



Colorado Police Quarterly

**The Official Journal of the Colorado
Association of Chiefs of Police**

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Editorial Mission Statement



Colorado Police Quarterly: The Official Journal of the Colorado Association of Chiefs of Police

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

The editorial board of the *Colorado Police Quarterly* considers for publication the following types of articles:

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

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

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

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

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

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Dr. Steven Ross Murray, BS, MS, DA

Associate Editor

Colorado Mesa University

Lt. David Krouse, BS, MA

Assistant Editor

Fruita Police Department

Send editorial correspondence to:

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

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The State of the Colorado Association of Chiefs of Police: Heading into 2017

Gary Barbour



In the past few months the association has moved forward on initiatives started last year.

- The contract with Civica Management for administration of the association's membership outreach, services, and conference planning was initiated and became effective October 1, 2016.
- Civica representatives have been working to update the membership records of all members.
- The website was completely reconstructed. It can be accessed at www.colochiefs.org
- Members have been issued individual user names and passwords for the website. If you have not received yours, please contact Emma Bartels at Civica: emma.bartels@civicamanagement.com
- You may call Civica at (720) 893-CACP
- Our financial condition remains good. We have been maintaining a balance in total CACP accounts over \$100,000 every month.

Association members continue to represent CACP in a number of different committees and assignments. The Legislative Committee, for example, is once again meeting every Friday during the current session. Other active committees include the Commission on Criminal & Juvenile Justice (CCJJ), the Interagency Task Force on Drunk Driving, the Marijuana Working Group, and the Substance Abuse Trend & Response Task Force. Other members are serving the association in the Professional Standards Committee (Accreditation), the Law Enforcement Executive Certification Program, and the Awards Committee – to name just a few. All of the committee assignments can be viewed on our web page. I encourage you to visit the web page and see all of the new features available.

The Line of Duty Death Response Team, headed by Aurora Chief Nick Metz, continues to develop. CACP is accepting and keeping donations for the team. LODDRT funds are not kept in CACP accounts but are maintained separately at Rocky Mountain Law Enforcement Federal Credit Union. Chief Metz will be presenting the latest news about the LODDRT at the upcoming Mid-Year Conference, Feb. 13-17, in Evans.

The Annual Conference is planned for the Hotel Elegante Conference and Event Center in Colorado Springs, Tuesday, June 27, through Thursday, June 29. A pre-conference golf tournament is planned at a nearby course on Monday, June 26. Details will be forthcoming soon and Civica is planning to begin accepting registrations right after the conclusion of the Mid-Year Conference.

Please contact CACP, or any board member, if you have questions or if we can assist you. We are here to serve.

Gary Barbour, Chief
Frederick Police Department
Frederick, Colorado 80530
gbarbour@frederickco.gov

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Strengthening Your Inner Blue Line

Althea Mitchell-Thayer



What makes a thick stripe become a thin line? Pressure...pressure and time. Pressure can be a beautiful thing as you see with most diamonds or the brand new rookie all shiny with endless energy ready to take on the world. Overtime, when we internalize the pressure from our daily lives, which can become dangerous, dark, and infectious. This pressure can manifest in the simplest or most complex ways. One way is severe sleep deprivation.

Sleep deprivation can cause work related accidents. Vila (2000) found that four out of eight officers involved in on the job accidents and injuries were impaired because of fatigue. Such accidents included automobile crashes due to an officer's impairment brought on by fatigue. In the same study, Vila concluded that fatigued officers use more sick leave, practice inappropriate use of force more frequently, and have more difficulty in dealing with community members as well as other policing agencies. Perhaps most concerning, the study found fatigued officers had a much higher likelihood of dying in the line of duty. One must look at the physical effects, but more importantly the emotional causes of the sleep deprivation. It is crucial for police officers to recognize and express any kind of pain, without genuine recognition, the pain will most certainly stay with them. Pain lodges in the body and causes us to react and live unconsciously (Ford, 2009).

Emotions are what create pressure. Stress, pain, and anger are only a few of the emotions which contribute to this pressure, and hence, severe sleep deprivation. Working as a public servant causes many to have feelings of self-doubt. Lying in bed at night worrying about being able to do what is needed - about being good enough to do what is needed - in reaction to potentially threatening situations, can cause one to toss and turn. Or it can be what is keeping one from falling asleep, resulting in restlessness, or if one should fall asleep, it is not a restorative sleep.

When our sleep is interrupted, other processes crucial to our existence also are interrupted. Muscle repair, memory consolidation, and hormone release for growth and appetite are all being impacted. Our bodies need time to heal and repair. If one wakes up, could it be the emotions getting one's attention? So how do you unwind your inner blue line? The perception of healing and dealing with emotions has undergone a major overhaul. The thought of spending hours with a therapist or on a hotline number is and can be overwhelming. I am sure most healers would agree that doing nothing can and will only lead to more anxiousness, depression, and even more sleep loss. So set up that massage, get that emotion code session, and relax into your reiki session. Get that emotional energy moving through and out of the physical body, helping you to be more connected with your spouse, family, and friends. Feel and experience more fulfillment in your work. Experience the release of those good hormones when your brain kicks on and lets you know you are safe and happy. After all, if you do not deal with your emotions, they will most certainly deal with you!

Althea Mitchell-Thayer
altmitchell@gmail.com

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Combat/Tactical Breathing

Carmine Grieco, PhD, CSCS



As I watched the news coverage of a recent police-involved shooting I could not help but wonder what role the officer's training had played in that engagement. As an exercise physiologist, and a veteran of the Army's 24th Infantry Division, I am fascinated by the concept of performance under intense psychological and/or physical pressure. The human body is a truly amazing machine, but there are limitations. We can, however, "push" these limitations by effective and timely training strategies.

Police officers and other "tactical athletes" are periodically called upon to perform in situations of exceptionally high stress. Fear, a kind of stress, engages the fight-or-flight response, which results in a series of predictable down-stream physiological events, most notably by impairing functionality of what is termed *executive function*. In essence executive function represents what we would commonly refer to as "thinking;" that is, the ability to strategize and reason, as well as working memory, and inhibitory control (i.e., the ability to choose an appropriate response to a given situation, while eliminating certain other options). All of which are important, in not critical, functions for police officers as they navigate through the difficult, and occasionally dangerous, environments they face on a routine basis.

The physiology, and predictability, behind the impairment of executive function is well supported by research. To put it bluntly, stress makes you "stupid." More technically, it appears that under "threat" conditions the prefrontal cortex, which is the area of the brain governing executive function, is "taken off-line," preferentially shifting control to the amygdala, a more primitive part of the brain responsible for organizing the fight-or-flight response. From an evolutionary perspective, this likely conferred a tremendous advantage to our ancestors, but is clearly at odds with the reality of modern policing. The ability to arrive upon a chaotic scene and rapidly discriminate "true" threats from potential threats is a critical skill that is dependent upon retaining full control of executive function.

Fortunately, training strategies exist that effectively inhibit this reflexive switch from higher-order cognition to the primitive nonvolitional behaviors engaged by the amygdala. The simplest of techniques, known as "combat" or "tactical" breathing, has been popularized by Lt. Col. Dave Grossman, a former Army Ranger and West Point Psychology Professor. For a more nuanced explanation of combat breathing, as well as a phenomenal exploration of the psychology and physiology of deadly force encounters, I highly encourage the reader to pick up a copy of Grossman's book *On Combat*.

We have to go back 2,000 years or more to pinpoint the origins of combat breathing, which arose from yogic breathing exercises, known as pranayama. The yogis of ancient times discovered the link between breathing and physiological response millennia before modern science finally validated the concept. While the physiological explanation of combat breathing is involved, the actual concept is quite simple. Begin with a deep four-second inhalation (full lung expansion), hold the breath for four seconds, and finally, slowly and completely, exhale on a four-count. This simple exercise creates a feedback loop within the autonomic nervous system, inhibiting and moderating the stress response, enabling the prefrontal cortex (and executive function) to predominate.

Combat or tactical breathing is a simple, yet effective, way of helping police officers deal with stressful situations. It is something that I believe would be beneficial for police officers to consider and to practice.

Dr. Carmine Grieco
Assistant Professor of Kinesiology
Colorado Mesa University
cgrieco@coloradomesa.edu

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Utilizing Citizen Advisory Boards: A Practical and Contemporary Guide in Policing*

John G. Reece and Judy Macy

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

The notion of citizen participation is an elusive ideal. Participation efforts in government have continued to evolve without a general consensus of the meaning. Some equate citizen participation to neighborhood groups or community control. Conflict can arise between the types of citizen involvement and the traditional principles of public administration theory and practice. Cooper and Kathi (2005) argued that the overarching administrative ethos of the administrative state can create barriers to citizen participation in governance.[1]



An intellectually honest discussion about citizen involvement is particularly relevant in the post-Ferguson, post-New York, post-Baltimore environment of policing, as community involvement has become the de facto mandate for law enforcement. Early on, the United States federal government provided the primary impetus to citizen participation programs. For example, the Environmental Protection Agency (EPA) developed efforts to incorporate more citizen involvement in environmental protection projects. The EPA pushed for national as well as regional improvements to environmental decision-making throughout the 1990s. Such efforts have not been limited to the EPA or the federal government. Public entities at all levels of government have increasingly launched public participation measures.

Local administrative agencies have a long history of seeking out citizen participation via such forms as public meetings and hearings, public workshops, feedback surveys, and steering committees. Empirical evidence has underscored the limitations of such practices in terms of reaching true consensus. The practice of deciding upon a policy and then introducing it to citizens in a public hearing format has proven to be a poor technique and a grossly inadequate persuasion tool.[2] Citizen advisory boards started to surface in the late 1980s and early 1990s to improve upon the one-way flow of information that takes place in the public meeting forum. Citizen advisory boards can overcome several limitations inherent in traditional citizen participation efforts.

The recently released *Final Report of the President's Task Force on 21st Century Policing* emphasized the importance of citizen involvement in policing, needed to improve trust between law enforcement and the public. Within the study, citizen advisory boards and/or community involvement were specifically recommended as action items for local law enforcement as well as support and collaboration with the federal government, training and education, improved technologies, and officer wellness and safety programs.[3] Today, it is critically important for all police organizations to promote and cultivate citizen involvement with their agency. However, implementing boards and commissions must be done thoughtfully and purposefully in order to establish a meaningful, effective relationship.

What follows is an analysis regarding the role of citizen advisory boards as well as examples and discussion of citizen advisory boards that proved to be either beneficial or detrimental to administrative functions. A recommended approach to appointing, organizing, and conducting a citizen advisory board is also presented.

The Role of Citizen Advisory Boards

A citizen advisory board can be defined as a group of individuals appointed for the purpose of examining a public issue or set of issues, who meet over an extended period, and develop alternative solutions and/or new ideas through comprehensive interaction. Rather than being open to all members of the public, a citizen advisory board is restricted to a small number of individuals who are expected to represent the interests of the public.[4] A law enforcement organization can utilize a citizen advisory board for advice and input on a myriad of issues. For example, relevant expert advice may be the goal. Input on community vision may be the mission. A board may be asked to conduct research, generate new ideas or solutions, or provide informed recommendations on public policies and practices. What a citizen advisory board should **not** be is a policy-making body; otherwise the ability of the police executive to do his or her job will be compromised.

Law enforcement leaders cannot transfer their administrative accountability and legal responsibilities to a citizen board. There are statutory rules that must be followed and observed. Although some are cynical about citizen advisory boards because of this lack of formal power, public administration by definition should be done by professional administrators. These individuals have been appointed or elected and are ultimately accountable for the decisions that are made. On the other hand, establishing citizen advisory boards for specific policy or project recommendations, strategic planning, or the review of personnel practices can be useful. The implementation of body worn cameras is an ideal example of a project which would greatly benefit from the perspective of a citizen board. A citizen advisory board can be a critical component to establishing an open culture between a public agency and the community.

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

Local Examples of Citizen Advisory Boards

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

Gardner had no names in mind as he embarked upon creating the new advisory board. He had, what seems now, to have been a seemingly simplistic mandate that board members had to reflect the diversity of the La Plata County community. La Plata County is a college and resort community, but is also home to many hardworking ranchers. Gardner appointed the following members to the board: (a) a college representative, (b) a representative from the Latino community, (c) a local business representative, (d) the incumbent president of the Cattleman's Association, (e) a school board member, (f) a ski resort representative, and (g) the incumbent major at the Colorado State Patrol. The board members were credible and well known people within the La Plata County community. When the creation of the new advisory board headlined the local newspaper, a large majority knew who the members were and supported their involvement and representation. The board made significant progress and the fundamental goal of restoring trust was achieved. Gardner commented on the success of the advisory board by saying, "What would have taken several years to build was accomplished in less than a year. That is a home run." [5] The La Plata County case demonstrates how a well-designed citizen advisory board can assist a public administrator with agency functions and practices as well as build positive relations with the community.

The authors of this article are aware of a rather large agency in Colorado that utilizes an advisory commission made up of citizens who volunteer their time. The citizen advisory commission has a tremendous amount of decision-making power. The chief of police, for instance, has no authority in terms of the hiring or termination decisions. Although the commission holds this authority, it still does not conduct the day-to-day "administration" of the department.

A few years ago, an officer in the agency arrested a subject, handcuffed him, and proceeded to strike and beat the suspect while handcuffed. There were eyewitnesses to the incident and the chief of police, who is also known by the authors, recommended that criminal charges be filed and that the officer's employment with the agency be terminated. The advisory commission reviewed the incident as well as the chief's recommendations. The

commission ultimately rendered a three day suspension without pay as discipline for the officer involved.

The incident and subsequent decision by the advisory commission was detrimental to the organizational culture of the department. Most officers were offended by the actions of their colleague and agreed with termination. The chief felt their authority was undermined, and therefore, their overall accountability and ability to make tough decisions was compromised. This is an example of how a popular move such as involving the public in oversight activity can be detrimental to the administrative function and make an otherwise effective police administrator ineffective.

The City of Fruita, a relatively small city in western Colorado, adopted by-laws in 1999 to establish a Police Commission, following several controversial police actions which eroded community trust. The Commission was given investigatory powers, albeit, with limited authority. Despite the limitations, the investigative powers proved to be problematic. The stated purpose of the Commission was to serve as an advisory committee reporting to the City Council. The Commission was comprised of five (5) members; four (4) citizens nominated by the Mayor, and one (1) member of the City Council. The Chief of Police served as an ex-officio member of the Commission with no voting power. Members were selected by the Mayor based on their “ability to perform the prescribed duties.”[6]

The duties outlined in the by-laws were primarily advisory in nature to City Council and the Police Chief, including matters involving Police Department activities, policies, personnel, and planning. However, most problematic was the duty to serve as a *Citizen Complaint Review Board* with powers to investigate complaints and make recommendations to the Chief of Police, the City Manager, and City Council. While the Commission did not have authority to administer corrective actions to department personnel, the investigative authority included the ability to request a review of the (initial) police investigation with the assigned investigator, the questioning of the complainant and associated witnesses while in executive session, and the ability to designate an outside law enforcement jurisdiction to conduct an internal affairs investigation.

Specific problems associated with the *Citizen Complaint Review Board* were the lack of skills, expertise and training required to properly interview witnesses and officers. Some complaints involved the use of force. Without the necessary expertise, the Board’s ability to investigate properly was compromised. Additionally, the Board was privy to confidential information, which potentially could have been compromised with civilian involvement.

The problem was essentially resolved in 2005 when the City Charter was revised addressing the powers and duties of the Police Commission. The make-up of the Commission remained the same. However, the duties were revised and limited to; recommending policies, standards, procedures, and limitations for the Police Department, upon the direction of City Council, and to receive public comment on the operations and management of the agency. In addition, the Commission provides input to the City Manager on the appointment of the Police Chief and, upon the request of the Police Chief; the commission can assist in the selection of members of the department.[7]

The Commission has since been instrumental in decisions to implement equipment, i.e., Tasers and body cameras as well as taking part in the oral board assessment for Police Chief and new police officers. In the role of an advisory board to City Council, the City Manager, and the Police Chief, the Police Commission has proven to be a valuable asset to all entities as well as an effective sounding board for the community.

Recommended Approach

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

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

Once the purpose and mission of the citizen advisory board are established, membership selection should take place. The agency head should retain some limited authority in the appointment of the board, accomplished

through an established and transparent search process. This may consist of an application and in-depth interviews to reveal any hidden agendas the applicant may have. The agency head must also avoid the appearance that he or she is selecting community friends and associates that support a particular agenda. Ultimately, each applicant should pass a rigorous litmus test prior to becoming a sitting member of the advisory board.

The agency should widely advertise that the board is being formed and make the notification that applications are being accepted. The optimal size will depend on the purpose and mission of the board, which should be large enough to represent a variety of interests, yet small enough for each member to be involved without decision-making dragging on interminably.[8] Establishing a term limit should be considered. Having the members approved by elected representatives is another consideration. The priority should be to establish a diversified board and to balance the interests and expertise found within the community as a whole.

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

When creating a citizen advisory board for the (seemingly) single, yet complex law enforcement incidents we have experienced in the recent past, it would be wise to utilize the talents of the academic community in terms of organizing the internal processes of a citizen review. Garnering the organizational and facilitation skills of an expert who can teach the advisory board about problem analysis and decision-making will influence the overall process and outcome. The outside facilitator should be concerned with process, not the content of the issues being addressed by the board. Advisory board members should mutually agree upon a consensus process in the development and approval of the recommendations. Transparency in the decision-making process will build trust among the participants.

Cost can be a barrier to implementation. The per-decision cost of a citizen advisory board is arguably more expensive than a single administrator. A citizen advisory board will have significant time commitments, whereas, an agency administrator can astutely make some decisions in less than a month, within a day, or even within an hour. However, what cannot be measured when utilizing a citizen advisory board is the social-capital gained.

Determining if citizen advisory boards truly work is difficult because of limited empirical studies and the diversity in criteria for success. Furthermore, success is difficult to define. One cannot gauge success on a hunch. Researchers and practitioners have historically measured success within two broad categories: (a) the success of the process, and (b) the success of the outcome.[9] The evaluation of the process is characterized by analyzing the means that were used, rather than focusing solely on results. When evaluating the outcomes, it is important to be cognizant of the fact that an effect could be due to the citizen participation process or some other variables. A balance between process and outcome goals should be met.

Conclusion

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

Notes:

[1] Terry L. Cooper and Pradeep Chandra Kathi, "Democratizing the Administrative State: Connecting Neighborhood Councils and City Agencies." *Public Administration Review*, 65(5), 559-567, (2005).

[2] Renee A. Irvin and John J. Stansbury, "Citizen Participation in Decision Making: Is it worth it?" *Public Administration Review*, 64(1), 55-65, (2004).

- [3] President's Task Force on 21st Century Policing: Final Report of the President's Task Force on 21st Century Policing. Washington, DC: Office of Community Oriented Policing Services, May 2015, http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf (Retrieved June 10, 2015).
- [4] John Clayton Thomas, "*Public Participation in Public Decisions: New Skills and Strategies for Public Managers.*" San Francisco, CA: Jossey-Bass Publishing, 2008.
- [5] William "Bill" Gardner, former La Plata County (Colorado) Sheriff and Police Chief (retired), Grand Junction (Colorado) Police Department, personal interview with the primary author, 2010.
- [6] City of Fruita Charter, Fruita Police Commission By-Laws, 1-4, 1999, www.coloradomesa.edu/~joreece (uploaded on June 25, 2015).
- [7] City of Fruita Charter Resolution 2011-33, Fruita Police Commission By-Laws, revised, 1-2, 2-38-2-39, 2011, www.coloradomesa.edu/~joreece (uploaded on June 25, 2015).
- [8] *Ibid.*, 4
- [9] Caron Chess and Kristen Purcell, "Public Participation and the Environment: Do we know what works?" *Environmental Science and Technology*, 33(16), 85-92, (1999).

People v. Carr

Colorado Court of Appeals. 15CA1007. Decided November 17, 2016

Phillip J. Baca, Esq.



Internal body searches are restricted by special rules set out by the U.S. Supreme Court.

Facts:

A police surveillance team identified the vehicle Carr was riding in as possibly being involved in drug sales. The team tasked two officers to follow the vehicle. When the officers observed the vehicle speeding and weaving into another lane, they pulled it over. The first officer approached the driver's side of the vehicle and smelled alcohol and marijuana. The second officer approached the passenger side of the vehicle and asked Carr for his driver's license. Carr was silent while handing it to the officer and would not look at the officer or verbally respond to his questions.

The officers then requested that the driver and all of his passengers, including Carr, exit the vehicle and sit on the curb. While the passengers were sitting on the curb, the second officer noticed that Carr was making chewing motions with his jaw and had a "golf-ball sized" bulge in his cheek.

Carr then began to attempt to chew and swallow the objects in his mouth. He refused the officers' commands to spit them out. He squirmed and thrashed to keep his head out of the officers' reach. Fearing that Carr would swallow what was in his mouth, both destroying potential evidence and possibly harming himself by ingesting drugs, the officers attempted to retrieve whatever was in Carr's mouth. The officers forced Carr to the ground. The second officer grabbed Carr's chin with one hand and pressed on the nerve behind his jaw with the other. The pain caused Carr to open his mouth and spit out a plastic bag.

One of the officers called the Aurora Fire Department to provide medical treatment for Carr. While in the ambulance, Carr again began to chew and swallow. In response, the officer pulled forward Carr's jaw so that he could not swallow. He recovered another three bags from Carr's mouth. In total, ten bags were recovered from Carr.

The contents of the bags tested positive for cocaine, and the prosecution charged Carr with possession of a schedule II controlled substance with the intent to distribute, criminal attempt to commit assault in the second degree, and obstructing government operations.

Issue:

Was the nonconsensual warrantless search of Carr's mouth a violation of his Fourth Amendment rights? No.

Court Decision:

The trial court refused to suppress the evidence obtained in the search and the Court of Appeals affirmed the decision.

Restatement of the Law:

A warrantless arrest or search must be supported by probable cause, *People v. Turner*, 660 P.2d 1284, 1287 (Colo. 1983), and "***because of the special insult to human dignity involved when police seek evidence in body apertures or bodily fluids, special rules restrict internal body searches.***" *People v. Williams*, 192 Colo. 249, 257, 557 P.2d

399, 406 (1976).

The U.S. Supreme Court promulgated these special rules in two seminal cases: *Schmerber v. California*, 384 U.S. 757 (1966), and *Winston v. Lee*, 470 U.S. 753 (1985). In *Schmerber*, the Supreme Court held that, **in addition to probable cause for the arrest of the suspect**, the Fourth Amendment requires **the state to prove three factors** to render a warrantless internal body search constitutional: **(1) a “clear indication” that incriminating evidence will be found; (2) exigent circumstances that justify the intrusion and make it impractical to obtain a search warrant; and (3) extraction of the evidence in a reasonable manner and by a reasonable method.** *Schmerber*, 384 U.S. at 768-72.

In the absence of exigent circumstances, warrantless internal body searches violate the Fourth Amendment. *Schmerber*, 384 U.S. at 770. **“Exigent circumstances may exist when (1) the police are engaged in a bona fide pursuit of a fleeing suspect, (2) there is a risk of immediate destruction of evidence, or (3) there is a colorable claim of emergency threatening the life or safety of another.”** *People v. Crawford*, 891 P.2d 255, 258 (Colo. 1995).

In *Winston*, the **Supreme Court adopted a three-part balancing test** to determine when a particular search method is reasonable. 470 U.S. at 761-62. The test balances **(1) “the extent to which the procedure may threaten the safety or health of the individual” and (2) “the extent of intrusion upon the individual’s dignitary interests in personal privacy and bodily integrity” against (3) “the community’s interest in fairly and accurately determining guilt or innocence.”** *Id.*

Court Reasoning:

Here, there was a **clear indication that evidence would be found** because the officers believed that **Carr was in a vehicle that was suspected to be involved in drug dealing**; they saw a **large bulge in his mouth**; he **refused to speak to the officers or reveal what was in his mouth and was trying to chew or swallow** what was in his mouth; and the **officers had experience or training that indicated that suspects would attempt to swallow drugs**. Exigent circumstance justified the search because Carr was attempting to chew and swallow, **and it was imperative for the officers to retrieve whatever was in Carr’s mouth to preserve evidence and keep Carr from harming himself.**

Finally, **extraction of the evidence was reasonable.** Although the officers used physical force to search Carr’s mouth, **they did not force him to undergo any invasive medical procedure or apply force to his throat.**

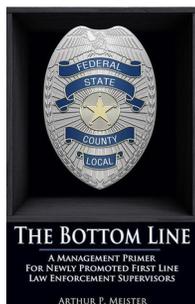
Bottom Line:

The officers retrieved the evidence in a reasonable manner and by a reasonable method. The minimal risk to Carr’s health and safety and the intrusion on his privacy and dignity did not outweigh the community’s interest in retrieving the bags of drugs. Therefore, the search of Carr’s mouth did not violate his Fourth Amendment rights.

BOOK REVIEW

BOOK REVIEW: Arthur P. Meister's *The Bottom Line: A Management Primer for First Line Law Enforcement Supervisors*

Gary Barbour



The Bottom Line: A Management Primer for First Line Law Enforcement Supervisors

Arthur P. Meister <http://www.Artpmeister.com>

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When I received a copy of Art Meister's book in the mail my thought was, "Another book on police supervision? What can be different about this one?" I soon found out as I read it. I also noticed that it has been praised by Dr. Henry C. Lee, founder of the Henry C. Lee Institute of Forensic Science, and by Colorado's own James H. Davis, SAIC retired, Denver Division of the FBI, and former Executive Director of the Colorado Department of Public Safety.

This is a book that I would feel confident about putting into the hands of a new police supervisor or anyone who aspires to be a police supervisor. Art has put together lessons from a lifetime in law enforcement in the FBI and combined them with the best observations by some of our brightest minds in leadership and management. The result is a highly readable and instructive volume.

Like many who have observed the challenges of police supervision, Art acknowledges in the introduction that the first line supervisor (no matter what title is used) has always been "the most important position in law enforcement's management hierarchy." He then immediately states that it is also the position that is least likely to receive any kind of management training. His book, given an attentive reading, would begin to address that deficit.

He intends to provide an understanding of the bottom line with regard to handling controversy and conflict, how to best keep the workplace professional, and provide guidance on dealing with the challenges unique to this profession. He has three primary goals for the book:

1. Giving the new supervisor a basic understanding of his or her proper role.
2. Provide a revised understanding of honesty, loyalty, and friendship as those concepts relate to conflict driven decision making.
3. Give the first line supervisor the knowledge that will enhance his or her coaching and counseling skills.

The book is divided into three sections relevant to the above goals. Each section is a neat and readable lesson on its subject. Art makes it clear that the supervisor must understand his or her role, and know that the relationship with former co-workers that are now subordinates is fundamentally different due to the responsibilities now attaching to the new supervisor.

This is a book that I highly recommend for new police supervisors. I will issue it to new sergeants in my department. (And, it wouldn't hurt to give it to the experienced ones, too!). An index and a bibliography are included.

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Authors' Biographies



Carmine Grieco received his PhD from Old Dominion University and is now an Assistant Professor of Kinesiology at Colorado Mesa University. A personal trainer with over 15 years training experience, he successfully made the transition from personal trainer to University professor in 2012. Carmine is a past West Virginia state director of the National Strength and Conditioning Association (NSCA) and the current state director for the American Society of Exercise Physiologists (ASEP). Carmine's research focuses heavily on heart rate variability (HRV) as a measure of autonomic response. Carmine is particularly interested in the unique challenges faced by tactical athletes. He is currently collaborating with Andrew Thompson, from Tufts University and the U.S Army Natick Soldier Research, Development and Engineering Center (NSRDEC), on a project involving HRV.



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



Dr. John Reece is an Associate Professor of Criminal Justice and the former director of the Western Colorado Peace Officers Academy (WCPOA) at Colorado Mesa University. Dr. Reece was employed with the Grand Junction Police Department (GJPD) in Colorado for nearly twenty years. During his tenure at the GJPD, Dr. Reece was a Patrol Officer, K-9 Handler, Field Training Officer, Rifle Team Member, and Detective. He was promoted to Police Sergeant and in this capacity was assigned to Patrol, Training and Recruitment, and Internal Affairs. Dr. Reece holds a bachelor's degree in Criminal Justice from Colorado Mesa University, a master's degree in Public Administration from the University of Colorado, and a Ph.D. in Public Administration from Northcentral University. He serves as the Editor-in-Chief of the *Colorado Police Quarterly*.



Philip J. Baca is the Director of the Jefferson County Sheriff's Office and Lakewood Combined Regional Law Enforcement Academy. He served for fifteen years with the Denver Police Department in various positions, ultimately attaining the rank of lieutenant before he left law enforcement to practice law for seven years. During this time, he continued to develop law enforcement training programs and materials. Mr. Baca was selected as the initial Director of the Highlands Ranch Law Enforcement Academy. Two years later, Mr. Baca went to the Jefferson County Sheriff's Office to manage its training academy and Support Services Division. While at Jefferson County, he served as the Captain of the Support Services Division, Captain of the Patrol Division, and as the Division Chief of the Criminal Investigations Division. Mr. Baca served as the Chief of Police in Commerce City from 2008 to 2012, and then he returned to the Jefferson County Sheriff's Office. Mr. Baca earned his bachelor's degree in Pre-Law/Political Science from Colorado State University, and his Juris Doctor from the University of Denver. Shortly thereafter he was admitted to the Colorado State Bar as a practicing attorney. Mr. Baca can practice law in all Colorado courts, the United States District Court, and the 10th Circuit Court of Appeals. Additionally, he is a graduate of the 216th Session of the FBI National Academy.

Guidelines for Authors

Please see the *Editorial Mission Statement* for a more detailed description of these articles located on the inside cover of this journal. All manuscripts submitted for publication must be computer-generated submissions. Manuscripts must be double-spaced, with margins of 1 inch, and may range from 250 to 3,000 words in length. Letters to the editor and commentaries may be no longer than 1,000 words and may be abridged at the editor's discretion. All accepted manuscripts shall be edited and formatted to meet the needs of the journal. Authors do have final approval of the manuscripts. All manuscripts published become the property of the Colorado Association of Chiefs of Police; however, personal and professional use of the articles shall be granted to all authors provided that the original publication is attributed.

Please consider the following guidelines when submitting a manuscript:

1. One typewritten, double-spaced page is approximately 300 words.
2. Original research articles should be approximately 1,000 to 3,000 words. Historical and pragmatic articles are welcome. If the article is a traditional research article, the following headings should be used: Abstract (less than 250 words); Introduction; Methods; Results; Discussion; and References. Other articles should include an Abstract (less than 250 words), Introduction, Discussion (or other appropriate heading), and References. The Editor-in-Chief recognizes that other headings may be appropriate in certain instances for clarity, and their use is encouraged.
3. Each chart, graph, photograph, or other illustration should be placed on a separate page apart from the written text. Each must be titled and easily understood without the aid of the written text.
4. Commentaries on important issues within the discipline are welcome. They should be no longer than 1,000 words – please note that shorter is better - addressing a specific issue. All commentaries shall be assigned authorships. No anonymous commentaries shall be published.
5. Manuscripts should be referenced following the American Psychological Association (APA) guidelines.
6. Letters to the Editor should be between 250-1,000 words. Remember, brevity is key. Also, the first and last name of the writer must be submitted. Anonymous letters shall *not* be published.
7. All authors should include a brief biographical sketch that describes any degrees earned, certifications awarded, and the current position or positions held.
8. Electronic submissions are required. Please email a typewritten file labeled with the corresponding author's last name and the year, e.g., Smith_2015. Files saved in .doc or .docx are preferred. All articles are peer reviewed after editorial clearance.

Please send the file to the following e-mail address:

joreece@coloradomesa.edu

Authors shall be notified of acceptance, provisional acceptance, or rejection within six weeks of receipt of the manuscript. Please include the full contact information of the corresponding author.

Respectfully,

Dr. John G. Reece
Editor-in-Chief
Colorado Police Quarterly



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