

**The Bill Blackwood
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**Professional Appearance
for Law Enforcement Officers**

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ABSTRACT

The law enforcement community faces many challenges in today's changing society. One of the challenges is maintaining a professional appearance. Society has evolved in their acceptance of visible tattoos, eyebrow piercings, and ornamental dental work. There are other issues that would affect an officer's appearance, such as beards and the length of a man's hair. Some of these may be linked to a legitimate religious belief. The courts have made some allowances for sincere religious beliefs.

Some police officers have begun to challenge the standards of what is acceptable appearance as a law enforcement officer. Officers have placed tattoos on their lower arms and on their neck. They have put in ornamental dental work. Some have used branding and intentional scarring to express their own identity. Officers who challenge the standards believe it is their right to appear as they want to.

A law enforcement officer should have a professional appearance. They should not conform to what the general society believes to be acceptable. This paper contains information gathered from court cases, newspaper articles, and internet sites. A law enforcement officer should have a professional appearance. The public has a general expectation of what a law enforcement officer should look like. A law enforcement entity has the right to decide what they believe will portray a professional image to the public. The courts have confirmed this.

Although some officers have chosen to challenge the appearance policy of their agencies, the courts and the public still demands an officer have a professional appearance. Each agency will need to write their professional appearance policy to address the challenges of today's evolving society. Seasoned officers and new recruits

should be reminded that they are professional officers, and they need to look like professionals.

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INTRODUCTION

This paper will address some of the issues of how a law enforcement officer should appear to the general public. A law enforcement officer should have a professional appearance. Some of the issues that this paper will address are officers with visible tattoos and inappropriate piercings, such as eye brow piercings and ornamental dental work. There are also issues with the length of a male officer's hair and with male officers having facial hair. A patrol officer or a detention officer should not have these items as a part of their appearance. An officer should appear as a professional. When members of the general public see a patrol or detention officer with visible tattoos, they will lose confidence in the ability of the officer to properly perform their duties (Tinsley, Plecas, & Anderson, 2003). Usually, law enforcement agencies will have a written policy regarding a professional appearance and might not hire an individual who will bring these issues to the department. An example of this is the Tucson Police Department policy from 2007. However, some officers have chosen to alter their appearance after they have been hired. Some of these officers have been reassigned to positions that have fewer public interactions.

Michael Riggs was an officer with the Fort Worth Police Department who was reassigned because of visible tattoos. Riggs was not successful in regaining his position (*Riggs v. City of Fort Worth*, 2002). Law enforcement patrol officers and detention officers should have a professional appearance. Most, if not all law enforcement entities, have a personal appearance policy in writing that sets a standard for a professional appearance. Agencies are being forced to revise their policies to

address the evolving social views on visible tattoos and body piercing and to maintain a professional appearance for their officers.

POSITION

Law enforcement officers as well as detention officers should have a professional appearance. A law enforcement entity in any area of the world is identifiable because they wear similar clothing to let members of the public readily know who they are. Most people would agree that it is understood that law enforcement officers will wear a uniform and comply with the set policies on professional appearance. However, there have always been members of the law enforcement community who will try to assert their individualism by trying to challenge the status quo. Some of these officers will only make a small change, such as a male officer wearing a stud earring or growing his hair beyond the standards. Other officers will make a more progressive challenge to the status quo by placing tattoos on their lower arms and their neck, where they will be visible to the public when they are in uniform. While these individuals may be intelligent and good officers, their appearance damages their perceived credibility in the eyes of the general public. Tinsley, Plecas, and Anderson (2003) sent out 1,400 questionnaires to randomly selected groups. They selected seven groups of 200 and sent different questions to each group. This study enforces the need for uniformity and that the public expects a professional appearance from their public servants. Tinsley, Plecas, and Anderson (2003) found that "When police officers wear their uniforms, the public believes that they embody the stereotypical traits of all police officers" (p. 4).

Some of the officers who have found themselves outside the boundaries of what is accepted either in policy or standard regulations have chosen to seek legal means to

defend their position. State and federal court cases have ruled in favor of the law enforcement entity in their prohibitions against items such as visible tattoos and body piercing. In the court case, *Riggs v. City of Fort Worth* (2002), where Michael T. Riggs challenged an assignment change due to his visible tattoos, the court ruled that the department could reassign him based on department goals, which are to present a professional public image. Riggs filed a 42 U.S.C. section 1983 civil action against the City of Fort Worth, Texas and the police chief, and Riggs alleged discrimination because of his removal from the bike patrol unit and an order that he wear long sleeves and long pants to conceal the tattoos. The police chief filed a motion for a summary judgment for qualified immunity. The district court judge held that requiring officer Riggs to wear long sleeves and long pants, and transferring him out of bike unit were not based on officer's race, or other protected expression, and the police chief was entitled to qualified immunity. The district court judge also dismissed all claims against the City of Fort Worth, Texas connected to this case.

In 1971, members of the Suffolk County Patrolmen's Benevolent Association from Suffolk County, New York decided to challenge a new hair policy. The new policy would regulate hair length and style, sideburns and mustaches, and beards and goatees. This case is known as *Kelley v. Johnson* (1976). The court ultimately upheld the policy of Suffolk County, New York that regulated the hair length and style, sideburns and mustaches, and beards and goatees. In the final decision, Justice Powell stated, "When the state has an interest in regulating ones personal appearance, as it certainly does in this case, there must be a weighing of the degrees of infringement of the individual's liberty interest against the need for the regulation" (para. 12). Justice

Powell also stated, “This process of analysis justifies the application of a reasonable regulation to a uniformed police force that would be an impermissible intrusion upon liberty in a different context” (para. 12). This helps to solidify the idea that an officer should understand that they represent the police force. Although each officer is an individual with regard to their background and their ideas about life, they should conform to the appearance policies that are presented by their agency.

There are some instances when male officers cannot easily abide by a policy against facial hair because of a medical condition. The most common facial medical condition is called pseudofolliculitis barbae. This condition causes severe skin irritation when a person shaves because the hair grows back into the skin causing inflammation and a foreign body rejection. At least 50% of black men, up to 83% in some reports, and 3% of white men who shave are affected by this skin condition (Goldstein & Goldstein, n.d.). In a legal publication, a U.S. Border Patrol officer was improperly denied permission to grow a beard because of this medical skin condition (AELE, 2007, para 3).

According to the, American Osteopathic College of Dermatology (AOCD), the only absolute cure for pseudofolliculitis barbae is to not shave and let the beard grow (AOCD, 2012). The American Osteopathic College of Dermatology follows this advice by offering several suggestions, such as using an electric shaver or a brushless chemical shave. In severe cases, they suggest electrolysis or laser hair removal; however, these options are expensive and require several visits. There is also a very small risk of scarring on the face from electrolysis. Some insurance companies may cover part of this procedure. These procedures are very expensive.

There have also been legal contentions over the length of a male officer's hair and the style of the hair. In the case of *Humphrey v. Lane* (2000), the Ohio Supreme Court ruled that Humphrey could maintain the long hair because of his sincere religious beliefs. The court also placed the burden on Humphrey, a Native American, to keep his long hair concealed neatly under his hat. In this ruling, the Ohio Supreme Court also said that it generally upholds the appearance standards for corrections officers, but it will allow an officer to have long hair for religious reasons.

In the case, *Rathert v. Village of Peotone* (1990), The United States Court of Appeals for the Seventh Circuit Appeal for the Northern District of Illinois, Eastern Division, upheld the policy of The Village of Peotone Police Department that forbade male officers from wearing stud earring while off duty. In reaching this decision, the judge said, "I think we all agree that in order to sustain a regulation of off duty conduct, the regulation must be rationally related to a legitimate public interest such as the effectiveness of the officers" (*Rathert v. Village of Peotone*, 1990, para. 32). The judge made the argument that since a significant section of the township attribute ridicule and not respect to a male who wears an ear stud, the department could regulate this activity. The judge also stated that he believed the ear stud would impair the officer's effectiveness on duty even though it is only off duty that the officer would be seen wearing the stud (*Rathert v. Village of Peotone*, 1990). This helps to affirm the belief that the public expects officers to have a professional appearance.

In a case that involved a large corporation in Massachusetts, an employee challenged the right to have visible body piercing and facial piercing. Costco Wholesale Corporation dismissed the employee for refusing to remove her facial piercings.

Kimberly Cloutier said that she was a member of the Church of Body Modification and refused to remove the facial piercing because of religious reasons. The court ruled that Costco had no duty to accommodate Cloutier. The court ruled that Costco's desire to present a neat, clean, and professional image was not unreasonable (*Cloutier v. Costco Wholesale Corp*, 2004). Although this case is not related to a law enforcement entity, a reasonable person could draw the conclusion that a law enforcement entity would also be allowed to present a neat, clean, and professional image. In an article regulating matters of appearance, some corrections officers were disciplined for wearing dreadlocks as a part of their religious beliefs (Baker, 2007). In *Francis v. Keane* (1995), the court allowed the dreadlocks and said the employer failed to give a good reason to enforce the regulation. The court also said that the employer did not "demonstrate, with any specificity, how it is that requiring plaintiffs to cut their hair good reason to advances asserted interests in safety, discipline and esprit de corps" (as cited in Baker, 2007, p. 6). Police agencies are finding it necessary to write their appearance policy so that it specifically bans items that cause an officer to stand out in their appearance. The appearance policy in the Broward County Sheriff's Office in Florida lists the following: visible tattoos, non-traditional jewelry, and ornamental dental work. John J. Palmatier, who is a retired Michigan State Trooper said, "The law and law enforcement is not about doing your own thing, if it is that important, go drive a truck, sing in a rock band, but leave law enforcement to those who can conform" (Burnett, 2011, para. 11). The Great Falls, Montana police department has an appearance policy that states that tattoos cannot be below their elbows or anywhere on their legs. Their policy listed the following specific area that could not have visible tattoos. This policy lists the neck, head, face,

ears, hands, and fingers (Great Falls, Montana Police Department, 2011). This policy had a written exception for modest earrings for female officers. The tattoo policy of the police department in Des Moines, Iowa stated, “Any tattoos / branding / intentional scarring on the face, head, neck, hands, exposed arms and legs are prohibited” (M. Allison, personal communication, February 28, 2012). The Des Moines Police Department excluded officers who already worked there but prohibited them from getting new tattoos that are visible.

A police officer in Arlington, Texas was ordered to remove a small gold cross pin from his uniform. George Daniels had worked for the Arlington police department for 13 years. While working in a plainclothes position, he began wearing the cross pin as a religious symbol. After returning to a uniform position, he was ordered to remove the pin. Officer Daniels asked the police chief for an exception and was denied. Officer Daniels then filed a lawsuit claiming that his right to express his religion was being denied (*Daniels v. City of Arlington*, 2001).

The US Appeals court also denied the wearing of the cross pin. The court stated, “A police officer’s uniform is not a forum for fostering public discourse or expressing one’s personal beliefs” (*Daniels v. City of Arlington*, 2001, para. 8). While rendering this decision, the U.S. Fifth Circuit Court of Appeals also stated that the cross pin communicated Officer Daniel’s personal beliefs and did not communicate a legitimate public concern.

Police agencies are facing the need to specify what is acceptable and what is not acceptable. Different regions are facing their own challenges to officer appearance. Florida seems to have officers who that want ornamental dental work (Burnett, 2011).

Iowa is dealing with officers who want branding and intentional scaring (Associated Press, 2008). One item that each department seems to be facing is visible tattoos. While this is not a new phenomenon it does seem to be more prevalent in law enforcement today; however, this does not mean it is more accepted by the public. The general public still expects an officer of the law to present a professional appearance (Tinsley, Plecas, & Anderson, 2003).

COUNTER POSITION

Police officers are trained to put aside their differences and judge people based on their actions and not on their appearance. Officers are taught this from day one in the academy all through their career. This is good, solid police training, and it is based on the rights that are guaranteed in the US Constitution. The training is intended to produce officers that can put aside what an individual looks like and make a correct judgment about a person based on their actions.

In the past few years, multiple police agencies across the country have put in place policies that have restricted how an officer can appear. This has an underlying communication that says two things. First, it says an individual can be judged strictly based on their appearance. The second, and perhaps the most damaging statement, is that after all of the training on the constitution and freedoms that police officers are sworn to protect, police officers are now being judged on their appearance and not on their performance.

While this may appear to be a sound argument for allowing police officers to wear ornamental jewelry and have tattoos, it is filled with flaws. A police officer is sworn to protect the laws of the land. There are not any laws that provide a right to have

ornamental jewelry or tattoos. When an individual makes a choice to become a part of a police agency, they also make a choice to represent that agency as a professional police officer. An individual officer does not create policy; they are obligated to conform.

Tattoos have become main stream in modern society and are not as taboo as they were before. It seems that members of every segment of society are getting tattoos. Tattoos are seen openly displayed on everyone from professional sports figures, famous actors, and even actresses display their tattoos proudly.

The law enforcement community has to be the standard in society and cannot change their appearance based on social views. In a newspaper article, Burnett (2011) said, "People want a neutral authority figure when they call for an officer to the scene" (para.18). In the same article of the Miami Herald, the Broward County Sheriff stated, "I have gotten comments from the public that some of these tattoos are offensive and intimidating" (Burnett, 2011, para. 6).

Chief Rob Davis, of the San Jose Police Department, said, "Nobody is restricting their rights of how to express themselves on their own time" (Khalid, 2007, para. 6). However, he went on to say, "When working for the San Jose Police Department, we have to regulate appearance. My belief is that the community expects that of us" (Khalid, 2007, para. 6).

RECOMMENDATION

Law enforcement officers are viewed by the general public as professional. Officers represent the standards of conformity to the written and unwritten rules of law. While they do not want robots enforcing the law, the general public has an expectation of what a law enforcement officer should look like. In facing the challenge of those

officers who want to have body art, each agency will need to have a clear policy available to prospective employees and those in their department that address this issue. However, every department and certainly every officer is an individual, and there may be different ideas of what is an acceptable professional appearance.

The courts have made it clear in their answer to the question of whether an agency can monitor and control the appearance of their officers. The answer is that they can (*Rathert v. Village of Peotone*, 1990). In *Cloutier v. Costco Wholesale Corp* (2005), Justice Pechman stated, “It is the rare case where a protected characteristic of an employee is so inextricably linked with a piercing or tattoo that it implicates legal interest” (para. 15). Justice Pechman went on to say that, “Rather, tattoos and piercings are voluntary body art that an employer may choose to exclude from the workplace” (para. 15). Law enforcement entities, as well each individual officer, have a responsibility to the general public to have a uniform professional presentation to the public. This can only be achieved if each officer has a professional appearance.

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