

**The Bill Blackwood
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Psychological Fitness-for-Duty Evaluations

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ABSTRACT

Psychological Fitness-for-Duty (FFD) examinations are relevant to contemporary law enforcement due to the demanding and high stress environments that police officers work. This environment creates a barrage of mental, physical, emotional effects. Many officers suffer from underlying mental and behavioral issues that put them at significant risks. The risks expand throughout the department and community.

The position of the researcher is that officers should undergo regular psychological FFD exams. The use of FFD exams identifies potential issues and offers direction for officers to get the necessary assistance needed to reduce and mitigate risks. The exams are an effective tool, when used properly and within clearly identified limits, to determine officers' fitness for duty.

The types of information used to support the researcher's position are a review of police specific mental health research and incidents. General psychological industry articles and related reports, issued by experts in the field of psychology, were used for further support. Relevant legal cases, involving use of FFD exams, and case studies involving police officer stress liability, were cited throughout this work.

The recommendation drawn from this position paper is that FFD exams are essential to protect the public, the officer, and the department. Law enforcement agencies have a duty to protect the communities they serve. This includes all threats, even if it means one of their own. The identification of any mental issues that would prevent officer suicide or harm to another, and save a life, far outweigh any opposition.

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INTRODUCTION

Police officers encounter stressors in their daily lives, both on and off the job. These stressors can have a significant impact on the officer, affecting their personal lives and job performance. A University of Buffalo research project, focusing on police studies, has found “the pressures of law enforcement put officers at risk for high blood pressure, insomnia, increased levels of destructive stress hormones, heart problems, post-traumatic stress disorder (PTSD) and suicide” (as cited in Baker, 2008, para. 1). If left unattended, stress on police officers can result in dire consequences.

The reality is that police officers are killing themselves, at a rate of four to one, over being killed by others (“Crisis Intervention,” 2011). In addition, the average life expectancy of a police officer is 53 to 66 years, while the non-police officer has a life expectancy of 73 years (Violanti, 1996). Early intervention could identify the police officer with critically high stressors and give the officer needed assistance before it spirals out of control.

Police officers must remain mentally and emotionally stable throughout their career. Psychological or behavioral problems not only affect the officer, but the department and the public they serve. Department morale and productivity can also be impacted, disrupting normal operations, when a police officer is found to have a mental issue (Fischler, 2001). Psychological evaluations can identify psychological issues and suicidal tendencies. The primary goal of the evaluation is to determine if an officer is fit for continued duty. It is normal for persons to go through periods of high stress. Most have the ability to work through and process the issues on their own or with the help of

external support. However, there are instances when, if left unresolved, the psychological issues can pose a major threat.

It is the position of this author that police officers should undergo regular psychological fitness-for-duty (FFD) mental health evaluations. Support for this position will be gained through recent publications, articles, and published research. The ability of FFD exams to identify at-risk officers will be explored and examined. The early identification of stressors and at-risk psychological issues can save the career of an officer, and more importantly, their life.

POSITION

Police departments are liable for the actions of their employees. Police departments are not alone, however, and individual officers cannot hide behind their agency for all liability claims. Police officers also have personal liability for decisions they make or actions they take. Society that often does not hesitate to file a civil lawsuit for actions of police officers, even if those actions are justified. Officers are human and will make errors. They will engage in actions that are improper or incorrect during their career. The effects of the actions can be serious, including the death of an officer or member of the public. The agency and officer can then be exposed to a litany of lawsuits. Managing liability is an essential task for police departments and their administrators. The liability management task is two-fold and includes, determining what causes liability, and finding ways to control it (Schultz, 2010). FFD exams can be an essential tool to meet the two-fold liability management task. FFD exams seek to address two critical issues. First, to discover if there is a psychological problem present; and second, to determine if the officer performs their job in a safe and effective

manner (Fischler, 2001). Secondly, a qualified psychological examiner can suggest the proper mental health care necessary to address the issues identified. Gary Fischler, Ph.D, clinical psychologist, stated, “there is often a clear connection between psychological problems and workplace functioning” (Fischler, 2001, para. 3). The early identification of psychological issues, that affect behavior and job performance, reduces exposure to lawsuits and assists in effective liability management. Not only is it imperative that agencies identify these issues, but there is a direct correlation between identifying the issues and the occurrence of high risk behaviors: “Employee perceptions of a lack of psychological support from the [their] organization can lead to greater risk of accidents, incidents, and injuries” (as cited in Canadian Centre for Occupational Health and Safety [CCOHS], 2012).

Mental health issues, stressors, and addictions know no bounds. They affect persons regardless of age, sex, culture, and profession. Police officers are no exception. They are expected to be in control of themselves and their actions at all times. The police officer works in a culture that makes it difficult to admit when an officer needs help for fear of being ostracized, losing their job, or damaging promotion potential. The culture promotes minimal, if any, healthy avenues to work through their stressors and feelings. This is not to say departments have not make great strides to address the issue, such as employee wellness programs, but the stigma of an officer reaching out for help, and the fear of seeming weak in front of their colleagues, decreases the chance to seek help.

Most people have no idea they have an addiction. When most people think about addictions, they focus on drugs and alcohol. Drugs and alcohol are common

substance addictions, but behavioral addictions can be just as damaging. Behavioral addictions include, sex, work, exercise, internet, negativity, and love. These actions alone are considered normal and socially acceptable, compared to drugs and alcohol abuse, masking the behavioral addiction and making it harder to identify (Ries, Miller, Fiellin, & Saitz, 2009). Addictions are directly tied to psychological issues. People engage in addictions nearly always in reaction to being emotionally stressed. Psychologically based addictions can manifest themselves into behavioral addictions ("What is Addiction," 2012).

FFD exams lead to a number of possible outcomes (Appendix A), including the identification of emotional stress and associated psychological issues (Fischler, 2001). Generally accepted classifications of findings include, fit for duty, unfit for duty, fit for duty with provisions, modifications or treatment, and invalid evaluation (Fischler et al., 2011). The officer is then referred to proper treatment to address any identified issues. In some instances, an officer's life can be saved if serious suicidal tendencies are identified.

Stress can lead to poor job performance. Police officers operate under a great deal of occupational stress. The result is poor decision-making, diminished professional and personal relationships, increased absenteeism, and decreased job satisfaction. The prevention and management of workplace stress requires departmental intervention, such as initiating FFD exams on a regular basis. There is an inverse relationship between job stress and job performance (COMSATS, 2008).

Unmanaged stress can lead to an acute emotional or psychological collapse, commonly referred to as a nervous breakdown. Police officers are susceptible to this

after long periods of stress which are not been adequately dealt with. Police are also more likely to be affected by stress on the job (Violanti, 1996).

Police officers are expected to pass a FFD exam during their application period when testing into the profession. Once they are hired, there is no routine follow up FFD exam to ensure the police officer is mentally fit to perform their job. Yet, the stress of the job increases throughout their profession. This is where the importance of regular FFD exams comes in place to continually ensure police officers are mentally fit for duty, and to make certain underlying red flags, that could be detrimental, are identified.

COUNTER POSITION

Police departments face a sensitive and difficult task relating to FFD exams. Patricia Beety, litigation attorney with the League of Minnesota Cities, states, “a licensed peace officer with a known or suspected medical or psychological problem that may be creating safety risks or affecting job performance presents a difficult situation” (as cited in Beety, 2010, para.1). There are recommended practices and guidelines, if adhered to, ensure a fair and non-punitive process. After all, the primary purpose behind an FFD exam is to save lives.

The mere mention of a psychological FFD exam, amongst police officers, can create an element of fear and uncertainty. Similar to childhood trauma following a person from childhood to adulthood, an FFD exam can automatically trigger negative emotions in an officer (Whitfield, 2006). To add to the fear, police officers, once they have been compelled to take an FFD exam by their employer, face even greater triggers surrounding the exam for fear of losing their job if they do not follow their departmental directive.

It is estimated that 80 to 95% of people did not receive the full nurturing in childhood necessary to maintain healthy relationships in adulthood. This has adverse effects on people feeling good about themselves and directly impacts how they handle difficult or stressful situations in adulthood (Whitfield, 2006). While police departments cannot heal unresolved childhood issues, there are guidelines that should be followed and communicated to police officers to lessen the fears surrounding the exam. Adherence to guidelines should be incorporated into departmental standard operating procedures. Police officers need to trust their department will adhere to established guidelines, to protect the officer, resolve fears, and protect the integrity of the exam. Trust can be earned through open communication and dialogue of fears (Hendrix & Hunt, 1997).

The International Association of Chiefs of Police (IACP), Police Psychological Services Section (PPSS), created Psychological Fitness-for-Duty Evaluations Guidelines. The primary purpose of the guidelines is to educate and inform the agencies that request FFD exams and the practice of examiners who perform them. The guidelines reflect commonly accepted practices of the PPSS member and the agencies they serve (IACP, 2009). The use of these guidelines is one tool to lessen the fears associated with FFD exams.

Police officer unions, associations, and legal counsel seek to protect their clients and may argue FFD exams unfairly singles out a police officer and compels them to take an FFD exam, without any legal basis. If the officer refuses, the department then has a bias against the officer and terminates them for refusal to take the exam. In one case, *McGreal v. Village of Alsip*, a veteran police officer was forced to submit to an

FFD exam and was subsequently terminated as a result of the exam. It settled for out of court for \$900,000.00 (2004). While a police department will order an FFD exam to protect the department, there are laws in place to protect the officer. The laws ensure an FFD exam is properly requested and administered (Miller, 2006).

Federal and state law restricts when, and under what circumstances, an employer can require an employee submit to medical examinations. Protection of the officer is afforded under these laws. A police department cannot require an officer to take a test based on speculation or assumptions. Requiring an officer to take an FFD exam under this basis would be in violation of the Americans with Disabilities Act (ADA). There must be objective evidence of job behaviors, employee statements, and available medical documentation regarding restrictions that need to be reviewed as a whole. An FFD exam should only be required when there is sufficient evidence to question whether an officer is able to safely and effectively perform their job duties (Beety, 2010).

FFD exams cannot be administered for punitive reasons, as this would not only have ethical implications, but open up a department to legal suit. Going back to the case of *McGreal v. Village of Alsip*, the courts found that McGreal's personal examination results had been distributed to persons outside of the immediate supervisor that determined his employment status (2004). The case set a clear message that information gathered from mental health exams is confidential, similar to medical records. Moreover, police departments are not exempt from proper handling of sensitive information of this nature.

If there is not sufficient evidence to support the use of an FFD exam, police departments should wait until when, or if, there is enough evidence present to take that

route. Even if a police department has enough evidence to support a FFD exam, a police officer can still refuse to take the exam. In this case, a police department should only take action on the officer based on the lack of medical confirmation, not of the police officer's refusal to take the exam (Beety, 2010). Adhering to the applicable laws and following proper evidentiary procedures protects police officers and the department. Regular and consistently scheduled FFD exams for all personnel, including top agency officials, ensures no officer is singled out.

Even when the FFD exam is not challenged or met with resistance, there is still a risk involving privacy and data protection. Police officers may feel that their right to privacy of FFD exam results will be ignored and their image tarnished, if the exam results are leaked. In addition, the grapevine, or "cop talk," is a powerful communication tool throughout an organization. It can also work against an organization or individual. Jitendra Mishra, Ph.D., Professor with the Seidman College of Business Administration, explains that, "nearly all of the information within the grapevine is undocumented and is thereby open to change and interpretation as it moves through the network. It often travels faster than formal channels" (Mishra, 1990, para. 1). Proper protection of data, and managing the grapevine network, can ensure privacy and protection of both the officer and department.

The FFD exam data is sensitive and should be treated as classified and private personnel data. Only those within the police agency, whose official job duties require having knowledge of the FFD results, should have access to the information. In addition, ADA requires any information obtained from FFD exams be treated as

confidential medical records. The FFD data should be kept separate from personnel records and confidentiality maintained (Beety, 2010).

It is also beneficial for police departments to communicate with their officers about the FFD exam. It should be clearly communicated when an exam would be required, how the process will flow, the steps taken to maintain confidentiality, and myths surrounding punitive requests for FFD exams. If police officers are not openly informed of the FFD exam, suspicions will increase and flood the grapevine. This will likely create a climate of fear and add to the already negative stigma of FFD exams (Beety, 2010). Open and honest communication flow is an effective tool to manage the grapevine and lead in to a positive and constructive direction (Mishra, 1990).

RECOMMENDATION

Police departments should have their officers take regular psychological FFD evaluations. The primary purpose of this position is three-fold, to protect the officer, the public, and the department. The regular FFD exam, for all personnel, can be an effective tool for departments to determine if psychological problems are present that would affect a police officer's ability to perform in a safe manner. The FFD exam can be used to reduce discipline, lower departmental liability, maintain productive officers, and even save lives. If an officer's FFD exam finds psychological issues, they can be referred to treatments and, in the best case scenario be returned to work as soon as feasible. If a return to work is not possible, the department can follow proper channels, including medical leave or disability leave.

Police officers often fear the FFD exam for a number of reasons. They feel they can be unfairly singled out to take the FFD exam, and if they refuse, they could face

termination. These fears are not without warrant. There are several court cases that fuel officer fears regarding police agencies that have used the FFD exam as a punitive tool and violated privacy issues by releasing confidential exam results.

In *Hunt v. Borough of Wildwood Crest* (2012), Sgt. Thomas Hunt of the Wildwood Crest Police Department, was terminated after being found unfit for duty by a FFD examiner. Sgt. Hunt filed suit in US District Court stating he was targeted by his employer for his association with an active police union. The FFD examiner, Dr. Gary Glass, had also been involved in numerous other questionable FFD exams. It is alleged that one exam was administered with no test and, within less than 20 minutes, Dr. Glass concluded that the officer had a personality disorder (Hunt, 2012).

In another case, *Jackson v. Lake County, Illinois* (2003), city worker, Mr. Don Jackson, was awarded \$325,000.00 as a result of being forced to submit to a FFD examination, and subsequently being terminated from his job. This case brought into light the notion that management must use a reasonable and objective person standard, to determine if an employee must submit to a FFD examination. Cases like these fuel the stigma, resistance, and fear, surrounding FFD exams.

Although police officers have these valid reasons to fear FFD exams, there are steps police agencies can take to significantly reduce, if not eliminate, the stigma surrounding FFD exams. Often, fear arises from a lack of knowledge. Incorporating guidelines into departmental policy, such as the IACP Fitness-for-Duty Evaluation Guidelines, is a powerful tool to maintain FFD exam standards, comply with applicable legal rights, and educate the officer. It is essential to communicate these guidelines

throughout a police organization. Educating officers of the FFD process reduces the uncertainty and myths surrounding the FFD exam. Also critical to the integrity of the FFD exam, is to protect the results and treat them as confidential medical records. The grapevine is a powerful communication tool. The leaking of private and confidential medical records has no place in the FFD process.

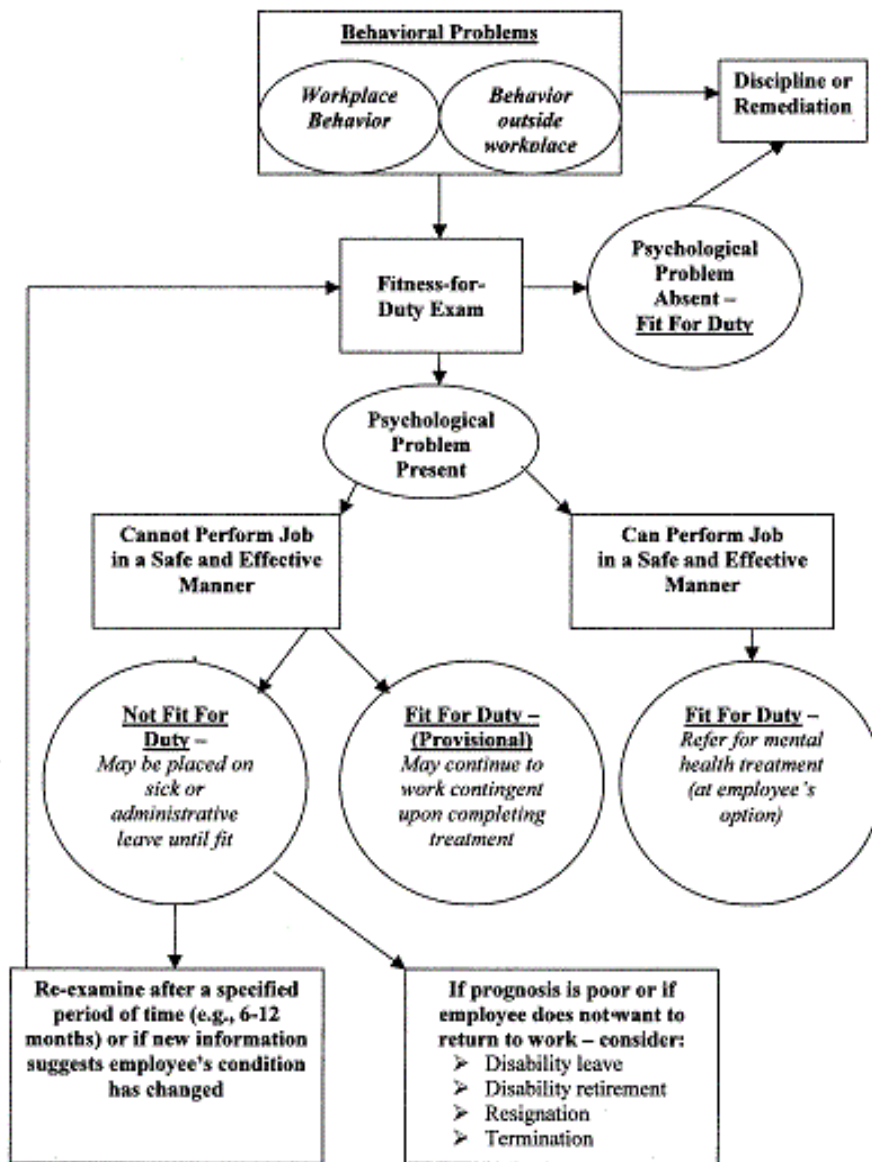
Courts have upheld and accepted the regular use of FFD exams in police departments, and held departments liable for not using them when it was necessary to protect the public's safety (Fischler, 2001). The primary goal of every police agency is to protect the public they serve. This includes from the agencies own officers. Police administrators also have an obligation to protect their officers and their department. The regular and consistent use of an FFD exam, for all members of a police department, should be integrated in every professional law enforcement agency. The correct and proper use of FFD exams could do more than mitigate liability, it could save a life.

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APPENDIX A



Appendix A. Possible outcomes for FFD examinations