

**THE BILL BLACKWOOD
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

Mandatory Physical Fitness/Wellness Program

for the Marhsall Police Department

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by

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ABSTRACT

The Marshall Police Department does not have physical fitness standards for veteran officers. Many of the officers are not physically fit and have no incentive to become fit.

Police officers that are not fit are likely to use more sick time, more susceptible to injury, and more apt to use excessive force than a fit officer.

Research material for this project consisted of articles, journals, and books.

The Marshall Police Department is in a position of liability if an officer is unable to perform his or her duty due to his or her not being physically fit.

The recommendation is that the Marshall Police Department implement a mandatory physical fitness/wellness program for its officers of all ranks and reward those officers who meet or exceed the standards.

Introduction

The purpose of this research project is to present an argument for implementing a mandatory physical fitness/wellness program for the Marshall Police Department.

Physical fitness is a must for all police officers in today's society. Today's society is more violent than ever before. This can be seen by the fact that some agencies furnish each police officer with a ballistic (bullet-proof) vest and make wearing the vest mandatory. A police officer will not always be justified in using deadly force, therefore, the officer needs to depend on his or her physical abilities. These physical abilities consist of speed, endurance, strength, and flexibility. These abilities are regularly required in an officer's daily tasks and are often critical areas in an officer's contact with a criminal suspect. A physically-fit police officer is much more confident in his or her abilities when confronted with criminal activity. If an officer does not maintain these physical abilities, they will become dormant. Muscles begin to weaken; speed reactions become slower, and endurance decreases. A police officer's lack of physical fitness can reduce an officer's ability to protect themselves, a fellow officer, or a citizen and may prevent an officer from apprehending an offender.

A concern is growing for the implementation of mandatory physical fitness standards as the vast number of civil lawsuits for use of force by officers are increasing throughout the United States of America. Court case, *Parker vs. Washington D.C.*, demonstrates this growing concern. The case found that the city was negligent in a civil suit for not having an ongoing physical fitness program for officers, after an unfit officer shot a suspect that was being chased by the officer. The court decision in *Parker vs. Washington D.C.* that an agency was negligent in training an officer who was involved in an incident because the agency failed to maintain physical standards illustrates the need for such a physical fitness program. Police agencies must, and should, maintain physical fitness as a benefit for the agency and the individual officer.

The intended audience of this research project are the Officers of the Marshall Police Department.

The sources of information that will be used in this project are The Police Chief, Law & Order, FBI Law Enforcement Bulletin and the Bill Blackwood Law Enforcement Management Institute of Texas.

The intended outcome of this project is to establish the need and benefit for a physical fitness/wellness program within the Marshall Police Department. It is the authors intent, if approved, to have it made into policy and to implement it into the Marshall Police Department's Rules and Regulations Manual.

Historical and Legal Context

Physical fitness, per se, is not new to law enforcement. Most agencies have minimum standards that must be met before hiring. Some have periodic reviews, but many departments require nothing after initial testing.

It is becoming increasingly obvious that physical fitness does play a critical role in job performance for all aspects of law enforcement. Studies and evaluations at law enforcement agencies throughout the country indicated that an officer's worst enemy is not a felon with a loaded gun, but job stress. Not the stress that comes from the immediate threat of direct physical violence, but subtle, mental overload that all too often causes the body itself to send a "bullet" directly to the heart (Arters and Aaron 62).

Thomas R. Collingwood compared mortality studies of law enforcement to those for the general population. The studies indicated that the chance of an unfit officer dying of heart disease is three (3) times higher than his or her risk of dying from physical violence.

According to a national study, almost 90% of all officers perform little or no exercise and almost 90% of officers are overweight (Prentice and Tracy 17).

According to this author, it seems very logical for a person who works in the law enforcement field to have and maintain a well-conditioned body for a variety of reasons. Reason one is that a well-conditioned body is better able to cope with stress and reduce cardiovascular disease. Reason two is that the job calls for physical contact at times with an offender. I know from my personal experience that the majority of people I encounter during my tour of duty are bigger

than I am. Therefore, I feel that I should be in better physical shape than my opponent in case I have to effect an arrest. If that is not enough of a motivational factor, then I cite the following:

Our U. S. Criminal Justice System makes sure that every state and federal prisoner has a healthy, properly balanced diet and nutrition program designed by the most competent registered dietitians. The government makes sure that its incarcerated citizens have three square meals each day that represent all the major food groups and contain all the recommended daily allowances. Most of our county jails and state and federal prisons have exercise facilities that rival the most expensive workout centers. Make no mistake about it, today's average ex-con comes out of the "joint" healthier, in better physical shape, and better educated than when he went in (Grossi and Konrad 25-26).

Reason three is that criminals are now suing officers and governmental agencies for excessive use of force. An example of this would be the federal court case, *Parker vs. The District of Columbia* (850 F. 2nd 708 D. C. 1988). This case involved Donald L. Parker, a bank robbery parolee, also wanted on a felony warrant. Parker sued the District of Columbia Police Department after he was shot twice by Washington Metro P. D. Officer William Hayes. The U. S. Court of Appeals gave the following statement regarding Officer Hayes: "Officer Hayes had been cited several times for being overweight, he simply was not in adequate shape to do his job. This condition, posed a foreseeable risk of harm to others. Given Officer Hayes' physical condition, it is not hard to fathom that his most effective method for subduing the objects of his pursuits would be the use of a firearm as opposed to the application of physical force." The court found the department to be "deliberately indifferent" with respect to the physical training of its police officers. The jury awarded Parker nearly \$500,000.00 (Grossi and Konrad 18-20).

Many police officers consider themselves invincible because they are the police and they are confident that their training with firearms will resolve the majority of situations. Relying on firearms as a means to protect officers and apprehend offenders frequently falls short of being the correct solution, however.

In 1985, the Supreme Court ruling in *Tennessee vs. Garner* restricted the use of deadly force in apprehending a fleeing non-dangerous felon. The practical effect of this ruling is that officers must be in adequate physical condition to pursue and subdue without "firearm dependence." In instances where officers have used firearms inappropriately, a common thread seems to emerge. Specifically, officers believe they are not physically able to do anything other than shoot, which creates panic and poor judgment. Fitness could give these officers the confidence, ability, and endurance to try other alternatives, such as defense tactics and/or impact weapons. Firearms expertise alone is not enough.

Reason four is that physically fit officers use less sick time, increase public respect for the agency and demonstrate improved attitudes towards other. Fit officers are also more productive and tend to be subject to fewer excessive force-related lawsuits. The agency also benefits in that fitness tends to prevent premature retirement and reduce on-the-job injuries (Ness and Light 74-75).

If an officer is in less than adequate shape, then he or she is tempting fate every time he or she puts on a uniform.

Review of Literature or Practice

"Throw away those Big Macs and pick up those sweats," ought to be the theme song of law enforcement in the 1990's.

Hazelwood, MO. Police Department implemented a mandatory fitness program in the agency. The Hazelwood Chief of Police selected the DePaul Health Center to get the fitness program into shape. The Hazelwood program is a four-step fitness plan consisting of health screening, medical testing, mandatory fitness test, and finally an ongoing fitness program so officers can maintain health standards.

The mandatory fitness tests measure cardio-respiratory endurance and flexibility. This information is gathered through a timed 1.5 mile run or three mile walk, a bench press, sit-ups completed in one minute, and a sit-and-reach test. The tests were especially designed for the department employing standards and tests by such organizations as the American Heart

Association and the Institute for Aerobics Research. Performance levels are broken down by levels based on differences in age and sex. The final part of the program is maintaining fitness. The center provided guidelines on health maintenance, nutrition, and overall fitness to keep officers on course (Getz 44-47).

The San Antonio, Texas Police Department has instituted a physical fitness program that incorporates friendly competition for the officers. Throughout the year, every San Antonio police officer partakes in a 40 hour wellness training program which includes driving, marksmanship, and physical fitness. Officers meeting or exceeding specific qualification in each category qualify for the "Top Cop" competition. Many of the competing officers attributed their "Top Cop" contender shape to good eating habits and consistent bi-weekly physical fitness workouts (Roeder 10).

In New Mexico, the Hobbs Police Department initiated a wellness program for its officers in 1985. After implementation of mandatory fitness assessments, the Hobbs Police Department reported that of the 64 officers participating, the results went from 64% of the officers testing "very poor" during the initial assessment to only 3.1% testing "very poor" after 16 weeks. Average body fat also was reduced from 20% at "very high" levels to 17% "above normal" after 16 weeks. Flexibility improved from an average of 14.3 inches to 17.5 inches on the "sit and reach" test after 16 weeks (Arters 63).

The physical test for Hobbs Police Department consisted of four parts: aerobic exercise, where the participants have a choice of a 3 mile walk or 1.5 mile run (for distance); a 12 minute swim or a 12 minute bicycle ride, body fat percentage; a sit and reach flexibility test; and a muscular endurance and strength test including sit-ups, curl-ups, and push-ups. Tests were given several times a year, and officers who failed the tests are re-tested after 60 days (Arters 66).

The Bexar County Sheriff's Office also has a wellness program. All sheriff employees are required to participate in a physical fitness evaluation. The evaluation is based on the Cooper Institute for Aerobic Research. The evaluation is designed to provide realistic and attainable goals set by all employees, regardless of age or gender. The Bexar County Sheriff's Office has

incentive awards of bonus time off for employees who achieve a high fitness rating in all categories. Employees who achieve a high fitness rating in all categories are granted bonus time off. Employees with a score of 85 or higher in all five categories are entitled to eight hours time off (Bexar County Sheriff Policy).

The Texas Woman's University Department of Public Safety has a mandatory physical fitness policy. Full-time police and guard personnel must maintain physical fitness levels which are equal to or better than the average American. The department tests its personnel twice a year. The department tests in the following areas: a 1.5 mile run or 3 mile walk, sit-ups, sit and reach, maximum bench press, and body composition. Members of the department that fail to meet the standards level are assigned supervised workout times until the next assessment tests. The workout times are assigned to one (1) hour of duty time per week for workouts. The Texas Woman's University Fitness Test is based on the Cooper Test (Texas Woman's University Policy).

The Mount Pleasant, Texas Police Department requires its officers to participate in a physical assessment twice a year. The physical test for the Mount Pleasant P. D. consists of four parts which are 1) a timed obstacle course that includes scaling a wall, dragging a weighted dummy, jumping, and running a total of 145 yards; 2) a trigger pull, in which an officer must dry fire a revolver twenty-five (25) times with each hand; 3) a duck walk or a crawl for a specified distance; and 4) a timed run (Mount Pleasant, Texas Police Department Policy).

A study conducted by the Texas Department of Corrections, at Huntsville, Texas, revealed that state and federal prisoners far exceed the strength and endurance of police officers in the same age categories (Krajick 25).

Considering that criminals are the natural opponents of police officers, agencies should encourage fitness, for if nothing else, to not be "out-gunned" by the competition (Braden 11).

Discussion of Relevant Issues

The key issues involved in mandatory physical fitness requirements are issues of testing and compliance, fitness standards, and, of course, civil liabilities.

Police administrators are legally responsible to make certain that officers are trained and fit and are capable of performing their duties. Police departments may require fitness standards, but must comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973. It is important that they identify the essential functions of police work and develop physical fitness standards and tests that are based on those functions. Administrators can be held liable for "failure to train" if the failure amounts to indifference (*City of Canton vs. Harris*, 57 U.S.L.W. 4263 (1989)). If compliance with fitness standards is used as a basis for employment actions such as pay raises, promotions, assignments and termination, they are the most likely to face legal challenges. Mandatory fitness standards should be imposed only after considerable practical and legal scrutiny. Successful fitness programs involve employee input, allow reasonable time for officers to meet standards, impose no negative sanctions, and receive personal rewards for meeting or exceeding standards.

The constraints on mandatory physical fitness are time and money. Officers should be provided training, the time to exercise, equipment, and a place or facility to exercise. A police officer's time is a valued commodity, to them and the agency. The time an officer spends training or exercising is time spent away from his or her regular police duties and time spent away from family and personal pursuits. Funds spent by police agencies for fitness training, fitness facilities, or equipment result in less funding for other items and programs (Avers 7-8).

Another important and relevant issue is cost/benefit analysis. Data from several studies - California Highway Patrol, Prudential, General Mills, Tenneco, Johnson & Johnson, and General Electric - show that in promoting wellness/fitness programs, reduced health care costs occur, absenteeism and job related injuries decrease, and morale and productivity rise. At General Electric, exercisers call in absent 45% less than those who do not exercise. After one year of its fitness program, Johnson & Johnson discovered that sick leave dropped 9% for participants and rose 13% for those who did not partake. Those who participated in General Mills fitness program showed a 19% reduction in absenteeism, compared to a 69% increase for non-participants (Shapaka 11).

Another study that demonstrates the cost/benefit analysis was conducted by Xerox Corporation, Quasar Systems, Goodyear Rubber, the United Secret Service, and the Ohio Highway Patrol. It shows the following evidence of cost saving after the implementation of physical fitness/wellness programs. Eighteen (18) to forty-two (42) percent drop in absenteeism, four (4) to eleven (11) percent increase in productivity, improved morale, less employee turnover, and reduced health care cost (Fraser 24). Based on current medical findings, businesses are jumping on the prevention band wagon with work site wellness programs. A non-fatal heart attack can cost \$25,000.00 - \$30,000.00 in hospitalization costs, worker's compensation, and higher insurance premiums. A fatal heart attack means the loss of a trained, experienced officer (Bickers 1).

The agency that promotes a physical fitness program benefits from the improved health of their employees. Nearly half of all early retirements and disability leaves are due to back trouble, permanent injuries suffered in the line of duty, and heart attacks (Charles 253). Ranked by greatest occurrence, heart attacks are the leading cause followed by back injuries (Krajick 26). Ironically, the two largest factors responsible for retirement costs and workman's compensation litigation could be met by the encouragement of physical fitness (Braden 7-8).

Another interesting cost/benefit analysis is that people who don't exercise have 36% higher health care cost and 54% longer hospital stays than people who do exercise. Overweight people have 7% higher health care cost and 85% longer hospital stays than people who are thin. Smokers have 25% higher health care cost and 114% longer hospital stays than non-smokers (Chang, Boyle 45-50).

In keeping with the cost/benefit analysis associated with a physical fitness/wellness program, my final argument to police and city administrators is civil liability. Civil liability is where the "big bucks" are. Medical experts are testifying on behalf of out-of-shape officers injured on the job who are suing their departments for the "big bucks." They are alleging their departments are guilty of "deliberate indifference." These individuals are saying that the department knew about the risks of the job and chose to do nothing about it.

Courts are saying the police administrators are at fault (should an officer be injured) in not setting physical guidelines. The courts are saying that police officers have a job to do, and if they're not capable of doing it, we're failing as administrators (Arters 67).

CONCLUSIONS/RECOMMENDATIONS

The purpose of this research was to obtain the information necessary to make a decision as to whether the Marshall Police Department should develop and implement a mandatory physical fitness/wellness program.

Many officers within the Marshall Police Department are overweight, smoke, and have no incentive to become or remain physically fit. There is no penalty if they are not fit.

The Marshall Police Department is para military; therefore, officers within the department should hold themselves to some military standards. One such standard is being well conditioned to perform their duties.

Officers must consider the mindset of criminals. If a criminal commits a crime and is confronted by an obese officer who has not engaged in any physical activities since academy training, how will this affect the suspect's decision to comply or resist arrest? Will the survival choice be fight or flight? An officer who appears to be physically fit and possesses a command presence is less likely to be violently confronted by a criminal (Sweeney 32).

The only summation I can determine is that the Marshall Police Department can no longer afford not to have a physical fitness/wellness program. In order to obtain compliance, the program must be mandatory.

I believe that the implementation of a mandatory fitness/wellness program will give officers the incentive and the opportunity to become fit and remain that way. This program will also lessen the civil liabilities of the city and police administrators. The program would also greatly reduce costs of healthcare benefits and improve the quality of each officer's life.

Once a decision is made to implement a fitness/wellness program, the program must be "sold" to budget appropriators and to the officers. The justification of the program to budget appropriators is that a compelling interest exists to have police officers who are healthy and fit,

promote healthcare savings, and see a reduction of civil liability. It would also make for a more positive and productive officer.

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