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

POLICE ABUSE

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Submitted in Partial Fulfillment
of the Requirements for the Professional Designation
Graduate, Management Institute

by
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ABSTRACT

In recent years police actions, particularly police abuse, have come under scrutiny of a wide, public and critical eye. While citizens worry about protecting themselves from criminals, it has now been shown that they must also keep a watchful eye on those who are supposed to protect and serve. Therefore, the intended audience of this paper is any official who develops, implements, or enforces policy, practices, or procedures for a police department.

Many hours of interviews were conducted with grass root individuals living in Houston's (Texas) Greenspoint, Acres Home, and Fifth Ward neighborhoods (none with self appointed politically motivated spokespersons). In addition to the interviews, books, journals, reports, articles, and organizations specific to the police abuse topic were reviewed or contacted (see bibliography and resource list). As a result, the following was not written from my (a police officer) point of view nor a traditional criminal justice view point. It is an attempt to identify common themes and factors relevant to police abuse and recreate the view points of the citizens, the organizations interviewed and the existing literature. Hopefully, the reader will see what a large group of citizens perceive and feel, not what typical police officers think, the citizens perceive and feel.

This paper discusses the types of police abuse perceived to be prevalent today, including the use of firearms and receipt of private information. I also discuss what and how citizens' rights are taken advantage of by police from a non-police perception. For these problems solutions were discussed, focusing on political reform, education, and citizen review boards.

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Police Abuse - Introduction

In recent years, police actions, particularly police abuse, has come into view of a wide, public and critical eye. While citizens worry about protecting themselves from criminals, it has now been shown that they must also keep a watchful eye on those who are supposed to protect and serve. Therefore, the intended audience of this paper is any official who develops, implements, or enforces policy, practices, or procedures for a police department.

Many hours of interviews were conducted with grass root individuals living in Houston's (Texas) Greenspoint, Acres Home, and Fifth Ward neighborhoods (not with self appointed politically motivated spokespersons). In addition to the interviews; books, journals, reports, articles, and organizations specific to the police abuse topic were reviewed or contacted (see bibliography and resource organization list). As a result, the following was not written from *my (a police officer)* point of view nor a traditional Criminal Justice view point. It is an attempt to identify common themes and factors relevant to police abuse and recreate the viewpoints of the citizens, organizations interviewed and existing literature. Hopefully, the reader will see what a large group of citizens perceive and feel not what typical police officers think the citizens perceive and feel.

This paper will discuss the types of police abuse perceived to be prevalent today, including the use of firearms and receipt of private information. I will also discuss what and how citizens' rights are taken advantage of by police from a non-police perception. For these problems, solutions will be discussed, focusing on political reform, education, and citizen review boards. These measures are necessary to protect ourselves from police taking advantage of their positions as law enforcement officers with greater permissive rights than private citizens. Because of this significant differential, all citizens must take affirmative action from physical brutality, rights violations, and information abuse.

Discussion of Relevant Issues / Historical, Legal, and Theoretical Context

Problems arise, however, when one side is told what to do by another, as there is bound to be conflicting viewpoints. In regard to police abuse, there will be many officers who feel that their job of fighting escalating street crime, gangs, narcotics violations, and other violent crimes is difficult already, and that worrying about excessive policy for abusive behavior will only further decrease their ability to fight crime effectively, efficiently, and safely. Citizens, however, have been caught up in this gung-ho attitude, and police are more and more often crossing the line of investigation and interrogation with abusive behavior. This abuse must be monitored so that police do not forget who they are serving--not themselves, but the public. This means that even the criminals, who are a part of the public, have certain rights, particularly civil rights. All citizens must be aware of these rights to protect themselves against over-aggressive officers who take advantage of their position as badge and gun holders to intimidate and abuse civilians for personal or departmental goals. Such conflicts have significant implications on departmental and administrative policy procedures.

One of the main police abuse problems is physical brutality. The main goal here should be to get the police departments to adopt and enforce a written policy governing the use of physical force (Bouza, et.al.). The policy should restrict physical force to the narrowest possible range of specific situations. For example, there should be limitations on the use of hand-to-hand combat, batons, mace, stun guns, and firearms. However, limiting police actions will bring much debate, especially from police officers and administrators themselves. Many feel that their firepower is already too weak to battle the weapons criminals have on the streets. Furthermore, placing legal limitations on the use of a firearm will not only endanger them, but also the innocent bystanders who must endure the growing power of the criminal who benefits greatly by these restrictions on the police. For instance, not only should officers use force in very limited

situations to help curtail unwarranted use, but policies should require officers to file a written report after any use of physical force, regardless of how seemingly insignificant. Superior officers should then automatically review that report. It is necessary to involve superior officers so that a tolerance of brutality is not established, and an atmosphere conducive to police abuse is not created. Police may feel that such action would be burdensome. This is so because police often already feel burdened and restrained by policy and paperwork which takes a large amount of their on-duty time. When will police be required to do paperwork on how long and what was done during each coffee break to ensure taxpayers are getting their every seconds worth? There must be a reasonable balance between civilian intervention and administration.

Although, if every incident of police abuse was required to be reported, how many actually would be? Maybe only those serious enough, as depicted in new guidelines, would make it, leaving some space for officers to exert pressure without crossing serious and abusive policy. Another tactic to control police brutality is to establish a system to identify officers who have been involved in an inordinate number of incidents that include the inappropriate use of physical force (Bouza, et.al.). The incidents should then be investigated. For those officers who are frequently involved in unnecessary police brutality, they should be charged, disciplined, re-trained and offered counseling. If such treatment proves ineffective, officers who violate abuse standards should be brought up on review before an administrative board comprised of citizens and police officials. A third violation should be met with termination and loss of pension. Some may claim that this is paranoia and will simply cost too much. A single officer can tie up numerous other non-problem officers during the discipline and re-training stages, only adding to the cost of rehabilitating this problem officer. When does an officer need intervention? When is the officer worth keeping or discharging? Is identifying abusive officers a form of discrimination? The police officer is there to serve and protect the public who pays his or her

salary. The officer should then be subject to any investigations into his or her abusive actions on the job. A third method for controlling police brutality is creating a civilian review board (Bouza, et.al.). The review board should be independent from the police department so that officers cannot exert their influence over civilians or the decisions made by the group. The review board should also hold open meetings so that all members of the community are welcome to come and share their concerns, complaints, and any ideas about how to monitor and curtail police brutality. It is imperative that this review board be made up strictly of civilians, so that information and concerns remain honest, and not biased by those who hold only police interests at hand. Of course, police officers and their administrators may feel some discrimination because they are not represented on the board, yet their own internal review capability should more than compensate. Once again, a review board comprised strictly of civilians is the only way to comprehensively and justly address abuse concerns of the private citizen short, of course, of resorting to the formal step of judicial proceedings. There are also methods of controlling police brutality through state channels (Bouza, et.al.). First is establishing an office that oversees complaints and cases of police abuse. All complaints should be made public, either through television or print news, so that the community is aware of which officers have a history of brutality. In addition to a governmental investigation board, there should be a state-oriented civilian review board which collects data from the various cities around the state to monitor trends and problems with brutality, as well as to offer suggestions to cities based on methods which have proven successful in others. This is similar to a statewide civilian review board support and coordination group. Together, these groups can gain political force and keep police departments aware of the concerns of citizens and the government as to the safety and legality of police actions. Yet even if internal policy and external government supervision is successful, it is difficult to say how the ethics of police officers will affect abuse policy as they are based on

personal, socioeconomic background and upbringing that have little to do with the issue at hand. However, assuming police adopt some common form of action through job association, it becomes not so difficult to see how police abuse tactics can spread. When it comes to police taking advantage of citizens' rights, there are numerous circumstances of which a private citizen must be aware. To ensure citizens know what rights they have, they must be educated. First, all people should know their constitutional rights (Bouza, et.al.). For example, if you are stopped in your car, do you have to let an officer search your car? What should you do? First, you should show your driver's license and registration upon request. If the officer wants to look in your car, in most cases, such as if he pulled you over simply for not wearing your seat-belt, there is no reason for him or her to search your car and you do not have to oblige. However, the officer can claim he or she had probable cause if, for example, you had alcohol on your breath or there was drug paraphernalia present. If the officer insists on searching the vehicle, to protect yourself later, you should make it clear that you do not consent to a search. You do not have to consent! However, if you are suspected of drunken driving and refuse a blood, urine or breath test, your driving license can be suspended. Still, many people are intimidated by police officers and the power they have, and this is where officers take advantage of those who do not know their rights or do not know how to stand up for them (Bouza, et.al.). The ethics of police as people is often overridden by their goals as police officers, which is to stop any illegal activities. This, too, may be overridden by a set of departmentally unendorsed personal goals leading to both citizen and police procedure abuse. Another form of unethical police abuse is spying, or information gathering, on constitutionally protected political, religious and private sexual behavior (Bouza, et.al.). Spying is a difficult abuse to monitor because it is a covert activity that makes those who participate in it all the more unethical. The victim does not know it's happening, and others do not witness it. One way to curtail spying or excessive information gathering is to restrict the information police

have access to. All information to be collected can only be done so if that person is reasonably suspected of having committed a crime, and the information must be relevant to that crime. A second solution to controlling illegal access to information is to implement an independent civilian auditor who must review all police authorizations to collect restricted information and have access to all other police files (Bouza, et.al.). This will ensure the police are not gathering superfluous information. The use of an independent civilian auditor will also ensure the process does not represent the interests of officers only, but also those of the general public, whom they are charged with protecting.

If the auditor finds that the police have violated the law, he or she must so notify the individuals who are the subjects of the unlawful investigations so that they can then address charges against the city and collect damages. This is a form of punishment that will discourage the officers from spying and will encourage city officials to crack down on those officers who do, as well as legally protecting the city and the officials. Most of the cost of the above mentioned police abuse prevention strategies lies with the taxpayer, for when it comes to funding discipline and re-training yet again, the burden is on the taxpayers (Bouza, et.al.). What this means is that citizens must be willing to take on this additional financial burden or take a loss in some other area of police protection. For example, to pay for the additional manpower it takes to implement the new policies from disciplinary actions and mental and physical training, the department may have to cut back on the total number of officers, both in the field and those holding administrative positions. This would mean fewer officers on the streets for protection. Response time may slow down as officers have larger areas to cover. In less affluent neighborhoods where adopting the higher cost is not a small issue, where added police protection is most often needed, and where crime and abuse most prevalent, the added stress of police budgets does not serve as many people. For those who can afford the financial increase, they are morally aware that the

police are being kept in line. For those who cannot afford it, they see more of the negative implications, such as increased costs or fewer available officers. Is there a way for police abuse to be monitored without the direct community taking the full burden? Perhaps the federal government can supply the additional manpower, and hence the additional cost, for implementing an investigation and rehabilitation team. Surely, at least some portion of the newly passed Clinton Crime Bill provides for such subsidization.

Even if the financial subsidies are provided, practical problems to abuse policy implementation still surface. One example of such a problem occurs through media (Bouza, et.al.). Many times in movies or on television, when an officer arrests a person you hear him or her rattle off a list of "rights" from a card. The officers are reading, and they are required to read the Miranda Rights from the card to avoid mistakes. This is a very simple operational step. It only takes a moment to read the information, and the person in question is made aware of his or her rights. Often, such a procedure is omitted or bypassed by an over zealous officer, in deference to the departmental policy and the citizen's rights. One of these rights includes the right to a lawyer before you talk to the police. You only need to tell the police your name and address. Do not give explanations, excuses or stories! You should confer with a lawyer to make a defense in court. Police often resort to threats or trickery to get people to confess. This is a violation of your rights! Even if you cannot pay for a lawyer, you have a right to a free one, and you should ask the police how the lawyer could be contacted. Do not talk without a lawyer. One of your telephone calls should be to contact this lawyer. Call one immediately after you have been arrested. Don't worry about calling your mother, your lawyer will help protect your rights and you get a fair trial--should it come to that. Your second call can be to anybody, but preferably someone who can post your bond. This suggestion may irritate some police officers because it holds up the investigation process. However, without a lawyer present, a person cannot know all

of the legalities involved in being arrested from the minute the officer approaches you to the minute, if it comes to this, the person is incarcerated. Making a person aware of his or her rights is practical in the short and long run for both parties, yet even in view of departmental mandates, officers often overlook this basic step in avoiding police abuse.

While there are specific solutions to brutality, rights abuse, and spying, there are also some general solutions that could be implemented before the problems even arise. For example, there should be changes in police officer training. Some communities have demanded their officers receive higher education (Bouza, et.al.). However, there is no proof that well-educated officers rely less on abuse and more on sound investigative techniques. The length of training of police personnel should be increased, as has been the trend in recent years. The average length of police academy programs has more than doubled, from about 300 to over 600 hours; in some cities, 900 or even 1200 hours are the rule (Bouza, et.al.). As the time devoted to training has increased, the institutions should also stress the importance of the growing trends in criminal activity so that they are prepared to deal with them. These include such areas as race relations, domestic violence, handling the mentally ill, and so on. This will, in turn, enable operations to run more efficiently, hopefully avoiding police abuse problems in the future. Such training translates into several goals in creating a professional police force. The first goal is in establishing a first rate police academy curriculum that includes classroom and field training. In addition to being given weapons and taught how to use them, police recruits should also learn special skills, such as techniques of de-escalating violence and communications skills which will help them defuse and avert situations that might lead to the necessary use of force. Training programs should also include sensitivity training to reduce community-police tensions (Bouza, et.al.). Examples of such successful programs introduced to the community include those to reduce tensions, particularly with the homeless, gays, and African-Americans. Education of both

police officers and citizens will help police meet their ultimate goal of controlling crime. Implementing policy may, at first, hinder police from performing their duties, as they have grown used to certain pressure tactics. However, as education and communication skills increase, the ability of the police department to interact with local resources instead of taking so much of the burden internally, will help alleviate some of the pressure felt by citizens. Citizens, then, will have more involvement, and hence, more satisfaction with the job police departments are doing. As the prevalence of police abuse as shown through the media has drawn attention to the need for increased surveillance on police, a mandated cure is now a necessity. While brutality and police abuse seem to be a prehistoric idea, the surge of violence has caused police to fight back in often un-police like manners, though seemingly acceptable to deal with those who break the law. Methods must be implemented which effectively deal with police who tend to cross the line, from simple situations to serious firearm use or discrimination. These solutions should be offered by a variety of viewpoints, so as to address both the needs of police and citizens themselves. Some of the solutions, particularly the policy changes, will be met with controversy and will be difficult to implement. Citizen watch groups will be much easier to organize as there are already thousands of neighborhood watches illustrating that citizens are willing to become involved to protect their community and themselves. Keeping track of police is the next step in self-protection (Bouza, et.al.). Some of the goals addressed here are most helpful for the citizen as a first step in the education process and will hopefully, inspire those who feel they need to take affirmative action against police abuse. While the threat of a world war has diminished, the violence on the streets across America has increased at a dramatic rate. The police are forced to face this violence and are sometimes caught up in the same violent and abusive cycle while trying to fight it. Citizens realize that police intervention is necessary, but they also realize that there are limits to what a police officer can do. To make society a safe place for both citizens

and officers, it is imperative that they work together for a comprehensive check and balance system. The United States Constitution guarantees certain rights for everyone, and is the very backbone of this country. If it is to be ignored, either through permissive laws enacted for law enforcement against private citizens, or through a lack of maintenance of existing protective legislation, private citizens--indeed, the entire country--will become paralyzed. Because of this, the opportunity and freedom that this country is built on must be enforced, and those charged with doing so must not abuse their power.

CONCLUSION

This paper discussed the types of police abuse perceived to be prevalent today, including the use of firearms and receipt of private information. I also discussed what and how citizens' rights are taken advantage of by police from a non-police perception. For these problems solutions were discussed as each was identified, focusing on political reform, education, and citizen review boards. These measures are necessary to protect ourselves from police taking advantage of their positions as law enforcement officers with greater permissive rights than private citizens. Because of this significant differential, all citizens must take affirmative action from physical brutality, rights violations, and information abuse.

The recommendations detailed in the paper are a variety of options for the police to employ. Those Police Officials who develop, implement, or enforce policy, practices, or procedures for a police department should incorporate a stratified, random sample of the non-police population to assist in the various development, implementation, and maintenance of police operations. The police merging with the community is a systems change similar to Demings Quality Management style in private sector. Once this is accomplished the effectiveness of policing will greatly improve, which in turn will elevate the life style of this country.

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Review of Literature

Bouza, Anthony. (1990). The police mystique: An insider's look at cops, crime and the criminal justice system. New York: Plenum Press.

Brief: The author is a retired police chief of Minneapolis who analyzes what is wrong with American policing. Presents insiders look at problems within the police departments. Offers good view for non-police to gain insight into psyche and administration of cops.

Chevigny, Paul. (1991). Police brutality in the United States: A policy statement on the need for Federal oversight. New York: Human Rights Watch.

Brief: Studies police infiltration and disruption of the Black Panther Party in New York City. Addresses need for outside intervention, particularly the Federal government, to keep check on police brutality.

COP WATCH Report. (1994).

Brief: Quarterly newsletter published by community-based, volunteer organization that monitors police activity. Offers several ideas to deal with police abuse and what other problems are occurring throughout the nation.

Couper, David C. (1983). How to rate your local police. Police Executive Research Forum.

Brief: Material that presents format for evaluating police departments that goes beyond statistical measurements. Good hands-on brochure for potential citizen-watch groups to examines the leadership, policies and organization of their police agencies.

Geller, William A. (1982). Deadly force: What we know. Journal of Police Science and Administration, 10, 151-177.

Brief: Discusses the use of deadly force by police officers. Informative and insightful regarding the use of firearms.

New York Civil Liberties Union. (1990). Police abuse: The need for civilian investigation and oversight. New York.

Brief: Report following a New York City police riot. Civilian's complained and several recommendations were established on how police abuse should and can be avoided.

Reiss, Albert J. (1971). The police and the public. New Haven, Connecticut: Yale University Press.

Brief: Presents a comprehensive sociological study of routine police work, based on direct observations. Good example for other citizens to monitor police in the community.

U.S. Commission on Civil Rights. (1981). Who is guarding the guardians: A report on police practices. Washington, D.C.: Government Printing Office.

Brief: Reviews police misconduct with detailed recommendations for implementing solutions.

Vaughn, Jerald. (1989). How to rate your police chief. Police Executive Research Foundation.

Brief: An ex-police chief that explains how citizens can accurately evaluate the performance of their chief law enforcement executive. Also discusses problems to avoid when making an evaluation.

Synopsis: The above list of works to date gives an all around view of police abuse and different methods of solving abuse. Viewpoints are from current police, ex-police, and private citizens who all recognize the need for increased supervision of police activities and policies. These sources should present a solid foundation for uncovering the most prevalent problems and enable society to face these issues. This will stir the need for solutions--particularly within the police force--and help assist in defining ways for both the community and the police departments to become more aware of the concerns of the private citizen.

Review of Resources: Organizations

Commission on Accreditation for Law Enforcement Agencies (COALEA)
4242-B Chain Bridge Road
Fairfax, VA 22030
Tel: (703) 352-4225

Brief: Private accrediting board for law enforcement agencies. Organized and supported by law enforcement agencies. Publishes a set of accreditation Standards.

Community United Against Violence (CUAV)
514 Castro Street
San Francisco, CA 94114
Tel: (415) 864-3112

Brief: Lesbian/gay rights advocacy organization. Extensive experience conducting law enforcement sensitivity training on lesbian/gay issues.

COPWATCH
2022 Blake Street
Berkeley, CA 94704
Tel: (510) 548-0425

Brief: Community-based volunteer organization which monitors police activity in an effort to preserve the rights of all citizens, including the homeless, to fair treatment under the law.

International Association For Civilian Oversight of Law Enforcement
(IACOLE) 1204 Wesley Avenue
Evanston, IL 60202
Tel: (312) 353-4391

Brief: Professional association of persons involved in civilian review of the police. Membership consists primarily of staff members of local civilian review agencies. Annual meeting. Newsletter. Periodically publishes a compendium of civilian review agencies.

International Association of Chiefs of Police (IACP)
13 Firstfield Road
P.O. Box 6010
Gaithersburg, MD 20878

Brief: Primary professional association for chiefs of police. Traditionally dominated by chiefs from small town police departments.

International Union of Police Associations (IUPA)

1016 Duke Street
Alexandria, VA 22314
Tel: (703) 549-7473

Brief: National federation of local police unions. Does not represent all local unions.

National Association for the Advancement of Colored People (NAACP)

4805 Mt. Hope Drive
Baltimore, MD 21215
Tel: (301) 358-8900

Brief: Civil rights organization with chapters across the country. Promotes civil rights through litigation, lobbying and community organizing.

National Association of Criminal Defense Lawyers

1110 Vermont Avenue, N.W.,
Suite 1150
Washington, D.C. 20005
Tel. (202) 872-8688

Brief: Develops public policy recommendations on matters pertaining to the criminal justice system and lobbies Congress.

National Black Police Association (NBPA)

3251 Mt. Pleasant St. N.W.
Washington, D.C. 20010
Tel: (202) 986-2070

Brief: Association of Black police officers. Resource for community groups working on police abuse issues. Speakers. Brochure on how to handle encounters with police, entitled, "What To Do When Stopped by the Police."

National Coalition for Police Accountability (NCPA)

59 E. Van Buren, Suite 2418
Chicago, IL 60603
Tel: (312) 663-5392.

Brief: New coalition of groups working on police abuse issues. Members include legal, advocacy, victims, minority police and religious organizations. Plans for annual conference, newsletter and other forms of networking.

National Gay and Lesbian Task Force
1734 14th Street, N.W.
Washington, D.C. 20009
Tel: (202) 332-6483

Brief: Civil rights organization that promotes freedom and equality for lesbians and gay men. Its Anti-Violence Project publishes an annual report on "Anti-Gay/Lesbian Violence, Victimization & Defamation" and a pamphlet, "Dealing With Violence: A Guide for Gay and Lesbian People."

National Organization of Black Law Enforcement Executives (NOBLE) 908
Pennsylvania Avenue, S.E.
Washington, D.C. 20003
Tel: (202) 546-8811

Brief: Non-profit organization of professional law enforcement officials dedicated to improving the quality of police services for all citizens.

National Urban League
500 E. 62nd Street
New York, NY 10021
Tel: (212) 310-9000

Brief: Civil rights organization that focuses on the economic condition and empowerment of the African American community.

Police Executive Research Forum (PERF)
2300 M Street, N.W.
Washington, D.C. 20037
Tel: (202) 466-7820

Brief: Professional association of police chiefs from the big cities in the United States. Conducts research and management consulting. Issues position papers and policy statements on important issues in policing.

Police Foundation
1001 22nd St., N.W., Suite 200
Washington, D.C. 20037
Tel: (202) 833-1460

Brief: Non-profit consulting group, primarily engaged in research and demonstration projects on innovative police programs. Involved in some of the most important research projects in policing since the 1970s.

Police Watch

611 S. Catalina, Suite 409

Los Angeles, CA 90005

Tel: (213) 387-3325

Brief: Model legal referral program for victims of police abuse. Some training for police abuse litigators. Data base on incidents of abuse in Southern California.

Synopsis: The above list of organizations to date gives an all around view of police activities and different methods of solving police problems. Viewpoints are from current police, ex-police, and private citizens who all recognize the need for increased supervision of police activities and policies. These sources should present a solid foundation for uncovering the most prevalent problems and enable society to face these issues. This will stir the need for solutions--particularly within the police force--and help assist in defining ways for both the community and the police departments to become more aware of the concerns of the private citizen.