

THE BILL BLACKWOOD  
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PHYSICAL FITNESS STANDARDS FOR VILLAGE POLICE OFFICERS?

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## ABSTRACT

The Village Police Department does not have physical fitness standards for incumbent officers. Many of the officers are not physically fit and there is no incentive for them to become fit.

Police officers that are not fit are more likely to become sick or injured. A lack of physical fitness can reduce an officers's ability to protect himself, a fellow officer, or citizen. It may prevent an officer from apprehending an offender. A lack of fitness may result in the use of "excessive force" to effect an arrest.

The Village Police Department is in a position of liability if an officer is unable to perform his or her duty because he or she is not physically fit.

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

The recommendation is that the Villiage Police Department cannot afford not to have mandatory physical fitness standards.

It should implement a program that is cost effective for the department. The program should have officer input, allow reasonable time to meet standards, have no negative sanctions if officers show effort and progress and it should reward officers for meeting or exceeding standards.

## **Introduction**

Police management is mandated by The Texas Commission on Law Enforcement Officer Standards and Education (TECLOSE) to provide required training to officers so they will possess the knowledge and skills to perform their duties. Management must also provide the policy and procedures officers are required to follow while performing their duties. Since it is reasonable to conclude police officers must have the physical ability to perform their duties, then should not management provide and/or require physical fitness training?

The Village Police Department requires an applicant to have a minimum of five (5) years of service as "Licensed Police Officer" and the turnover in personnel is low, thus majority of Village Police Officers are over 45 years of age. Many are overweight. Many have, or at high risk for coronary heart disease. Few engage in regular physical activity that helps keep them fit. The Village Police Department does not have a physical fitness policy for incumbent officers.

A lack of physical fitness can lead to increased use of "sick time" and Workers Compensation claims (Harpole 6). A lack of physical fitness can reduce an officer's ability to protect himself, a fellow officer or a citizen and may prevent an officer from apprehending an offender. The department may be in a position of liability if an officer is unable to perform his or her duty because he or she is not physically fit.

The Chief of Police, the Police Commission, the police officers and the citizens they serve are all stakeholders in this decision. In addition they are the intended audience of this project.

For the purposes of this project I will use books, periodicals and journals as sources of information. The intended outcome of this paper is to recommend to the Chief of Police and the Police Commission that it is in the best interests of the Village Police Department, the police officers and the citizens they serve, that "Physical Fitness Standards" be imposed.

#### **Historical & Legal Context**

In law enforcement it is a management responsibility to ensure operation readiness for the officers. For many years police officers have received in service training, and up-to-date information and skills to carry out the law enforcement mission. At the same time, management has left physical conditioning virtually nonexistent for veteran officers (Fuller 2). Physical fitness is not a new idea in law enforcement. Many agencies have minimum standards that must be met before an officer is hired. Some departments have periodic reviews, but many departments require nothing after the initial testing (Arters and Aaron 62). The F.B.I.'s goals for Special Agents (SA) have become the hallmark of a fitness program. The FBI program starts with the SA applicant's candidacy and continues throughout their career with the F.B.I. (Slalor 52). Trends in training, due to litigation, make it

clear that officers are going to get healthier, in spite of themselves. "Throw away those Big Macs and pick up those sweats" ought to be the theme song of the 1990's (Getz 44).

The passage of the Americans with Disabilities Act (ADA) and the Civil Rights Act of 1991 (CRA of 1991) makes it imperative that law enforcement agencies identify the essential functions of police work and develop physical fitness standards and tests based on those functions. Under the ADA employers may not refuse to hire or discharge a qualified individual with a disability because of that disability. Unless that person, with or without a reasonable accommodation, is unable to perform the essential functions of the job (Schofield 27; Mathison, 12).

Departments who wish to impose weight standards on their officers face challenges. Courts have recognized that obesity can be caused by medical conditions that may entitle an officer to protection under the Rehabilitation Act of 1993 or the ADA. If obesity is voluntary and not caused by a physiological disorder officers must meet reasonable weight standards (McCormack 31).

Courts are saying that agencies are at fault (should an officer be injured) in not setting physical fitness guidelines. The courts are arguing that police officers have to do a job and if they are not capable of doing it, the administrators are liable when officers are unable to perform physically (Arters and Aaron 64). Cities can be held liable for "Failure to Train", if the failure amounts to deliberate indifference (del Carmen 216). If the officer cannot perform essential functions of the job even with

reasonable accommodation, neither the ADA, Americans with Disabilities Act, nor the Rehabilitation Act protects against adverse personnel decisions for failure to meet reasonable standards (McCormack 31).

Police tend to rely on firearms training more than physical fitness training. Relying on firearms as a means to protect officers and apprehend offenders frequently falls short. In 1985 the Supreme Court, ruling in Tennessee v. Garner (471 u.s.1 (1985)), restricted the use of deadly force in apprehending a fleeing non-dangerous felon. The practical effect of the ruling is that officers must be in adequate physical condition to pursue and subdue without "firearm dependence" (Ness 74). In Parker v. District of Columbia (850 F2d 708 (1988)), an officer shot an unarmed offender whom he could not subdue. The Court found in favor of the plaintiff after considering two issues: failure to train in arrest procedures and deficient physical fitness programs. The court concluded that the officer's condition posed a foreseeable risk of harm to others due to his inadequate physical condition. Records indicated the officer had no training in these areas for years (Ness 76). Fit officers are less likely to use excessive force and tend to be subject to fewer excessive force-related lawsuits (Hoffman 26; Ness 75).

#### **Review of Literature or Practice**

Many departments use have mandatory fitness standards that must be met. For example, officers are tested on a periodic basis, during which they must comply with the standards which are used as

a basis for employment actions, such as pay raises, promotions, assignment and termination. Because mandatory fitness standards have such significant consequences, they are the most likely to be challenged legally. Consequently, mandatory fitness standards should be imposed only after considerable practical and legal scrutiny (Jones 10).

In the state of Kansas over 55 percent of all retirements since 1967 have been for disability rather than age. It is clear that the adverse effects of the lack of fitness are overwhelming, while the positive benefits are often overlooked. Being physically fit diminishes stress, promotes self-esteem, improves firearms accuracy, increases an officer's confidence in confrontations, makes him/her more effective with defensive tactics and generally improves his/her quality of life. From the agency's viewpoint, physically fit officers use less sick time, have fewer on the job injuries and physical fitness tends to prevent premature retirement (Nichols 39).

Agencies with successful fitness programs, (Midland PD & Altamonte Springs Pd, Fl. in particular) have four distinct characteristics: 1) they involve employee input; 2) they allow reasonable and considerable time for officers to meet standards, 3) they impose no negative sanctions where officers, who are unable to meet standards, demonstrate substantial effort and reasonable progress. Or allow officers more than ample time to meet standards before imposing negative sanctions; and 4) they reward officers for meeting or exceeding standards (Shapaka 9).



A study of police officers physical fitness, conducted by the Aerobic Research Institute in Dallas, Texas that was commissioned by the International Association of Chief's of Police (IACP) reflected that police recruits enter the profession with above average health as compared to the general population. However after only five (5) years of service officer begin to loose "the edge" they enjoyed earlier. The study found officers twenty-nine (29) and older, were at a higher than average risk for heart disease and at a lower than average physical fitness as compared to non-police in the same age group (Braden 4).

In 1991 Blue Cross and Blue Shield of New Hampshire, completed a survey of state police agencies. Forty-six agencies responded to the survey: 29 reported having physical fitness/wellness programs; 9 were developing programs; 7 agencies did not have programs; 17 reported voluntary programs. One of the conclusions was that fitness requirements for continued employment, promotion, etcetera, will become more prevalent as costs related to poor health increase. The study claimed good health can be preserved and costs reduced if decisions are made on the "front end" rather than waiting to devote substantial resources to illness and disability after it strikes (Hoffman 25).

The resounding theme of all the literature is that it is highly beneficial to both officers and departments to have mandatory fitness standards. The officers have better general health, improved self esteem, reduced stress, increased respect in the community, and an improved overall quality of life. Officers are

sick less often, have fewer injuries and their injuries heal faster. Police departments have reduced health benefits costs, more productive officers, fewer on the job injuries, injured or ill officers return to work sooner and departments are the defendants in fewer lawsuits and they have reduced liability (Getz 48).

### **Discussion of Relevant Issues**

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

Police administrators are legally responsible to make certain that officers are trained and fit and are capable of performing their duties. Police departments may require fitness standards, but must comply with the Americans with Disabilities Act, and the Rehabilitation Act of 1933. It is imperative that they identify the essential functions of police work and develop physical fitness standards and tests that are based on those functions. Administrators can be held liable for "Failure to Train" if the failure amounts to indifference (City of Canton v. Harris, 57 U.S.L.W. 4263 (1989)). If compliance with fitness standards is used as basis for employment actions, such as pay raises, promotions, assignments and termination, they are the most likely to face legal challenges. Mandatory fitness standards should be imposed only after considerable practical and legal scrutiny. Successful fitness programs involve employee input, allow reasonable time for officers

to meet standards, impose no negative sanctions and they have rewards for meeting or exceeding standards.

The constraints on mandatory physical fitness are time and money. Officers should be provided training, the time to exercise, equipment, and a place or facility to exercise. The time of a police officer is a valued commodity, to himself and the agency. The time an officer spends training or exercising is time spent away from his or her regular police duties and time spent away from his family and personal pursuits. Funds spent by police agencies for fitness training, fitness facilities or equipment results in less funding for other items and programs.

Fitness programs have a positive impact on health care costs and they increase officer productivity. Police agencies will get a substantial payback in terms of these benefits for a minimal investment. It may also cost less over time if it reduces civil litigation.

#### **Conclusion/Recommendations**

The purpose of this research was to obtain the information necessary to make a decision as to whether the Village Police Department should develop and implement mandatory "Physical Fitness Standards".

Many of the Village Police Officers are overweight, they are not physically fit, they do not regularly engage in physical activity and have no incentive to become or remain fit and there is

no penalty if they are not fit. Many officers already have or are at high risk for heart disease.

The only conclusion that could be reached was that the Village Police Department can not afford not to have a physical fitness program and to obtain compliance. Therefore, the program must be mandatory.

The implementation of a mandatory fitness program will give officers the incentive and the opportunity to become fit. It will lesson the civil liability of the cities we serve and their police administrators. It will reduce costs of officer healthcare benefits and improve the quality of their lives.

Once the decision is made to develop and implement a fitness program the program must be "sold" to budget appropriators and the officers. It may be is easier to justify a fitness program to the budget appropriators by arguing that a compelling interest exists to have police officers who are healthy and fit, if this effort saves the department money in health costs, reduces civil liability, and makes for more productive officers.

The officers should understand that the intentions of the program are not only to benefit the department, but also to help them become healthier and more physically fit. The officers should have input into the program and they should be allowed reasonable time to meet standards. No negative sanctions should be imposed on officers who are unable to meet standards, if they demonstrate substantial effort and reasonable progress. Officers should be rewarded for meeting or exceeding standards.

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