

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

**CORONARY HEART DISEASE IN LAW ENFORCEMENT:
IS IT REASON TO CREATE MANDATORY FIT FOR DUTY FITNESS
TESTING IN THE COLLEGE STATION POLICE DEPARTMENT**

**A Policy Research Project
Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
Graduate, Management Institute**

**by
Gary L. Bishop**

**College Station Police Department
College Station, Texas
January 1999**

*Final approval
B. Blackwood
1-19-99*

589

TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical & Legal or Theoretical Context	3
Review of Literature or Practice	6
Discussion of Relevant Issues	8
Conclusions and Recommendations	11
Bibliography	14

ABSTRACT

The law enforcement community seems to be jumping on the band wagon with civilian businesses and are becoming more goal driven than ever before. At one time the work that was generated was done mostly on a reactive basis. Setting goals for agencies tends to cause us to be more proactive than we once were. Officers are asked to set goals for themselves. One very important goal that most officers make for themselves is to ensure that they go home at the end of their shift. They achieve this goal by practicing good officer safety techniques and by staying on top of each situation, never letting their guard down. Why is it then that the average age that a male officer dies is 59? Most officers do not die from violent incidents at work. They succumb to what is believed to be the disease of choice among law enforcement personnel - Coronary Heart Disease. A discussion regarding the problem of coronary heart disease in law enforcement follows. Through this discussion a determination is made that a physical fitness/wellness program should be adopted and made mandatory for all College Station Police Department officers to ensure that they are physically fit for their duty assignments.

Introduction

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

"When you become a law enforcement officer you lose the right to be unfit" (Lane, November 1990). If this is a true statement then why is it that over 50% of all law enforcement officers are 25 or more pounds overweight (Lane, November 1990)? Today's police officers, for the most part, are better equipped than our counterparts were 15 to 20 years ago. Departments will spend countless dollars on training to ensure that its officers are better prepared to handle most of the situations they may face. Some training is being done in answer to lawsuits that have been filed on agencies while much is done to aid in thwarting future suits for the lack of training or for failing to train. However, it seems that little is done to address the issue of whether our officers are actually physically well enough to be able to perform all of the tasks required of them. Few agencies offer training to its officers that will make them aware of the risks that they face by not taking better care of themselves physically. It is a general consensus that police work is a very stressful occupation. Police work is also quite sedentary at times. The combination of the occasional high stress times mixed with the usual 'just taking care of business' can be deadly for officers whom are unaware of the affects that this has on their bodies. While we have few qualms seeing that our officers have some of the best and modern

equipment available why are we failing to arm our officers with the knowledge that might well cause them to remain healthy and live longer? A police officer's lack of physical wellness effects every aspect of that officer's life, both on and off duty.

The intended audience for this research project is the entire sworn body of the College Station Police Department and any other agency wishing to start a fitness program.

The sources of information that will be used in this project are; The Police Chief Magazine, Campus Law Enforcement Journal, Police Stress, Human Resources in Criminal Justice, Journal of Police Science and Administration, The Physician and Sportsmedicine, The Legal Advisor, Law and Order Magazine, FBI Law Enforcement Bulletin, Commission on Accreditation of Law Enforcement Agencies (CALEA) manual, Bill Blackwood Law Enforcement Management Institute of Texas and interviews of police trainers and of researchers involved in fitness testing.

The intended outcome of this project is to establish the need for a mandatory physical fitness/wellness program for the sworn members of the College Station Police Department. Because, being physically fit makes people generally feel better. Their risk of cardiovascular disease is decreased, thereby providing for a longer, more productive and rewarding life (Riffle, November 1996).

Historical and Legal Context

The rising cost of health care for high risk public safety workers, such as police officers, places a premium on reliable methods of maintaining physical fitness and health. Programs of physical maintenance based on job-related physical demands that are measured by tests are becoming an acceptable approach to maintaining health and verifying physical fitness/wellness. Reliable evidence of the cost effectiveness of health and physical performance assessment and disease prevention programs is sparse but the evidence that exists is encouraging. Many private companies have developed programs, primarily based on risk factor modification for coronary heart disease (CHD) to improve employees' health and productivity and reduce medical costs. The potential benefits, both physical and financial, are enormous. The U.S. government estimates suggests that 30 million workers in the United States are hypertensive and 17 million have above normal plasma cholesterol values (Superko, Bernauker, Voss, September 1988).

Evidence from the preventive medicine program of the Los Angeles Fire Department suggests that such programs can lower serum cholesterol and diastolic blood pressure. Results from the Coronary Primary Prevention Trial constitute strong evidence that a decrease in elevated low-density lipoprotein cholesterol (LDL-C) values will produce a significant decrease CHD events such as myocardial infarction, sudden coronary death and angina pectoris (Superko, Bernauker, Voss, September 1988).

A number of companies have recognized the benefits of lowering the risks of CHD and have developed fitness programs for their employees. These programs have been designed for the benefit of both the employee and employer. Physically fit, or well, employees have a tendency to receive fewer on the job injuries, have fewer sick days and tend to be better producers. Some reports suggest that such programs reduce employee turnover (Superko, Bernauker, Voss, September 1988).

Recognizing the benefits some progressive police departments have implemented in-service physical fitness/wellness programs in an effort to keep their personnel healthy and prepared for the occasional rigors of the work. Fit officers can also save an agency many dollars in medical and health costs (Geier, September 1990). It may also save the agency money as a result of lawsuits. In 'Parker v. District of Columbia', 850 F.2d 708 (D.C. Cir. 1988), the Federal Court of Appeals for the District of Columbia approved a \$425,046.00 verdict on a 42 U.S.C. Section 1983 claim in favor of a man who was shot by a District of Columbia police officer during the course of an arrest. The theory supporting liability was inadequate training - the D.C. officer had received no physical fitness training for four years and was physically incapable of subduing Mr. Parker during the struggle. The court concluded: "Officer Hayes simply was not in adequate physical shape. This condition posed a foreseeable risk of harm to others. We are persuaded that a fair-minded jury could have concluded that Officer Hayes' conduct was the result of deliberate indifference on the part of the

District with respect to the physical training of its police officers" (Parker v. District of Columbia 850 F. 2d 79).

For years law enforcement trainers have expected a decision like 'Parker'. Although it is only one case from one federal circuit the precedent is significant. The failure to train is considered as deliberate indifference to a clear risk of unconstitutional injury, not mere negligence. 'Deliberate indifference' is akin to 'gross negligence', a higher degree of fault than ordinary negligence, as seen in typical state tort claims. And this lack of training is considered policy and custom of the employer. Law enforcement administrators should be particularly concerned that 'Parker' deals with the physical training of a veteran officer, not just a rookie in training. Officer Hayes joined the D.C. Police Department in 1971 and had earned a substantial history of achievement in the field before the incident. He never before had discharged his weapon in the performance of duty despite participation in hundreds of arrests and assignments to a special weapons unit. If a failure to train Officer Hayes to a higher level of physical fitness is constitutional deprivation, imagine how many other veteran officers are in an equivalent position of risk (Trimmer, The Legal Advisor #24). Imagine also the liability faced by each municipality.

Review of Literature or Practice

The facts are in. Poor physical condition substantially impairs an officer's ability to react in an emergency, to run, to wrestle, to control by superior strength, or to shoot accurately after running and struggling. Poor physical condition enhances the risk of injury to other officers as well as to a resisting suspect - as in 'Parker' (Trimmer, The Legal Advisor #24).

Physical fitness/wellness is being viewed as a public health issue. Specific national goals have been set and the validity of fitness is proven. In short, fitness/wellness is becoming institutionalized. However, law enforcement is behind the rest of society. Physical fitness/wellness is starting to be viewed as being job related but it is slow to be accepted. Excuses such as cost and legal problems are offered to explain the lack of implementation. However when viewed systematically the need is great (Collingwood - Institute for Aerobics Research).

The Hazelwood Missouri Police Department implemented a mandatory fitness program within that agency. The DePaul Health Center was selected to oversee the program for Hazelwood PD. Their program consists of a four step fitness plan that includes health screening, medical testing, mandatory fitness testing and an ongoing program so officers can maintain health standards (Johnson, LEMIT 1997).

The Hazelwood PD program measures cardio-respiratory endurance and flexibility. They gather the needed information via a 1.5 mile run (or a 3 mile

walk), a bench press, one minute sit-ups and a sit and reach test. The tests were specifically designed for the department using standards and tests from such organizations as the American Heart Association and the Institute for Aerobics Research. Performance levels are broken down by levels based on age and sex. The final part of the program is maintaining fitness. The DePaul Health Center provided guidelines on health maintenance, nutrition and overall fitness to keep officers on course (Getz, June 1990).

The Bryan Texas Police Department is in limbo at this time regarding a fitness/wellness program for them. According to Sgt. D. Manry they are looking at re-implementing a program that they had for several years. He said that the program they used was from The Cooper Institute and that they abandoned it following some suits that had been filed on other agencies that also used it. The Bryan PD program, by the way, was nearly identical to the one that Hazelwood PD implemented. Sgt. Manry said that he believes that the program will soon go into effect again, and that it will be mandatory. They are having discussions at this time on sanctions against officers not completing the testing successfully (Manry, 1998).

The Bexar County Sheriff's Office has a wellness program in place and is mandatory. Evaluations that are utilized are based on Cooper Institute for Aerobic Research standards. The evaluation is designed to provide realistic attainable goals that are set by all employees, regardless of age or gender. Their program offers incentive awards of bonus time off for employees who

achieve a high rating in all categories tested (Bexar County Sheriff's Department Policy).

In New Mexico the Hobbs Police Department began a wellness program for its officers in 1985. Hobbs PD had 64 officers participate in the fitness assessments. The results of the testing showed that 64% of the officers tested initially were rated as "very poor". Following a 16 week program designed to improve fitness there was only 3.1% rated as "very poor". The statistics regarding body fat and flexibility also showed good improvement following the 16 week program (Arters and Aaron, December 1989).

When comparing the various agency's that have fitness/wellness programs we see that there are a good many similarities in the standards that are used for testing. The one thing that does stand out is that the programs are geared to help the officer get into, or remain in, some reasonable shape. Considering that the average age of today's police officer is 31 and the average age of the violent aggressor is 19 one would tend to believe that officers should want to keep themselves in better condition in order to survive encounters that they might have (Lane, November 1990).

Discussion of Relevant Issues

The implementation and enforcement of mandatory health and fitness standards in a law enforcement organization raises potential legal issues under the Constitution and title VII. To be legally enforceable, all mandatory fitness standards must be reasonable. The Constitution only permits the enforcement of

mandatory standards that have a "rational basis" and are fairly implemented. However, the legality under title VII of a particular standard often depends on its impact. Title VII requires that mandatory standards with a disparate impact on women be justified by proof of job relatedness, which is considerably more burdensome for the government than the "rational basis" test (Schofield, June 1989).

Programs of "wellness" that merely establish goals for healthier employees are not violative of either the Constitution or title VII because there are no mandatory fitness standards or agility tests requiring a specific level of fitness. However, employees can be required to participate in "wellness-related" activities, such as an annual physical examination, training and counseling sessions, or a periodic fitness test to measure overall health and fitness. Required participation during working hours is a reasonable condition of employment that enables law enforcement administrators to gather information relative to employee health and fitness for duty; no constitutional or title VII provisions are implicated, since there are no mandatory standards resulting in adverse personnel action except for an employee's insubordinate failure to participate (Schofield, June 1989). On the other hand, an agency that does not recognize, and totally disregards the need for an officer to maintain some sort of fitness may be held liable for "failing to train" if that failure amounts to indifference (City of Canton vs. Harris).

There may be any number of constraints placed on an agency to implement a mandatory fitness/wellness program but I feel that the two that might stand out most are time and money. Officers need to be provided with the training, the time to exercise, proper equipment and a facility to exercise. An officer's time is valuable to himself, when off duty, and his/her agency, while working. Time is needed for the training and the proper exercise. This is time that is spent away from work and away from the officers own interests (Brown, 1994).

Physical fitness/wellness has benefits to the officers, citizens and law enforcement agencies as a whole. On-going fitness testing is the first step to insure a fit a prepared work force (Standard, November 1993). Law enforcement officers must maintain a good level of fitness/wellness in order to protect and be able to serve their community. Not only do they owe it to their communities but officers owe it to themselves. When one realizes that the number one killer of police officers is Coronary Heart Disease, and not a criminal with a weapon, it might be easier to justify the time and money spent to keep an officer fit. Officers are faced with many events that they just may not have any type of control over. Coronary Heart Disease is something that an officer does have some control over and it is extremely important to maintain fitness/wellness (Brown, 1994).

Police administrators, while concerned with their officers fitness/wellness, must also be concerned with the cost of implementing and maintaining a

program for their agencies. The benefits of implementing such a program for their officers should far outweigh the costs. Administrators from agencies without such programs will see increased levels of sick time, increased incidences of disability, early retirement and other fitness-related losses of productivity (Collingwood, April 1988). Being physically fit diminishes stress, promotes self-esteem, improves firearms accuracy (Police Marksman), increases an officer's confidence during confrontations, makes him/her more effective with impact weapons and defensive tactics and generally improves his/her quality of life (Nichols, March/April 1992).

The development of a physical fitness/wellness program for agency's sworn employees, therefore, is essential for two reasons; (1) physically sound officers will be better able to respond to emergency situations requiring high degrees of physical effort and be successful in their efforts; and (2) improved health should result if officers acquire and maintain fitness, a circumstance that could provide financial savings to their agencies (Charles, 1983: v 11).

Conclusion/Recommendations

The purpose of this research is to implement a quality mandatory physical fitness/wellness within the College Station Police Department, or any law enforcement agency trying to justify such a program. The courts have ruled that fitness/wellness programs, mandated by departments, are necessary to diminish to possibility of suits. The Constitution and Title VII permit such programs, providing that they are job relevant.

The research that has been done has shown that, while there are costs to implement and maintain fitness/wellness programs, the benefits of such a program far outweigh the costs involved. The quality of life and the life expectancy of an officer is improved. Job performance by officers will improve. The improvements that the officers make will then directly reflect upon the agency where he/she is employed.

After reviewing the research that has been done and speaking with the persons to whom I have spoken I recommend that the College Station Police Department implement a mandatory physical fitness/wellness program for all sworn members of the department. This agency has seen too many of its officers suffer from Coronary Heart Disease. The one death that we have had to CHD was too many. A mandatory program might have saved a life and will undoubtedly save the lives of others. While there may be some resistance by our officers, the need for implementing such a program is great and is well within the Constitution and Title VII, as long as we ensure job relatedness. The agency does need to allow for an adjustment period for our officers. This will allow our officers a period of time to work to maintain the standards that are adopted.

The implementation of a fitness/wellness program for our agency, as research has shown, will be beneficial to both the agency and its officers. This is a 'Win-Win' proposition that will allow us, while we grow in numbers, to remain a pro-active, professional and a healthy agency. We may be an agency that is in

tune to both the needs of the community but also the officers that work to keep it safe.

BIBLIOGRAPHY

- Arters, L. and Aaron, Kris. "Fitness for Life." Law and Order. December 1989. 63-67
- Bexar County Sheriff's Department Policy. "Physical Fitness and Wellness." Chapter 31.
- Brown, W.C. "Managerial Perspectives in the Development of a Physical Fitness Program." Human Resources in Criminal Justice. 1994: 60-72
- City of Canton v. Harris, 57 U.S.L.W. 4263 (1989).
- Charles, Michael T. "Police Training: A Contemporary Approach." Journal of Police Science and Administration. 1983: v 11 251-263.
- Collingwood, Thomas R. "Implementing Programs and Standards for Law Enforcement Physical Fitness." Police Chief. April 1988: 20-37
- Collingwood, Thomas R. "Physical Fitness Programs for Public Safety." Institute for Aerobics Research.
- Geier, Michael J. "Training to Win - Police Specific Physical Conditioning." Law and Order Magazine. September 1990.....
- Getz, Ronald. "You Can't Afford Not to Have a Fitness Program." Law and Order. June 1990. 44-47
- Johnson, John. "Mandatory Physical Fitness/Wellness Program for the Marshall Police Department." LEMIT Research Paper. July 1997.
- Lane, Jerry. Glock Firearms Instructors Workshop. November 14 - 16, 1990.
- Manry, Donnie, Sgt., Bryan Police Department. Personnel interview. December 1998.
- Nichols, David A. "Establishing a Mandatory Fitness Program for Law Enforcement Agencies." Campus Law Enforcement Journal. March/April 1994: 38-40.
- Parker v. District of Columbia, 850 F.2d 708 (D.C. Cir. 1988)
- "Physical Fitness Part 3 - Chief, Are You Liable?" Police Marksman. July/August 1995. 18-20