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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COMMENTARY

Training Investigators for Water Fatalities

Bo Tibbetts

In almost no other situation is there more of a presumption of an accidental death than in the case of a drowning. In the urgency of the moment, many assumptions are made by the caller discovering the victim, and this can lead to investigative issues. As the initial call works its way from dispatch to law enforcement, the presumption of an accidental death can potentially grow stronger rather than the investigator being open to other possibilities. This type of leap, while common, can be highly detrimental. This is why it is so important to train police executives and the members of their agencies in water fatality investigations.

In truth, any body of water can, and often does, offer incredible concealment opportunities for criminals. Take a moment and think about the number of rivers, lakes, ponds, swimming pools, hot tubs, and even bathtubs that you have encountered, and in almost every case, the call comes in as an accidental drowning. Indeed, most individuals automatically think “accident” where water-related deaths are concerned. “Water” is uncertain territory, and if investigators lead themselves down the path of a predetermined mind-set, then an investigation could be compromised. Policing personnel must be careful not to let this occur. Similar to our mind-set when investigating a suicide, every death, regardless of initial reactions and assumptions, should be treated as a potential homicide until proven otherwise.

When it comes to water-related deaths, there are many aspects and scenarios to consider. Among the logical questions we need to raise upon discovering a victim, include the following:

- Should a water-related scene change the way we conduct our investigation?
- What evidence can we glean from a body recovered from water?
- What evidence may be present that will offer the investigators any indication as to the cause, manner, or mechanism of death?
- Are the investigators considering how the body is or has been positioned in the water?

A Forensic Science of Its Own

Police personnel need training in water-related fatalities in order to conduct a proper investigation. Specific steps should be followed for water-related incidents and can yield a great number of important findings to determine the cause of death. For example, forensic divers need to perform a cursory search of the victim, photograph the victim if possible, and determine the position of the body. In addition, it is essential to note what clothing the victim is wearing and if the hands or feet were bound. Underwater investigators should be required to sketch the scene and give a thorough report on what they observed while in the water. Upon making the recovery, it is vital the victim's head, hands, and feet be bagged securely underwater to prevent damage, destruction, or lose evidence.

Water fatality training should be an essential element that goes into the training of any investigator to provide at least a foundational understanding of water-related incidents. Courses of study in water fatality training are offered by Public Safety Dive Services at Public Safety Dive Supply (www.psdive.com).

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If one were to gather a number of citizens and ask them to share their stereotypes of law enforcement, one of the first would be obesity. Throughout my career, I have been sadly disappointed by this stereotype. In an article published by the Federal Bureau of Investigations, *Law Enforcement Bulletin*, Shell (2005) released statistics indicating that 80% of law enforcement officers are overweight. Rajaratnam et al. (2011) cited inactivity, poor eating habits, and lack of sleep as the main causes of obesity. To piggyback on Dr. Murray’s and Chief Wickman’s articles from previous editions, I would like to examine some of the causes of obesity, along with the benefits of a well-balanced lifestyle, and how we can help our employees accomplish their goals.

Maintaining a healthy weight and staying in shape can certainly be a challenge for law enforcement professionals. All the cards are stacked against us staying in shape. For example, 1) poor sleep habits due to shift work, 2) a bad diet due to lack of planning and motivation, 3) missing workouts that conflict with shift work and family commitments, 4) lower-back problems from excessive weight in the abdomen and wearing a duty belt, and of course, 5) stress all are contributing factors for poor fitness.

In a study conducted at the Sleep Medicine Division at Boston’s Brigham and Women’s Hospital in Boston, Rajaratnam et al. (2011) found of 5,000 law enforcement officers, roughly 40% of active-duty officers were suffering from sleep abnormalities. The numerous consequences reported include: fatigue-related safety errors; uncontrolled anger toward suspects or citizens; citizen complaints; frequent absenteeism; and mental and physical health problems, including depression, burnout, and increased likelihood of disease and disorders. Interestingly, participants from the Massachusetts State Patrol showed a lower prevalence of sleep issues, and a lower mean body mass index. It should come as no surprise that Massachusetts State Patrol has a departmental fitness program, which includes fitness facilities and duty time to work-out, along with a physical fitness test (Force Science Research Center, 2015).

Another hurdle we face is proper nutrition. We have all been interrupted during meals at some time in our career. Often times we miss meals due to call load, and then resort to a drive-through dinner. Remember to carry a healthy snack with your gear. If you cannot make a meal, at least have a snack, so when you eventually do eat, you are not starving and end up overeating. Packing food in a cooler is optimal and budget friendly, but at least refrain from junk food and the vending machine, if possible. On the up side, most fast-food restaurants now offer healthy options. I had not stepped foot into a fast-food restaurant for over 20 years until I had children, and was pleasantly surprised that they now serve salads, fruit, and grilled chicken sandwiches.

Remember, eating snacks and small meals throughout the day keeps the metabolism burning, maintains energy levels, and curves binge eating. Unfortunately, most individuals simply do not know what steps to take to lose weight and eat healthy. As a personal trainer, I would keep my explanation to clients simple: each day, burn more calories than consume. Stay away from fad diets, as they simply cannot be continued long term. As an organization, resources such as a dietician should be offered to employees in order for them to learn healthy eating habits.

Exercise is a form of “positive stress.” A key psychological benefit of regular exercise is improved self-esteem. When you exercise, your body releases endorphins. Endorphins trigger positive feelings. The feeling that follows a
workout is often described as "euphoric." That “euphoric” feeling translates to a positive attitude. Regular exercise reduces stress, anxiety, depression, and improves self-esteem as well as sleep. Exercise also strengthens your heart and increases energy levels. It lowers blood pressure, improves muscle tone and strength, and strengthens bones.

The most common excuse for missing workouts is time. As mentioned previously, all the cards are against us for getting it done, and there has to be a balance of family life. One way an organization can help is by allowing officers to work-out on duty in lieu of a meal break. My department has a written policy, which specifies that officers can work-out on their 45-minute meal break, as long as they monitor their radios, can be ready to be in service within 3 minutes, and they cannot leave one of the departmental gymnasiums. Many officers take advantage of the policy, and eat in their car later. For departments that do not have gyms within their district stations, thought would have to go into adjusting the policy to allow for exercise at an outside location. Some officers are highly motivated and will always work-out; others will never work-out no matter how easy you make it for them, but many are in the center, meaning they would work-out if they had the time, and/or were offered personal training services.

We know that one of the more prevalent causes of disability and medical retirements in law enforcement is lower-back pain. Lower-back pain results from one or more factors: long periods seated in a car, duty gear putting stress on the lower back, excessive body fat in the abdominal region, and lack of strength in the back muscles. Solutions include: exercise to strengthen the back muscles, losing abdominal fat, and redistribution of weight in the form of a load bearing vest. Some administrators scoff at the load bearing vest due to its outward appearance. From a practical perspective, carrying our tools of the trade (radio, cuffs, OC, Taser etc.) on our upper body rather than on our waist, takes the weight off the lower back muscles. If the load bearing vest is not an option, there are suspender systems on the market that help alleviate back pain. Often officers merely need to reorganize their gear on their belts to balance the weight and relieve pain.

As leaders, we should pledge to assist our officers in any way to become healthier, safer, and happier. Pass the bagel please, not the donut.

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References
Opioid Overdose and Naloxone “Rescue”

Lisa Raville and Joshua Blum, MD

An overdose occurs when a person’s body is unable to process the amount of a drug or drugs in his or her system. When the drug is an opioid pain reliever, or something like heroin, a person will experience respiratory depression, depriving the brain of oxygen, and eventually a loss of consciousness. Without oxygen, the heart stops beating, and the person dies. Timely recognition of overdose signs and symptoms is essential to keeping individuals alive.

Drug overdose death rates in the United States have more than tripled since 1990 (Centers for Disease Control and Prevention, 2011) and continue to rise in Colorado. Colorado Department of Public Health and Environment data show 9,672 Coloradans died from drug overdoses between 2000 and 2014. Opioids were the main factor in at least 3,213 of these deaths (Bol, 2015). While some of these deaths involve illegal drugs, many more involve prescription painkillers (drugs many of us have in our medicine cabinets).

Naloxone (also known as Narcan®) is an “opioid antagonist,” a medication that blocks the opioid receptor from the effects of overdose caused by drugs like morphine and heroin. Specifically, naloxone counteracts life-threatening depression of the central nervous system and respiratory system, allowing an overdose victim to breathe normally. Naloxone is a non-addictive prescription medication that is safe, has no serious side effects, and no potential for abuse. Naloxone only works if a person has opioids in his or her system; the medication has no effect if opioids are absent. Most often it is sprayed into the nose or injected into muscle tissue. Although traditionally administered by emergency response personnel, naloxone has been increasingly administered by minimally trained laypersons, treating overdoses in individuals who have been prescribed opioid pain medication and in persons who use heroin and other opioids. Importantly, since law enforcement personnel are often first on the scene in many overdose cases, there has been a national movement to equip officers with this life-saving drug. Currently 30 states have at least one department whose officers carry naloxone, and several states have outfitted all officers (See a comprehensive list here).

In Colorado, we have passed laws for laypersons and law enforcement to carry Naloxone. Currently the Denver Police, Denver Fire, and the Boulder Police Departments carry Naloxone. Denver Police Department officers were trained by watching a short video, making the training free and convenient. The Colorado Consortium for Prescription Drug Abuse Prevention encourages all police and sheriff departments statewide to carry Naloxone, and is working to secure funding for additional departments to equip officers. For more information about this lifesaving intervention, please contact us.

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References
Crime and justice studies are no doubt diverse in terms of being both pragmatic as well as academic in nature. I am sure most of us who have delivered in-service training to police officers and/or who have taught criminal justice courses, truly embrace the scholarly-practitioner model. We constantly strive to help officers or students bridge the gap between theory and practice. In addition, we are always trying to provide our audiences with expanded opportunities to engage in active learning and to participate in proactive research. Instruction pertaining to community oriented policing and problem oriented policing is no exception.

The key to effective in-service training relative to community policing and problem solving is to immediately establish a solid foundation of knowledge for our students by utilizing initial lectures and class discussions regarding the core concepts of community policing and problem-oriented policing (see PowerPoint presentation and handouts provided). Throughout our beginning discussions, we should provide real-life examples from our own policing careers and explain what worked, what did not work, the lessons learned, and the outcomes achieved. We should facilitate an in-depth discussion of the SARA (Scanning, Analysis, Response, and Assessment) problem solving framework.

After examining SARA and various other problem-solving techniques, decision-making guides, and community policing principles, consider breaking the class into small groups of 5-7 students. This is also the approximate size of a team of police officers. Students actively engage in their groups and assume they are a small group of police officers in a police department. Each group is given a different community related issue/problem and is tasked with applying their new knowledge to their community problem. Officers/students are provided with a SARA worksheet and are given sufficient time to discuss their community issue and prepare a formal presentation. Participants should be encouraged to “roll-up their sleeves,” think outside the criminal justice system, and develop viable, long-term solutions to the community problem by applying the SARA framework. During their presentations, the individual groups explain to the entire class how they addressed their assigned problem. Their colleagues in the class are purported to be command staff members and are encouraged to ask critical, yet respectful, questions immediately following each presentation.

The following is just one example of a community problem officers and students might be asked to address along with brief guidelines for successful completion of the assignment:

**Assignment:**
Assume you are a group of officers working at a police department. Your group has been tasked to “problem-solve” a neighborhood issue. The circumstances are as follows:

1) The police department has received fifty-eight (58) calls for service to the same neighborhood in the last three (3) months. The calls initially consisted of minor harassments and parking complaints; however, they
now consist of vandalisms, death threats, etc. Investigations have consistently revealed no probable cause for charges, albeit, some charges have been filed and prosecuted successfully.

2) There are primarily two (2) households that place calls to the police. One is an elderly man with some significant handicaps and the other is a husband, his wife, and two teenage children. It appears that the only person who works is the husband of the second household. Both households have acquired restraining orders and videotape the actions of each other. The other residents in the neighborhood are expressing concerns and want something done as well.

3) The efforts of the police department have been unsuccessful to this point and calls continue to come in (almost on a daily basis).

Directions:
Supervision in your agency has asked your group to apply the SARA model and other problem solving techniques in order to resolve or reduce this issue. Furthermore, they want you to present your approach at the next staff/ supervisory meeting supported by a brief written report. Use the handout materials provided to prepare a presentation of your proposed application of the SARA model to this particular community problem. You will need to ensure your group has comprehensively addressed the problem.

HINT: The majority of scanning is outlined in the problem. Also, please feel free to create and to implement other variables within the situation.

The exercise has been well received and fun. The assignment encourages group dynamics, and the officers and students appreciate the practical application of course material. Moreover, the exercise truly allows those participating the opportunity to critically think about various community problems, both as a group member and when discussing each of the presentations.

The aforementioned scenario, additional scenarios, a PowerPoint presentation on COP/POP, and a few SARA handouts (one of which is a worksheet that students can use) can be retrieved from: www.coloradomesa.edu/~joreece/POP-SARA.

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Facts:

Armstrong suffered from paranoid schizophrenia and bipolar disorder. Armstrong stopped taking his prescribed medication and began harming himself (poking holes in his skin “to let the air out”). Fearing for his safety, Armstrong's sister convinced Armstrong to check in to a local hospital. While at the hospital, he became frightened and ran from the ER. The examining doctor issued involuntary commitment papers and designated him as a danger to himself but did not designate him a danger to others on the commitment form.

Lt. McDonald, Sgt. Sheppard and Officer Gatlin responded to the call for assistance. They found Armstrong wandering in an intersection near the hospital. The officers, along with two hospital security guards and Armstrong’s sister, convinced Armstrong to leave the roadway and engaged him in conversation until the commitment order was finalized. Once the order was completed, the officers advanced on Armstrong. Armstrong wrapped his arms and legs around a nearby four-by-four post which supported a stop sign. While in this position he began to eat grass and dandelions and chew on gauze like material. The officers attempted to pull Armstrong off the post for approximately 30 seconds, but were unsuccessful.

The officers did not prolong this stalemate nor did they attempt to engage in further conversation with Armstrong. Instead, within thirty seconds of being informed that the commitment papers had been signed, Lt. McDonald instructed Officer Gatlin to Tase Armstrong. Gatling withdrew his Taser, set it to drive stun mode and told Armstrong to let go of the post. The warning had no effect, so Gatling deployed the Taser – five times over a period of approximately two minutes. Sgt. Sheppard pinned Armstrong down by placing a knee in his back and standing on his back respectively, while handcuffs were applied.

Shortly thereafter, Armstrong stopped breathing. The officers called for EMS and transported him to the hospital. Within a few minutes Armstrong died. Approximately 6 ½ minutes had elapsed between the finalization of the commitment papers and the call for EMS.

Issue:

Did the officers use excessive force in their encounter with Armstrong, and if so, were their actions protected by qualified immunity? Yes to both questions.

Court Decision:

The District Court held that the officer’s use of force was reasonable. The 4th Circuit reversed the District Court on the issue of excessive force and held that the officers' use of force was not reasonable under the totality of the circumstances.
Restatement of the Law:

The 4th Circuit considered three factors in weighing the use of force as outlined in *Graham v. Connor*, 490 U.S. 386, 396 (1989). Those factors were (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether the suspect was actively resisting or attempting to evade arrest by flight. The court concluded that these factors, specifically the second and third factors, permitted a limited use of force because of Armstrong’s erratic behavior and potential danger to himself, but the level of force used was not objectively reasonable and thus violated Armstrong’s Fourth Amendment rights. This was not a tense, uncertain and rapidly evolving situation as outlined in *Graham*.

Court Reasoning:

The court wrote: “Our precedent, consequently, makes clear that Tasers are proportional force only when deployed in response to a situation in which a reasonable officer would perceive some immediate danger that could be mitigated by using the Taser.” The court also noted that in cases where an officer uses more than one deployment, each deployment will be viewed separately and its validity will be determined by what is occurring at the moment of each deployment.

The court reached a conclusion that “Taser use is unreasonable force in response to resistance that does not raise the risk of immediate danger. In doing so the court wrote: “Our precedent leads to the conclusion that a police officer may only use serious injurious force, like a Taser, when an objectively reasonable officer would conclude that the circumstances present a risk of immediate danger that could be mitigated by the use of force.” At bottom, ‘physical resistance’ is not the same thing as the ‘risk of immediate danger.’

The court found that because Armstrong did not present a threat to the officers, the use of force was excessive. The court then concluded that because the law was not clearly established at the time when Armstrong was subjected to the TASER deployment, that the officers should be granted qualified immunity.

Bottom Line:

Although this 4th Circuit opinion is not controlling law within our 10th Circuit, it is very close to how the 10th Circuit has decided similar cases in the past. This case was decided using the *Graham analysis* and its “calculus of reasonableness” as outlined by the U.S. Supreme Court. The 4th Circuit found that officers who encounter unarmed and minimally threatening individuals who are exhibiting conspicuous signs that they are mentally unstable must de-escalate the situation and adjust the application of force downward. De-escalation techniques in handling such situations are considered the norm in many jurisdictions. As of 2016, Colorado POST requires all certified peace officers to receive annual in-service training in de-escalation techniques.

Dealing with the mentally ill is a usual and recurring scenario, one for which we should all be trained to handle. Officers receive calls concerning the mentally ill on a daily basis. Many recent 10th Circuit decisions clearly direct officers not to engage in reckless or deliberate conduct which unreasonably creates the need to use excessive force.

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Graham Dunne is a Sergeant with the Aurora Police Department. He has been in law enforcement for 23 years and a supervisor for 14 of those years. Sergeant Dunne has served as a SWAT officer, SWAT sniper, a full-time Academy instructor, a full-time Range instructor, a Field Training officer, and a personal fitness trainer. He is an accomplished athlete, as a multiple Golden Gloves champion, with medals in boxing, fitness, and competitive shooting. Sergeant Dunne served in the U.S. Marine Corps prior to police work, and is a police Medal of Honor recipient. He has served as a Subject Matter Expert to Colorado POST for over a decade, and is currently the chairman of the POST curriculum committee. Sgt. Dunne currently serves as a patrol supervisor in Aurora’s District 1.

Lisa Raville is the Executive Director of the Harm Reduction Action Center in Denver, Colorado. The Harm Reduction Action Center is Colorado’s largest public health agency that works with people who inject drugs. She provides management, fundraising, grant writing, syringe access, policy-advocacy initiatives, and is the agency liaison in the community. Past work experiences, besides the syringe exchange, that broadened Lisa’s activist voice include overnight homeless shelter coordinator, training workshops for ex-offenders, development work at a domestic violence agency, and a former campaign manager for a CA County Supervisor. Lisa is on the Board of Directors of the Colorado Criminal Justice Coalition. She is the co-chair of the statewide Naloxone workgroup with the Colorado consortium for prescription drug abuse prevention and holds a bachelor’s degree in communications from DePaul University.

Dr. Joshua Blum is a Medical Advisor and Program Manager at Denver Health’s HIV Primary Care Clinic. With a Bachelor’s degree from Dartmouth College and an M.D from the University of Southern California, he has cared for injection drug users throughout his career, starting as early as his second year of medical school, working at the Hollywood Free clinic and attending his first addiction medicine conference that same year. As a provider of primary care to HIV+ individuals, mostly from disadvantaged backgrounds, he works on a daily basis with injection drug users and the homeless. Additionally, he provides HIV and general primary care to patients in the Denver City and County jails. As a general internist caring for these high-risk populations, he has longstanding interests in the diagnosis and treatment of chronic pain syndromes, opioid management, and substance abuse, and has led quality initiatives on pain and opioid management at Denver Health. Blum also served on the Denver HIV Resources Planning Council, previously chaired the Colorado HIV/AIDS Prevention Program grant committee, and is now serving on the Medical Advisory Committee for the AIDS Drug Assistance Program for the Colorado Department of Public Health and Environment. Blum is the co-chair of the statewide Naloxone workgroup with the Colorado consortium for prescription drug abuse prevention. Blum is an Assistant Professor at the University of Colorado – School of Medicine and continues to lecture locally and regionally on pain management, opioids, and substance abuse.
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.

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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:

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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,

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