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The Legality and Feasibility of Implementing
A Mandatory Physical Fitness Program
For the Seminole Police Department

An Administrative Research Paper
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ABSTRACT

Good police administrators are constantly looking to implement programs that improve their police officers both professionally and personally. One such program being evaluated by the Seminole Police Department Administration is a mandatory physical fitness program. When looking at this program the administration has to look at the legality and feasibility involved.

The purpose of this research paper is to show that a physical fitness program can be legally implemented. By reviewing the American with Disabilities Act, Title VII, current case law, and literature that are relevant to physical fitness in law enforcement this was found to be true. There is also discussion concerning why a physical fitness program could be cost effective for the department. Also shown are the benefits that this program would have for the police department and for the individual officer.

Physical fitness is relative to law enforcement due to the fact that officers are often required to perform activities that use all facets of an officer's physical capabilities. In attempts to apprehend subjects officers are required to chase after suspects by running, fight with suspects to gain control of them for arrests, and respond to other emergencies that will push their physical endurance. Therefore physical fitness has become a very important issue for law enforcement administrators. The research outlined in this paper will assist the administrators of the Seminole Police Department with the implementation of a physical fitness program. Additionally, this research can help other police administrators who are looking to implement physical fitness programs in their own departments by answering some questions concerning the legal issues surrounding the implementation of physical fitness programs.

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INTRODUCTION

Good police administrators are constantly looking to implement programs that improve their police officers both professionally and personally. One such program being evaluated by the Seminole Police Department is a mandatory physical fitness program. When looking to implement new programs police department administrators need to evaluate the programs that require mandatory participation of officers. The departments' administrators have to evaluate these programs to see if they violate any federal employment regulations. Administrators also need to evaluate the feasibility of the program.

The purpose of this study is first to answer the question of does requiring police officers to participate in a mandatory physical fitness program violate any federal or state employment regulations. If information from this study shows that a mandatory physical fitness program is not a violation of law, administrators still need to justify why they need or want to implement the program. This paper will also look at the cost of implementing a physical fitness program at the Seminole Police Department.

To answer the first question there will be a review of laws and regulations regarding employment, work place policies and regulations. A review of relevant court cases, and relevant areas of the Americans Disability Act (ADA) will also be completed. If it is found that current laws support mandated physical fitness programs for law enforcement agencies there will be a review of relevant literature in the area of fitness and law enforcement. A cost analysis of implementing a mandatory fitness program for the Seminole Police Department will also be conducted.

There is an expectation that the research will support the legality of mandated fitness programs for law enforcement agencies. Additionally it is believed the study will show that it could be a greater liability not to require officers to be in good physical condition. Furthermore,

it is expected that there will be no extensive cost to implementing the mandatory physical fitness program since the City of Seminole already provides employees access to an exercise facility at a very minimal cost. The results of this research are intended to aid the administration of the Seminole Police Department, as well as other police administrators in the decision making process of implementing a physical fitness program. The results of the research are also intended to impact the officers of the Seminole Police Department. This research will show the importance of obtaining and staying in good physical condition. Since good physical conditioning could not only possibly reduce job-related risk, but also improve their personal health and lives as well.

REVIEW OF LITERATURE

When a police officer graduates from a police academy, he or she is probably in the best shape of their life. They have been through intense physical training to prepare them for the challenges that lay ahead in their new career. After graduation however it is often left up to the individual officer to maintain his or her own physical fitness. (Rivera, 2001)

Look at the work conditions of a typical American law enforcement officer. The officer spends a majority of their time riding in a patrol car patrolling his or her assigned area. This does not allow the officer to get much exercise during a shift. Add to the fact that most police officers work odd and late shifts, which often play havoc with the ability to get the quality rest the body needs. Officer meal breaks during a shift are often times short and force the officer to rely on unhealthy fast foods. Not to mention the many other stresses and frustrations that is occurred in the law enforcement profession. Many studies of law enforcement agencies have shown that a man with a loaded gun may not be a police officers worst enemy. (Arters and

Aaron, 1989) The day-to-day frustrations and stresses encountered by today's law enforcement professional can lead to very serious health problems overtime. (Arters and Aaron, 1989)

One such study conducted by the Cooper Institute for Aerobics Research in Dallas, Texas examined medical histories of law enforcement officers from small, medium, and large local, state, and federal agencies for medical problems. The following chart shows the percentages of health problems of the officers employed by these agencies. (Hoffman and Collingwood, 1995)

Table 1

Percentage of Incumbents With Major Medical Problems

Medical Problem	Percentage
Obesity/overweight	20-50%
High Cholesterol	20-35%
Orthopedic and back injuries	15-25%
Psychological Problems	8-25%
Heart Disease	5-10%
Gastrointestinal	5-10%
Hypertension	4-15%
Diabetes	1-2%

Note. Data from Collingwood (1988,1993), IACP (1977), and McHenry et al. (1972).

“Professional groups such as the International Association for Chiefs of Police (IACP) and the Commission on Accreditation for Law Enforcement Agencies (CALEA), as well as many state peace officer standards and training councils, have recognized that fitness and health problems do exist, and have proposed policies in an attempt to alleviate their effects.” (Hoffman and Collingwood, 1995)

Administrators of police agencies have realized as a result of these types of studies that having physically fit officers as employees pose cost saving advantages. Physically fit officers statistically use less sick time, are more unlikely to have disability claims, and tend to have

longer careers (Nichols, 1994 as in Leal,1999). Physically fit officers also tend to be involved in less use of force situations (Oldham, 2001).

When a police administrator decides to implement a program such as a physical fitness program they look at the legal issues that surround the issue. In the case of a physical fitness program an administrator should look at the Title VII of the Civil Rights Act, the Americans with Disabilities Act, as well as relevant case law concerning employment issues.

Title VII of Civil Rights Act of 1964 restricts employers from implementing policies and procedures that discriminate against people that fall into protected categories except in limited situations. Title VII will apply to physical fitness programs when the standards required have a disparate impact on employment rights of protected groups. (Brooks, 2001)

Lanning vs. Southeastern Pennsylvania Transportation Authority (SEPTA) is a class action lawsuit that was filed in 1997. The lawsuit was filed by women who had been denied employment by SEPTA for not meeting physical standards required by the agency for employment. (Brooks, 2001)

After having studies conducted to determine what physical abilities were required of its officers SEPTA instituted physical fitness standards for its incumbent officers as well as for new recruits. The standards were that employees and applicants must be able to run 1.5 miles in 12 minutes or less, and meet certain aerobic qualifications. The plaintiff contended that the physical standards had a disparate impact on women. Statistics showed that only 12 percent of women applicants met the standards, which was a considerably lower percentage than their male counterparts. The U. S. District Court for the Eastern District of Pennsylvania heard the case in 1998 and ruled that SEPTA had established that the aerobic capacity standard was job related and consistent with business necessity and that there was a “manifest relationship of aerobic

capacity to the critical and important duties of a SEPTA officer.” This ruling was appealed by the women and the United States to the U.S. Court of Appeals, Third Circuit. (Lanning vs. SEPTA, 1999 as in Brook,2001) After reviewing U.S. Supreme Court case law and the Civil Rights Act of 1991 the Third Circuit Court found that the lower court erred in its ruling. The Third Circuit Court said that the lower court did not find that the 1.5-mile run in 12 minutes standard was a necessary minimum job qualification to perform the job as a SEPTA officer. (Lanning vs. SEPTA, 1999 as in Brooks, 2001) The Third Circuit ruled that this means “any such standard must measure a minimally necessary skill to perform the job.” (Lanning vs. SEPTA, 1999 as in Brooks, 2001) SEPTA appealed the case to the U.S. Supreme Court, the Supreme Court declined to hear the case and sent it “back to the District Court for the purpose of determining if the 1.5 miles run in 12 minute standard was minimally necessary to demonstrate the ability to perform the job of a SEPTA officer.” (Brooks, 2001) “On December 7, 2000, the District Court ruled that the SEPTA standard does measure a minimum characteristic (the specific aerobic capacity) necessary to perform the duties of a SEPTA police officer. (Lanning vs. SEPTA, 2000 as in Brooks, 2001)

In 1994 the Americans with Disabilities Act impacted all public and private sector employers who employ 15 or more employees. The ADA defines a disability as “a physical or mental impairment that substantially limits one or more major life activities.” Police agencies that are implementing physical standards must identify the “essential job functions” associated with the position of police officer. The department should also show that the physical standards to be met are job related. (Spielberg, 1995 as in Turley, 1996)

The “reasonable accommodation” requirement of the ADA permits a qualified applicant or employee with a covered disability to engage in one or more aspects of employment:
 (1) participation in the job application process; (2) performance

of the essential functions of the job; (3) enjoyment of the benefits and privileges of employment. This means officers who may have a physical disability, which limits the ability to perform a specific function must be accommodated, if possible. An example of this would be to allow an officer with a bad back to demonstrate cardiovascular fitness through bicycling, rather than running. The Equal Employment Opportunity Commission (EEOC) urges employers to use an individualized, case-by-case, process in determining reasonable accommodation of a disability. The individual's physician or health care provider should be included in this process. (Spilberg, 1995 as in Turley, 1996)

Parker vs. District of Columbia is a case in which an officer had to use deadly force on an unarmed offender who he could not apprehend. The court found that the police department was at fault because they failed to train the officer in arrest procedures and in physical conditioning. (Strandberg, 2000 as in Rogerson, 2001)

METHODOLOGY

The Seminole Police Department is looking to implement a departmental physical fitness program. Before implementing the program the department wanted to look at the legal issues concerning the requiring of officers to participate in a mandatory fitness program. The departmental officials also wanted to look at the aspects of improving the officer's health and fitness. The department also needed to look at the cost that would be associated with this implementation.

It is believed that the department can implement a physical fitness program that will not be in violation of any state or federal laws. It is also believed that the department can implement a program that is feasible and will not incur a significant increase in cost.

In order to explore the legal issues surrounding physical fitness programs in law enforcement agencies a review of modern journal articles was conducted. Some of these articles discussed how other departments have implemented programs and their justifications for them.

Other articles explored the necessity for physical fitness programs in the law enforcement profession and the benefits of them. Still other articles explored past case law in regards to the ADA and Title VII of the Civil Rights Act of 1991, and other relevant cases.

FINDINGS

The implementation of physical fitness programs in law enforcement is a prominent issue for the administrators of these agencies. There are many agencies that are looking into the implementation for their officers, and there are many that have successfully done so. For these administrators to implement these programs they have to look at legal issues and associated cost issues.

According to Americans with Disabilities Act, law enforcement agencies must be careful that the standards set by their physical fitness programs do not have a disparate impact on protected classes. People can be in protected groups based on age, race, sex, ethnicity, religion, or disability. (Turley, 1996) If a physical fitness program has a disparate impact on one of these groups the law enforcement agency can open itself up to civil liability. In order for a physical fitness program to keep from having a disparate impact the law enforcement agencies must identify what the essential job functions are for their department. Under the American with Disabilities Act there is a requirement to offer a “reasonable accommodation” to any individual who has a physical disability, which limits the ability to perform a specific function. For example, if you had a subject with a bad knee who was unable to demonstrate cardiovascular fitness by running, they could demonstrate the ability by another means such as swimming, or bicycling. (Spilberg, 1995 as in Turley, 1996) Most of the lawsuits filed against agencies have been filed because of disparate impacts against protected classes. (Cooper, 1995 as in Turley, 1996) These standards are part of Title VII of the American with Disabilities Act, and have not

been interpreted by the United States Supreme Court. Lower federal courts have differed in their opinions of the definitions of these standards. This has left the burden on police administrators to insure that they are continuously monitoring the judicial interpretations and legislative revisions of these standards. (Brooks, 2001)

Use of force issues also cause administrators to look at the implementation of physical fitness standards for their officers. If an officer is involved in a situation that he or she has to use deadly force due to the fact that they are not physically fit enough to apprehend or detain a suspect, the department can be held legally responsible. It is the department's responsibility to make sure that their officers have the physical conditioning needed to perform their job without having to use extreme force. This issue was demonstrated in the case of *Parker vs. District of Columbia*. In this case the City of Washington D.C. Police Department was held liable for one of its officers shooting an unarmed man that he was having great difficulty apprehending. The city was found to have not provided proper training in arrest procedures and physical conditioning. (Stranberg, 2000 as in Rogerson, 2001)

Officers are often required to suddenly engage in strenuous physical activities such as, physical confrontations and running to apprehend their suspects. The American Heart Association has found that a person in poor physical condition who engages in strenuous physical activity has a higher risk of injury or heart attacks. On the other hand, a person who is in good physical condition and engages in strenuous physical activity has a lower risk of heart attacks and injury. (American Heart Association, 1968 as in Rogerson, 2001) Due to the fact that most officers have unhealthy lifestyles such as, smoking and bad diets physical fitness programs are needed in order for the officer to perform their duties more efficiently. These

fitness programs will not only improve their work performance but they will also see the benefit in their personal lives. (Hoffman and Collingwood, 1995)

If a department is going to require its officers to participate in a physical fitness program there are some costs that need to be looked at. Officers should have access to some sort of training facility such as a gymnasium or health club. (Rogerson, 2001) Before officers are required to participate they should render to a physical examination. Associated costs that the department would incur included cost for initial physical examinations of officers, and overtime pay to officers while participating in physical standard reviews. The department would also experience savings due to the implementation, such as officers who are more physically fit will be less likely to become sick or incur on the job related injuries, therefore fewer sick days or short term disability days will be used. Additionally, officers will be able to perform at a higher level, which means that they will be more productive. Lastly, health benefit costs will decrease due to the fact that healthier people will not have to use them as often. (Hoffman and Collingswood, 1995)

DISCUSSION/CONCLUSIONS

As the administrators of the Seminole Police Department began looking at ways to improve their department, the physical fitness of its officer became a question. The administration began looking at implementing a physical fitness program for its officers. In looking at physical fitness programs the administrators became convinced that they needed to look into the legal issues surrounding this program. The administrators were also concerned with the cost issues surrounding the implementation of a physical fitness program.

It is believed that the department can implement a physical fitness program that will not be in violation of any state or federal laws. It is also believed that the department can implement a program that is feasible and will not incur a significant increase in cost.

In order to implement a physical fitness program that is legal there are certain things to consider. The standards that are going to be set for this physical fitness program must be considered needed to perform the duties of the job. For example, an officer cannot be required to complete a 5-mile run if that run is not something that normally occurs in the department. Also, the department must provide an alternative method of meeting these standards for an officer who has a legitimate physical disability. The situation surrounding disabilities directly affects the Seminole Police Department, in that we have an officer that has had a knee replacement and cannot run long distances. An example of an alternative method would be instead of requiring this officer to run a certain distance in a certain time this officer would be allowed to ride a bicycle for a comparative distance and time to exhibit cardiovascular endurance.

It was also found that requiring officers to meet specified physical standards would lessen the liability on the department. Officers that are more physically fit are usually involved in less use of force situations, which decreases the department's liability. The implementation of a physical fitness program decreases the department's liability thus making it more feasible.

The department must look at the cost associated with a physical fitness program. If a department is going to require officers to participate the officer must have reasonable access to a gymnasium or health club. This is not going to be a newly incurred cost for the Seminole Police Department as the City of Seminole already provides discounted membership to a local fitness center. Before requiring participation in a physical fitness program the department should provide each officer with a physical assessment. It is statistically shown that employees who are

physically fit are less likely to have on the job injuries, use less sick time, and are more productive when they are at work. This benefits the employer by reducing health benefit costs, and workers compensation insurance costs.

The research has shown that a physical fitness program can and has been implemented in many departments. Relevant case law shows that the department does have the responsibility of training its officers in areas such as physical fitness to make sure they are able to perform their job duties. Also the cost that may be incurred in the implementation of the program will seem irrelevant because of the cost that will be decreased in other areas such as sick time and on the job injuries. It not only saves on cost for the injured party, but will also alleviate the costs that are incurred for workers that are covering for the injured person. Therefore it is believed the research supports the implementation of a physical fitness program for the Seminole Police Department.

This issue has many good things but is limited by the fact that judicial interpretations are always changing. Also courts have had differing opinions on what the definitions of Title VII standards means. This means administrators must continually stay abreast of the current trends and rulings of the courts in the area of physical fitness as it pertains to employers and their requirements for employees.

Physical fitness is relative to law enforcement due to the fact that officers are often required to perform activities that use all facets of an officer's physical capabilities. In attempts to apprehend subjects officers are required to chase after suspects by running, fight with suspects to gain control of them for arrests, and respond to other emergencies that will push their physical endurance. Therefore physical fitness has become a very important issue for law enforcement administrators. The research outlined in this paper will assist the administrators of the Seminole

Police Department with the implementation of a physical fitness program. Additionally, this research can help other police administrators who are looking to implement physical fitness programs in their own departments by answering some questions concerning the legal issues surrounding the implementation of physical fitness programs.

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