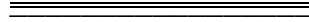
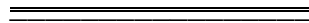


**The Bill Blackwood  
Law Enforcement Management Institute of Texas**



**Police Human Rights Training In A Multi-Cultural Society**



**A Leadership White Paper  
Submitted in Partial Fulfillment  
Required for Graduation from the  
Leadership Command College**



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## **ABSTRACT**

Human rights is relevant to contemporary law enforcement because of today's ever changing cultural dynamic, where those of an oppressive way of life are increasing in numbers and finding their way to the shores of the United States, a need for new proactive training could be on the horizon. Human rights violations could not only be detrimental to the department with its interactions in the community but can have an effect within the department internally as well.

The position of the researcher is that it is an obligation for departments to include human rights training into law enforcement curriculums. Support for this position comes from data provided by internet articles, 4<sup>th</sup> amendment decisions, and literature from case history. The recommendation drawn from this position paper is that human rights training should be included in the Texas Commission on Law Enforcement mandated curriculum.

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## INTRODUCTION

The human rights question has been debated ever since the end of World War II. It has been defined and redefined by the United Nations General Assembly; it has also been tweaked by countries, nations and recently by individual states (United Nations, n.d.). In 1948, the original 30 articles laid forth the foundation for separate versions and visions of its first doctrine. It was the groundwork for various versions and off shoots, i.e.; civil rights amendment. And thus is where the debate begins. As variations of the first document are established, the lines have blurred between human and civil rights. Each is a different and separate document and should be addressed as such, especially now, with more and more civil rights violations being filed around the world and, recently, in this country (United Nations, n.d., Civil Rights Act of 1964, n.d.)

The United States has long been known as the “melting pot,” due to the vast numbers of cultures this country has taken in throughout time. With that comes the understanding of new ideas, customs, and laws. However, the experiences these cultures may have endured prior to their arrival to this country allow them to, on a continuous basis, consent to human rights violations here as part of everyday life. Inevitably, the time will come when the local police office will encounter such a person who has no familiarity with the justice system.

Law enforcement professionals have long faced the specter of 42 U.S.C. § 1983 (1871), which is about civil rights violations, civil rights/color of law violations, which second guesses each and every hasty decision made by an officer who did not have seconds to think, make a choice, and react. Without adequate training already

received, the number of lawsuits resulting from violations could be astronomical. The same can be said for a human rights violation suit. Without proper training on the subject, many departments and agencies are setting themselves up for failure in the long run. Officers who possibly enter the home of a family, not from the United States, and from a completely different culture, may request “consent” to search the property. Depending upon which region or country the family originates from, they may agree to the search due to the fact that in their own home country, the word “no” has never been an option. No department policy was broken. No mandated law was circumvented. No civil rights were violated. But, the human right to exist free of persecution, through the eyes of these people, could possibly be brought to bear upon these officers and their department.

Officers who have thought about the naïve nature of these people and the basic principles of law may use that to their advantage. The violations of civil rights were not thought of, or even considered, until the civil rights movement. At the time many law enforcement officers were simply following set policies and procedures. They were upholding the laws as they knew them. History has shown most law enforcement agencies in a bad light during those times.

Now once again the law enforcement community could face scrutiny when the answer to the problem is right here. The solution is simple. Provide the training now or risk the consequences. It is time to take the initiative and stop the problem before it even has a chance to evolve. All law enforcement agencies should begin training on

human rights violations as it pertains to questions police use of force, as it relates to human rights, to avoid any and all chances of criminal or civil lawsuits being filed against them in the future.

## **POSITION**

The definition of human rights as defined in the Oxford Dictionary states: “A right that is believed to belong justifiably to every person everyone, e.g. the rights to freedom, justice, and equality” (“Human Rights,” 2010). The United Nations (UN) established the 30 articles of the Universal Declaration of Human Rights (United Nations, n.d., Civil Rights Act of 1964, n.d.) in order to protect individuals around the world. Much of what was established in 1948 by the UN has been adopted in other legislation, such as the Civil Rights Act (United Nations, n.d., Civil Rights Act of 1964, n.d.)

However, there are some articles that are specific to human rights. The following sites from the UN depict that difference: Article 2, for example, states, “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (United Nations, n.d., Civil Rights Act of 1964, n.d, article 2.) In this article alone, it expands rights that can be specifically meaningful to the immigrant population.

Another example is Article 16 section 2: (United Nations, n.d., Civil Rights Act of 1964, n.d, article 16.) “Marriage shall be entered into only with the free and full consent of the intending spouses” (p. 1). This particular article subsection targets those countries that have arranged or forced marriages. Some differences directly relate to

interaction with law enforcement personal on a day to day basis, while others could pose a unique problem for officers to deal with.

The human rights issue is one that has not been dealt with on the local level as it has been in other countries. Bracey (2002) stated, "Most discussion of police and Human Rights occur when police are clearly violating Human Rights as they enforce the law or when the laws that they are enforcing clearly violate Human Rights" (p. 113). The ever-growing and least recognized form of enforcement is possibly the most used form in day to day interactions; officer presence and verbal commands. For in these, the lowest on the use of force continuum, lies the most dangerous when dealing with those of a different culture. For those who have no idea of what is or is not legal in this country, this is when the officer is most at a dangerous intersection. Within the first few moments of the encounter, the wheels are set in motion for the rest of the use of force continuum which, could result in disastrous consequences.

In this country, a lot of emphasis in use of force training concentrates on the upper levels of use of force. This being because in the past it has been there where many of law enforcement agencies have found its Achilles Heel. In 1991, due to the Rodney King incident, law enforcement, due largely in part the public opinion, outrage, and concerns, have focused mainly on civil rights violation issues, as well as cultural diversity, and have resulted with intensive training in intermediate and complex use of force options.

Recent 4<sup>th</sup> amendments (Zigmund, 2004) decisions concerning the use of force bears out that it has been the upper levels of force that have come largely under scrutiny, whereas this has not been the case on the lower levels. Many consider section

42 U.S.C. § 1983 (1871), more than adequate for assisting in the insurance of the protection of both civil and human rights. However, both, by definition and most aspects, hold distinct differences. The differences are what can determine the proper procedure for on scene officers to follow. Active training in human rights would give the officers the tools necessary to be able to know the differences and be able to avoid placing themselves and their departments in harm's way. This has already happened in a country whose laws closely resemble those of the United States, and it is because of this that extra precautions should be taken to ensure that this country does not fall under the same embarrassment.

### **COUNTER POSITION**

There will undoubtedly be those within the law enforcement community who will not see the need for this type of specialized training. They could cite that adequate training already exists in both the TCOLE Cultural Diversity #3939 (2008) and TCOLE Intermediate Use of Force #2107 (2008) training already provided in training curriculums. They could also argue that the training could be repetitive and overkill.

The problem here is that although this training does exist and is taught regularly to maintain officer objectiveness, it is not enough. Both deal with a set of complex issues from the nation's past with a present view. But it is not sufficient.

Cultural Diversity and Civil Rights both focus on the rights as defined by a "group", thus defining color, race, religion, gender or creed in curriculums. Human rights focal point on the other hand deals with the "individual" rights of one human being at a time. This is a unique problem than will necessitate unique and subject specific training. The Harvard University Commission on Human Rights (Khan, 2008), as well



as Bracey (2002) made a very distinct difference between civil and human rights. Bracey (2002) stated, in referring to the difference between “human” and “civil” rights, that, “they (civil) are seen as universal and equally claimed for every individual regardless of nationality, ethnicity, religion, race, or gender” (p.113). With this definition, human rights affects all aspects of humanity without setting any preferences to economic boundaries, social standing or culture. The differences between the two must be established in a setting where officers can interact and get a firm grasp of the subject, to better enhance their understanding. Thus far, there are no requirements in place to account for such interaction.

There will also be those who will say that any human rights issues, that may occur, will come in the form of a 42 U.S.C. § 1983 (1871), civil rights/color of law violations. There have been studies on this subject already done by the National Institute of Justice and Bureau of Justice Statistics (1999) as well as Homeland Security (2004). The major problem is that most studies deal with the upper two thirds of the use of force continuum where any violations would be addressed by any number of processes, to include department violations, criminal violations or civil violations. These two thirds of the continuum have been exhausted and extensive training done in an attempt to ensure proper officer decisions for any of these situations. By nature, civil rights violations can and will most likely occur in the lower one third of the continuum. Officer presence and verbal direction on the continuum are the lesser stressed but could be the most important when considering human rights violations.

Officers should be trained that these two steps of the continuum, if improperly used can lead to an escalating situation where the violation occurs and then compounds

itself. Something as simple as a, “may we come in?” can have the potential to escalate into a human rights violation if the subject(s) in question come from an area of the world where, to them that was not a question, it was a demand. Any violations found from this point on can and may be contested under the human rights doctrine.

The shooting death of a Somali immigrant in Columbus, Ohio in 2005 (Khan, 2006) was ruled a human rights violation that culminated with a CIT (Community Intervention Team) Agreement which was an agreement between the community and the police. Both sides were given a total of 17 mandates to establish better communication and relations between the two groups. The case stemmed from the increasing problems between the police department and the Somali immigrants in which officers were accused of increasingly “heavy handed tactics,” to include racial profiling and illegal search and seizure, in their dealings with these people. Animosity increased between the two sides, resulting in the shooting death of Nasir Abdi, 23, a mentally ill person. The shooting sparked community outrage leading to protests throughout the city. The basis of the agreement stems from both the community and the police not having a basic understanding of each other's culture.

In this instance, small human rights violations escalated into a major violation that resulted in a human rights violation suit being filed and the department was forced into complying with the community (Khan, 2006). This could be used as a perfect example where had the officers been trained in differences between human and civil rights many of the instances that brought about the agreement could have been avoided.

In one instance, where a department was effected internally, where charges would normally be filed as harassment, hostile work environment, or sexual harassment, it was filed as a human rights violation. Recently, at a police department in Minnesota, a female officer filed a complaint that she had been sexually harassed by her supervisor (“\$60,000 paid,” 2010). The supervisor, on appeal, had the decision against him reversed where he remained as the authority over the female. The supervisor was then accused of retaliating against the female officer for filing her complaint. In this instance, the female did not file suit under civil rights, a charge of retaliation, or hostile workplace. The female officer filed suit with the Minnesota Department of Human Rights for a human rights violation. The case was settled out of court, and the female officer received a \$60,000 settlement. In this instance, the monetary cost to the department was minimal in comparison to other civil lawsuits that have been filed and won. This will possibly be a case of reference for future legal actions throughout the country.

When the United States, as part of the United Nations, signed and ratified the ICCPR (International Covenant on Civil and political Rights) (1966), it opened the door for human rights violation suits above and beyond those of civil rights violation suit. Just one suit of this nature would have a lasting effect on an organization, not merely as far as the economic damage, but to the physic of the organization as well. Although originally designed to primarily protect the rights, liberties and dignities of occupied countries and prisoners in the time of war, this doctrine began a gateway to internal strife for every country which signed. For the United States was at the height of a civil rights movement of its own. This movement was instrumental and forever changed

America's status quo, and it brought about a new cultural interpretation for all its citizens.

The law enforcement profession has faced many landmark decisions already with concerns about police use of force and interactions. Landmark cases such as: *Graham v. Connor* (1989) (objective reasonableness) and *Tennessee v. Garner* (1985) (deadly force) have changed the way police officers go about day to day duties. In these instances all have been handled under civil rights (color of law). With this recent case in Minnesota, it shows a change of thinking could be on the horizon for yet another transformation in the way agencies think and react to all situations, both on the street and within the organization.

## **RECOMMENDATION**

TCOLE should include human rights training into law Enforcement curriculums. TCOLE mandated classes #2107, 2008 Intermediate Use of Force, #3939 2008 Cultural Diversity, and, 42 U.S.C. § 1983 (1871) are not adequate for assisting in the insurance of protection for both civil and human rights. Human rights by definition have a distinct difference that must be clearly understood by officers. Organizations such as Amnesty International are putting out literature on human rights issues and concerns to educate the public, giving rise to increased awareness. Human rights training would therefore provide officers as well as agencies with yet another level of protection from suit. For years, Texas peace officers have worked and trained under the auspice of avoiding civil rights violations. The very real minor differences of human rights needs to be addressed to avoid costly law suits as well as negative publicity to the agencies. The new millennium calls for new millennium ideas.

When the United States ratified the ICCPR in December of 1966 (1966), it opened the door for human rights violation suits above and beyond those of civil rights violation suits. Law enforcement as a whole should initiate training in this area before it becomes necessary and show that it is attuned to the times and has the initiative to establish sufficient and effective training for its officers.

Recently, Texas was one of many states to enact, in one form or another, a law that prohibits racial profiling by law enforcement agencies ("Law Enforcement," 2013). In part, it forces departments to establish written directives which prohibit racial profiling of any kind. However, in the definition race or ethnicity, per the Texas Code of Criminal Procedure, it is described as, "of a particular descent, to include Caucasian, African, Hispanic, Asian, or Native American" ("Law Enforcement," 2013, p. 198). Once again, the diversity of Texas' multi-cultural society has been missed and therefore could be unintentionally subject to being overlooked during police enforcement action.

One of ways that this can be initiated is to include human rights training in the basic peace officers course. This would give young officers a guideline into the aspects of human rights theories. Secondly, human rights should be added to the requirements for receiving the intermediate peace officer license, much as crime scene, arrest, search and seizure and use of force, are currently used today. And lastly, human rights training can be included into the TCLOSE mandatory 40 hours of training every two years. With this extra addition, it would ensure that the older officers, who have already achieved advanced or masters licenses would get the necessary training as well and that insures the continuing education cycle would be kept intact. This would be a relatively simple resolve when compared to the alternative when it happens.

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