on the effect size of this study. The questions answered by those that participated and those officers that do not participate in a wellness program showed signs of similarity that increasing the sample size may not change the outcome. For example, for the dependent variable of healthy eating habits at work those officers with a wellness program answered ($M = 3.61, SD = 1.39$) and those officers without a wellness program answered ($M = 3.97, SD = 1.80$). Moreover, for the dependent variable of handling traumatic events those officers with a wellness program answered ($M = 3.75, SD = 1.64$) and those officers without a wellness program answered ($M = 3.71, SD = 1.59$). Potentially, looking at a larger sample with more officers participating in a program would show a difference. However, increasing the size of the sample may continue to show an even effect size based on the similarity of answers.

It was determined that the majority of the officers have only been participating in the program for 0 – 3 years. Suggestions would be to determine if the programs were new and if that caused an additional difference in reported operational stress levels between the groups. In addition, a smaller number of officers reported using the program than officers that reported having a program. Suggestions would be to explore why not all officers used these programs when offered. It is possible that different agencies offer different incentives to participate. For instance, some agencies have determined that placing a monetary value on the program increases participation and others have offered time off from work pending performance during testing. It’s possible that some officers just enjoy staying fit while others do not see this as a priority. The need is there to research incentives and programs offered that were not voluntarily verses non-voluntary. Officers also reported only participating 0 – 3 hours per week in a wellness program, thus warranting a determination of possible rank and work schedule to have availability to

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work out on the job. This determination may show that those of rank work a schedule allowing time to work out on duty, while a regular patrol schedule may limit scheduled work out times because of incoming calls for service. For instance, a participant wrote, “I would like to know what the breakdown is for other factors that allow the wellness program participation. My department allows everyone to work out on duty. Big problem for patrol (staffing and need to respond to calls) versus command staff and CIB positions where they get to plan their day for the most part” (M. Brazda, personal communication, December 3, 2013). Conclusions to the study suggest that there were more limitations presented after the results to suggest that although there was no significance found, there is a high likelihood that the limitations affected the outcome.

Although, no significance was determined based on \( p > .05 \) (Field, 2013; Ho, 2006) between wellness programs and operational stress, while controlling for participation, the information can be used to expand on the current literature. For instance, MacDonald (2007) determined that there is no significant relationship between stress and physical fitness from law enforcement officers. Gerber et al. (2010), determined that higher levels of stress can be linked to poor health, but show no association with exercise and stress. However, one year before Gerber and Puhse (2009) showed that fitness and health are closely related and moderate exercise appeared to be a strong coping resource. This study took the information one step further in determining if adding a wellness program concentrating on physical fitness would show a difference between agencies that did offer a wellness program and did not offer a wellness program. The study was looking to determine the difference in stress levels as compared to four dependent variables while controlling for their participation. By determining if a difference does and does not exist in wellness programs and operational stress in officers, we can recognize a direction of future research surrounding the topic. This outcome was consistent with Gerber et al. (2010) and MacDonald (2007), as no significance was determined between the offered wellness programs and stress as reported by officers. Further consideration should concentrate on the type of wellness program possibly all-inclusive (educational, physical fitness, nutritional, spiritual and mental) and longevity of the program provides any level of significance over a program bunched on one topic such as fitness.

Lastly, Patterson et al. (2012) determined that the negative association between stress management interventions and officers is because of poor research. With every research study, there are limitations. For this study, more limitations than expected became apparent after the conclusion of the analysis. The limitations are available later in this chapter. In addition, without the proper understanding of stress interventions and potential link to wellness programs, the matter continues to leave officers in a vulnerable state.

Although law enforcement fitness and stress have not been found statistically significant in past studies (Gerber et al., 2010; MacDonald, 2007), this studies initial expectation were to find a significance. This study intended to show that with adding a wellness program as an independent variable that officers would use this as an outlet for stress. Thus, expecting to show that stress may present bigger in law enforcement agencies that did not offer a wellness program compared to agencies that do offer a wellness program. The thought was that adding a reason for an officer to use physical fitness, as an outlet would show a different reality than previous studies (Gerber et al., 2010; MacDonald, 2007) determining that fitness and stress were insignificant.

Implications for Practice

Law enforcement officers continue to work in proven stressful environments (Brown, 2010). If law enforcement agencies were more aware of effective methods to assist officers in relieving operational stress, then the use of wellness programs in any capacity can become a useful tool. The St. Paul Minnesota Police Department has had an operational wellness program in place for roughly 25 years (Panos, 2010). This program has proven to be successful for physical fitness as their results show the officers average at 70th percentile, with nationwide standards for similar fitness tests for law enforcement hovering around 50th percentile or lower (Panos, 2010). This is a prime example of how a program can prove successful to an agency. The implementation of a wellness program could possibly allow stress relief to those officers struggling with stress management based on the position held. This only being optional for those officers that choose to participate in an agency offered program and for those agencies that offer a program. This study is an additional step in the foundation laid to continue the ongoing research of stress in law enforcement and the use of available resources to manage stress effectively in law enforcement. Other considerations for a wellness program are the length of time to make the program successful and type of program offered. As mentioned above, the St. Paul program is successful, yet it has been ongoing for over 25 years (Panos, 2010). Furthermore, as stated by a participant, “what we have never had and would benefit most from is a mental wellness program, a subject completely ignored, nay, even shunned as being anathema to the police ethos” (L. Fasnacht, personal communication, November 23, 2013). Looking into mental, spiritual and comprehensive style programs may show a more significance is stress reduction. The age and rank of the officer that may choose to take part in a program may show significance and the incentives made available by the department for participation.

Conclusion

The purpose of this research is to determine if there is a difference between wellness programs concentrated on physical fitness and law enforcement perceived stress, specifically operational stress. This study controlled for participation levels of those officers that participated in a wellness program. Specific operational stress variables for this study include fatigue, eating habits, handling traumatic events and occupational health related issues (McCreary & Thompson, 2006). The results indicated that no significance was found based on \( p > .05 \) (Field, 2013; Huck, 2008) as the score was \( p = .391 \). The implications for practice within the law enforcement field suggest that the limitations offer further suggests for research and use. No matter the outcome of this study, officers continue to struggle with stress and the ability to manage it in an effective manner. Panos (2010) was able to show that having a wellness program for over 25 years at St. Paul Police Department has proven to be highly effective as evident of the department scores in physical fitness. Additionally, Gerber and Puhse (2009) found that exercise is an effective coping mechanism for stress. This study expected to find that adding a wellness program for officers that their stress level would be lesser when compared to officers not offered a wellness program. Despite the findings, additional research can use the limitations of this study to continue researching the topic.

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Respect: Reducing Fatalities in Citizen-Police Encounters

By Ramona D. Taylor, Adjunct Professor, Sociology and Criminal Justice Department, Old Dominion University

Abstract
Respect is declining in our society. This decline has manifested itself over the past year in citizen-police encounters which quickly escalated to disrespect, often exemplified by the failure to follow the directives of law enforcement officers and violence. In some encounters, the lack of respect was displayed by the affected citizen; in other encounters, the law enforcement officer displayed a lack of respect for the citizen. Seven civilian encounters will be addressed, with an emphasis on the behaviors which escalated the encounters to their fatal conclusions. Solutions to quell the violent encounters proposed at a community forum in October, 2014 and at a law enforcement conference in July, 2015 will be presented, as well as initiatives recently reported by Virginia police departments.

Respect is an abstract concept that one does not typically associate with citizen fatalities at the hands of law enforcement officers. However, once the civilian fatalities that have occurred over the past eighteen months are analyzed, a common theme can be distilled: the lack of respect displayed by the citizen and/or the law enforcement officer(s) involved in the encounter. While there are a myriad of reasons why the widely publicized civilian fatalities occurred, the lack of respect for authority and/or the lack of respect for the civilian victims resonates. This paper will not seek to convict the victims or the law enforcement officers, but will attempt to propose solutions for this concerning issue.

Why are we addressing this topic?
• The recent spate of violent citizen-police encounters necessitates a dialogue about possible reasons for these violent incidents.
• The safety of civilians and law enforcement officers compels us to find ways to promote positive relations between the public and law enforcement officers.
• The public image of law enforcement officers cannot withstand further negative publicity from media depictions of the deaths of unarmed civilians.
• The recent prosecutions of law enforcement officers urge us to address ways to prevent possible losses of careers and liberty.

What is Respect?
Respect is defined as “due regard for the feelings, wishes, rights or traditions of others.” Synonyms for this definition of respect are “politeness, courtesy, civility and deference” (Oxford Dictionaries, 2015). Respect is also defined as “a feeling or understanding that someone or something is important, serious, etc. and should be treated in an appropriate way” (Merriam-Webster, 2015). With these working definitions of respect, an exploration of whether respect was conveyed in the seven widely publicized civilian fatalities will be addressed.

Ernest Satterwhite
On February 9, 2014, Officer Justin Craven, a white North Augusta, South Carolina public safety officer, attempted to stop an African-American male, Ernest Satterwhite, 68, for a suspected DUI. Satterwhite failed to stop and led the officer on a car chase to his home, located miles away. Officer Craven fatally wounded Satterwhite by firing multiple shots through the driver’s side door of Satterwhite’s vehicle after Satterwhite had parked in his driveway. The officer alleged that Satterwhite had grabbed his gun. On April 7, 2015, the officer was arrested on a felony charge of discharging a firearm into an occupied vehicle (Ohlheiser, 2015).

Eric Garner
Eric Garner, a 43 year old African-American male, died on July 17, 2014, in Staten Island, New York, after a white officer, Officer Daniel Pantaleo, placed him in a chokehold and pulled him onto the sidewalk while arresting him for selling untaxed cigarettes (Siff, 2014). According to bystanders, Garner did not attack the officers, but merely inquired why he was being harassed (Dianis, 2014). In a video taken by one of the bystanders, Garner could be heard gasping multiple times, “I can’t breathe.” The medical examiner ruled Garner’s death a homicide. The medical examiner opined that compression of Garner’s neck and chest, as well as his position on the ground while restrained, caused his death. The chokehold utilized by the officer had been banned by the New York Police Department (“Medical Examiner Rules,” 2014).

Pat Lynch of the Patrolmen’s Benevolent Association gave the following statement regarding Garner’s death: “We believe, however, that if he had not resisted the lawful order of the police officers placing him under arrest, this tragedy would not have occurred” (“Medical Examiner Rules,” 2014).

On December 3, 2014, a grand jury voted not to indict Officer Pantaleo for Eric Garner’s death (Keneally and Margolin, 2014).

John Crawford, III
John Crawford, III, a 22 year old African-American male, was fatally wounded on August 5, 2014, by Beavercreek police officers Sean Williams and David Darkow. Walmart customers called the police after observing Crawford walking around the store with a bb/pellet air pump rifle that was not in its packaging. The officers reportedly instructed Crawford to put the toy rifle down. When he did not drop the gun, he was shot by the officers. The coroner’s office ruled that Crawford died of a gunshot wound to the torso and listed his death as a homicide (Green, 2014).

Although the officers alleged that they had
repeatedly told Chapman to drop the gun, Walmart’s surveillance video revealed that Chapman was shot soon after the police officers approached him (Von Drehle, 2015).

On September 24, 2014, a special grand jury found that the officers who shot Crawford were justified in their actions and declined to indict them (Govak, 2014).

Michael Brown

Michael Brown, an 18 year old African-American male, was fatally wounded by a white officer, Officer Darren Wilson, in Ferguson, Missouri on August 9, 2014. Brown was shot six times. One shot was fired in the officer’s vehicle; the others were fired outside of his vehicle. Officer Wilson alleged that Brown attacked him and reached for the officer’s gun. Witnesses stated that Brown had his hands up when he was shot (Brown, 2015).

On November 24, 2014, a grand jury declined to indict Officer Wilson for the death of Michael Brown (Brown, 2015).

Brown’s shooting prompted the U.S. Department of Justice to investigate the Ferguson Police Department. The Justice Department “found instances of overt racism among officers and a pattern of arrests targeting black residents” (Von Drehle, 2015).

Tamir Rice

Tamir Rice, a 12 year old African-American male, was fatally wounded by white police officers in Cleveland, Ohio on November 22, 2014. An emergency 911 caller reported that a boy was waving a gun in a park that was “probably fake.” When the officers arrived, they pulled their car into the park, next to Tamir. Within two seconds, Officer Timothy Loehmann shot Tamir in the abdomen. The gun turned out to be a toy replica of a Colt pistol and fired plastic pellets (“Documents Detail Police Shooting, 2015; Schmidt and Apuzzo, 2015).

The shooting raised questions about whether the officers had followed procedures and whether they had time to warn Tamir three times to put the gun down before opening fire, as they reported (Schmidt and Apuzzo, 2015).

The city of Cleveland and the U.S. Department of Justice reached an agreement in June 2015 aimed at reforming the city’s police department, after an eighteen-month Justice Department investigation concluded that the Cleveland Police Department “had shown a pattern and practice of using excessive force and violating people’s civil rights” (“Documents Detail Police Shooting, 2015”).

On December 28, 2015, a grand jury declined to indict the officers involved in the death of Tamir Rice (CBS News, 2015).

Walter Scott

Walter Scott, a 50 year old African-American male, died after being shot in the back eight times on April 4, 2015, by Officer Michael Slager, a white North Charleston, South Carolina police officer. Officer Slager had stopped Scott during the daytime for a non-functioning brake light. During their contact outside of Scott’s vehicle, Scott ran from the officer. A video taken by a bystander depicted the officer shooting Scott while he was running away (Ford, 2015).

The officer was indicted for murder on June 8, 2015, after the video surfaced contradicting the officer’s allegations that Scott had not complied with his instructions and tried to grab his stun gun (Ford, 2015).

Freddie Gray

Freddie Gray, a 25 year old African-American male, died on April 19, 2015, from spinal cord injuries after he was transported on April 12, 2015, shackled without a seatbelt, in a police transport vehicle. Baltimore City police officers had arrested Gray following a foot pursuit. The failure to secure Gray with a seatbelt during the transport violated the Baltimore police department’s policy (Fenton, 2015).

The medical examiner ruled Gray’s death a homicide. Six Baltimore police officers (three African-American and three white officers, including one female officer), have been indicted for six counts of second-degree murder, among other charges (Ford, 2015).

What does respect have to do with it?

According to Michael Jenkins, a Criminal Justice Professor at the University of Scranton and co-author of the book “Police Leaders in the New Community Problem-Solving Era” (Jenkins and DeCarlo, 2015), police officers can reduce the likelihood of a situation getting out of control by the way they treat individuals. In addition, although police officers often deal with people at their lowest point, officers still have to be accountable for the way they treat people if they want to maintain the respect of the public that enables them to carry out their duties.

In the words of another author, “bad treatment, even in routine encounters, leaves scars” (O’Neal, 2015).

Law enforcement officers also have a perspective regarding the impact of the lack of respect in civilian-police encounters. The New York Times reported: And one police union leader said he felt powerless to sway opinion over a common theme that he deemed important: that the deaths of Mr. Garner after a police encounter on Staten Island in July; of Michael Brown in Ferguson, Mo., in August; and of Mr. Scott in South Carolina all occurred after someone failed to follow instructions from officers.

“It’s not to say any one of those three individuals deserves to die for whatever they did, but if we stop that, from that point forward, there would be none of these issues,” said the union leader, who, in a sign of how divisive the issues remains, requested anonymity. “And that’s where I think this conversation should be taken and no one wants to take it there” (Baker, 2015).

Similarly, scholars have noted that victims of police usage of force often attracted the officers’ attention by “challenging police authority—passing a patrol car, asking questions, challenging the stop or intervening in the arrest of another” (Pollock, 2014, p. 158). Further, although some studies have found a correlation between the usage of force and race or socioeconomic status, “other factors, such as demeanor, seem to be even more influential” (Pollock, 2014, p. 158). Studies have also shown that particular encounters between police officers and citizens, vehicle pursuits and foot pursuits, have generated the most frequent reports of police usage of force. Approximately fifty-three percent of vehicle pursuits and forty-seven percent of foot pursuits have resulted in use of force reports (Pollock, 2014, p. 158).

FORUM AND WORKSHOP PARTICIPANTS’ PROPOSED SOLUTIONS

On October 21, 2014, the author spearheaded a community forum on the subject of “Respect: Surviving a Police Encounter,” in collaboration with Saint Leo University and the YWCA of South Hampton Roads. Close to one hundred people attended the forum. The panelists, Virginia Beach Police Chief Jim Cervera; Chesapeake Police Chief Kelvin Wright; Newport News Police Chief Richard Myers; Delegate Daun Sessoms Hester; and Rev. Dr. Kirk T. Houston, Sr. addressed the issues involved in citizen-police encounters and their solutions for addressing the recent spate of violent citizen-police encounters. Their solutions included the following:

- Accountability via professional standards/
internal affairs divisions;
- Hiring additional minority police officers;
- Internships to increase the number of minorities acquiring law enforcement positions;
- Sensitivity training;
- Camps where youth are joined by police officers and taught about the law and how to interact with police officers; and
- Door-to-door surveys of members of minority communities to assess their concerns about law enforcement officers.

The panelists were joined in the question and answer session by Norfolk Police Chief Michael Goldsmith. The audience was joined by Portsmouth Police Chief Ed Hargis, Virginia Beach Deputy Chief John Bell, Jr. and Norfolk Police Lieutenant Daryl Howard. Deputy Chief Bell provided additional information during questions addressed by Chief Cervera.

Of particular interest, Virginia Beach Police Chief Cervera recounted an incident where young African-American males in a high crime area were playing basketball with members of the police department shortly before a domestic assault occurred. When the officers were pursuing the suspect, these young men pointed out the direction in which the suspect had fled, behavior unheard of in the past.

Chesapeake Police Chief Wright noted that he teaches the ethics portion of the police academy and addresses respect. He emphasized that parents should talk with their teenagers about what to do if they are stopped by the police (i.e., go with the officer even if the teen does not believe that the arrest is lawful).

Newport News Chief Myers noted that “we don’t trust who we don’t know;” that “respect has to be earned, not demanded - you have to give respect to receive it”; and that “beginning an interaction with disrespect is not going to get you further than that.” He recommended that officers be trained more in history so that they will understand why certain issues affect certain communities differently than others (i.e., African American history).

Several Chiefs noted that the addition of body cameras will temper the use of force, as officers’ actions will be recorded for review.

The author also co-presented a workshop on the subject of “Respect: Surviving a Citizen-Police Encounter” at the 39th Annual Conference of the National Organization of Black Law Enforcement Executives (NOBLE), in Indianapolis, Indiana on July 14, 2015. The topic engendered intense emotions. Among the solutions proposed by the attendees were the following:

- Officers displaying more respect towards citizens;
- Sensitivity training for law enforcement officers; and
- Educating young people about appropriate behavior towards law enforcement officers by presentations in schools and at home.

**Innovative Solutions in Virginia Police Departments**

The Norfolk Police Department has implemented innovative strategies designed to win the trust of the citizens in minority communities. One program involves officers playing chess with young people in a low income area. The founder of the program, Norfolk Initiative for Chess Excellence (N.I.C.E.), described a 7 year old girl who, upon seeing the police arrive, stated “I hate the police. They’re bad guys.” This same young girl happily played chess with her police officer partner two games later. Young men who ran for the door when the police arrived, started playing chess with them after seeing the girls playing with the officers. Now the young people demand that the program founder check on the police officers if they are absent from the program. Per the founder, “these officers and children are building a fragile peace on a strategy that depends upon faith, trust and chess boards” (Suhay, 2015).

A second program of the Norfolk Police Department is Shoot Hoops Not Guns. This is a national program “that brings together young people and police officers. The idea is twofold: Raise awareness about gun violence and foster better relations between police and young people.” At the second annual Shoot Hoops Not Guns basketball tournament held in August, an officer was a member on each of the eight teams. Thirty-seven teens and young adults comprised the other team members (Simpson, 2015).

The Newport News Police Department has implemented a Coffee with a Cop program. Members of the Newport News Police Department in different precincts host Coffee with a Cop events at different restaurants in Newport News. As one reporter noted, “Newport News police are working to strengthen their ties to residents in the community one cup of joe at a time” (Castillo, 2015).

The Chesapeake, Newport News and Norfolk Police Departments have started equipping their officers with body cameras. Norfolk Police Chief Michael Goldsmith noted: “Everybody gets politer when the cameras are on.” He also observed that “this is a giant experiment by police departments all over the nation.” The Norfolk police officers are required to turn the cameras on every time they interact with a resident (Eberly, 2015).

**Conclusions**

Further study is necessary to determine whether the proposed solutions will reduce fatalities in citizen-police encounters. One proposed solution, body cameras, are essential to protect citizens and law enforcement officers. With the entire interaction between the citizen and the police officer recorded, there would be no question regarding what occurred and the cause of any escalation of violence in the encounter.

Other solutions include educating citizens about their rights in interactions with police officers, civilian review panels and grand jury presentations by independent prosecutors.

“Know Your Rights” community forums may reduce the incidence of citizens fleeing from the police or aggressively arguing their cases with police officers on the street, thereby escalating the level of violence in the encounters. As Chesapeake Police Chief Wright advised, “just go with the police officer.”

Civilian review panels not affiliated with the police department may provide assurance to the victim of a violent police encounter and the accused police officer that the legality of the encounter will be determined by an unbiased, neutral fact finder.

Lastly, grand jury panels with appointed prosecutors not affiliated with the jurisdiction where the fatal citizen-police encounter occurred may provide the assurance that justice will be served for the citizen and the accused police officer.

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human Trafficking: A Tragedy of the Most Severe Proportion

By Albert DeAmicis, La Roche College

Abstract
Mexican Drug Trafficking Organizations (DTOs) have become a major source of drug trafficking throughout Mexico and the United States. These DTOs expanded their criminal business portfolio through human trafficking. These individuals through coercion and manipulation lure young women and children into a web of deceit through their hollow promises of a better life through the enticement of better paying jobs, better living conditions and the overall promise of a much better life. The reality is a life of sexual exploitation and prostitution and, in some cases, women engage in sexual activity with upwards of 40 men per day at $15.00 per sexual activity.

In the past, laws were weak and needed to be strengthened. The United States gauges countries on a Three Tier System, with Tier-1 being the highest and Tier-3 being the lowest. A country which follows this system and has a major trafficking problem, fully complies with the act’s minimum standards for the elimination of trafficking. It is important for countries which are listed at Tier-2 and 3 to strive harder to comply with this act to come more in line and be more engaging in the fight against human trafficking.

Laws like the Anti-trafficking law in Mexico have provided more power to prosecutors who have more resources to go after these DTOs.

Lastly, Mexico is presently endangered of becoming a failed country due to the takeover of certain regions by these DTOs. This paper will give cause on just how Mexico can overcome this problem before it brings down their country and how this endangers the United States counter intelligence in dealing with these Mexican Narco groups.

Introduction:
At the turn of this century, the international community experienced exponentially the rise of the fastest growing criminal enterprise, “Human Trafficking.” In 2003, it was reported statistically that over 2 million women and children are trafficked globally and 50,000 of these victims are trafficked into the United States. The average ages are estimated to be in the 20 year age group (Enck, 2003).

This paper will focus on Mexican Drug Trafficking Organizations (DTOs) and their methods that they use to commit these heinous acts of modern day slavery against women and children. This criminal enterprise in Mexico is the third most profitable crime after drug trafficking. This activity of human trafficking for the purpose of exploitation of human beings is low risk and yields high profits (Reig, 2015). This paper will define the problem that faces the United States and their southern neighbor, Mexico. Mexico has a potential problem that may exist of becoming a failed country through the growing power of these Mexican DTOs. This will definitely have a major impact and may weaken their partnership between both of our countries. Also, this paper will evaluate recommendations and measures that countries can take to safeguard their citizens from falling prey to these miscreants of society.

The overall problem of human trafficking begins with recruiters who make shallow promises that hold hope for potential victims who are fleeing their countries that are torn and ravaged by violence, political unrest, chaos with military upheavals, as well as those countries with high rates of unemployment. These individuals are promised security with the promise of greater employment opportunities, high paying jobs and a higher status in society.

According to Enck (2003):
The typical pattern this activity takes is one in which traffickers lure women and young girls with false promises of decent employment and compensation as “nannies, maids, dancers, factory workers, restaurant workers, sales clerks or models. “These victims often reach international borders with faulty documentation or valid tourist visas, which falsify the purpose of their travel. Once at their final destinations, these women are forced into prostitution or other forms of forced labor and threatened with physical harm – not only to themselves but also to their families – if they attempt to escape.

The reality that exists is coercive devices which are used in their recruitment of women and children into a life of involuntary prostitution and domestic enslavement where they are forced to work in sweat shops and any other forced servitude situation to pay off their debts to their traffickers. The prime harvesting areas are generally from relatively poor war-torn and economically depressed countries (Enck, 2003).

In Marcela’s case, she was deceived into believing in a man she thought was trustworthy because she met him in her hometown of Veracruz, Mexico when she was only 16 years of age. This perpetrator posed as a wealthy business man who asked Marcela to marry him and promised to provide her with a comfortable future. At this juncture, he took Marcela to a neighborhood in Mexico City called Merced. This area is infamous for its prostitution activity. Marcela was forced to have sex with 40 men a day at $15.00 for each act. However, this criminal activity had a good ending! Usually the victims languish in this type of horrific circumstances for years. Fortunately for Marcela, the police raided the hotel and after the traffickers were arrested, they tried to intimidate Marcela not to testify against them. Marcela was determined enough that she testified against her captors who were sent to prison (Legal Monitor Worldwide, 2013).

Another example of criminal acts by human traffickers is always similar in nature as in the following example of seven Russian women who were recruited to perform traditional folk dances in Alaska. When they arrived at their destination, all of their travel documents, money and their plane tickets were confiscated. Two of these seven women were under the age of eighteen. They were
forced to dance nude at a nightclub. None of these females spoke English and were threatened of being harmed if they did not comply with the traffickers’ demands! These seven women held the hope of being able to acquire back their passports and earn enough money from their captors to return home to Russia (Enck, 2003).

This paper will bring to fruition just how these organizations, governments, civil society and law enforcement use different laws domestically and globally to combat these types of criminal acts by human traffickers. In the recommendation section of this paper we will analyze some of these domestic laws and Instruments of International Law from the United Nations Convention and their related protocols which are utilized to combat Transnational Organized Crime.

Define the Problem:

These notorious human traffickers like the Los Zetas have deep involvement in this business as one of these Narco Mexican Drug Trafficking Organizations. The main stay of their business deals with drug trafficking. They wanted to diversify their business acumen with the addition of kidnapping, extortion and theft of crude oil, gun running and especially, the enslavement of human beings through the human trafficking trade. The impossibility to place a monetary measurement on Mexico’s human trafficking trade has been very difficult, but the U.N. has estimated globally that there is a $32 billion dollar price tag on this criminal enterprise. In addition, these Mexican DTOs have been known to kidnap women and young girls and use them as their personal sex slaves. This problem also impacts the suffering by the families of those victims (Grillo, 2013).

Weak laws that exit have been a major problem when prosecuting these individuals. These laws need to have more judicial power so the prosecutors can prosecute these diabolical criminals who rob the souls of these women and children. In the case of the new anti-trafficking drive in Mexico City, this law has really gathered momentum. There has been a special prosecutor appointed. He has been empowered and has overseen 86 raids on hotels, bars and massage parlors, where they rescued 118 women victims. They charged 62 alleged traffickers and made other major arrests throughout Mexico. These arrests were executed in states like Hidalgo and Puebla Mexico within recent months of this article (Grillo, 2013).

According to Rosi Orozco a former Mexican federal deputy: “Drafting the new law and now works closely with prosecutors. “There are parents who are searching and searching for their children and can’t sleep because of the nightmare” (Grillo, 2013).

For way too long, DTOs like the Zetas have been involved with human trafficking. These DTOs control the major links of an intricate network in which victims are constantly moved and in these territories, they are collecting money from pimps and brothels. These DTOs have come to the realization that their drugs can only be sold once. However, with plying their trade with women and children, this commodity by trafficking in human beings can be sold over and over again (Grillo, 2013).

Since trafficking is a multi-billion dollar industry consisting of trafficking in people for the purpose of prostitution, domestic servitude and forced labor, it has become one of the largest markets for criminal activity. According to the U.S. Department of State, the largest number of victims of human traffickers comes from Asia and the Pacific region (U.S. House, 2003).

Another attraction is the growth of sex tourism. This creates a viable market in this region and contributes greatly to this dilemma. In the following countries, Thailand, Cambodia and the Philippines, there is large-scale child prostitution which occurs (U.S. House, 2003).

Since this report in 2003, most of the public’s perception still is under the misnomer that human traffickers only come from places like Thailand, Cambodia and the Philippines. Presently, the United States is facing a real dilemma right in our own backyard. The United States government has to deal with a significant criminal element facing our border states coming from our southern neighbor, Mexico. The U.S. has the highest consumption of illicit drugs in the world and, through the enactment of our many laws and enforcement of our policies, these laws prohibits the purchase and the possession of narcotics. Unfortunately, after 100 years of fighting drug prohibition in the United States, the demand has exponentially grew quite significantly. Ever since the War on Drugs began back in the early 1970s, there has been a greater demand for marijuana, cocaine, heroin, methamphetamine and other drugs with a synthetic chemical consistency (Rizer, 2015). There has been a very powerful enemy that has grown in power because of wealth and resources such as sophisticated weaponry and logistics of structure through a sophisticated network by using drug plazas as a staging area for drug distribution (Rizer, 2015). This operation is a very wide spread network used by Mexican Drug Trafficking Organizations (DTOs). These DTOs, such as the Sinaloa Federation, Gulf Cartel, Los Zetas and the Knights Templar, to mention only a few, have expanded their criminal enterprise with human trafficking of women and children for the purpose of sexual slavery.

The state of Texas is considered to be a major hub for children who are trafficked for the purpose of sexual exploitation. The fourth largest city in the United States is Houston, Texas and this major city has become a gateway for this horrific criminal enterprise where there have been 369 children identified in 2007 thru 2011 as victims of the sex trafficking trade (Butler, 2012).

The border has become a major focus of a daunting task to secure the 2,000 mile United States Mexican border. The United States and Mexico are partners in an endeavor through the security border initiatives that is reflected below: According to MPI (2006):

Mexico and the United States signed the 2002 U.S.-Mexico Border Partnership and Action Plan (known as the Smart Border Agreement), which harmonizes point-of-entry operations, combats alien smuggling and improves screening of third-country nationals. Mexico independently launched Operation Centinela in 2003 to strengthen detention operations of certain unauthorized immigrants and to improve measures to target organized crime and human trafficking.

Even with this agreement in place, it is still in jeopardy for the following reasons: There is a potential problem that presently exists and looms heavily on the shoulders of the United States and her law enforcement agencies. Issues that Mexico is facing are these powerful, out of control, drug trafficking organizations taking over some of their regions. If Mexico cannot get a handle on them and restore order back to these regions, the fear is that our southern neighbor may potentially become weakened or become a totally collapsed failed Mexico. This problem would hinder their police and their military that shares the border with both countries and would hinder them with counter measures in dealing with these violent DTOs and their large criminal networks. The United States would have to monitor these hostile drug trafficking organizations from our side of the border without the assistance from our southern neighbor. This could create a major dilemma for counter intelligence by the United States law enforcement (Rizer, 2015).

Presently in the United States, the Mexican Drug Trafficking Organization presents the most serious organized criminal threat to law enforcement. Here is where the problem lies. These Mexican Drug Trafficking Organizations are heavily involved with turf control, such as the Sinaloa Federation, who is partnering with the Gulf DTO which is engaged with
the Los Zetas for territory control. During President Calderon’s Presidency, there were over 60,000 people killed in his war against these criminal organizations.

What Can We Do:

This author had an opportunity to interview Arizona Sheriff Joe Arpaio by telephone on August 4, 2016 at 12:00 EST. Sheriff Arpaio is also known as “America’s Toughest Sheriff.” He has a total of 55 years of law enforcement experience. Sheriff Arpaio has a very diverse background in law enforcement. He worked in Washington, D.C. as a beat cop and then as a police officer in the state of Nevada. He then became an undercover agent for the Drug Enforcement Administration (DEA). He was head of the DEA for Turkey, Mexico City, South America and numerous other states in the U.S. After leaving the DEA, he was then elected to serve as Sheriff for Maricopa County, Arizona in 1993 at the age of 60. He just recently began his 24th year J.M. Arpaio (personal communication, August 4, 2016).

Sheriff Arpaio stated that in solving the problem dealing with the Mexican DTOs, first and foremost: 

The United States needs a strong president who has strong leadership qualities who wants to solve this problem across our southern border. He or she has to have the desire to reach out to the president of Mexico so both governments can agree to work together cohesively to solve this problem. If the Mexican government does not want to cooperate with this effort, the U.S. will have no other choice but to place sanctions on all of their funding to Mexico J.M. Arpaio (personal communication, August 4, 2016).

Also according to Arpaio, it is his belief that: If our two countries can unite in a joint effort to combat these Mexican Drug Trafficking Organizations, this is the mission that would accomplish this needed task. Our United States Border Patrol should increase their force, thereby creating a much more secure border, along with a secure wall in place. It is a must that our military is permitted to cross the Mexican border and be fully utilized and work alongside the Mexican Military and Mexican law enforcement. They could clean-up border towns like Juarez. Areas such as Juarez and other border towns are infested with these DTOs and security threat groups (STGs) such as a large contingent of Mara Salvatrucha (MS-13) and other STGs. With the use of this force these areas could be neutralized and this force could then continue to sweep through Mexico. Those regions that were taken over by these DTOs then can be eradicated along with the problem for both countries J.M. Arpaio (personal communication, August 4, 2016).

Lastly, to confirm Sheriff Arpaio’s contention that the lack of leadership by a president can create a major problem through weak policies by the following testimony by Brandon Judd, United States Border Patrol Agent who testified on a major problem that exists at our border through President Obama’s Catch and Release Program. Brandon Judd, the President of the Border Patrol Council, testified before the Senate Judiciary Subcommittee on Immigration and the National Interest with the following testimony:

According to Judd, the Obama administration is using catch-and-release at an unprecedented level: Even people who have clearly just entered the U.S. illegally can ensure their release if they make the appropriate claim. We have encountered individuals in the Rio Grande Valley who are still wet from crossing the river, who have claimed they had been in the United States since 2014.” Judd wrote. “Under current Administration policy we processed them and let them go – sometimes without even issuing an [Notice to Appear].” As Judd detailed in his testimony, other factors that have contributed to hampering Border Patrol’s efforts are the increased power of the Mexican cartels along the U.S.-Mexico border and, what he termed, a “lack of management accountability.” Drug Cartels control the illegal activity along our border in the same way gangs control illegal activity within our prisons, “He wrote. “Nothing moves along the border in the U.S. or Mexico without the cartel’s permission. For the cartels, illegal alien and narcotic smuggling are two lines of huge business that brings billions in annual revenue.” How many billions? Judd estimated that for one Mexican cartel in the Rio Grande Valley the total revenue from just smuggling illegal immigrants into the U.S. is over $1.7 billion. He added that the revenue also helps to further the cartel’s reach into U.S. cities and communities (May, 2016).

Judd took the Obama administration to task for failing to take on the problem of border security but offering points claiming that the border is secure (May, 2016).

The Methodology section of this paper will reflect just how ruthless these DTOs who operate their human trafficking business and just how they recruit through any means possible.

Methodology:

The methodology of these criminal enterprises can consist by any means and opportunity that DTOs can utilize to increase their money flow, increase their power and resources over their competitors and their enemies at any cost.

In these harrowing accounts reported, the reader will make the visual connection on how these individuals are separated from their families and thrown into a world of ugliness. These victims are forced to perform many sexual acts daily. For example, Michoacán, Mexico the Knight Templars, a Mexican drug trafficking organization, kidnapped a large group of girls for the sheer purpose of sexual exploitation. With this type of actions by these DTOs, citizens are now taking the law into their own hands as in the following example.

Below is the following example by Dr. Jose Manuel Mireles, the leader of an armed vigilante militia who is fighting these cartels or DTOs in a village of Tepalcatepec who has stated the following (2013):

“The cartel’s systematic use of rape as a tool of terror was the final spark that made residents take up guns this year. “They arrived at people’s house and said, bathe your daughter, she is going to stay with me for some time” and they wouldn’t return her until she was pregnant” (Grillo, 2013).

According to Merriam Webster’s full definition of a “Vigilante”: “A member of a volunteer committee organized to suppress and punish crime summarily (as when the processes of law are viewed as inadequate); broadly: a self-appointed doer of justice.”

These vigilante groups have sprung up throughout western Mexican towns like the group Mireles leads in Tepalcatepec. These groups set-up check points where they root out these alleged DTOs. The Mexican government openly condemns these vigilante militias. Enrique Pena Nieto, the President of Mexico, has himself publicly condemned these groups. Law enforcement on the other hand, has made few arrests. Within weeks of this article, the Mexican government sent into Michoacán an extra compliment of Federal Police and Marines numbering in the thousands for a retaliatory action against the Knights Templar who killed a Vice Admiral in the Mexican Navy and his body guard. Also, there were attacks leveled on vigilante militias and on federal forces (Grillo, 2013).

This violence consisting of sexual and physical abuse drives these militias to confront these DTOs. There is so much corruption with law enforcement that they have no choice but to take the law into their own hands. To further illustrate the high level of corruption that exists in law enforcement in Mexico, in some cases, these DTOs infiltrate themselves in the police academy. Then, after graduation, they are placed into some Mexican police departments to serve and protect their drug trafficking organizations. These individuals work for the DTOs and operate as a criminal while wearing a badge. When a homicide is going to be committed, for example,
these police officer(s) who are implanted into the
crime scene to assure that the crime goes down without
any difficulty or complication, thereby protecting
their DTO. This is by far corruption to the fullest
extent.

In case after case, the same results are applied as
in this particular example of a Salvadoran mother
who was lured for the purpose of supporting her
dughter while entering into the United States
under the guise of an opportunity and a better way
of life. Instead, she was kidnapped in Mexico at
gunpoint by the Los Zetas and was forced to cook,
clean and was sexually abused by being raped by
countless men (O’Connor, 2011).

In this writer’s opinion, the most horrific examples are parents and family members selling their children and relatives into a life of sexual exploitation for strictly monetary reasons. A young 9-year old girl, who was physically frail and resided in Cancun, Mexico, was actually rented out by her
own father for 100 pesos or $5.753 United States
Currency per day since she was seven. Families are
sometimes the worst perpetrators of victimizing their own family members. An aunt sold her 13-year old niece from Oaxaca to traffickers in Puebla,
Mexico (O’Connor, 2011).

In many ways, the Zetas are one of the most ruthless Mexican criminal organizations who have become infamous with crimes against humanity like the mass murder of 72 migrants as in a case back in 2010. From a personal account, each of these migrants was blindfolded and each one of these victims was shot in the head. In this group, there were teens and one victim was a woman who was pregnant. These migrants’ death sentence was handed down by their executioners because of their refusal to become recruits for the Zetas. Fortunately, one immigrant who had traveled from Ecuador had survived the shooting when wounded and left for dead with a bullet wound to his neck. According to a report by the Mexican government, this mass killing happened only 100 miles from the Texas border. This was by far the worst mass killing under President Felipe Calderon’s tenure who had
taken office in December of 2006. The President’s declaration of war on these DTOs sparked a major
discussion on just how vulnerable this juncture placed on any traveling migrants from their movement
throughout Mexico and the United States. Because of the survival by this Ecuadorian, the story of this horrific act reached into the far reaches of Latin America, Central and South America. The mourning of their loved ones placed pressure on
all of these countries’ consulates for justice on their
murdered loved ones. According to this article,
there had been only one captured suspect. Because
of placing an international spotlight on this mass
crime, a considerable amount of pressure was
placed on the Mexican government to solve this
horrific crime (Llama, 2010).

Lastly, it is noted by this author, why severe
laws and penalties must be executed against these
perpetrators. The United States Border Patrol and
other federal, state and local level law enforcement
agencies need the backing of the Department of
Justice to allow them to operate under federal law
by not tying their hands in their enforcement and
prosecution of their duties. Law enforcement has to
be allowed to arrest and detain and if necessary, de-
port these criminals back to their home countries.
The Mexican and the United States governments
must work in unison to level the full force of their
criminal justice system to weigh heavy on the
minds of these traffickers for the fear of retribution.
The danger exists with Joaquín Archivaldo
Guzmán Loera (El Chapo) who is the leader of the
Sinaloa Federation and by far, one of the most
dangerous leaders of the most dangerous Mexican
Drug Trafficking Organization in existence today
He poses a grave threat through his wealth, power
and influence to execute another escape again from
any Mexican maximum security prison as he did in
the following cases. El Chapo (The Shorty), as
he is fondly referred to by the Mexican citizens, is
an escape artist dating back to the first time he es-
cape back in 2001 from Puente Grande Maximum
Security Prison, located in Jalisco, Mexico. Here
he escaped in a laundry cart. The alleged price tag
on this escape was over 2 million dollars paid to
his accomplices. He was then recaptured again on
February 22, 2014 and was then housed in another
Mexican maximum security prison at Altiplano,
Mexico. Here again he escaped on July 11, 2015
through a sophisticated tunnel that his criminal
enterprise, the Sinaloa Federation is well known
for. He was recently recaptured in a shootout at his
hideout on January 8, 2015 by the Mexican Marines
(ABC News, 2016).

Guzman presently is still incarcerated under the
Mexican government authority. The partnership
between both countries is very important when
referencing the following example about Guzman:
It is important to know that extraditing El Chapo
Guzmán by the Mexican government to the United
States is a very prudent move by both parties. First
and foremost, getting him tried and convicted for
his crimes against the U.S. is vital for the security of
this high profile criminal. If Guzman is convicted
in the U.S., he would most likely be incarcerated in
one of our most secure United States Federal Peni-
tentiary in Florence, Colorado, the Administrative
Maximum Facility (ADMAX). At this facility there are
the likes of some of the most notorious criminals
and terrorists housed in the United States federal
prison system. In the ADMAX there are convicts like
Osiel Cardenas, the former leader of the Gulf Cartel.
There are other categories of prisoners, such as the
terrorists like Ramzi Yousef, the 1993 World Trade
Center bomber and domestic terrorists such as
Terry Nichols. Nichols partnered with Timothy Mc
Veigh (executed on June 11, 2001) in the Murrah
Building bombing on April 19, 1995 in Oklahoma
City. Ted Kaczynski, the Unabomber, is another no-
table inmate who sent letter bombs over a 20-year
period until he was arrested. These are examples of
some of the most infamous high profile criminals
and terrorists that are incarcerated in the ADMAX.
This would be a very good move by Mexico. If they
should leave El Chapo in any of their most secure
maximum correctional facilities, there is still a very
high probability that exists that he will surely escape
again for the reasons mentioned above. No inmate
has ever escaped from the ADMAX facility and it is
highly likely that no one ever will.

Lastly, the recommendation section of this paper
analyzes and evaluates domestic and international
law in its combating enforcement of human traf-
ficking.

Recommendations:
Throughout this paper it was determined what
a horrific crime human trafficking can be and
how these Mexican Drug Trafficking Organiza-
tions operate by being highly manipulative in the
procurement of their potential victims. It has also
been determined that they will stop at nothing to
commit the most horrific type of crime to gain
wealth, power and status with their competitors and
enemies.

Law enforcement needs to have the backing and
full support of strong domestic and international
laws to be able to prosecute these individuals to the
fullest extent of the law.

On February 13, 2002, President George W. Bush
established the President’s Interagency Task Force
to Monitor and Combat Trafficking in Persons.
The Secretary of State chairs this Task Force. In
addition to the Secretary of State, this Task Force
is composed of the Attorney General, the Secretary
of Health and Human Services, the Secretary of
Homeland Security, the Director of Central Intel-
ligence, the Director of the Office of Management
and Budget and the Administrator of the U.S.
Agency for International Development. The National
Security Presidential Directive Against Trafficking
in December of 2002, is guided by the Task Force responsibilities which include the implementation and coordination of this act. The Task Force and the Senior Operating Group is guided by those efforts (U.S. Department of State, 2003).

The following information was cited from the report and has been ranked into 3-groups or tiers. This tier system was created for measuring and gauging how countries were dealing with human trafficking. The Tier system works in the following manner:

The Tiers System:

Tier 1: Is made up of countries deemed by the State Department to have a serious trafficking problem but fully complying with the Act’s minimum standards for the elimination of trafficking. Twenty-six countries are included.

Tier 2: Countries are those whose governments the State Department views as not fully complying with those standards but making “significant efforts to bring themselves into compliance.” This is the largest group with seventy-five countries listed.

Tier 3: Are those countries whose governments the State Department deems as not fully complying with those standards and not making significant efforts to do so. This group includes fifteen countries (Miko, 2004).

Minimum Standards:
The “minimum standards for elimination of trafficking” are summarized as follows. Governments should:

- Prohibit trafficking and punish acts of trafficking.
- Prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the knowing commission of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, involving rape or kidnapping or that causes a death).
- Prescribe punishment that is sufficiently stringent to deter and that adequately reflects the offense’s heinous nature for the knowing commission of any act of trafficking.
- Make serious and sustained efforts to eliminate trafficking (U.S. Department of State, 2003).

This act also sets out seven criteria that “should be considered” as indicative of the fourth point above, “serious and sustained efforts to eliminate trafficking.” Summarized as follows:

- Whether the government vigorously investigates and prosecutes acts of trafficking within its territory.
- Whether the government protects victims of trafficking, encourages victims’ assistance in investigation and prosecution, provides victims with legal alternatives to their removal to countries where they would face retribution or hardship and ensures that victims are not inappropriately penalized solely for unlawful acts as a direct result of being trafficked.
- Whether the government has adopted measures, such as public education, to prevent trafficking.
- Whether the government cooperates with other governments in investigating and prosecuting trafficking.
- Whether the government extradites persons charged with trafficking as it does with other serious crimes.
- Whether the government monitors immigration and emigration patterns for evidence of trafficking and whether law enforcement agencies respond appropriately to such evidence.
- Whether the government vigorously investigates and prosecutes public officials who participate in or facilitate trafficking and takes all appropriate measures against officials who condone trafficking (U.S. Department of State, 2003).

If a government is not in compliance with the minimum standards, the State Department’s determination of whether that government is making significant efforts to bring itself into compliance with these minimum standards dictates its placement in Tier 2 or 3. The Act sets out three mitigating factors which the Department is to consider in making such determinations. Summarized as follows:

The extent of trafficking in the country; The extent of governmental noncompliance with the minimum standards, particularly the extent to which government officials have participated in, facilitated, condoned or are otherwise complicit in trafficking; and What measures are reasonable to bring the government into compliance with the minimum standards in light of the government’s resources and capabilities (U.S. Department of State, 2003).

Also, according to this act, if a country is not in compliance for subsequent years and fits in the category of Tier 3, they can be subjected to certain sanctions imposed on them by the United States. Through these sanctions, these countries would receive no such assistance and would be subjected to withhold funding for participation in educational and cultural exchange programs. Through the consistency of this act, these governments would also face the opposition of U.S. assistance (with the exception of humanitarian, trade-related and certain development-related assistance) from financial assistance from institutions like the International Monetary Fund and other development banks like the World Bank. This has a consequence of multilateral assistance sanctions, which takes effect in the following fiscal year (U.S. Department of State, 2003).

Countries have incentives to follow this tier system set up by the Bush administration. Countries like Mexico has recently made attempts to strengthen the law as President Calderon did in his tenure. President Calderon helped in promoting the Mexican anti-trafficking law. This law has taken a very important first step in combating human trafficking. There is a much bigger problem that exists for the honest law enforcement and the Mexican government that has to cope with the corruption by these powerful Mexican Drug Trafficking Organizations and scant financial resources that enable these traffickers to get a stronger foothold on the country.

According to Rietig, there are three changes to make anti-trafficking efforts more effective (2012): 1). The Mexican government needs to increase prosecution efforts to decrease impunity; 2). Anti-trafficking organizations need to improve their cooperation; and, 3). More statistical analysis is needed to create better targeted policies (pp-21).

Non-governmental organizations (NGOs) reported that criminal impunity in Mexico since 2008 had been ranked as a ‘tier two’ country with the designation that Mexico has not been compliant by the minimum standards as set-up by the Trafficking in Persons Report. Attempts are being made to be measured as a significant effort to comply with this report. Although, in the report, it is listed that only 14 trafficking cases in 2011 has been criticized because of the low amount of human trafficking investigations, prosecutions and sentences (Rietig, 2012).

Lastly with President Nieto’s Institutional Revolution Party (PRI), who has been in power since 2012, he needs to continue to work with the National Commission on Human Trafficking. If not and the PRI does not allocate the necessary resources to implement these necessary changes, the State of Mexico will still fall short and fail to meet the impunity measurement and the country will continue to fail (Rietig, 2012). Reported in 2015, Mexico is listed on the placement for the United States Department of State and falls into the tier two category (U.S. Department of State Diplomacy in Action, 2015).

Globally, this problem has been described by the United Nations that human trafficking will surpass drug trafficking as the world’s leading criminal ac-
The Nations Human Rights Council has empowered committees which will submit reports regularly to assess international agreements. When the states sign off following: signature, ratification and enforcement of issues with enforcement of international law. The difficulties of these measures deal with inclusively the following: signature, ratification and enforcement of international agreements. When the states sign off on the ratification of a treaty, the U.N. committees monitor by receiving input from non-governmental organizations (NGOs). They presume that these committees will submit reports regularly to assess their level of compliance with the treaty. The United Nations Human Rights Council has empowered a certain theme for certain working groups, such as special rapporteurs and country rapporteurs. These researchers assist in the monitoring of the compliance in regards to the abuse of certain treaties (King, 2015).

**Obstacles of Enforcement:**

Anti-trafficking laws are problematic in its enforcement of human trafficking. The victims are hesitant in identifying captors for fear of retribution. Trafficking transcends borders and at times, law-enforcement jurisdiction geographically. For example, if you have a perpetrator who violates international law and lives in a completely different state, financially, it is very costly and becomes a very complicated issue. The human trafficker violates numerous laws and building a criminal case is very time consuming! Resources are very limited and because of these issues, this can create a hindrance of prosecution of anti-trafficking laws (King, 2015).

Lastly, these legal instruments are very complex in their enforcement and their development has been legislated to aid, assist and enforce those laws for these trafficking victims. The states that are not a participant of the United Nation Convention against Transnational Organized Crime and in relation to their two protocols, these states are still obligated under the provisions of the Universal Declaration of Human Rights to protect the rights of these victims of traffickers. There may be difficulties in the enforcement of these anti-trafficking laws, but not improbable to overcome. These states need to recognize their responsibility and the need to commit to this overall problem of human trafficking that affects millions of people all over the world. There needs to be a collective effort globally to snuff out this plight on this practice (King, 2015).

**Conclusion:**

Mexico and the United States are unfortunately at a crossroads with these Mexican Drug Trafficking Organizations (DTOs). As the methodology portion of this paper graphically illustrated, these powerful DTOs are mass murderers, ruthless, callous and their only major concern is their criminal enterprise! They lure women and children into their web of deceit and traffic them throughout Mexico and then into the United States from ports of entry like Houston, Texas. These individuals have a highly sophisticated method in procuring these victims through different methods of pandering by any extreme means. The Hollow promises of selling them a dream for a better life from guarantees of a higher paid salary, to better living conditions, is nothing but a ploy that results in the most horrific environment that these poor tragic victims fall prey to.

The best way to exterminate these DTOs is by Mexico and the United States strengthening their partnership and working together in unison. In Sheriff Arpaio’s interview earlier in this paper, this is his belief based on 55 years of extensive law enforcement experience with 24 of those years as Sheriff for Maricopa County. Maricopa County sits only thirty miles from the Mexican border. Arpaio welcomes the idea to form a cohesive commitment between both of our countries. It is time for our president to show strength in leadership and deal with this problem. The United States needs to reach out, be more proactive and more engaging with Mexico’s president. Once this first step is initiated, both countries can get the mission accomplished. According to Arpaio, our military is the key in this operation. The United States military needs to cross the border and form-up with Mexico’s military and law enforcement and exterminate the STGs and DTO’s that infest the towns such as Juarez and other border towns . J.M. Arpaio (personal communication, August 4, 2016).

Shortly following my interview with Sheriff Joe Arpaio who had served for 24 years for Maricopa County, Arizona, it was reported that he lost a very contentious election that was held on November 8, 2016. Sheriff Arpaio was unseated by his Democratic opponent, Paul Penzone, who took office on January 1, 2017. On behalf of this author I would like to personally thank Sheriff Arpaio for all of his law enforcement service that spanned over a career of 50 years.

After eradicating these criminals in these border towns, this force needs to then sweep across Mexico and reclaim these regions that have been absorbed by the DTOs. If these DTOs are not neutralized, our neighbor faces the danger of becoming a failed country.

The other method in fighting these human traffickers is through strong law legislation to fight this blight upon the Mexican people. This anti-trafficking law is the most recent law to combat human trafficking. In 2007, the Mexican Congress passed the very first law dealing with human trafficking. Since then, anti-trafficking law legislation was passed for all 31 Mexican States and the Federal District that included Mexico City. Because of this legislation, all of their state laws have been reformed so their penalties would also include the crime of human trafficking (Retig, 2012).

Internationally, there is blanket coverage for crimes against human trafficking imposed by the United Nations Convention and Subsequent Protocols. This United Nations Convention Against Transnational Organized Crime was the first convention that targeted transnational organized crime. There was a three day signing at Palermo, Italy where
representatives from 124 countries signed off on the Convention. This was the largest amount of signatories to sign the United Nations Convention. With these signatories, it is the hope of the international cooperation, which will allow these governments to combat transnational crime. By applying a common tool kit that provides criminal law techniques applicable made available in these provisions. This would mean, one crime in one country, is a crime in another country (Enck, 2003).

This establishes a consistency with criminals who cross borders to commit human trafficking criminal activity. The trafficking protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, applies to the following:

1. Prevent and combat trafficking of persons
2. To protect and assist victims of trafficking
3. To promote cooperation among State Parties to meet these enumerated objectives (Enck, 2003).

The main objective of this Protocol is to protect the victims by identifying and prosecuting their traffickers. Prior to this Protocol, victims would lose much more than they would benefit. The volunteer information provided by the victims was subjected to intimidation and retribution by their traffickers. This, of course, would provide problems for the hindrance of the prosecution against these traffickers and the problem with combatting human trafficking. Section II of this Protocol is geared to protect those individual victims who assist law enforcement in procuring the arrest of their perpetrator(s) (Enck, 2003).

Through the creation of this Convention and Protocol, there are many resources made available to governments who have to investigate these transnational organized criminal enterprises when dealing with these human traffickers. The effectiveness of this Convention still stems from the international cooperation of those governments who choose to follow those provisions combating this international problem.

Lastly, the Mexican Drug Trafficking Organizations that have been illustrated in this paper have been identified as some of the most dangerous criminals in existence today. These traffickers of drugs and human beings will use any form of manipulation, coercion or violence to expand their criminal enterprise. Both the United States and Mexican government need to unite with all of their military and law enforcement resources for this common cause to eradicate this large criminal element that exits.

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In America, Paralleling the debate over the Constitutionality of the death penalty has been controversy over whether particular methods of execution are constitutional and humane. In a series of decisions spanning the period from 1878 through 1953, the U.S. Supreme Court has held as constitutional various methods of execution to include hanging, firing squad, electrocution and the use of lethal gas and chemicals. As of 2008, 36 states had a death penalty and a number of them allow more than one method of execution. However, currently, the federal government and 31 states provide for capital punishment and most state laws specify that first degree murder -- the willful, deliberate and premeditated homicide of another -- can the death penalty be justified. However, special circumstances may apply in some cases and differ by state rendering the crime a capital offense – i.e. torturing a victim, lying in wait for a victim and killing for financial gain. In Kennedy v. Louisiana (2008) the high courts ruled that, “…if no life is taken, none shall be given.” (Kennedy v. Louisiana (2008). The Court ruled 5 to 4 that the rape of a child punishable by death is unconstitutional in any instance in which the offender did not kill the victim.

It was the arbitrary and capricious manner in which the death penalty was applied prior to 1972 that led the U.S. Supreme Court to strike down state and federal capital punishment laws in its decision Furman v. Georgia (1972) – the constitutionality of the methods used were not in contention in this case. The Court did not rule that the death penalty itself was unconstitutional – only how the death penalty was administered was addressed. States were permitted to revise their laws to make them constitutionally acceptable. In Gregg v. Georgia (1976) the U.S. Supreme Court upheld the use of the death penalty that required a two-stage procedure known as a bifurcated trial.

Recently fewer than three percent of those convicted of murder in the United States receive the death penalty. Approximately 34 percent of offenders put to death were white, 51 percent were Black and 14 percent were Latino. (Craig Haney, 2005). Of course there are regional differences in the administration of capital punishment and the south has executed the most individuals by far. By the end of 2015, there were approximately 2,959 people on death row in the United States – 56 of them were women. In addition, the Court has ruled in Roper v. Simmons (2005), that individuals under the age of 18 when they kill cannot be sentenced to death. It is also interesting to note that Thomas Graunger, the first juvenile known to be executed in America, was tried and found guilty of bestiality in 1642 in Plymouth Colony, MA (Hale, 1997). Since that execution, 361 individuals have been executed for crimes committed when they were juveniles (Streib, 2000).

Public opinion in the United States has slowly been shifting away from support of capital punishment. In 2013, the death penalty was favored by 55 percent of adults in the United States, a decrease from 78 percent in 1998 -- most jurors opting for life without parole for convicted murderers. Opposition to the death penalty is premised on many controversial arguments, however, the focus of this article is grounded in the Eighth Amendment’s cruel and unusual punishment clause. While it is difficult to imagine any form of the death penalty that is totally free of physical pain and/or psychological stress and/or moral anguish. There exists one method of capital punishment that is neither cruel nor unusual and thus, free of the constraints imposed by the Eighth Amendment – it is known as nitrogen asphyxiation. Most methods of execution in current use involve toxic chemicals or physical trauma to induce death -- and every method can go awry. An ideal hanging snaps the condemned man’s neck cleanly; a botched hanging either strangles the condemned slowly or severs the head entirely from the body. A firing squad that misses its mark can create a botched execution.

Flame emanating from their cranial-cap electrodes. Some condemned inmates have literally been cooked until their flesh was charred and loosened from the bone; some had sparks and flame emanating from their cranial-cap electrodes.
Besides society’s concern for the condemned inmate’s physical suffering, all of these methods implicitly require an executioner to inflict some degree of trauma upon the condemned. Concern for the executioner’s conscience drives such customs as loading one of the guns for a firing squad with a blank cartridge, so that each member of the squad can imagine that his will be the non-lethal shot. And with lethal injection, the executioner’s use of skills and procedures normally devoted to life-saving poses ethical questions for medical caregivers. Today, a number of states are facing severe lethal injection drug shortages after pharmaceutical companies stopped providing drugs for the procedure. Texas, for example, is down to enough pentobarbital for just a handful of executions. Legislators in Alabama, Tennessee and Virginia have introduced legislation to bring back the electric chair because of problems obtaining drugs. The Court ruled in In re Kemmler (1890), that death by electrocution reflected humane legal intentions and hence did not offend the Eighth Amendment. Utah and Mississippi has resurrected the firing squad. In Wilkerson v. Utah (1878), the Court ruled that death by shooting was neither cruel nor unusual. Delaware, New Hampshire and Washington have retained the option of death by hanging. Looming over it all is a Supreme Court case involving Oklahoma’s three-drug protocol. The court’s decision could potentially force states to abandon lethal injection altogether.

Nitrogen Asphyxiation has never been used in the United States as a means of applying capital punishment, however, its protocols and processes are ideal for administering the death penalty – for the 31 states and federal government that insist on its application for the worst criminals in society. Perhaps the most intense arguments regarding the execution emerged in 1977 when a number of states enacted statutes that retired the electric chair, gas chambers and the gallows. In their place was death by lethal injection referred to by death row inmates as “the ultimate high.” In 1982 Charles Brooks was put to death in Texas, becoming the first to die by state sanctioned lethal injection. Although contested in several cases to the U.S. Supreme Court, the Court ruled in Baze et al. V. Rees (2008) that lethal injection as a method of execution was not a violation of the Eighth Amendment. Chief Justice Roberts held that, “…some risk of pain is inherent in even the most humane method of execution. …the constitution does not demand the avoidance of all risk of pain.” The process is simple, an intravenous dose of barbiturates (sodium thiopental) and pancuronium bromide which causes muscle paralysis and respiratory arrest and potassium chloride which stops the heart. Proponents of lethal injection argued it would be a more palatable way of killing – the prisoner would simply fall asleep and not wake up!

However, in recent years the issue with lethal injection has been a problem with securing sodium thiopental – the barbiturate used to induce unconsciousness in the inmate. Manufacturers of this drug have refused to provide it to the states using it for capital punishment. Some states have totally ceased the use of sodium thiopental all together – while others look for an alternative method such as the use of Propanol (Diprivan) the drug that caused the death of Michael Jackson -- for humane executions. Other states turned to midazolam to replace the conventional sedatives such as pentobarbital. However, following three apparent painful executions in 2014 in Oklahoma the use of midazolam came into question. However, a ruling in Glossip v. Gross (2015) and despite the fact that FDA had not approved the drug for rendering inmates unconscious, the use of midazolam continued. The answer is Nitrogen Asphyxiation. It is a theoretical method of capital punishment advocated to circumvent the cruel and unusual clause of the Eighth Amendment to the U.S. Constitution. It has been commonly referred to as “…killing with kindness,” as published in the National Review by Stuart A. Creque (1995). It is the painless application of death caused by breathing in pure nitrogen, exhaling carbon dioxide without replenishing oxygen to red blood cells to sustain the brain. Nitrogen Asphyxiation causes unconsciousness within three minutes and within five minutes results in death due to oxygen deprivation to the cerebral cortex and medulla oblongata – which controls breathing and heart functions. Death by nitrogen asphyxiation causes approximately 12 accidental deaths per year in the United States. It is an industrial gas and fairly cheap. In 1981 before the launch of the first space shuttle, two NASA technicians lost consciousness and died within minutes of entering the orbiter compartment which had been pressurized with pure nitrogen as a precaution against corrosion. Early in the Space Shuttle program, a worker at Kennedy Space Center walked into an external fuel tank to inspect it. He was not aware that it had been purged with pure nitrogen gas to prevent oxygen in the air from corroding its interior. Since nitrogen is the major component of ordinary air, pure nitrogen has no distinctive odor or taste; the worker had no indication that anything was out of the ordinary. After walking a short distance into the tank, he lost consciousness and collapsed. A co-worker, not realizing that his collapse had an external cause, ran in to aid him and succumbed also. By the time other workers realized what was happening, the two men were dead!

When humans breathe in pure nitrogen they exhale carbon dioxide without replenishing oxygen to the brain. Nitrogen is colorless, odorless and tasteless. As such, the subject would detect no abnormal sensation. This leads to asphyxiation without painful and traumatic feeling of suffocation. Unconsciousness occurs within three minutes, caused by critical hypoxia – a deficiency in the amount of oxygen reaching the brain. Death is complete within five minutes. The subject feels no discomfort whatsoever – the inmate simply loses conscience when the blood oxygen falls to low. Nitrogen is cheap and universally available and requires no special environmental precautions for its use, storage or disposal. Nitrogen poses no danger to the execution team when applied properly. In addition, the executed prisoner’s organs are suitable for donation should the inmate be a donor.

Nitrogen asphyxiation removes the claim by opponents that this form of the death penalty would constitute cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution. Nitrogen asphyxiation is a perfect method of execution. The inmate is taken into the death chamber, strapped tightly to a table and as in surgical operations, a mask is placed firmly over the nose and mouth of the inmate, s/he breathes deeply, goes to sleep – but, doesn’t wake up! It involves no physical pain or psychological trauma — caused by hanging, shooting, electrocution, nor the use of cyanide gas or potassium chloride. And, no medical technicians or professionals are necessary. Therefore, death penalty opponents may choose to focus on the moral dimensions of capital punishment itself. Can the state or federal government justify the taking of life in an equitable and non-discriminating manner? This is an argument best left to sociologist and legislators.

It is interesting to note that technology changes the death penalty. The means of administering the death penalty have changed over time, partly because of technological advances. Public hangings did not required technological sophistication, although the hangman had to tie the knot skillfully enough to ensure a swift death rather than slow
strangulation. The use of the electric chair, however, required new technology—both the generation of electricity and the creation of the execution device itself. The first execution by electrocution occurred in 1890. In 1924 cyanide gas began to be used and the first gas chamber was constructed. More recently, the new death technology of lethal injection gained popularity, largely as a cost-saving measure. First adopted in 1977 in Oklahoma as an option for the implementation of death, lethal injection was not actually used until 1982 in Texas. (Bsdau, 1982)

Historically, the arguments for or against capital punishment have revolved around the issues of economics, retribution, public opinion, community protection, deterrence, irreversibility, discrimination, protection of the criminal justice system, brutalization and cruel and unusual punishment. Let us briefly explore the death penalty debate through a realistic lens (Inciardi, 2010).

The Economic Argument.

The economic argument for capital punishment holds that execution is far less expensive than maintaining a prisoner behind bars for the rest of his or her life. However, death sentences are invariably appealed and appeals can be costly. In fact, every available quantitative study of the argument demonstrates that because of all the additional appeals and other procedural safeguards that are constitutionally required in capital cases, the death penalty costs taxpayers substantially more than life imprisonment.

The Retribution Argument.

The retribution argument asserts that kidnappers, murderers, and rapists are vile and despicable humans and deserve to die. This is simply a matter of individual opinion and differences in philosophy appear even within the Supreme Court. In Furman, Justice Thurgood Marshall spoke against this position. At the same time, however, the Court stated that while retribution was no longer a dominant objective, “neither is it a forbidden objective nor one inconsistent with our respect for the dignity of man.”

The Public Opinion Argument.

Public opinion has been a motivating factor in the enactment of death penalty statutes. When the California Supreme Court declared the state’s death penalty law unconstitutional in February 1972, letters and telegrams opposing the decision poured into the legislature and governor’s office. In a referendum held later that year, five months after Furman, California voters overwhelmingly approved an amendment to the state constitution that made capital punishment mandatory for selected crimes. In the years since, throughout the United States, every poll on the matter has found that the vast majority of Americans favor the death penalty for murder.

The Community Protection Argument.

The community protection argument made by supporters of the death penalty maintains that such a “final remedy” is necessary to keep the murder from further ravaging society. Counter to this position is the claim that life imprisonment could achieve the same goal. Yet, as has been pointed out by a number of studies, paroled murderers have lower rates of recidivism than other classes of offenders. For example, in a study of 558 inmates sentenced to death, 4 were later found to be innocent; of 259 who were eventually released from prison, just 20 percent committed new crimes and only one of those crimes was homicide. The conclusion of the study was that these inmates did not pose a “disproportionate danger” to society. In Texas, where future dangerousness is used as a deterring factor in death sentencing of a defendant, a recent study of 155 cases concluded that the experts who predicted the defendant’s future dangerousness were wrong 95 percent of the time.

The Deterrence Argument.

Related to community protection is the deterrence argument which holds that capital punishment not only prevents the offender from committing additional crimes but deters others as well. However, research demonstrates that punishment is an effective deterrent for those who are not predisposed to commit crimes but a questionable deterrent for those who are criminally inclined. A number of studies have been done specifically on the deterrent effects of capital punishment. One research strategy for such studies has been to compare the homicide rates in states that have death penalty provisions with homicide rates in states that do not. Another has been to examine murder rates in given areas before and after an execution. And still a third approach has been to analyze crime rates in general as well as murder rates in particular in jurisdictions before and after the abolition of capital punishment. Regardless of the nature and logic of the inquiry applied, the studies have consistently produced no evidence that the death penalty deters homicide.

The Irreversibility Argument.

The irreversibility argument put forth by those who oppose the death penalty contends that there is always the possibility that an innocent person might be put to death. Those who support the death penalty maintain that although such a risk might exist, there are no documented cases of such an occurrence in recent years. But in reality there are many such cases. Since 1973, 119 people in 25 states have been released from death row with evidence of their innocence. Some released because of procedural errors, but for others, it was DNA evidence that demonstrated their innocence. The most common causes of error were egregiously incompetent defense attorneys who missed demonstrable important evidence and police and prosecutors who did discover that kind of evidence but suppressed it. One could readily argue that since many convictions are ultimately reversed and the defendant’s life spared, the moral issue is easily dodged. In reality, innocent people have been executed over the years and no one can know for certain just how many.

The Discrimination Argument.

The discrimination argument against capital punishment contends that the death penalty is lottery system with odds stacked heavily against those who are less capable of defending themselves. Analysis of the social characteristics of death row inmates suggest that the death penalty continues to be employed in a selective and discriminatory manner. Studies indicated that a disproportionate number of individuals sentenced to death are members of minority groups and nearly all inmates on death row across the United States are indigents—too poor to afford private and competent counsel. Most had to rely on a state appointed attorney. However, the federal courts have rejected this claim even when arguments have been grounded in precise statistical studies. In McCleskey v. Zant, a 1984 Georgia case, the U.S. District held that statistical data are incapable of producing evidence on whether racial factors play a part in the imposition of the death penalty in any particular case.

The Protection of the Criminal Justice System Argument.

The protection of the criminal justice system argument against capital punishment holds that the very nature of death penalty statutes hinders equity in the administration of justice. As noted by the President’s Crime Commission: Whatever views one may have about the efficacy of the death penalty as a deterrent, it clearly has an undesirable impact on the administration of justice. The trial of a capital case is a stirring drama but that is perhaps its most dangerous attribute. Selecting a jury often requires several days; each objection or point of law requires excessive deliberation
because of irreversible consequences of error. The jury’s concern with the death penalty may result in unwarranted acquittals and there is increased danger that public sympathy will be aroused for the defendant regardless of his guilt of the crime charged.

The Brutalization Argument.
The brutalization argument holds that executions actually cause homicides rather than deter them. Numerous studies demonstrate that executions cause a slight but discernable increase in the murder rate. The brutalization effect typically occurs within the first two months after an execution and dissipates thereafter. The explanation is that the effect is most likely to occur among those who have reached a state of readiness to kill—a small subgroup of the population composed of individuals on the fringe of sanity for whom the suggestive or imitative message of the execution is that it is proper to kill those who have betrayed, disgraced or dishonored them.

The Cruel and Unusual Punishment Argument.
The cruel and unusual punishment argument maintains that the death penalty is a violation of the constitutional right guaranteed by the Eighth Amendment. Supporters and opponents of capital punishment differ, however, in their interpretations of the cruel and unusual punishment clause. The former hold that capital punishment is cruel and unusual—in all circumstances. The latter insist that a sentence of death is forbidden by the Eighth Amendment only when it is a disproportionate punishment for the crime committed. These conflicting views were the bases for the Supreme Court’s ruling in both Furman and Gregg. And, serves as the premise for this article….!!!

As of June 2015, the Innocence Project—created by Barry Scheck in 1992—has exonerated 330 people. Twenty of those individuals were at some point on death row. Many who were exonerated of the crimes for which they were convicted had relied on public defenders because they were poor. Public defenders are often overworked and given less than adequate resources. The Innocence Project contends that to reduce the number of wrongful convictions, national standards must be established for the indigent defense system, which currently varies greatly from state to state. Opponents of capital punishment contend that this is the most important reason for abolishing the death penalty—innocent people die! However, many people who support capital punishment argue that it serves a need for retribution—Lee Talionis—a for an eye in the interest of public morality. Others favor the death penalty as a way to retaliate against the evil of murder. Although both of these positions have strong support among death penalty advocates, their arguments are philosophically based. Their ability is difficult to evaluate because it is hard to measure the retaliatory and retributive effects of the death penalty. On the other hand, one thing is for certain—executing an offender ensures s/he will not commit crimes in the future. Opponents of this ultimate sanction argue that the death penalty per se violates human rights through its inhumane and degrading treatment of an offender. The moral issue of the right to life or the right to take life, will no doubt be in debate for many years to come. However, its application to circumvent the “cruel and unusual” punishment clause of the Eighth Amendment can no longer be held as a topic of contention—nitrogen asphyxiation is neither cruel nor unusual as a means of ending life in capital punishment cases.

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The Gratuitous Public School: Attempting to Secure a Representative Jury
By Jacqueline Chavez, Troy University

Abstract
The right to a trial by jury is one of the fundamental rights guaranteed by the United States Constitution. Three important areas of jury research revolve around the venire, voir dire and peremptory challenges. Therefore, the purpose of this study was to obtain a description of the number of venire sources used, number of peremptory challenges given to attorneys and which actors are allowed to participate in the voir dire. This research was based on data from 174 telephone and email surveys of district attorneys that was conducted in the summer of 2014.

Introduction
The right to a trial by jury is one of the fundamental rights guaranteed by the United States Constitution. It has been an essential part of our democracy since the Bill of Rights became law on December 15, 1791 (Roberts & Hugh, 2008). The Constitution guarantees the right to a jury trial in order to limit government oppression (Mottley, Abrami and Brown, 2002). Specifically, the Founding Fathers envisioned the jury as an institution that fulfilled three related roles: “operating as a check against judicial and governmental overreaching, allowing for meaningful citizen participation in the democratic process and acting as an essential figure in the administration of justice” (McClanahan, 2012, p. 735).

Juries provide citizens the opportunity to directly participate in the system (McClanahan, 2012) by fulfilling the role of fact finder (Sudman, 1999). This participation is recognized as a critical part of a democratic government as it is thought to enhance the legitimacy of the legal system (Appleman, 2010). Juror participation is also thought to provide an educational benefit whereby citizens are aware of their rights and responsibilities (McClanahan, 2012). Alexis de Tocqueville referred to the jury as “a gratuitous public school” that “invests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge towards society; and the part which they take in the Government” (McClanahan, 2012, p. 736).

Venire
The first step in the juror selection process consists of compiling a master jury list (i.e., venire) from which potential jurors will be chosen. Once the venire or jury pool is determined, the clerk of courts or a jury commissioner determines the exact number of jurors needed for the particular case and then randomly selects individuals from the master jury list. These individuals are then summoned to the courthouse for the voir dire.

Historically, there has been no uniform way of compiling a venire, which usually consists of thirty to sixty people. The venire was originally run via a “key-man system” whereby prominent individuals recommended certain people in the community to take part. Another common method was to call on people who happened to be near the courthouse at the time of question. Early on, jurors were individuals in the community that had some firsthand knowledge of the events in question. Kurland (1993) noted that in these cases the jurors were as much fact gatherers as they were fact finders. This was reflected through the self-informing aspect of juries that was previously discussed.

In 1961, the U.S. Department of Justice reported that federal district courts used more than 92 different methods, none of which produced an adequately represented jury from the population (Kassin, 1988). Seven years later, Congress passed the Jury Selection and Service Act. This stipulated that the jury pool must consist of at least all eligible voters and that jurors be selected on a random basis. Specifically, this act stated that jurors should be “selected at random from a fair cross section of the community and that no citizen should be excluded on account of race, color, religion, sex, national origin or economic status” (Kassin, 1988, p. 23). The justification for this act was the belief that a diversified panel of jurors is the best safeguard against prejudicial case outcomes (Cox, 2006).

U.S. courts have historically relied on voter registration rolls to compile the venire. The second most common method was to compile driver registration records. Unfortunately, these lists rarely met the goals of including every eligible citizen and representing all segments of the community (Mottley, Abrami & Brown, 2002). Although not in widespread use, other sources such as public benefit records, property tax records and annual local census data have been used.

Munsterman (1996) proposed that courts consider the following factors when deciding on what sources to use:
1. Availability. Available lists (e.g., Social Security lists, federal censuses and federal income tax lists)

2. Efficiency. Combining lists can be costly, especially if the lists are updated at different times, in which case the combined lists should be recompiled each time one of the lists is revised. It is also very inefficient to generate a large, nonduplicative master list when only a very small number of names are required (e.g., 10,000 selected out of 1,000,000).

3. Bias. Some lists are heavily biased. For example, property tax and utility lists are biased toward property holders.

4. Duplications. Because of the difficulties associated with eliminating duplicate names, individuals on multiple lists have a greater probability of being selected than those named on only one list. Courts confronted with this problem accept some level of duplication rather than risk excluding a qualified citizen. The best method for removing duplicates is to use a unique identifier in each list, such as a Social Security number.

The jury yield refers to the number of individuals summoned who are deemed qualified and available for jury service. The jury yield is expressed as a percentage of the total number of summonses mailed (Mize, Hannaford-Agor, & Waters, 2007). The National Center for State Courts reports that out of the estimated 32 million people summoned, approximately three million are excused for financial or medical reasons, while three million fail to appear to court (Denver, 2011). State courts mail an estimated 31.8 million jury summonses annually, which equates to approximately 15% of the adult population receiving a summons (Mize, Hannaford-Agor, & Waters, 2007). However, less than one percent of the adult population, approximately 1.5 million individuals, are actually impaneled for jury service annually (Mize, Hannaford-Agor, & Waters, 2007).

Many citizens ignore summonses or fail to appear in court. Denver (2011) posits that approximately ten percent of those summoned for jury duty do not respond, although some studies have cited higher rates. Some potential jurors may be disqualified due to citizenship status, state residency, a past felony conviction or the inability to understand and speak English (Mize, Hannaford-Agor, & Waters, 2007). In addition, many people may not want to serve on juries because they find it time-consuming and costly. Complaints about the inconvenience of jury service are common, but research has found that jury participation seems to increase public support for the courts and the legal system by allowing community involvement. This involvement ensures community values enter into the criminal justice process as individuals decide on punishment while simultaneously giving participants a deeper understanding of the criminal justice system (Appleman, 2010).

Although states used to exempt whole classes of citizens from jury service based on their professional or civic obligation to their community, this practice has been reduced or eliminated in more recent times (Mize, Hannaford-Agor, & Waters, 2007). The National Center for State Courts (NCSC) identified ten categories of exemptions. The most common exemption, found in 47 states, was the exemption of “previous jury service.” This exemption was typically used to exempt individuals who had served on a jury within the last 12-24 months. Another leading category was age, which was typically used to exempt elderly individuals. Other categories were based on various occupational roles such as political officeholder, law enforcement, judicial officers, healthcare professionals, sole caregivers, licensed attorneys and active military personnel (Mize, Hannaford-Agor, & Waters, 2007). Florida listed the most exemptions (nine out of ten), while Louisiana listed none (Mize, Hannaford-Agor, & Waters, 2007).

Follow-up notices may be sent to individuals who do not respond to their summonses. In some cases, sheriffs may be sent to locate the individuals to bring them to court (Denver, 2011). Courts have the discretion to allow jurors to postpone or defer their jury duty on the basis of personal or financial reasons (Denver, 2011). Judges will generally impanel one or more alternate jurors in case jurors unexpectedly are unable to fulfill their role throughout the trial (Denver, 2011).

**Voir Dire**

After the venire is compiled, the second step is the voir dire, which is the process by which potential jurors are questioned. Left to the discretion of the judge, the potential jurors may be questioned by the judge only, attorneys only or a combination of the judge and attorneys. The voir dire, which is French for “to speak the truth,” is the pretrial interview whereby the judge or attorneys seek to eliminate jurors suspected of bias. Its main purpose is to elicit information from potential jurors that would be viewed as grounds for removal. These interviews are an important part of securing a representative jury.

The methods used to question jurors during the voir dire may vary. For example, questions may be posed to the full jury panel and answered by show of hands or posed on an individual basis. In other cases, jurors may be provided with written questionnaires. The questions posed usually focus on the potential juror’s background, life experiences and attitudes toward certain facts of the case that may arise during trial. Some questions may include information such as whether the potential juror has ever been the victim of a similar crime or has a relationship with the defendant or victim. Attitudes toward the death penalty are also relevant if the outcome includes a possible death sentence (Rose, 2008). When judge and attorney-directed questioning are compared, research has found that jurors are less intimidated by attorneys and therefore more likely to provide truthful answers. Judges, however, have maintained that attorneys are more likely to waste time and invade juror privacy (Mize, Hannaford-Agor, & Waters, 2007).

Critics argue that attorneys more often than not strive for a sympathetic jury rather than an impartial jury. The questioning of potential jurors may work in such a way to actually create bias rather than detect and remove it (Kassin, 1988). For example, individuals who appear perceptive, well educated or independent-minded may be more likely to be struck (Lilly, 2011). Furthermore, attorneys may look for attitudes or values that may work in their clients’ favor. Many critics argue that the voir dire process provides only a limited amount of information to attorneys and therefore may lead attorneys to rely on negative stereotypes or gut feelings.

The purpose of juror selection is to develop a case strategy and a profile of individual jurors who may prove favorable or unfavorable to the prosecution or to the defense team (Selzer, 2007). The process is important because many attorneys believe it determines whether or not trials are won. To assist in selecting jurors favorable to their case, attorneys often hire jury consultants for the voir dire process. Jury consultants are responsible for determining whether individuals are predisposed to acquit or to convict (Sudman, 1999). This process of scientific jury selection does not attempt to predict a verdict, but rather to provide a profile of potential jurors. Although the use of jury consultants has grown tremendously over the years, verdicts cannot always be adequately predicted just by knowing the makeup of the jury (Selzer, 2007). As a result,
most research finds that the effects of scientific jury selection are modest at best (Cox, 2006).

All fifty states and the District of Columbia provide compensation for jurors (Mize, Hannaford-Agor, & Waters, 2007) once they are selected. The rationale behind juror compensation is that it helps with out-of-pocket expenses and serves to recognize the juror’s service. Although federal and state jurors are compensated for their time, the compensation is low. The pay generally ranges from five to forty dollars per day, with a possible additional allowance for mileage (Lilly, 2011). Mileage rates vary from .02 cents to .49 cents per mile and are permitted in over half of the states (Mize, Hannaford-Agor, & Waters, 2007). Eight states and the District of Columbia require that employers compensate their employees for a limited period of time while serving. For example, A Lengthy Trial Fund was implemented in Arizona that allows jurors to be compensated up to $300 a day for lost income (Mize, Hannaford-Agor, & Waters, 2007).

The juror selection process has undergone a variety of changes and has been thoroughly analyzed to ensure an impartial jury. However, there are two ways (challenges for cause and peremptory challenges) to excuse specific individuals from jury service.

**Challenges for Cause and Peremptory Challenges**

Individuals may be excused from jury service in one of two ways: challenges for cause and peremptory challenges. It has been argued that these two types of challenges enable the prosecution, the defense and the jurors to have faith in the system (Cox, 2006). Challenges for cause are used when jurors have demonstrated some type of conflict with the case. Common challenges for cause include financial hardships, the juror having a financial or special interest in the outcome or a stated unwillingness to be impartial (Rose, 2005). In exercising a challenge for cause, the attorney must demonstrate a specific reason the potential juror may be biased or impartial during trial. In other words, the attorney must give a specific reason for why the potential juror would be unable to evaluate the facts of the case fairly and impartially. The judge is responsible for determining whether the reason for the challenge warrants dismissal from the jury selection process. Challenges for cause are a constitutionally protected requirement for jury selection; they are an essential element of an unbiased jury and are unlimited in number (Cox, 2006; Childs, 1999). Peremptory challenges, on the other hand, allow attorneys to excuse a limited number of jurors without having to provide a reason for their dismissal. The original justification for peremptory challenges was that individuals on trial should not be subjected to the judgment of an individual who was biased or prejudiced against them, even if a specific reason could not be given as to why they believed the person was biased (Cox, 2006). In the U.S., peremptory challenges were first recognized by Congress in 1790. By 1870, most states allowed peremptory challenges because attorneys considered them necessary in the jury selection process.

The number of peremptory challenges allotted to the prosecution and to the defense varies from state to state. In non-capital felony trials, the number of peremptory challenges ranges from a low of three per side in Hawaii and New Hampshire to a high of twenty per side in New Jersey (Mize, Hannaford-Agor, & Waters, 2007). In California, attorneys are allotted twenty challenges for capital felony cases and ten challenges for all other cases. Massachusetts, on the other hand, allows twelve challenges for felony cases and four challenges for all others. Peremptory challenges are usually based on intuition or on first impressions believed to be relevant to the legal proceedings (e.g., occupation, religious affiliation). Attorneys often rely on instincts, past experiences and even stereotypes to assist in their use of peremptory challenges (Kassin, 1988). Peremptory challenges are often used to eliminate potential jurors based on their demographic characteristics or other sociopsychological factors attorneys deem appropriate. These factors may include marital status, occupation, physical attractiveness or the fact that potential jurors may seem distracted, angry, frustrated, hostile or unhappy (Enriquez, 2007).

The use of peremptory challenges is not without criticism, however. Proponents argue that peremptory challenges are essential to the impartiality of the trial process because they allow for the removal of biased or hostile jurors. Furthermore, peremptory challenges may be useful in eliminating potential jurors who are worrisome to the prosecution or to the defense and who were not targeted or eligible for challenges for cause (Childs, 1999). It is important, however, that peremptory challenges not be used in a manner that violates the Equal Protection Clause of the Fourteenth Amendment (Sudman, 1997). Although parties may generally use their peremptory challenges as they see fit, the U.S. Constitution has prohibited their use to eliminate all jurors of a particular race or gender from a particular jury. Peremptory challenges are not considered a constitutional right, but they are present in all state statutes (Childs, 1999). In other words, all states have recognized their importance in the jury selection process.

In contrast, critics argue that peremptory challenges may be racially motivated and thus compromise the representativeness of the jury in cases where attorneys strictly use them to exclude certain segments of the population. As such, it is argued that if criminal defendants are denied equal protection from juries when individuals of their own race are excluded from the process. Another problem is the discrimination against individual jurors that are excluded because of their race. Therefore, the use of peremptory challenges can potentially negatively affect two distinct groups in the criminal justice system (Stoltz, 2007). As Justice Marshall noted, “The inherent potential of peremptory challenges to distort the jury process by permitting the exclusion of jurors on racial grounds should ideally lead the court to ban them entirely from the system” (Enriquez, 2007).

One of the first landmark cases surrounding the jury selection process and race occurred with Strauder v. West Virginia, 100 U.S. 202 (1965). The case challenged a West Virginia statute that allowed only “White male persons at least twenty-one years of age to serve as jurors” (Collins, 1997). The United States Supreme Court held that the statute infringed upon African Americans’ rights by precluding African Americans from the jury venire. The Supreme Court overturned the murder conviction of an African American man who had been tried by an all-White jury.

Swain v. Alabama, 380 U.S. 2002 (1965) was a landmark case concerning the use of peremptory challenges in the jury selection process. Swain, an African American who was convicted of rape, claimed that his equal protection rights had been violated because the prosecutor struck all of the African Americans off his jury. The Equal Protection Clause of the 14th Amendment provides that “no state shall deny to any person within its jurisdiction the equal protection of the laws” (Devermen, 1995). This clause essentially guarantees equal protection by the government for all individuals. The U.S. Supreme Court ruled that Swain’s Equal Protection Rights had not been violated. Furthermore, the Court ruled that defendants who claim their protection rights have been violated must prove the attorney’s discriminatory pattern over time (Enriquez, 2007).
Years later, in Batson v. Kentucky, 476 U.S. 79 (1986), Batson, an African American convicted of burglary by an all-White jury also claimed that his 14th Amendment rights had been violated. This time, however, the U. S. Supreme Court overruled its earlier decision in Swain and concluded that the use of discriminatory peremptory challenges is detrimental to the defendant and the community as a whole. The rationale behind the U. S. Supreme Court’s decision in Batson was that it protected the rights of the defendant, the rights of the potential juror and the overall integrity of the criminal justice system (Enriquez, 2007). In 1991, the Baston ruling was extended to include civil cases as well as criminal cases (Denton, 1997). InPowers v. Ohio, 449 U.S. 400 (1991), the court ruled that a defendant does not have to be of the same race as the struck jurors to object to the use of peremptory challenges. The Supreme Court contended that this was a further extension of the rights afforded to the defendant.

In addition to race, the courts have also dealt with the issue of gender. Although the first woman to serve jury duty occurred in the Wyoming Territory in 1870, the norm was that women were most often excluded from jury service. The U. S. Supreme Court has intervened in the jury selection process to ensure the fair representation of the jury. In Taylor v. Louisiana, 419 U.S. 522, 530 (1975), the U.S. Supreme Court ruled that excluding women from jury duty was unconstitutional. It also concluded that the systematic exclusion of women from jury panels violated a defendant’s (male or female) fundamental right to a jury drawn from a representative cross-section of the community. Essentially, the court found that the “systematic and intentional exclusion of women, like the exclusion of a racial group or an economic or social class, deprives the jury system of the broad base it was designed by Congress to have in our democratic society” (Deverman, 1995, p.1036); this exclusion harmful to the individual on trial, as well as to the community as a whole. In J.E.B. v. Alabama, 511 U.S. 127 (1994) ruled that it was unconstitutional to use peremptory challenges to exclude perspective jurors on the basis of gender (Alschuler & Deiss, 1994).

Even though the courts have addressed these issues, there is a three-step process for determining if peremptory challenges are used in a discriminatory manner. First, the defendant must establish a prima facie case. A prima facie case is a case established by evidence that is sufficient enough to establish the fact in question unless otherwise rebutted. Once established, the attorney must provide a race neutral explanation for why they struck a particular juror. The prosecutor’s explanation must meet each element of a three-part test. The explanation must be a clear and reasonably specific explanation of a legitimate cause for concern. The explanation must also be related to the case and be race-neutral (Denton, 1997).

The last step includes the trial court’s ruling on whether or not the peremptory challenge was deemed discriminatory. However, many contend that it is difficult to recognize discrimination and it can easily be masked or covered up by attorneys (Denton, 1997). Essentially, the Supreme Court did not adequately clarify what constitutes a sufficient race-neutral explanation or address the issue of whether evidence must be provided to support their race-neutral explanations.

In conclusion, the jury selection process strives to select a representative jury from the community that it is drawn from. Representativeness is thought to be the best way to protect the defendant from exposure to any prejudices or biases jurors may have. The courts have addressed various issues that have arisen during the jury selection process that may inhibit representativeness of the jury.

### Results

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assistance lists. The vast majority of jurisdictions indicated that the defense and prosecution were each given between one and ten peremptory challenges to use at their discretion during the voir dire process. Over half of the jurisdictions indicated that attorneys and judges both participated in the voir dire process. Unfortunately, the jurisdictions in this study did not use a variety of sources to compile the venire. There are a variety of sources jurisdictions should compile in order to ensure a variety of eligible citizens to represent the community. This recommendation is vital given diversity is thought to be the best safeguard against prejudice and discrimination.

References


National Center for State Courts.


About the Author:

Dr. Jackie Chavez joined the faculty at Troy University in 2013. She received a Bachelor of Science degree in Psychology and a Master of Science in Criminal Justice from The University of Alabama, Tuscaloosa, Alabama and her Ph.D. from the Department of Sociology at Mississippi State University, Starkville, Mississippi. Dr. Chavez’s research and teaching interests include crime and deviance, jury studies, sentencing, punishment, crime and the media and fear of crime.
Announces the

81st National Conference

Conference Theme:

Modern Technology, Police Training & Equipment (AM)
AND
Police Accountability & Community Involvement (PM)

Dates and Place:

March 18 – 23, 2018
Embassy Suites by Hilton
Cleveland Rockside
5800 Rockside Woods Blvd.
Cleveland, OH
(216) 986-9900

Hosted by Region VI
Tentative 2018 Conference Schedule of Events

Sunday, March 18:
8:00am – 10:00am Committee Meetings (if needed)
9:00am – 5:00pm Registration (sign-up for crime scene & firearms)
10:00am – 5:00pm Executive Board Meeting
6:00pm – 7:00pm Advisor’s “Get-Together”
8:00pm – 1:00am Ice Breaker

Monday, March 19:
9:00am – 3:00pm Late Registration (sign-up for crime scene & firearms)
8:00am – 5:00pm Academic/Written Competitions
8:00am – 5:00pm Crime Scene Competition
9:00am – 3:00pm Job Fair
6:00pm – 7:00pm Social Hour
7:00pm – 1:00am Opening Banquet and Dance

Tuesday, March 20:
7:00am – 8:00am Firearms/Physical Agility Safety Meeting (mandatory)
8:00am – 5:00pm Firearms Competition
8:00am – 5:00pm Physical Agility Competition
7:00pm – 9:00pm Regional Caucuses

Wednesday, March 21:
7:30am – 9:00am Chapter Officers’ Breakfast & Meeting
7:30am – 9:00am Chapter Advisors’ Breakfast & Meeting
9:00am – 4:30pm Workshop(s) (Please check web site for Speakers)
6:00pm – 8:00pm Star Member Recognition Reception
8:30pm – 1:00am 27th Annual Lip Sync / Talent Contest

Thursday, March 22:
Training / certification sessions for professionals and non-professionals

Friday, March 23:
8:00am – 9:00am Voter & Proxy Registration
9:00am – 5:00pm National Business Meeting
6:00pm – 7:00pm Social Hour
7:00pm – 1:00am Awards Banquet & Dance

Standard National Competitions information, including course of fire for the pistol match and the textbooks to be used for the written competitions, is available from the National Office or on our web site at www.acjalae.org. All written tests will be 75 multiple-choice questions.

Transportation from the Airport:
The Hotel is less than 12 miles from Hopkins International Airport. The Hotel offers a complimentary shuttle to/from the airport and within five miles of the Hotel.

Conference Room Rate:
* Single through Quad will be $120.00 per night (price includes current tax).

Note: Reservations must be made by Thursday, February 15, 2018 to avoid higher rates. Please make your Hotel reservations through a private “booking link” on our web site. The Hotel will honor the Conference rate three days before and three days after the conference. The Hotel offers FREE parking and FREE made-to-order breakfast.

Conference Registration Fee:
* Pre-registration fee for members will be $180 until February 23, 2018.
* Pre-registration fee for guests will be $150 until February 23, 2018.
  * Member registration fee will be $230 after February 23rd and on-site.
  * Guest registration fee will be $200 after February 23rd and on-site.

Conference Registration Information and the Registration Form is ONLY ON-LINE on our web site at www.acjalae.org

Firearms / Physical Agility Competitions:
The Firearms Competitions will be held at Stonewall Limited Gun Shop, an indoor range which is 10 minutes from the Hotel. Shooters will not be charged a range fee and can bring their own ammunition or buy ammunition at the range. (Please check the website for National Firearms Policy.) The Physical Agility Competition will be held next to the Firearms Range. All participants for the Firearms and Physical Agility Competitions MUST attend the Safety Meeting on Tuesday morning to sign waivers. Members will not be allowed to compete if they do not attend the Safety Meeting.

Contact:
If you have any questions concerning the upcoming 2018 National Conference, please contact Christina Fouse, 2018 Conference Director, at cfouse0002@gmail.com or Joe Davenport, Conference Coordinator at joeyd002@att.net. For more information on things to see and do in the Cleveland area and close proximity, please check the National web page at www.acjalae.org.

Start Planning Now to Attend
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11/08/17