

Reducing Excessive Use of Force: Prevention and Standardizing Reform Efforts for Law  
Enforcement and Officers

Approved by Susan Hilal

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Reducing Excessive Use of Force: Prevention and Standardizing Reform Efforts for Law  
Enforcement and Officers

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Daniel T. Guentz

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## Abstract

### Reducing Excessive Use of Force: Prevention and Standardizing Reform Efforts for Law Enforcement

Daniel T. Guentz

Under the Supervision of Dr. Susan Hilal

#### **Statement of Problem**

Police officers are faced daily with situations which may require use of force to enforce the law and ensure public and officer safety. The decision to use force is difficult and often needs to be made in a matter of seconds. The majority of law enforcement officers perform their duties in compliance with the law. Thousands of reports of excessive use of force are filed every year. Additionally, some are not reported. According to Terrill and Mc Cluskey (2002), the majority of complaints filed against officers are those of excessive force.

A highly publicized law enforcement action of police unjustly using excessive force was the beating of Rodney King in 1992, which resulted in civil unrest, not only in Los Angeles, but in cities throughout the U.S. The Bureau of Justice Statistics (BJS) Special Report (June 2006), states that large agencies with 100 or more sworn officers had 33 registered complaints per agency, while larger municipal agencies had 45 registered complaints per 100 officers. About 8 percent of the allegations were sustained justifying disciplinary action against the officers. A 2003 study conducted by the Community Relations Services of the U. S. Department of Justice, Principles of Good Policing: Avoiding Violence Between Police and Citizens, along with the

BJS (2003) Data Collection report stresses that police executives need to improve training of recruits and police officers by teaching skills and techniques to minimize use of force.

### **Method of Approach**

The main method of approach includes a thorough review and analysis of secondary data consisting of information gathered from criminal justice text books, scholarly journals, information from governmental sites, and professional law enforcement publications. The reviewed literature included several examples of problematic use of force matters. In addition, studies incorporated use of force policies and procedures, hiring policies, and educational requirements from several sources. Past law enforcement studies have been reviewed to reference how law enforcement agencies are addressing use of force incidents, especially citizen complaints. The theoretical framework consisted of social control and social learning theories. Following an analysis, the collected research information was combined to determine the effectiveness of current polices and the need for future research.

### **Results of the Study**

Although excessive force incidents are rare and law enforcement has made great strides in an effort to minimize excessive force, there is a need to be proactive by reviewing current policies and procedures periodically to accommodate the needs of society. Law enforcement's ability to establish ethical and lawful policies and procedures, educational requirements, and work toward standardization and professionalism will greatly reduce liability and minimize abusive conduct. Officers who are prepared when faced with a precarious situation will be a credit to their department and community.

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## **SECTION I. INTRODUCTION-DISCUSSION OF THE PROBLEM**

### **Statement of the Problem**

Within the U. S. training and education regarding use of force strategies varies without standardization (Cavanagh, 2004). Everyday United States (U.S.) law enforcement officers are entrusted with discretionary authority and need to make decisions on whether to employ force while policing. The decision process, including the why, when, where, and how to legally implement use of force is complex and present at every level of policing. Agencies that fail or are negligent in establishing training and developing policy and procedures in the area of use of force have failed their individual officers, departments, others in the law enforcement community and society. The public demands and laws clearly state that excessive use of force will not be tolerated within the criminal justice system, especially within law enforcement. Although the majority of law enforcement officers in the U. S. perform police duties in the utmost respectful and law-abiding way, the question is why a small minority do not (Schmallegger, 2007).

There is no single, accepted definition of excessive use of force. According to the Bureau of Justice Statistics (BJS, 2003), the legal test of excessive force is whether the police officer reasonably believed that such force was necessary to legitimately perform his/her duties. The U.S. Commission on Civil Rights (Civil Rights Act of 1991) notes that officers are legally entitled to use appropriate means, including force, to diffuse situations, apprehend criminals, and protect themselves and others (as cited in Gaines & Kappeler).

Nearly every police force in the United States has experienced some form of excessive force complaint. According to the Bureau of Justice Statistics Special Report (June 2006), there were approximately 26,000 complaints regarding use of excessive force against law enforcement

officers within large departments with 100 or more sworn officers during 2002, averaging 33 complaints per agency, 6.6 complaints per 100 full-time sworn officers. Rates were higher in larger municipal police departments, 45 complaints per agency, and 9.5 complaints per 100 full-time sworn officers. Eight percent of the complaints justified disciplinary action against the officers. According to Meese and Ortmeier (2004), in place policies and procedures of individual agencies have an effect on complaint volume rates and the disposition of the complaints.

### **Significance of the Problem**

A highly publicized law enforcement action of police unjustly using excessive force was the beating of Rodney King by four Los Angeles Police Department officers (LAPD) on March 3, 1991. The incident received intense media attention. The following year, 1992, a jury acquitted the involved officers. Shortly afterward, riots occurred in Los Angeles and several other cities throughout the U. S., raising tensions between the police and the community. The media repeatedly showed police officers using excessive force after Rodney King was subdued. The media seemed to focus on that portion of the incident. This may have been prevented if officers had backed off after the suspect was controlled and the media did not sensationalize.

A report issued by BJS in 2006, stated that more than 26,000 citizen complaints were registered regarding police use of force in 2002, about 8 percent were sustained. The media is quick to point out perceived and actual incidents of use of excessive force by police officers. Law enforcement officials in an effort to be proactive have enacted policies and procedures to address the problem. However, according to Weisburd and Greenspan (2000), many citizens believe that police often use excessive force unnecessarily, and are not held accountable for their actions. Therefore, this seminar paper is being written to gain perspective on the problem.

### **Method of Approach**

The main method of approach includes a thorough review and analysis of secondary data consisting of information gathered from criminal justice text books, scholarly journals, information from governmental sites, and professional law enforcement publications. The review literature includes several examples of problematic use of force matters. In addition, studies will review use of force policies and procedures, hiring policies, and educational requirements. Past law enforcement studies will serve as a reference on how law enforcement agencies are addressing use of force incidents, especially the process for registering citizen complaints. A theoretical framework will be developed. Following an analysis, the collected research information will be assessed to determine which current policies work and where there is room for improvement. The goal is to prepare police officers and recruits regarding the use of force by teaching the skills and techniques to minimize its application.

### **Limitations and Assumptions**

According to a BJS (1999) report, *Contacts between Police and the Public* (1999), less than half of 1 percent of an estimated 44 million people having personal contact with a police officer were threatened with or actually experienced force. However, Robert K. Olsen, former Minneapolis Police Chief and Past President, Police Executive Research Forum (PERF) notes that “just one use of force incident can dramatically affect the stability of a police department and its relationship with the community” (as cited in a United States Department of Justice Report, 2008). It is unrealistic to think that excessive abuse problems won’t ever happen again. However, improved training along with effective policies and procedures will help minimize the number of excessive force incidents.

## **SECTION II. LITERATURE REVIEW**

The literature review is divided into nine sections. The first section defines use of force and excessive use of force. The second reviews use of force continuums, using the State of Wisconsin as an example. The third reviews court cases regarding liability while the fourth section explores excessive use of force as a liability concern. The fifth lists incidents of police using excessive force, and the sixth looks at commissions that were formed to address excessive force issues. The seventh section consists of the process for filing a complaint, followed by the eighth section which explores the role the media plays in the formation of public opinion toward the use of force by police. Finally, the ninth section stresses the importance of standardization in the use of force policies.

### **Definition of Excessive Use of Force**

Excessive force is complicated to define. According to McEwen (1996), there are distinguishing definitions between excessive force and excessive use of force terms. Excessive force applies to a specific situation when an officer uses too much force, whereas excessive use of force refers to an officer legally applying force in too many incidents (Gaines & Kappeler, 2008). Adams (1999) supports these definitions, deeming excessive force as more force than legally allowed according to administrative and professional guidelines and legal standards. Furthermore, Adams notes, terms including improper, abusive, illegitimate, and unnecessary use of force describe situations in which the officer's authority has been misused in some general way, and that administrative procedure, societal expectations, ordinary concepts of lawfulness, and the principle of last resort have been violated (as cited in Alpert & Dunham, 2005).

Physical force should be used only if necessary after persuasion, advice, and warnings are found to be insufficient, and police should use only the minimum degree of physical force

necessary for achieving a police objective (Meese III & Ortmeier, 2004). Adams (1999) states the primary purpose of police is protection and force can only be used to promote safety within the community. Adams also states that the amount of force used depends on the degree of the threat and should be limited to the least amount required to accomplish legitimate police action (as cited in Alpert & Dunham, 2004). A Fourth Amendment violation of the U. S. Constitution can occur if police officers use improper force (Bill of Rights, 1791), and criminal and/or civil charges can be brought against officers for misconduct (Schmallegger, 2007).

Circumstances surrounding an incident are significant variables in the decision of whether or not to use force and to what degree. Multiple courts have determined that suspects armed with weapons, including the use of a vehicle as a weapon, can be considered a deadly threat. Still other courts have ruled that an officer has to determine if the offender poses an immediate threat towards others in the community and/or the officer(s) (Kappeler, 2006). Additionally, an offender's past dangerousness can impact the amount of force law enforcement considers to be reasonable. Life threatening criminal acts toward victims or law enforcement can be circumstantial justifications for officers to use force against a suspect, if the suspect poses an imminent danger during the arrest process in temporal proximity to the criminal offense (Kappeler, 2006). Lathrop (2000) writes an officer's age, size, sex, physical fitness level and experience compared with the characteristics and mindset (i.e. alcohol, drugs, cognitive reasonableness, etc...), or known fighting skills of an offender is a tactical consideration when determining the level of reasonable force (as cited in FBI Bulletin, 2000).

Because of the code of silence it is difficult to grasp the true scope of excessive use of force. However, there are some national statistics that can be examined. The National Institute of Justice (NIJ, 2005) estimates that over 45 million people in the U.S. have personal contact

with a law enforcement officer within a one year period of time. (Schmallegger 2007). According to Durose, Schmitt, and Langan (2005), police use force approximately 1.5 percent or 500,000 times during contacts with the public (BJS, 2005). Garner and Maxwell (2005) cite that less than one in five arrests require the use of force (excluding handcuffing). When handcuffing is a factor, the number of contacts between police and a public member increases to 1.2 million (BJS, 2005). An earlier BJS report (1999) estimated that half of 1 percent of an estimated 44 million people who had personal contact with a police officer were threatened with or actually experienced force. The International Association of Chiefs of Police (IACP, 2001) note that use of force is mostly encountered when police make an arrest (39 percent), followed by disturbances (21 percent), traffic stops (14 percent), domestics (11 percent), drunk/disorderly (9 percent), and investigations (6 percent). Schmallegger (2007) notes that about 80 percent of uses of force incidents are weaponless and half of all use of force incidents simply involves a police officer grabbing or holding the suspect.

Rulings by the U. S. Supreme Court in *Tennessee v. Garner* (1985) and *Graham v. Connor* (1989) influenced the policy regarding use of deadly force. The court ruled in the case of *Tennessee v. Garner* that police officers could not use deadly force to prevent the escape of a felon unless the offender posed an immediate threat of death or serious physical harm to the officer or others. According to Tennenbaum (1994), police shootings declined more than 16 percent as a result of the Garner case (Gaines & Kappeler, 2008). The term “objectively reasonable” was a result of the case *Graham v Connor*. Factors to be taken into consideration when defining “objectively reasonable” include: does the suspect pose an immediate threat to the officer(s) or others, the severity of the crime, is the suspect actively resisting arrest, and is the suspect a flight risk or attempting to escape custody (Kappeler, 2006). Although these court

cases did not specifically define excessive force, the connotations significantly shaped policy and produced directives enacted by many law enforcement agencies. In addition, the rulings assisted in establishing a base line definition of excessive force within the criminal justice system.

Many police agencies have implemented a use of force continuum. The use of force continuum assists law enforcement educators and trainers to develop a curriculum based on established state or agency policing needs. The continuum serves as a use of force guide to provide officers with options ranging from the least amount of force to the greatest amount of force. Many different types of force option continuums exist. Law enforcement agencies should develop one to accommodate their needs.

The State of Wisconsin Force Option Continuum is used in many cities throughout the state. This continuum serves as a guide for State agencies; however, law enforcement agencies should develop one that fits their needs. The continuum consists of five levels, presence, dialog, empty-hand control, intermediate weapons, and deadly force. The mere presence of a uniformed officer represents force. The officer's authoritative demeanor and attitude can also be a deterrent. Dialog is the next option, good tactical skills should be applied to help deescalate the conflict. The third level is empty-hand control, a hands-on approach. This may include an escort position, firm physical grasp, or an active hand or foot strike. In Wisconsin this level includes oleoresin capsicum (OC or pepper spray). Intermediate weapons are the next option and may include impact weapons such as an electronic device (i.e. taser) or baton. This is done to incapacitate dangerous individuals who have refused to comply with commands. Finally, the last level is deadly force.

A use of force continuum guides officers so they are less likely to use excessive force. However, officers are expected to use the amount of force which minimizes injury to the officer

and the suspect. Officers don't necessarily start at the beginning; the appropriate level would be one level above the citizen's actions with the amount of force necessary to establish control (Gaines & Kappeler, 2008). Terrill (2003) cites reasoning and dialog rather than immediately taking charge may be more productive (as cited in Gaines & Kappeler, 2008).

The force option continuum has been included in law enforcement recruit training, in-service, and incorporated into police officers' standard of conduct training programs. In addition, a force option continuum aids in reducing both criminal and civil liabilities (Kappeler, 2006).

### **Court Cases Regarding Liability**

Early on it was deemed that law enforcement officers could be held liable for constitutional violations of The Federal Civil Rights Act of 1871 (Kappeler, 2006). In 1961, the U.S. Supreme Court ruled in *Monroe v. Pape* (365 U.S. 167) that state and local law enforcement officers could be held liable for use of excessive force under violations of the Constitution. Later, in 1978, The Federal Civil Rights Act (FCRA) in connection with the U.S. Supreme Court case of *Monell v. New York Department of Social Services* (436 U.S. 658), expanded liability responsibility for use of excessive force. The list now included local law enforcement officers, supervisors, and local government entities (Collins, 2006).

The U.S. Supreme Court ruled that the municipality and police agency can be civilly liable (*City of Canton v. Harris*, 1989). The court ruled that a municipality can be held civilly liable for inadequate or improper training of police officers under Section 1983 (U.S. Supreme Court case *City of Canton v. Harris*, 1989). The Court noted that failure to properly train and equip officers constitutes deliberate indifference:

The focus must be on the adequacy of the training program in relation to

the tasks the particular officer must perform;

The fact that a particular officer may be unsatisfactorily trained will not alone result in city liability because the officer's shortcomings may have resulted from factors other than a faulty training program;

It is not sufficient to impose liability if it can be proved that an injury or accident could have been avoided if an officer had better or more training; and

The identified deficiency in a city's training program must be closely related to the ultimate constitutional violation (Kappeler, 2006, p. 66).

The Court recognized that use of force, both deadly and non-deadly, required adequate training, or the public entities that denied such mandatory training could be justly held accountable and liable in civil court. Additionally, indirect excessive force (i.e. roadblocks) are subject to civil lawsuits, but may or may not show a violation of negligence based on the objective reasonableness of the totality of circumstances (*Brower v. Inyo County*, 1989).

Police officers who are not participants in a use of force incident, yet witness other officers using excessive force to a third party are duty bound to intervene, preventing those other officers from using excessive force (*Abdullahi v. City of Madison*, 2005; *Fundiller v. Cooper City*, 1985). *Byrd v. Brishke* (1972) concluded, "one who is given the badge of authority of a police officer may not ignore the duty imposed by his office and fail to stop other officers who summarily punish a third person in his presence or otherwise within his knowledge" (as cited in Kappeler, 2006).

### **Excessive Force as a Liability Concern**

The chain of liability in excessive use of force matters has a high potential to involve individual officers, supervisors, upper management, governmental officials, and, ultimately, the

taxpayers. The prevention and elimination of excessive force incidents cannot be measured in monetary value alone, since forecasting the cost of court cases, personnel hours, and other costly assets, would be subject to dark figures of speculation. (Meese & Ortmeier, 2004). Therefore, law enforcement officers, administrators and command staff need to be proactive to avoid claims that officers are not properly trained or supervised and effective policies and procedures are not in place. Although many lessons associated with unnecessary uses of force have emerged from historical situations, to avoid liability, other variables may also be a factor.

Citizens have a right to file claims for alleged right violations. Therefore, to reduce liability, police departments must act within their official authority by knowing police liability laws', being current with the changing laws of liability; following department rules and regulations; keeping and maintaining adequate records and documenting police operations. Departments should seek assistance from the appropriate attorney on liability matters; implement and provide continuing training regarding police liability; select highly qualified officers, and recruit officers who follow and respect the law. In addition, good community relations should be established and citizens should be advised of drastic changes regarding police policy and operations (Gaines & Kappeler, 2008)

In the U.S., all citizens are governed by laws that are created to establish a standard of conduct. Law enforcement officers are authorized by the community to enforce laws to protect citizens from harm and preserve order. Authorization to use force is a form of social contract granting officers the right to use force when necessary to enforce the laws of society or to apprehend offenders, with the expectation that enforcement will be carried out in a responsible manner. This social contract can be broken, and civil court proceedings can be brought against police officers if society or law enforcement officials deem that officers used excessive force to

make an arrest or instill peace. Vago (2006) notes, the extension of formal rights and of formal facilities impacts the criminal justice system by generating added safeguards for individual rights.

### **Incidents of Law Enforcement Using Excessive Force**

Recent cases have raised questions about police using excessive force. Officers are asked to make a judgment call. Law enforcement personnel must choose the proper tactics and carefully control their application. In the following cases the amount of force used was questionable.

Zigmund, 2005, writes, in the case of *Headwaters Forest Defense v. County of Humboldt*, three nonviolent protests occurred against the logging of giant redwood trees. Protesters linked themselves to the trees with lockdown devices called “black bears.” Protesters could, but would not, release themselves and police used pepper spray with the belief this would force the protesters to unlock their devices. Afterward, police refused to give the protesters water to wash out their eyes. On appeal, the court ruled that the use of pepper spray on passive protesters was excessive (The Police Chief, 2005)

Barge (2006), of the Rocky Mountain News, reported that a Westminster, CO officer was fired and two other officers given administrative discipline related to an excessive force incident involving the arrest of an offender after a high speed pursuit. The officers were criminally charged with third-degree assault, first degree official misconduct and making false reports. A special prosecutor was appointed to the case after Judge Bockman rejected a plea agreement between the officers and the Adams County (CO) District Attorney’s Office.

Heinzmann and Mills (2008), of the Chicago Tribune, exposed the Chicago Police Department’s plan to outsource the excessive force investigations to attorneys and private investigators. The Chicago Police Department has been forced to outsource a large number of

cases due to the more than 1,500 ongoing investigations of potential uses of excessive force. The Department plans to allow investigators to assist and work with the Independent Police Review Authority (IPRA) investigators.

This is just a sampling of recent cases, unfortunately there are a lot more.

Courts are often required to determine if police use of force was “objectively reasonable.” Each particular case requires special attention taking into consideration the facts and the circumstances of the disputed situation.

### **Commissions**

Historically, law enforcement incidents of use of excessive force have resulted in the formation of professional committees to conduct investigations and research. Past research efforts tended to focus more on political and police corruption issues, however, excessive force in policing was also a problematic and major concern for law enforcement that needed to be addressed.

Research regarding major corruption including excessive use of force has been conducted mainly on large U.S policing agencies. The New York Police Department (NYPD) has been the focal point for most law enforcement research because the agency has the largest number of police officers, over 39,000, in the U. S. (Schmallegger, 2007). The studies’ assessments have a propensity to be questionable due to the true geographical locations of law enforcement agencies and officers within the U.S. (Gaines & Kappeler, 2008). There are approximately 18,760 local, state, and federal police agencies in the U.S., which employ more than 731,903 sworn officers and 45,982 part-time officers (BJS, 2008). Most departments are small, approximately 5,900 departments have 10 or fewer officers and about 7,000 departments have only one officer (Gaines & Kappeler 2008). Nevertheless, the NYPD studies have stood as the base model for

law enforcement research projects regarding police corruption, including excessive force events.

Within a hundred year span of time, use of excessive force has periodically been an issue for the NYPD. During these years, several committees were formed to address the issue: the Lexow Committee, 1895; Curran Committee, 1913; Seabury Investigation, 1932; Helfand Investigation, 1955; Knapp Commission, 1972; and the Mollen Commission, 1995 (Meese & Ortmeier, 2004). The Knapp and Mollen Commission served as the starting point for addressing, statistically documenting, and offering suggestions on how to address police corruption matters including excessive use of force (Gaines & Kappeler, 2008).

Civil disorders and riots occurred in the cities of New York, Los Angeles, Newark and Detroit resulting in the formation of the Kerner Commission (1968). The Kerner Commission concluded that the riots stemmed from police brutality, harassment, and abuse of power, and emphasized that law enforcement training and supervision was inadequate. Furthermore, the Kerner Commission recognized that community relations were poor and the employment of black officers was unequal to the growth of the black population. As a result of the findings, President Johnson created a crime commission and Congress authorized federal assistance to improve the quality of the criminal justice system. The federal assistance was managed by a newly formed government agency, the Office of Law Enforcement Assistance and later the Law Enforcement Assistance Administration (LEEA). Since the 1970's to the present time, police departments have emphasized professionalism, education, improved training and the utilization of technology, in an effort to reduce use of force incidents. According to Uchida (2004), the LEEA has directed law enforcement to become proactive regarding use of force techniques in their overall training.

The Christopher Commission (1991) was formed to study infrastructure and operations of

the Los Angeles Police Department, as a response to officers using excessive force against Rodney King. Rojek, Decker, and Wagner (2005) note, the study revealed that 183 out of the 8,000 officers in the LAPD had four or more allegations of excessive use of force within a four year period, and 44 officers had six or more complaints (Dunham & Alpert, 2005). The Christopher Commission showed support for the bad apple analogy, which suggests that a few bad apples (police officers) have a tendency to spoil or ruin the entire tree (police profession) or barrel (police agency).

The Christopher Commission also maintained that policing cultures have a set of informal norms that don't contribute solely to police misconduct, but may excuse and deter reporting the actions to the proper authorities. Loyalty toward fellow police officers is referred to as the 'Code of Blue' or 'Code of Silence' within the policing community. Excessive force often becomes a statistical dark figure due to unreported incidents of excessive force. Most officers will not even talk about corruption due to fear of getting into trouble themselves or breaking the 'Code of Blue/Code of Silence' and the fear of retribution from fellow officers. Newburn (1999) defines the Code of Silence by citing the Wood Commission's (1997) findings as an "us and them" attitude encouraging police to develop an adversarial attitude to anyone who challenges police activity. Maanen (1973) recognizes the strong devotion among law enforcement officers. Maanen also recognized that commitment to one's fellow officers is a particularly important state in the socialization process (as cited in Culbertson & Weisheit, 2002).

### **Registering a Complaint**

The BJS reported that in 2002, citizens complained more than 26,000 times about excessive use of force within large agencies with 59 percent of the nation's sworn officers.

About 8 percent of the complaints were officially sustained to justify disciplinary action against the officer(s), 34 percent were not sustained, 25 percent were unfounded, 23 percent ended in exonerations, and 9 percent ended in dispositions (i.e. complaint withdrawal, etc.).

Administrative factors, complaint policies, procedures, processing and overall quality of the agency may vary across departments. For this reason, complaint data must be interpreted with caution. A low force complaint rate could indicate that police are performing well or that the complaint process is inaccessible. A high complaint rate may indicate that officers use force often or that the complaint process is more accessible (BJS, 2006).

The Federal Bureau of Investigation (FBI) is the leading federal agency for investigating “color of law” abuses. A federal violation can occur when police use of force is “unreasonable” or “excessive.” A complaint may be filed by contacting the local FBI office by telephone, in writing, or in person. The following information should be available: all identifying information for the victim(s); as much identifying information as possible; date and time of incident; location of incident; names, addresses and telephone numbers of any witness(s); a complete chronology of events; and any report numbers and charges with respect to the incident. The United States Attorney’s Office in the local district can be contacted or a written complaint can be sent to Assistant Attorney General, Civil Rights Division, Criminal Section, 950 Pennsylvania Avenue Northwest, Washington, DC 20530

The review of citizen complaints is complex. Traditionally, citizen complaints were processed through internal review systems. Citizens felt that the internal review was too lenient on officers which lead to various levels of civilian input in the complaint process (Dunham and Alpert, 2005). Walker (2000) states, several arguments support the police only review process, including the belief that police officers possess the expertise to make well-informed decisions

regarding citizen complaints. (as cited in Dunham and Alpert, 2005). West (1988) states, those opposed to external reviews claim the reviews threaten morale and professionalism (as cited in Dunham and Alpert 2005).

Maguire (1991) writes, civilian review boards were created to maintain effective discipline of the police, to resolve citizen complaints, promote confidence between citizens and the police, and provide feedback from citizens to police administrators (as cited in Gaines & Kappeler, 2008). Review boards were often resented by the police who viewed them as intrusive. Goldstein, (1997) states, officers reasoned that the majority of complaints came from recipients of police action and the citizen review boards would be used to retaliate against them (as cited in Gaines & Kappeler, 2008).

### **Early Warning System**

Internal social mechanisms have been established in law enforcement organizations as a means to control officers' behaviors. The Early Warning System (EWS) is a tool that supports informal social controls within policing. The EWS impacts the individual officer, supervisors, and the department. The EWS aids in defining standards of conduct and monitors officers' behaviors (Gaines & Kappeler, 2008). The EWS tracks all complaints on each officer, and if there is an accumulation of complaints, the officer's record is reviewed to identify problem areas and provide early assistance. Numerous complaints may be the result of underlying problems such as substance abuse, marital problems, or emotional difficulties. Walker (2003) notes, "The goal of the system is to correct the performance of officers who appear to be having performance problems" (Alpert & Dunham, 2005, p. 190).

### **The role of the Media and Public Opinion toward Police Using Force**

The media is quick to report incidents of police officers utilizing questionable use of force. The media has emerged as an enormous global networking system and is a major contributing factor to the formation of public opinion. In addition, there are cameras everywhere, including on cell phones. A BJS report, *Contacts between Police and the Public* (1999) estimated that half of 1 percent of an estimated 44 million people who had face-to-face contact with a police officer were threatened with or actually experienced force. However, just one incident can have a negative effect on the law enforcement community. Excessive use of force debates can explode into unwanted media attention for police agencies. The Rodney King incident of 1992, the sodomizing of a Haitian immigrant by a New York police officer in 1997, and United States Border Patrol Agents assaulting a group of undocumented illegal aliens are prime examples of illegal misuse of force that were sensationalized in the media.

The manner in which the media reports police use of force incidents is a significant factor in influencing society's opinions about policing. The media tends to focus on events that involve conflicts, disagreements, personnel changes, protests, crimes, and scandals because these issues attract viewers, who in turn patronize the merchants buying advertising time in the media. In addition, news coverage and police shows tend to illustrate a highly inaccurate picture of daily police activities. The 'Hollywood Factor' impacts policing immeasurably as many of these media outlets and law enforcement entertainment shows (i.e. *CSI Fantasy Island*) focus on police officers using unrealistic tactics to capture the bad guy or becoming the villain themselves (Johnson, 2007). The media has also broadcasted police based reality shows, which tend to illustrate a more realistic view of police officers during incidents where legal force is used to make an arrest. According to Cantril (1991), mass media news stories and entertainment shows have a significant influence on the public's perception of the policing profession, especially in

the area of use of force matters (as cited in Fox et al, 2007). The Vera Institute of Justice (2004) cites that repeated broadcasts about allegations of severe police abuse have a significant impact on public opinion (DOJ, 2004).

The internet continues to grow, and law enforcement takes and investigates complaints about suspicious activity and provides safety information. The internet is used as a tool to fight internet crime and other crime as well. Communication can be established by visiting the web sites of local departments to obtain information or report criminal activity.

Two popular websites have been created to monitor police performance. Copwatch.com's website states that it was designed to promote safety and ensure that police officers remain accountable for their actions. The website gives directions on how to file an incident report. Registration is required. Ratemycop.com's website was developed in 2008. It is a privately-held company based in Los Angeles. Registered users are allowed to leave written feedback about their interactions with police officers. They are asked to rank the officers on professionalism, fairness, and satisfaction.

Critics contend that the sites promote an anti-police agenda and portray law enforcement in a negative manner. Dees (2008) states, "Copwatch selectively distributes video and photographic media to "spin" incidents against law enforcement." The video referred to was a video clip showing William Cardenas being punched by Los Angeles Police Department officers. The released video excluded the foot pursuit, most of the arrest, and showed only the segment where the offender was punched by the officer straddling him. Dees also notes that a Superior Court commissioner found that the offender was actively resisting arrest and the officers were justified (as cited in Wikipedia 2010).

### **Standardization in Use of Force Policies**

In 1996, the International Association of Chiefs of Police (IACP) created a Use of Force Database to compile statistics on police use of force. This was implemented to help law enforcement agencies assemble, maintain, and utilize use of force data. Later, in 1998, the IACP recognized the need for a documented policy regarding the use of force and created an Officer Conduct Model Policy. In addition, the IACP recognized the need for officers to demonstrate authority and control over criminal suspects, however, officers must adhere to the agency's use of force policy and observe the civil rights and protect the well-being of those in their charge (USDOJ 1999).

Police officials, working with law enforcement scholars and professionals, have developed written policies to provide agencies and officers with guidelines on how to handle use of force situations. Written procedures specifically cover operational and response protocol to incidents where there is a potential for police use of force. During encounters with potentially violent citizens, it is necessary to employ standards and strategies and exercise maturity and professionalism in decision making to reduce the risk of unnecessary force (American Military University, 2006 (AMU)).

The BJS publishes a Local Police Departments report every three or four years which contains reliable data regarding the average ratio of full-time state and local officers per 1,000 residents throughout the U.S. Although this information can be valuable to local law enforcement agencies, the IACP states, officer per thousand population ratios alone are inappropriate for determining staffing. The IACP study incorporates policing style and philosophy, service philosophy, response time standards, supervision style and requirements, and community policing roles. In addition, professional guidelines and department preferences must be considered when determining patrol requirements. There is no standardized formula to

determine staffing for police agencies (IACP, Patrol Staffing and Deployment Study, 2008).

Police administrators believe that officers with a college education have better attitudes, decision making skills and receive fewer complaints. Many state and local agencies require a two year associate's degree or a four year bachelor's degree, however, the majority do not. Police Chief Bowman, Arlington, Texas, (2006) writes, "degreed officers have developed critical thinking skills and an ability to communicate with people from all walks of life" (The Police Chief, 2006). Officers need the broad based knowledge that comes with a degree. Officers must deal with inter-personal issues, legal issues and keep up with technology (as cited in Cavanagh, 2004). Officers who have a broad general education are prepared to communicate more effectively with citizens and engage in the exploration of new ideas and concepts.

Palmieri (2005) states, it is vital that law enforcement executives employ every available tool to maintain public safety in their communities. Intelligence is a major tool, and intelligence analysis is necessary to obtain results. Therefore, The International Association of Law Enforcement Intelligence Analysis (IALEIA) has been working to bring standardization and professionalism to law enforcement analysts. Analysis is the tool that turns information into intelligence. At the time of the attacks on the World Trade Center, police departments didn't have analytic capabilities. This concept is reinforced by the National Criminal Intelligence Sharing Plan (NCISP) which states that such analysis is "vital to the production of usable, timely, and comprehensive intelligence" (The Police Chief, 2005).

The National Commission on Accreditation for Law Enforcement Agencies (CALEA) was created in 1979 to provide certification for law enforcement agencies who meet a specified set of standards. The commission is a private, non-profit and tax exempt corporation and not part of any government entity. However, the commission's executive associates include: the

IACP, the National Organization of Black Law Enforcement Executives (NOBLE), National Sheriffs' Association (NSA), and the Police Executive Research Forum (PERF). CALEA was established to develop a set of law enforcement standards and a process for law enforcement agencies to acquire certification (CALEA Annual Report, 2008). Requiring this certification is not mandatory and all agencies do not subscribe.

Law enforcement agencies are striving for professionalism, both within the ranks and at the agency level. Professionalism can be established within an organization by the way colleagues and staff treat each other and the public; the way law enforcement personnel dress, speak, and present themselves; and the physical atmosphere, neatness, cleanliness, and orderliness of the agency (Cavanagh, 2004). In addition, officers must raise personal standards by obtaining the appropriate level of education and training, maintaining high ethical standards, and be accountable for their actions. Goldstein (1977) states "Professional police agencies have been characterized in many different ways, but are thought to be agencies in which education, service and citizen respect are central" (Dunham & Alpert, 2005).

## **Conclusion**

In the literature review, excessive force has been defined, significant variables leading to the decision of whether or not to use force have been examined, and the importance of implementing a use of force continuum has been noted. Court cases involving liability have been reviewed along with liability concerns for law enforcement agencies. Current incidents of excessive use of force were explored, and a history of commissions and their findings were studied. In addition, a review was conducted regarding citizen complaints, and the process for registering a complaint was made available. The role the media plays in forming public opinion regarding law enforcement agencies and the use of force, notably excessive force, was examined.

Finally, the literature review helped establish the need for standardization in law enforcement regarding education and training, adequate staffing, policies and procedures, data collection along with the analysis to obtain results and an accreditation program for law enforcement agencies to obtain accreditation.

The paper will now discuss criminal theories in relationship to factual underlying reasoning regarding use of force situations, and how law enforcement organizations can measure success or failure within a departmental environment and with individual officers.

### **SECTION III. THEORETICAL FRAMEWORK**

Criminal theories have been formulated and consistently evaluated to explain an offender's unlawful behaviors. The law enforcement profession has to objectively critique its role regarding use of excessive force also. Wellford (1997) points out that criminology theory provides direction for controlling and preventing crime. This paper takes on the task to incorporate social control theories into solutions to minimize the use of force by police officers.

#### **Social Control Theory Approach**

The main idea associated with social controls is less on the seriousness of the crimes and motives of the offender, and more about installing restraint and compliance mechanisms. The underlying principle is that by choosing to obey the rules built into society, social restraints and punishments will be avoided. The majority of the populace comes within compliance and conformity of society's established laws (Paternoster & Bachman, 2001). The social control theory assumes that individuals will break rules, unless something redirects the individual (Reiss, 1951). According to Gottfredson & Hirschi, (1990), social controls are needed to prevent criminal behaviors. Social control principles apply to the community and law enforcement officers alike. A law enforcement organization has the responsibility to structurally formulate social controls within an agency.

Reckless (1967) explained social control theory as a combination of controls and deviant motivations. Reckless believed delinquent behavior could occur due to psychological factors such as restlessness, rebelliousness, inner tension, impulsivity or aggressiveness and other factors including media portrayals of crime, the level of crime in one's neighborhood and delinquent peer association unless some restraint was set in place. Reckless states that there are two types of restraint or controls over deviant behaviors: Inner containment, which is the

capacity of the individual to control behavior by resisting the temptations of crime and deviance, and outer containment, which acknowledges the capability of social institutions to restrain the conduct of individuals (Reckless, 1967).

The social control theory focuses more on the reasons why people do not commit crimes rather than the cause of crimes, assuming that all individuals will have criminal behaviors unless some type of formal or informal control mechanism is set in place. The key factor in the cause of crime is the presence or absence of control along with restraint and conformity rather than deviance. Hirschi recognized that “crime occurs when restraints or controls over naturally occurring deviant impulses are either not formed, break down, or are weakened” (Hirschi, 1969).

Akers (1985) indicates the most important group in influencing law-abiding behavior is family and friends. In childhood, parents or other guiding adults usually provide direction, neighbors, teachers, churches, physicians, law enforcement officers and other community members also have influence. The emphasis of accountability for one’s actions has a tendency to be re-enforced by higher educational experiences, associated friendships, and occupational status (Hirschi, Paternoster & Bachman, 2001). These social environments tend to provide an opportunity for not only the individual person to mature in a healthy and stable environment, but allow the institutional setting to mold and shape learned behaviors that conform to organizational and societal goals. The stronger the attachment to conform to formal rules and laws reduces the chance of participation in unlawful actions. Therefore, how police organizations select new officers, train, educate, and deal with their personnel is of substantial importance in shaping, directing, and/or modifying officer characteristics into a state of professionalism. These professional goals translate into compliance with agency objectives and policies set in place to

serve as guidelines to reduce use of force.

Social theories have an impact on the law enforcement community as police officers interact with multiple facets of society and the internal aspects associated with policing. These interactions can serve as a positive or negative source of influence on how an individual officer, agency, or the policing profession perceives their social role, especially in use of force situations. The failure of law enforcement agencies to train, educate, or properly discipline their officers in the use of force creates not only legal liabilities, but also open record justifications for officers throughout the ranks. Conklin (2004) warns, “Actions of the condemners, including police brutality and political corruption, are used to justify an offender’s violation of the law” (p. 175).

Social theories connected with policing are complex because all individual officers are socially shaped before becoming an officer. The challenge is to utilize social theories as an instrument to reshape and guide rookies and seasoned officers toward a common goal. People in general, including officers, weigh rewards and risks differently. Hirsch (1969) cites, “In social control theory, actors weigh the costs and benefits of alternative lines of action, legal and illegal, and choose those they consider most likely to maximize their pleasure” (p. 108). Through social control principles, police leadership can utilize a Reward-Risk Model as a starting point to address officer temptations for “street justice.”

Successful policing organizations have implemented social control concepts on several levels. The social control theory expresses that delinquent and criminal acts occur more often when an individual’s bond to society is weak or broken (Sampson & Laub, 1993). Social control theories emphasize that proper family cohesiveness aids in deterring family members from unlawful criminal actions. Hirsch’s (1969) social bond theory notes, an individual’s bond to

society affects whether or not that individual will break the law. In addition, this theory stresses that individuals with attachments, commitments and involvement in worthy institutions and society are less likely to be involved in criminal acts. Laub and Sampson (1993) recognize that informal social controls, (i.e. employment, personal investment, capital gains, etc...) create a stronger bond between individuals, institutions, and society. Satisfaction and pride in the occupation of police work is not only significant on the individual officer level, but on the law enforcement organizational level as well. Conklin (2004) notes "If social control theory is correct, we would expect the lowest rates to exist in societies characterized by close attachments to institutions and lines of action" (p. 183).

### **Social Learning Theory**

Social learning theories are the backbone to social control theories. They create the structural model for the complex process of learning. Individuals gain knowledge regarding why compliance with rules, regulations, and laws is important to individuals and society to achieve organizational objectives. Social learning theory states that an individual learns to engage in crime through exposure and the adoption of definitions favorable to crime. Social learning theory offers an explanation of crime and deviance that address variables that motivate and control criminal behavior, both to promote and undermine conformity (Akers, 1998). The social learning theory noted that conforming to norms decreased when individuals associated with others who exhibited criminal behaviors or participated in criminal acts.

According to Akers (1998), creating a positive, reinforced environment inspires and directs individuals to make ethical decisions, and avoid unwanted or unlawful behaviors. Social theories incorporate Sutherland's differential association theory (1939) which states, individuals tend to learn from other people they are in contact with, but expands to other sources of learned

behaviors which can be equally, if not more, influential in the development of distinguishing right from wrong. Nye (1958) points out that social control theory addresses the restraint and conformity aspect of social controls, rather than the deviance associated with the offender or criminal act. Social learning theories build on the peer connected influences to include the complete social structural environment. According to Ackers (1985), the best single predictor of crime or delinquency, other than one's own prior deviant behavior, is differential association with either conforming peers or law-violating peers.

Tully (2002) identifies the reason for the increase in law enforcement corruption, to include excessive force, is primarily due to human nature and lack of social controls within a policing agency. Holloway (2002) recognizes that law enforcement officers are "people too" and are just as prone to misuse their authority or position as individuals in the general public.

A division or subculture in a policing organization, with an absence of common and lawful agendas, has a high potential to create criminal temptations, which in essence will pose trouble for both officers and a policing agency. Hagan (1990) emphasizes officers and groups should be implementing conformity behaviors in compliance with policing policy and procedures, not for fear of punishment, but more for concern with violating mores and the personal image of ones self in connection with being an associate member of an important group. Police organizations with a strong and positive social structure developed by social learning processes instill a great deal of pride in the policing profession, and officers choose not to jeopardize this established standard. Hirsch (1969) cites, "when in a situation where the opportunity for trouble presents itself, they will be restrained from delinquency if they are concerned that such action will disappoint the other person or disrupt this relationship" (as cited in Cullen & Agnew, 2003, p.231).

A Job Corp study with an intensive training program of high-risk youth was conducted as a means to re-socialize juveniles with the aid of vocational and educational training (Bushway & Reuter, 1997). A four-year follow-up review observed that these youths demonstrated an increase in earnings, educational success, and decreased arrests (Bushway & Reuter, 1997). Although this study dealt with high-risk juveniles and not police officers, educational opportunities and training programs can obtain positive results. Akers (1985) cites, “the theory proposes that most of the learning in criminal and deviant behavior is the result of social exchange in which the words, responses, presence, and behavior of the other persons directly reinforce behavior, provide the setting for reinforcement (discriminative stimuli), or serve as the conduit through which other social rewards and punishers are delivered or made available” (as cited in Cullen & Agnew, 2003, p. 145).

Social Learning Theory recognizes that behaviors, whether criminal or non-criminal in nature, are learned through imitation, observation, and/or modeling of other’s behaviors (Conklin, 2004). Therefore, law enforcement personnel who receive extensive, repeated training in proper policy and procedures regarding the use of force will tend to react cognitively by means of muscle memory, instead of unnecessary strains of ethical decision making during a stressful situation. Tully (2000) states, “I would argue that every policy, procedure, rule and regulation should have as its prime intent the protection of the officer from themselves and the decisions some make that could lead to corruption and physical harm” (p. 5).

The application of social controls to policing is essential for developing ethical decision making when officers need to consider the possibility of use of force.

Individual officers bring to the job social values that have been learned through informal social controls. They are fine-tuned by more formal controls including in place policies and

procedures. Therefore, it is important to have restraint and compliance mechanisms in place along with training on community relations and ethics. High values, up-to-date guidance, and effective supervision can be established when social controls are utilized in a constructive manner benefiting the police officer, agency and community.

#### **IV. DISCUSSION, RECOMMENDATIONS AND CONCLUSION**

Research for this paper shows that excessive force incidents are rare. However, when they occur the incidents are sensationalized by the media and draw negative citizen attention. Therefore, it is important to understand why excessive force occurs and find realistic solutions to minimize the problem. In the performance of their duties, police officers are sometimes met with hostility and use of force may be necessary. At this time, officers must rely on their discretionary skills, training, and knowledge of the department's policies and procedures to stay within the perimeters of the degree of force necessary to achieve compliance and ensure public and officer safety.

##### **Discussion**

Most police officers, like the majority of citizens, conform and comply with society's laws. Officers are socially shaped before becoming a police officer due to social controls applied by parents, teachers, religious affiliations, organizations, and community members. Those most influential are family and friends who instill informal social controls during the formative years (Akers, 1985). This social learning environment internalizes values and provides guidance. During recruit training, officers are exposed to formal (official) and informal learning. The formal aspect is taught through curriculum and the informal from experienced officers, training staff, and peers.

Police leadership is responsible for establishing an environment that enhances officer morale; giving social support lessens involvement in misbehaviors (Cullen & Agnew, 2003). Officers who are happy with their occupational status are not likely to resort to use excessive force. Due to informal social constraints formed by relationships with fellow officers and the department, officers establish personal values. A well-organized department helps mold and

shape behaviors that conform to the law and policies and procedures. Therefore, the hiring process along with training, effective leadership, and well-developed policies and procedure will promote professionalism within an agency.

While citizen complaints may indicate an officer has a problem with unethical behaviors, officers may also be affected by personal problems including addictions. Professional intervention or guidance should be available through an Employee Assistance Program (EAP). A voluntary or non-voluntary assessment by an Employee Assistance Program (EAP) professional would be beneficial to the officer and the agency. In addition, officers should be assured of confidentiality and limited consequences for coming forward or self initiating the EAP process.

It is possible to achieve modification of behaviors by emphasizing accountability within the policing profession. Walker (2001) states, the police subculture is an obstacle to achieving accountability; a possible solution is to change the subculture from self-protective to self-policing (as cited in Meese & Ortmier, 2004). Police departments with a strong and positive social structure developed by social learning processes will be a credit to their community.

Chappel, Lanza-Kaduce & Johnston (2005) question whether police agencies will be able to meet the new demands of policing due to the requirements imposed upon officers with community-based and problem solving policing (as cited in Gaines & Kappeler, 2008). Due to technical advances in addressing criminal behavior, there is a need to have officers that are proficient in specialized areas such as computer science, data processing and accounting. Police departments should have adequate staffing and officers should represent a cross section of the community, including women and minorities. In addition, law enforcement needs to have technological support and up-to-date equipment.

Training protects both the officer and agency. Training must be provided prior to employment, and must focus on police proficiency, ethics, community relations, and diversity. Administrators consider administration, law, and human values as critical subjects due to their familiarity with liability issues (Gaines & Kappeler, 2008). Formal training allows the institutional setting to mold and shape behaviors of new officers, instituting guidelines to help officers avoid excessive use of force. Because police work is always evolving, all officers must be provided with continuing education and updates to maintain their skills.

Numerous citizen complaints regarding use of force and resisting arrest are indicators of a possible problem. To identify problematic officers Early Warning Systems have been implemented in many policing agencies. Cavanaugh (2004) cautions police supervisors with the analogy “apples do not go bad overnight but only after a period of time when many people stand by and watch the apples gradually rot” (p. 73). Walker (2001) states, counseling, additional training, or closer supervision can be employed to correct officer behavior and reduce incidences of police misconduct (as cited in Meese & Ortmeier, 2004). To counteract law enforcement misbehavior, an emphasis should also be placed on policing ethics training for all personnel. In addition, law enforcement administrators have to be fully committed to set a good example holding to a standard of conduct. According to Sutherland’s differential association theory, individuals tend to learn from other people they are in contact with (Cullen & Agnew, 2003).

Citizen review boards have been established in many communities to address citizen’s complaints of misconduct. The importance of using citizen complaints as a warning can be an effective tool for identifying problem officers if the follow-up is done correctly and without bias. According to McCluskey and Terrill (2002), citizen review boards have identified and reduced the number of excessive use of force incidents by police officers. However, since citizen review

boards lack judicial or dispositional power over police officers and members often have no law enforcement experience, the committees are often seen as ineffective and intrusive, and resented by police officers, police agencies, and police unions. Many officers believe review boards reflect citizens who are attempting to seek revenge on the police for past arrests. Gaines and Kappeler (2008) note, “the board essentially could do little to control police behaviors” (p.272). While all control sanctions have the potential to reduce excessive force incidents, external controls have shown little promise.

Law enforcement professionals have developed policies and procedures to serve as a guide to help officers decide the appropriate course of action. Goldstein writes, police departments best control discretion by the formation of policy (Gaines & Kappeler, 2008). Use of force option continuums are an excellent example of a standard policy for officers to follow when facing a possible use of force situation. Police departments are responsible for developing effective policies and procedures and providing the necessary training for implementation.

Police reforms are based on the public’s attitude toward policing effectiveness and the perceived frequency of police misconduct. Police misconduct incidents force police organizations to re-evaluate policies (Cavanagh, 2004). Government agencies may re-evaluate police misconduct policies to serve the community better; others change policies to ensure continued funding. Public perception and opinions are the driving force to reform policing policies. Although certain changes may help to improve police practices overall and reduce specific kinds of police malpractice, other reforms appear to be symbolically important and may improve public confidence in a department.

## **Recommendations**

As has already been discussed in this paper, highly publicized incidents of police using

excessive force have resulted in action by the courts and the law enforcement community to address the matter. The U. S. courts have set guidelines concerning reasonableness or unreasonable objectivity in the area of excessive force through case law, but a concrete standardization has not been set for all policing organizations because a national standard of policing practice has yet to be established. The decisions involving excessive force have been a social learning experience for the law enforcement community. Research conducted on use of force incidents has helped to establish social controls to deter, monitor, and punish officers who deviate from legal and ethical policing.

According to the literature, applicable standards for patrol staffing, uniformity in educational requirements, and professionalism do not exist. Therefore, these areas are included in the recommendation section of this paper.

### **Adequate Staffing**

Police budget concerns have forced many agencies to reduce the number of officers. Since use of force continuums state, the mere presence of a police officer is a deterrent in use of force situations, this presents a noteworthy problem. What constitutes adequate staffing? The IACP states that, “ready-made universally applicable patrol staffing standards do not exist.” The IACP conducted a study (2008) and developed fourteen factors to assist law enforcement agencies with staffing (IACP, 2008). Departments are to choose a combination of factors to accommodate the needs of their department and community.

The BJS provides a report which lists data on the number of police employed by police departments across the nation and the police to citizen ratio. This report is published every two to three years. However, according to the IACP, the ratio of police per thousand population data is an inappropriate means to determine police department staffing needs. The BJS report is to be

used by local agencies to analysis staffing trends across the nation, not to determine staffing (BJS, 2003). Policing style/philosophy, service philosophy, response time standards, supervision style and requirement, and community policing roles are taken into consideration when determining staffing (IACP Study, 2008). It is up to individual departments and the community to determine the expectations of policing in the community. This can be done by establishing a citizen advisory board if one does not already exist. Regardless of the selection of factors, the choice has to be made without compromising professional policing standards and community safety. The community is responsible for supplying the means to support adequate staffing. Therefore, it is important to develop a cooperative effort between the community and law enforcement to accomplish this goal.

### **Educational Requirement**

According to the literature reviewed for this paper, there is little uniformity regarding educational requirements for police officers. According to the BJS (2006), only about eight percent of local police departments have any college requirements at all and about one percent of departments require a four year degree (Gaines & Kappeler, 2008). However, the number of police departments requiring higher educational standards continues to grow (Gaines & Kappeler, 2008).

There is a difference of opinion regarding educational requirements for police officers; some contend that officers may have attitudes or perform effectively because of traits they possessed before entering college, traits developed through informal social controls instilled by significant others. Critics also maintain that police tasks requiring common sense are not performed any better by college educated officers, and officers' peers are thought to have a greater influence on attitudes and behaviors (Pope, Lovell, & Brandl, 2001).

As far back as 1967, the President's Commission on Law Enforcement and the Administration of Justice recommended college degrees for police officers, "the quality of policing will not improve significantly until higher education requirements are established for its personnel" (The Police Chief, 2006). Six national commissions and the federal courts have ruled that a baccalaureate degree should be required for an entry level law enforcement position (Cavanagh, 2004). In today's society, officers must be able to communicate with people from all walks of life. The college experience provides an opportunity to meet people from diverse backgrounds. More importantly, Paoline and Terrill (2007) state, officers with a college education are less likely to use force; Terrill and Mastrofski (2002) found, less-educated officers tended to use force more (as cited in Gaines & Kappeler, 2008). Friedmann (2006) writes, "that educational requirements established now will determine how police officers and policing are going to look 50 or 100 years from now" (as cited in The Police Chief, 2006).

### **Professionalism**

Law enforcement agencies are striving for professionalism, both within the ranks and at the agency level. This can be achieved by setting high standards for recruits, veteran officers, and administrators alike. Social controls, both formal and informal, set the guidelines and develop characteristics in officers and agencies that are ethically sound.

Professionals in other fields need to prepare by obtaining educational qualifications geared specifically to that profession. Officers frequently meet with people who have degrees in their related fields such as social workers, nurses, community leaders and many others. To be recognized as a profession, law enforcement officers should have the same credentials (Gaines & Kappeler, 2008). Education, however, is not the only standard that identifies a professional. Characteristics such as treating others, co-worker and citizens, in a civil manner; respecting the

opinions of others; and be ethical and adhere to code of conduct. In other words, conduct themselves in a professional manner. In addition, officers should display neatness, cleanliness, and the agency should be orderly. The agency should, also, be organized, encourage learning, and create an environment based on honesty, respect, caring and integrity (Cavanagh, 2004).

Police departments should be required to obtain national certification to be recognized as a professional organization. As described in the literature section of this paper, the CALEA program has developed a set of standards and a process to evaluate law enforcement agencies. Evaluation teams conduct on-site assessments for the initial certification, reaccreditation, and recognition. The team also inspects the agencies' facilities and makes suggestions for improvement. After certification, the team verifies compliance by checking proofs, interviewing personnel, and public participation. This program is voluntary and provides a plan for agencies to demonstrate that they meet professional standards in management and service (CALEA, 2010). CALEA recognizes that the standards for law enforcement have not been met. The need for innovative solutions to keep up with the needs of law enforcement and society will continue to be challenging.

## **Conclusion**

Although excessive force incidents are rare, irreparable damage is inflicted on the policing community when they occur. Law enforcement has made great strides in an effort to minimize excessive use of force by implementing effective policies and procedures, establishing early warning systems, and working toward standardization and professionalism.

Social control principles have an impact on how law enforcement selects, trains, and shapes officers' characteristics. Adams (1995) writes, use of force can be minimized by modifying behavior and tactics of police officers (as cited in Dunham and Alpert, 2005). Police

officers come into the profession with certain beliefs influenced by social controls during their formative years. Recruits develop their characteristics through formal and informal social controls in the classroom and from fellow officers. Therefore, informal social constraints formed by relationships with fellow officers establish personal values. Officers who are happy with their status are not likely to use excessive force.

Policies and procedures have been developed to aid in minimizing excessive force incidents. Policies and procedures need to be altered to be effective as society changes. Implementation of policies and procedures serves to help law enforcement agencies adhere to national and state accreditation guidelines and establish professionalism within the department (Gaines & Kappeler, 2008).

As a measure to identify the problem officer, an early warning system has been implemented in many departments in an attempt to identify problem officers and initiate an intervention plan. Early detection and intervention can save the department embarrassment and an officer a career. The literature shows that many believe it is possible to modify officer behaviors by emphasizing accountability. Through social control principles, law enforcement officials can establish a bonding between officers, the department, and community. Hirschi (1990) emphasized, “the bond between individuals and society as the primary operative mechanism in his social control theory” (Hirschi, Schmalleger, 2007, p. 102).

According to the literature, applicable standards for patrol staffing, uniformity in educational requirements, and professionalism do not exist. Therefore, these areas were addressed in the recommendation section of this paper.

As previously mentioned in this paper, the IACP states, a universally applicable standard for staffing does not exist. The IACP study (2008) developed fourteen factors to assist police

departments determine the staffing needs of their department. This serves as a baseline model and individual agencies can adapt it to fit their needs. The IACP recommends that citizen input be considered when defining community expectations regarding police service. This can be done by establishing a citizen review board or committee to work with law enforcement to determine the standards for their community. As previously mentioned, the decision regarding staffing has to be made without compromising professional policing standards and community safety.

According to the literature reviewed for this paper, there is little uniformity regarding educational requirements for police officers. There is a difference of opinion regarding educational requirements. Some claim that tasks requiring common sense are not performed any better by college educated officers; many others, including the courts, national commissions and law enforcement administrators believe the quality of law enforcement will improve significantly if higher educational standards are established. It is argued that to meet the challenges of today's society, officers must be able to communicate with people from all walks of life and the college experience will help them in that endeavor.

Law enforcement officers and agencies are striving for professionalism. In order to achieve public acceptance as a professional, law enforcement officers need to have the same credentials as other professionals by having a degree in their field (Gaines & Kappeler, 2008). Criminal justice and law enforcement education has helped create a recognized base of knowledge. Officers are required to be state certified. Kleinig and Zhang (1993) write, agencies have implemented codes of conduct, and a system for licensing police officers exists in all states (as cited in Meese & Ortmeier, 2004). Personal qualities such as trust, honesty, and appropriate behavior are also words that describe a professional. Law enforcement officers with specialized knowledge and characteristics will help bring professionalism to their agency.

Law enforcement agencies as well as the individual officer should have a set standard and be required to achieve national accreditation. Executive members of the Commission on Accreditation for Law Enforcement Agencies (CALEA) include the IACP, NOBLE, (NSA), and (PERF). This accreditation program provides law enforcement an opportunity to voluntarily demonstrate that they meet an established set of professional standards.

Although law enforcement has made great strides in minimizing excessive use of force, there is always room for improvement. Agencies should continue to be proactive by up-dating policies and procedures, identifying problem officers and intervening in a timely manner, and working toward standardization and professionalism. As society changes there will always be new challenges.

## SECTION V. REFERENCES

- Abdullahi v. City of Madison, 423 F.3d 763 (7<sup>th</sup> Cir. 2005).
- Adams, K. (1999). Use of force by police: Overview of national and local data. National Institute of Justice Research Report, 1999, NCJ 176330.
- Akers, R. L. (1998). *Social learning and social structure: A general theory of crime and deviance*, Northwestern University Press.
- Akers, R. L. (1985). *Deviant behavior: A social learning approach (3rd ed.)*, Wadsworth. P. 145.
- Alpert, G. P. and Dunham, R. G. (2005). *Critical issues in policing: Contemporary readings (5<sup>th</sup> ed.)*, *What we know about police use of force*, Chapter 25 (pp. 451-467), Waveland Press, Inc.
- Archbold, C. and Maguire, E. (2002). Studying civil suits against the police: A serendipitous finding of sample selection bias. *Police Quarterly*, Vol. 5: No. 2, pp. 222-249.
- Barge, C. (2006). Three Colorado officers to stand trial in excessive force case. *Rocky Mountain News*. Retrieved July 6, 2010 from <http://www.policeone.com/legal/articles/127833>.
- Bowen, T. (2006). 113th Annual IACP Conference College Education and Policing. *The Police Chief*, August, 2006.
- Brower v. Inyo County, 489 U.S. 593 (1989).
- Bureau of Justice Statistics (2006). *Local Police Departments, 2003*. U.S. Department of Justice (DOJ). Retrieved on August 1, 2010 from <http://www.oip.usdoj.gov/bis>.
- Bureau of Justice Statistics (BJS)-Community Relations Services, (2003). *Principles of good policing: Avoiding violence between police and citizens*, U.S. Department of Justice

- (DOJ). Retrieved on February 23, 2010, from <http://www.cops.usdoj.gov>.
- Bureau of Justice Statistics (2003). *Data collection on police use of force*, U.S. Department of Justice (DOJ). Retrieved on February 23, 2010, from <http://www.cops.usdoj.gov>.
- Bureau of Justice Statistics (2003). Police officer to population Bureau of Justice statistics data. Retrieved August 1, 2010 from [www.ojp.usdoj.gov/bis](http://www.ojp.usdoj.gov/bis).
- Bushway, S. and Reuter, P. (1997). Labor Markets and crime risk factors. Pp. 6-59 in Sherman, L., Gottfredson, D., MacKenzie, D., Eck, J., Reuter, P., and Bushway, S. (eds). Preventing crime: What works, what doesn't, what's promising. Report to the United States Congress. Prepared for the National Institute of Justice.
- Byrd v. Brishke, 466 F.2d 6 (7<sup>th</sup> Cir. 1972).
- Cantril, A. (1991). *The opinion connection*, Washington, DC: Congressional Quarterly Press.
- Cavanagh, M. (2004). *Policing within a professional framework*. Pearson Education, Inc. P. 73.
- Chappell, A., Lanza-Kaduce, L. and Johnston, D. (2005). *Law enforcement training: changes and challenges*. Waveland Press, Inc.
- City of Canton v. Harris, 489 U.S. 378, 109 S. Ct. 1197 (1989).
- Collins, M.G. (2006). *Section 1983 litigation in a nutshell (3<sup>rd</sup> ed.)*, Thomson/West.
- Commission on Accreditation for Law Enforcement Agencies Annual Report (2008). Retrieved on August 2, 2010 from <http://www.calea.org> .
- Conklin, J. E. (2004). *Criminology (8<sup>th</sup> ed.)*. United States: Pearson Education, Inc. Pp. 175, 183.
- Conklin, J. E. (2007). *Criminology (9<sup>th</sup> ed.)*. United States: Pearson Education, Inc.
- Copwatch.com (website). Retrieved from <http://www.copwatch.org/> on July 8, 2010

Culbertson, R. G. and Weisheit, R. A. (2002). *Order under law-readings in criminal justice* (6<sup>th</sup> ed.), Waveland Press, Inc.

Cullen, F. and Agnew, R. (2003). *Criminological theory: Past to present* (2<sup>nd</sup> ed.), Roxbury Publishing Company. P. 231.

Dees, T. (2008). Administrator of Officer.com as cited in Wikipedia. Retrieved from <http://en.wikipedia.org/wiki/Copwatch> .

Dunham, R. G. and Alpert, G.P. (2005). *Critical issues in policing: Contemporary readings* (5<sup>th</sup> ed.), Waveland Press, Inc.

Durose, M., Schmitt, E. and Langan, P.A. (2005). *Contacts between police and the public*. Washington, DC: Bureau of Justice Statistics, 2005.

Fox, R., Van Sickel, R. and Steiger, T. (2007). *Tabloid justice: Criminal justice in an age of media frenzy* (2<sup>nd</sup> ed.), Lynne Rienner Publishers.

Friedman, R. (2006). University perspective: The policing profession in 2050. *The Police Chief*, August, 2006.

Fundiller v. Cooper City, 777 F.2d 1436, 14441-1442 (11<sup>th</sup> Cir. 1985).

Garner, J. and Maxwell, C. (2005). *Measuring the amount of force used by and against the police in six jurisdictions: Use of force by police*. National Institute of Justice, p.41.

Gaines, L. K. and Kappeler, V. E. (2008). *Policing America* (6<sup>th</sup> ed.), Matthew Bender & Company, Inc. - Anderson Publishing. P. 272.

Graham v. Connor, 490 U.S. 386,109 S. Ct. 1865 (1989).

Goldstein H. (1990). *Problem-oriented policing*, New York, NY: McGraw-Hill Book Company.

Gottfredson, M. and Hirschi, T. (1990). *A general theory of crime*, Stanford, CA: Stanford

University Press.

Hagen, F. (1990). *Introduction to criminology: Theories, methods, and criminal behavior* (2<sup>nd</sup> ed.), Nelson-Hall Inc.

Heinzmann, D. and Mills, S. (2008). Excessive force complaints piling up against Chicago officers. The Chicago Tribune. Retrieved July 6, 2010 from <http://www.policeone.com/investigations/articles/1650836>

Hickman, M. (2006). Citizen complaints about police use of force, U.S., Department of Justice-Bureau of Justice Statistics (BJS). Retrieved on July 5, 2010, from <http://bjs.ojp.usdoj.gov/content/pub/press/ccpufpr.cfm>

Hirschi, T. (1969). *Causes of delinquency*. Berkeley: University of California Press. p. 108.

Hoffman, R. (2004). Canada's national use-of-force framework for police officers, *The Police Chief*, vol. 71, no. 10 (October 2004).

Holloway, B. (2002). Police corruption. *International Encyclopedia of Justice Studies*. Retrieved from [http://www.iejs.com/Policing/police\\_corruption.htm](http://www.iejs.com/Policing/police_corruption.htm).

International Association of Chiefs of Police (2008). Patrol staffing and deployment study. Retrieved on August 9, 2010 from <http://www.theiacp...>

International Association of Chiefs of Police. (2001). *Police use of force in America 2001* (Alexandria, VA: IACP, 2001). p. 1.

Johnson, J. (2007). Use of force and the Hollywood factor, *Journal of California Law Enforcement*, TASER International.

Kappeler, V. E. (2006). *The police and society*, Touchstone Readings (3<sup>rd</sup> ed.). Waveland Press, Inc.

Kapeler, V. E. (2006). *Critical issues in police civil liability* (4<sup>th</sup> ed.), Waveland Press, Inc p. 96.

- Klugiewicz, G. (2002). Force option continuum, Defense and Arrest Tactics (DAAT)-Law enforcement officers, and Principles of Subject Control (P.O.S.C.)-Correctional personnel, Active Countermeasures Instructional (ACMI) Systems.
- Lathrop, S. (2000). Reviewing use of force, FBI Law Enforcement Bulletin, Vol. 69, Number 10, U.S. Department of Justice (DOJ).
- Laub, J. and Sampson R. (1993). *Turning points in the life course: Why change matters in the study of crime*. Criminology, 31:301-325.
- LSU Law Enforcement Training Program (2006). Managing the use of force by police officers: The force continuum, American Military University, Retrieved on June 30, 2010 from <http://attales.tripod.com/force.html>.
- Maguire, E. (1997). Structural change in large municipal police organizations during the community policing era. Justice Quarterly, 14(3):547-576.
- Maanen, J. (1973). Observations on the making of policemen. Society for Applied Anthropology from Human Organization, 32(4):407-18.
- Mayo, L. (2006). College education and policing. The Police Chief (2006, August) Retrieved from [policechiefmagazine/...&issue\\_id=8206](http://policechiefmagazine/...&issue_id=8206) .
- McEwen, T. (1996). National data collection on police use of force. Washington, DC: Bureau of Justice Statistics.
- Meese, E. III, and Ortmeier, P. (2004). *Leadership, ethics, and policing-challenges for the 21<sup>st</sup> Century*. Pearson Education, Inc.
- Monell v. Department of Social Services, 436 U.S. 658 (1978).
- Monroe v. Pape, 365 U.S. 167 (1961).
- Newburn, T. (1999). Understanding and preventing police corruption policing: Lessons from

- the literature. Research Development Statistics Directorate.
- Nye, F. (1958). *Family relationships and delinquent behaviors*. New York: John Wiley.
- Paoline, E.A. and Terrill, W. (2007). *Police Education, Experience, and the Use of Force*. *Criminal Justice and Behavior*, 34(2): pp. 179-196
- Palmieri, L. (2005, June). Information vs. intelligence: What police executives need to know, *The Police Chief* ( Retrieved from [http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=61](http://policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=61) on July 8, 2010.
- Paternoster, R., and Bachman R. (2001). *Explaining criminals and crime*, Los Angeles, CA, Roxbury Publishing Company.
- Pope, C. E., Lovell, R., and Brandl, S. G. (2001). *Readings in criminal justice research, Voices from the field*. Wadsworth Thompson Learning
- Ratemycop.com. (website). Retrieved from [http://www.ratemycop.com/index.php?option=com\\_content&task=view&id=58&Itemid=148](http://www.ratemycop.com/index.php?option=com_content&task=view&id=58&Itemid=148) on July 8, 2010
- Reckless, W. (1961). *The crime problem* (3<sup>rd</sup> ed.). New York: Appleton Century-Crofts.
- Reiss, A.J. Jr. (1971). *The police and the public*. New Haven, CT: Yale University Press.
- Rojek, J., Decker, S., and Wagner, A. (2005). *Addressing police misconduct: The role of citizen complaints*. Waveland Press, Inc.
- Schmallegger, F. (2007). *Criminal justice today* (9<sup>th</sup> ed.), Pearson Prentice Hall, Inc.
- Tennenbaum, A. (1994). The influence of the Garner decision on police use of deadly force, *Journal of Criminal Law and Criminology*, 85(1):241-260.
- Tennessee v. Garner, 471 U.S. 1 (1985).

- Terrill, W. (2003). Police use of force and suspect resistance: The micro process of the police-support encounter, *Police Quarterly*, 6(1):51-83.
- Terrill, W. and Mastrofski, S. (2002). *Situational and officer-based determinants of police coercion*. *Justice Quarterly*, 19(2): pp. 215-248.
- Terrill, W. and McCluskey, J. (2002). Citizen complaints and problem officers: Examining officer behavior. Reprinted from *Journal of Criminal Justice* 30 (2): 143-156, Elsevier Screeched Sciences, Ltd.
- Tully, E.J. (2000). The slippery slope. Reprinted from the National Executive Institute Associates Leadership Bulletin-FBI. P. 5.
- Uchida, C. (2004). The development of the American police: An historical overview, Justice and Security Strategies, Inc.
- United States Federal Bureau of Investigation (2010). Color of law. Retrieved from <http://www.fbi.gov/hq/cid/civilrights/color.htm> on July 7, 2010.
- Vera Institute of Justice, (2004). Variations in media coverage were not reflected in public opinion. U.S. Department of Justice (submitted only).
- Walker, S. (2001). *Police accountability: The role of citizen oversight*, Belmont, CA: Wadsworth.
- Walker, S., Alpert, G., and Kenney, D. (2001). Early warning systems: Responding to the problem police officer. Research in Brief. Washington, DC: National Institute of Justice.
- Weisburd, D. and Greenspan, R. (2000). *Race and policing in America*, Cambridge University Press.
- Wellford, C., MacDonald, J., and Weiss, J. (1997). Multistate study of convenience store robberies. Washington, D.C.: Justice Research and Statistics Association.

West, P. (1988). Investigation of complaints against the police: Summary report of a national survey, *American Journal of Police*, Vol. 7, No. 2.

Vago, S. (2006). *Law and society (8<sup>th</sup> ed.)*. Upper Saddle River, NJ: Prentice Hall.

Zigmond, E. (2005). Police use of force: The problem of passive resistance, *The Police Chief*, vol. 72, no. 3, April 2005, International Association of Chiefs of Police.