Emerging trends in police failure to train liability

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Abstract The United States Supreme Court in the City of Canton v. Harris (1989) held failing to train police officers may be the basis for managerial liability under Title 42 United States Code Section 1983. Using a content analysis, 1,525 Section 1983 lawsuits alleging failure to train were reviewed from 1989 to 1999. The research revealed ten frequent topic areas where the plaintiff regularly identifies police administrators as defendants. Emerging trends of this litigation and recommendations for police administrators are discussed.

Introduction
Managing a contemporary police department in a democratic society can be problematic and challenging. The complex nature of the police occupation and the dynamic changes that move through our society frequently make the job of policing extremely difficult and perhaps prone to civil litigation. Police officers are among the few governmental officials who exercise their authority in direct personal contact with citizens, and are consequently highly visible. They are among the few governmental officials who are armed, possess the power of life and death, and for many individuals they represent the embodiment of the coercive aspects of government. Maintaining the legitimacy between police and citizen relations depends largely on the ability of the police to establish and maintain the legality of their legal authority. Exercising police authority in a variety of situations requires thorough decision making and the consequences of these decisions can heighten the risk of civil liability for the officer and police administrator.

The potential for civil litigation against the police is likely to occur on at least two levels. First, the individual law enforcement officer may be at risk of civil litigation for the decisions he or she is frequently forced to make. Deciding to arrest someone, to engage in a high speed pursuit, to stop and search a citizen or seize property, or deciding to use a level of force to effectuate an arrest may expose the officer to a heightened risk of a civil lawsuit. Moreover, many lawsuits against police officers have emerged when they have intentionally abused their authority, intentionally violated citizens' constitutional rights, falsely arrested and incarcerated a citizen, and performed their duties in a negligent manner.

The second level of liability exposure exists with police supervisors. Based on the notion that the city, county, police department, and supervisors of the errant officer could have done something to prevent the misconduct, the police supervisor is regularly named with an officer in a civil lawsuit. Under Title 42 USC Section 1983, a municipality and/or supervisor may be held accountable
for the acts of subordinates. The supervisor is responsible for abdicating managerial functions when the failure results in a violation of constitutional rights. Supervisors can be held liable under Section 1983 when they develop or enforce a custom or policy which causes a constitutional violation, *City of Oklahoma City v. Tuttle* (1985). Generally, the plaintiff in a Section 1983 lawsuit will structure the complaint against the police administrator alleging a failure to direct officers through policies and procedures, alleging failure to supervise and discipline officers, and more commonly assert a claim of failure to train officers.

Since the United States Supreme Court decision in *City of Canton v. Harris* (1989), the plaintiff in the majority of civil lawsuits cites as a secondary claim, the police administrator inadequately trained the errant officer. Several scholars estimate that actions for failure to train and failure to supervise are the two most common types of claims brought against police administrators (Barrineau, 1994; Kappeler, 1997; del Carmen, 1991; Staff, 1990). Although tremendous strides in mandating pre-service police training have been made throughout the country and the number of hours of in-service training for veteran officers is increasing (Flink, 1997), failure to train allegations still pose a pertinent concern for the police administrator.

In a survey of police administrators McCoy (1987) reported they thought liability was an important issue in law enforcement, but they did not think a crisis existed. Carter (1994) reported police administrators cited civil litigation in their top 20 areas of concern. Skogan and Brodsky (1991) found that new recruits in the academy had a moderate concern about the possibility of being sued. They also reported recruits exhibited a higher level of “litigaphobia” (fear or phobia of litigation) or distress when they hear of a fellow officer being sued. Garrison (1995) found in his survey of 50 police officers that they were evenly divided on the issue of whether civil liability is an impediment to effective law enforcement.

The purpose of this analysis is to assess the impact of the *Canton* decision regarding the trends in police training liability. Training of police personnel is a critical managerial responsibility and is no longer observed as a luxury. Police administrators can be held liable if inadequate or improper police training causes injury or violates a citizen’s constitutional rights. Ongoing training is critical to the avoidance of police-directed civil litigation (Gallagher, 1990) and in structuring a defense to legal assertions (Vaughn and Coomes, 1995). Ten years have elapsed since the landmark ruling was decided and numerous lawsuits have been litigated citing administrators for failing to train police personnel.

This research follows past recommendations for research in police civil liability in an effort to enhance management’s ability to address approaches to minimizing lawsuits (del Carmen, 1993; Kappeler et al., 1993; Worrall, 1998). Section 1983 liability for failure to train is specifically assessed to determine patterns of litigation since 1989 and to identify the ten most litigated police topics. Identifying common high risk training topics in a longitudinal fashion
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will assist police supervisors and trainers in better focusing training efforts in these areas to increase officer proficiency, reduce supervisory liability, and to avert future civil lawsuits.

**Trends in police civil lawsuits**

Much of the past scholarly research on police civil liability has focused on precedent setting cases decided by the Supreme Court (Barrineau, 1987, 1994; del Carmen, 1993; del Carmen and Smith, 1997; Franklin, 1993; Kappeler, 1997; Klotter, 1996; Smith, 1995; Wardell, 1983). Specific police civil liability research has addressed issues of police actions under “color of law” (Vaughn and Coomes, 1995; Zargans, 1985), deaths in detention due to suicides (Kappeler et al., 1991), police misconduct (Littlejohn, 1981; Meadows and Trostle, 1988; Schmidt, 1976; Silver, 1996), negligent operation of police vehicles and failure to arrest drunk drivers (Kappeler and del Carmen, 1990a, 1990b), officers attitude regarding police liability (Carter, 1994; Garrison, 1995; McCoy, 1987), liability for abandonment in high crime areas and moonlighting (Vaughn, 1994; Vaughn and Coomes, 1994), trends in settling civil cases (BJS, 1995, 1999), and wrongful sudden deaths in police custody (Ross, 1999).

While much research exists relative to civil case analysis, a dearth of accurate statistical information exists regarding the trends and types of lawsuits filed against police. It is difficult to assess with precision the true nature of lawsuits filed against the police, partly because the courts only publish a portion of the cases they decide, and judges are selective in documenting those cases they hear. There is no systematic method for collecting information specific to police civil litigation. The Federal Administrative Office of the Courts tabulate federal civil actions filed annually, but they do not specifically report cases filed against the police.

In the absence of this scarcity researchers are forced to speculate about the trends and patterns of police civil litigation. A limited number of researchers in the past have utilized surveys or content analysis methods to examine trends in police civil litigation and they suggest there exists a growing number of cases filed against the police (Americans for Effective Law Enforcement, 1974, 1980, 1982; Barrineau and Dillingham, 1983; International Association of Chiefs of Police, 1976; Kappeler, Kappeler, and del Carmen, 1993). Surveys administered by AELE report civil lawsuits filed against the police in 1967 rose from 1,741 cases to 3,894 in 1971, a 124 per cent increase. They also report by 1976 over 13,400 cases were filed against police (1982), marking a 500 per cent increase from 1967. The IACP indicated during this same period that 1 in 34 police officers were sued. In the early 1980s AELE estimated there were over 26,000 cases filed annually (1982), and one legal scholar estimated that in the 1990s police annually face approximately 30,000 lawsuits (Silver, 1991).

Perhaps the most comprehensive research regarding longitudinal trends in police civil liability was reported in a content analysis by Kappeler, Kappeler, and del Carmen (1993). They reported 1,359 Section 1983 cases filed against the police were published from 1978 to 1994 and found that police prevailed in 52...
per cent of the cases (706 cases). The analysis examined 20 major topics of litigation. Major findings revealed plaintiffs are more likely to prevail in claims of strip searches (76.4 per cent), inadequate policy (68.8 per cent), coercion (63.6 per cent), excessive force (59.6 per cent), infliction of emotional stress (56.7 per cent), inadequate training (53.5 per cent), inadequate supervision (55.4 per cent), assault and battery (55.4 per cent), and failure to protect (51.2 per cent). Three of the major topics of frequent litigation pertain to managerial functions: policy, training, and supervision. The average award and attorney fees assessed against police departments were determined to be $118,698. Vehicle pursuits and excessive force claims averaged the highest awards granted to plaintiffs, $1.2 million and $178,878 respectively.

Prior studies have revealed different monetary awards for plaintiffs. According to a survey conducted by the National Institute of Municipal Law Enforcement Officers found the 215 municipalities surveyed faced costs of over $4.3 billion in pending liability lawsuits (Barrineau, 1987). The average cost of a jury award against a municipality is reported to be about $2 million (del Carmen, 1987). In the mid 1980s there were over 250 cases in which juries awarded at least $1 million (National League of Cities, 1985). These figures do not obviously reflect cases that are settled out of court, which represent a majority of police litigation. Moreover, these awards do not reflect the personnel time, finances, resources, and expert witness fees spent in preparation of defending the case. Given the lack of accurate and detailed data it is difficult to state definitively the trends in police civil litigation. What appears to be clear is that the police have been and continue to be targets of litigation. Based on the nature of police work it is also clear the trend to file a lawsuit by citizens for allegations of violations of constitutional rights will not decline in the near future.

Supervisory liability framework for failure to train under Canton

Supervisory liability

The genesis of municipal liability under Title 42 USC Section 1983 was established in Monell v. New York City of Department of Social Services (1978) when the United States Supreme Court ruled liability attaches when adopting and executing a formal policy that results in a constitutional violation. By adopting this position the court rejected the idea that liability could be based on the theory of respondeat superior, which imposes liability on an employer for wrongful actions of an employee regardless of the absence of fault by the employer. This means that municipal policy makers may be liable for acts of their police officers when those acts are directed by either an official policy or departmental custom.

Monell was a significant ruling under Section 1983, as previously administrators were ostensibly immune from Section 1983 actions as they did not meet the definitional language of “every person under the law” (Monroe v. Pape, 1961). The Monell decision has opened the door for additional potential supervisory liability. del Carmen (1991), Barrineau (1994), and Silver (1991)
agree that case law supports eight general theories of supervisory liability: negligent failure to hire (Board of County Commissioners of Bryan County v. Brown, 1997), negligent assignment (Brandon v. Allen, 1981), negligent retention (Shaw v. Stroud, 1994), negligent supervision (Anderson v. Roberts, 1987), negligent failure to train (City of Canton v. Harris, 1989), failure to direct (Vann v. City of New York, 1995), negligent entrustment (Bordanaro v. McLeod, 1989), and failure to discipline (Guiterrez-Rodriguez v. Cartagena, 1989). Supervisors need not actually participate in incidents of officer misconduct to be held liable. If a supervisor knew or should have known of officer incompetencies, unfitness for duty, or an officer’s lack of training in a certain area, and these deficiencies caused a constitutional deprivation, they may be held liable for abdicating their managerial responsibilities. Potential liability also emerges for supervisors when they directed, participated, and/or authorized the unconstitutional acts of their employees (del Carmen, 1991).

Following the Monell decision numerous Section 1983 lawsuits were filed against police departments on the assertion the incident involved police conduct which was motivated by the agency adopting a policy or custom of inadequate training or supervision of those officers. These cases generated considerable judicial disagreement regarding the appropriate standard with which to assess these actions. Standards applied ranged from ordinary negligence to wilfulness. Disagreement as to the type of evidence required to prove inadequate training produced much debate in the federal courts. Much of the uncertainty was resolved in the 1989 United States Supreme Court’s decision in Canton.

Expansion of the deliberate indifference standard
Plaintiff Harris was stopped for speeding and arrested after she became uncooperative with the arresting officer. She was transported to the police station in a patrol wagon and upon arrival was found sitting on the floor. Officers asked her if she required medical attention and she mumbled with an incoherent response. She was brought inside for processing where she collapsed to the floor two times. The officers left her on the floor during processing for approximately one hour and failed to summon medical attention. Court testimony revealed that the shift commander was responsible for determining the medical care of arrestees but did not receive training with which to make medical decisions. She was released into the care of her family whereupon she was taken to a hospital by ambulance, summoned by her family. After a physician’s examination she was diagnosed as suffering from emotional stress reaction, anxiety, and depression. She was hospitalized for a week and received outpatient medical care for about one year. She sued the city for a variety of claims, but the most notable were the claims of denial of medical care while in custody, and training deficiencies of officers in medical care for arrestees. The jury found in favor of Ms Harris, with the exception of the training claim, and awarded her $200,000 in damages. The City appealed to the sixth Circuit Court of Appeals which affirmed the decision. The appellant court
ruled that a municipality could be held liable for failure to train where a plaintiff could prove intentional, reckless, or gross negligence on the part of the municipality. An error was made by the court in explaining jury instructions and a retrial was ordered. Prior to retrial the city sought review by the Supreme Court and they granted certiorari.

The Supreme Court ruled that a local government can be held liable under Section 1983 provisions if an officer injures a person due to a deficiency in training. Inadequate training may serve as a basis for Section 1983 liability where the failure to train amounts to “deliberate indifference” to the rights of persons with whom the police may come into contact. The degree of fault is fundamentally related to the policy requirement noted in *Monell* (Silver, 1996). Moreover, *Monell* will not be satisfied by a mere allegation that a training program represents a policy for which the city is responsible. The court stated that “in light of the duties assigned to specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, the policy makers of the city can reasonably be said to have been deliberately indifferent to the need” (p. 1205).

The former standard of gross negligence utilized by many lower federal courts was rejected by the court and the higher standard of “deliberate indifference” was adopted. This standard was first established in a Texas prison case, *Estelle v. Gamble* (1976). Deliberate indifference in *Canton* was expanded and requires proof of much more than negligence. Over the years the Supreme Court has established that “deliberate indifference” resides on a continuum between “mere negligence and something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result” ( Vaughn and del Carmen, 1995). Deliberate means that a particular course of action has been chosen from among various alternatives, and indifferent means there has been some conscious disregard for a person’s rights (Plitt, 1997). Only where a failure to train reflects a “deliberate” or conscious choice by a municipality can a city be liable for such a failure under Section 1983. Liability may not attach for failure to train or improper training without some proof that the department was, or should have been, conscious to the need, and then made a deliberate choice not to provide training, or not to review and/or improve the training provided.

*Factors necessary to establish deliberate indifference*

The court’s opinion provides a framework for litigating failure to train under the deliberate indifference standard. Actionable cases of inadequate training rests with the plaintiff proving the following factors. First, it must be established whether a training program is adequate to the tasks the particular employee must perform, and if it is not, whether such inadequate training can justifiably be said to represent “city policy.” Second, the identified deficiency must be directly related to ultimate injury. The failure to train must have been the cause of harm. Third, it is not necessary for a policy regarding training to be unconstitutional for liability to attach. A valid policy may be
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unconstitutionally applied and where the training in how to apply the policy is deliberately indifferent, liability may attach. Fourth, generally one incident of improper training will not result in liability. A pattern or history of problems or incidents that can be related to improper training will normally be the key for liability. Fifth, the focus of training must address regular and ongoing tasks officers routinely face. The court noted that the use of deadly force is one such area requiring regular training. The plaintiff must prove these known needs were left unattended by the municipality. Finally, the degree of training required need only be adequate to address a particular matter. The court acknowledged the need for a department to evaluate its needs and allocate appropriate resources, but rejected the idea that training must be the most modern available. The standard established by the court clearly makes it more difficult for plaintiffs to prevail in a Section 1983 lawsuit.

Application of deliberate indifference

Although the court resolved the long debated controversy over inadequate training issues, they have also created many questions regarding how lower courts should interpret and apply the standard of deliberate indifference. Questions pertaining to failure to train issues include, what constitutes a policy of inadequate training, can a municipality be liable for a single act of an officer, will liability attach for an occasional officer mistake, who has the responsibility to train officers, and who determines whether the training was adequate?

Answers to these questions are far from clear, but case examples can provide general trends in how courts have been applying the deliberate indifference standard in claims of deficient training. The mere fact that an incident occurred and a constitutional right may be involved, does not automatically indicate that there is a deficiency in training. The failure to train must first be linked to some specific policy relative to the training. In order for supervisory liability to attach the burden of proof rests with the plaintiff to show that the policy was the moving force of the constitutional violation, Polk County v. Dodson (1981). A policy exists only when a course of action is established by the official responsible for final policy with respect to the subject matter involved, Pembauer v. City of Cincinnati (1986). Application of these two Supreme Court cases is evidence in Vineyard v. Murray County of Georgia (1993). An excessive force claim along with claims of failure to train and failure to supervise was brought against the Sheriff. The claim emerged from several deputies beating a restrained arrestee in a hospital bed. The deputies beat him repeatedly about the head and chest. He sustained a broken jaw and other injuries. Applying Canton to the policy and training issues, the federal district court found the Sheriff was deliberately indifferent to the needs of the arrestee. The Eleventh Circuit Court of Appeals determined the county had inadequate polices for training, supervision, and discipline. The county had inadequate procedures for following up on citizen complaints, the manner in which the Sheriff investigated the incident evidenced a policy of deliberate indifference, and a manual of policies and procedures did not exist. The plaintiff was
awarded $175,000 in compensatory damages and $60,000 in punitive damages. The court determined however, in *Robinson v. City of St. Charles* (1992), in order to prevail in a policy/training claim for excessive force, the plaintiff must show the city had notice its police training was inadequate, and deliberately chose not to remedy the situation.

Can training liability be imposed for actions stemming from a single incident? The general answer to this question is no, but with exception, *City of Oklahoma City v. Tuttle* (1985). The Supreme Court deciding a fatal shooting of an unarmed individual, gave a qualified ruling stating, “that claims of failure to train and supervise stemming from a single unconstitutional activity is insufficient to impose liability, unless it was caused by an existing unconstitutional municipal policy, which policy can be attributed to a municipal policy maker.” This holding is important because it rejects liability based on a single incident, but allows for an exception: if the incident was caused by an existing, unconstitutional policy (del Carmen, 1991). The exception was applied by the court in *Pembauer v. City of Cincinnati* (1986). The prosecutor of the county was the “official policy maker” and directed officers to make a forceful entry into a house with axes and without a warrant. The deputies were attempting to arrest two doctors who failed to attend a grand jury hearing. The court ruled the City of Cincinnati could be held liable on one occasion for a Fourth Amendment violation, because the decision to enter the house by the prosecutor constituted official policy or custom.

Liability was imposed in a single incident of failure to train and supervise in *Atchinson v. D.C.* (1996). The plaintiff, who was carrying a machete, was shot by an officer without further warning after telling him to “freeze,” adequately asserted a claim against the District of Columbia for inadequately training and supervising officers in deadly force. The federal appeals court held that even a single incident of such use of force was sufficient to support the complaint of inadequate training and supervision. In *Gallego v. Wilson* (1995) a claim of inadequate training and supervision was not supported by the court based upon a single incident. Deliberate indifference to training of officers was not established by the plaintiff.

Determining the adequacy of a training program can be difficult. In *Canton* the court did not specify the subject matter nor the number of hours required for officers to attend. In an effort to avoid federalism and to avert second-guessing of municipal training programs, the court rather took a position that training be afforded to officers in order to “respond to usual and recurring situations which they must deal.” In resolving this question, the court focused on the training program in relation to the tasks the particular officers must perform. “That a particular officer may be unsatisfactorily trained will not alone suffice to attach liability on the city, for the officer shortcomings may have resulted from factors other than a faulty training program.” According to the court liability will not attach for a sound program that has been negligently administered. Neither will it suffice to impose liability for an officer making a mistake or avoiding an accident because he should have received more or better
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training. “Adequately trained officers can make mistakes.” Liability can only attach where the city’s failure to train reflects deliberate indifference to the constitutional rights of citizens and the deficiency must be closely related to the ultimate injury. Training then should be designed to directly correspond with recurring tasks of police work (Jones v. City of Chicago, 1989).

The nature of the police function is such that in all responsibly managed police departments officers are required to undergo a level of training prior to being assigned patrol work. The court used the topic of lethal force as an example to demonstrate the need for adequate training. In Zuchel v. City and County of Denver Colo. (1993) the city was found to be deliberately indifferent in regards to providing adequate training in the use of deadly force. The training consisted of only a lecture and a movie, and did not include “live” shoot-don’t shoot practice training. The plaintiff was awarded $330,000 in damages. In Carr v. Hicks (1993) the county and deputy were found deliberately indifferent for the accidental shooting of the deputy’s partner. The deputy had not received firearms training prior to assuming patrol duties. The plaintiff was awarded $1 million in damages and $636,800 in attorney fees. In Houck v. City of Prairie Village, KS (1996) however, failure to have a detailed training program on problems of taking suicidal or mentally disturbed police officers into custody was not deliberate indifference to a known problem. The chief was not liable for failure to take custody of a suicidal officer who fired his gun within his residence. While not a deadly force case, the court in Dorman v. District of Columbia (1989) held the need for specific training in suicide prevention, beyond what the officers had received, was not so obvious that the city’s policy in not providing it could be characterized as deliberate indifference.

Unquestionably the standard of review in failing to train litigation is deliberate indifference. When analyzing assertions of inadequate training the court will determine three critical components: whether a constitutional right was violated, whether there was a failure to train or the training was not adequate, and whether there was deliberate indifference to the need for training (Plitt, 1997; Silver, 1996).

Methodology
A content analysis of 1,525 failure to train Section 1983 cases comprise the sole methodology for this assessment. The study was designed to determine the ten most frequent topic areas where failure to train was an allegation brought against police administrators since the Canton decision (1989-1999). The research investigated the following six questions:

(1) What are the most common topics of civil litigation filed against police agencies which allege failure to train?
(2) How frequently does a municipality prevail in these claims?
(3) How frequently does the plaintiff prevail?
(4) What is the average award granted to the plaintiff?
Identification of failure to train cases, through subject/topic searches, were drawn from several sources and included: *West Law, Lex/Nexus, Americans for Effective Law Enforcement (AELE), Quinlan Law Enforcement Bulletin on Police Immunity*, and the *Detention and Corrections Caselaw Catalog*. Case collection yielded 4,000 Section 1983 cases filed against the police and these cases became the data base (population) for this assessment.

In order to eliminate researcher bias, a random sample procedure was used for culling out the cases to be examined. The target percentage of cases to examine was one-third of the population. Each case was assigned a three-digit number and every fourth case was randomly selected for the analysis. This process provided for 1,525 cases to be analyzed and represents 38 per cent of the population. Once these cases were identified they were classified by year of the decision and litigation topic area, resulting in ten common civil liability areas. This procedure parallels the procedure used Kappeler, Kappeler, and del Carmen (1993) in their content analysis of civil litigation filed against police. They reported 20 general topic areas of Section 1983 litigation filed against police, while this study examines Section 1983 litigation involving allegations of failure to train. Methodological procedures used in this study also follow procedures suggested by: Maxfield and Babbie (1995); Champion (1993); Fitzgerald and Cox (1994); and Isaac and Michael (1981).

After cases were selected, and citations identified, the complete textual opinion of the court, for each case, was reviewed by the researcher to determine the most frequent allegation brought against police administrators and trends of these allegations. Within each case alleged by the plaintiff multiple issues existed. The court may rule on all issues or dismiss those not warranting merit. For example, in a use of less-than-lethal force (excessive force claim) case, the plaintiff may assert excessive force, inadequate medical care, assault and battery, failure to train, and failure to supervise, all under Section 1983. The incident arose from an officer’s response during an arrest or performing a job function, and includes potential assertions made against the officer and the administrator. Therefore, classification of the ten litigated primary categories was determined on the ruling of the court as to the main issue (topic) of the case and frequency of the claim. The findings represent failure to train allegations filed against police administrators, while each major litigated category represents the primary claim which initiated the lawsuit (individual officer/citizen contact).

The study is not exhaustive and does have limitations. Of the cases studied 98 per cent were published while the remaining were settled out of court. The published cases studied represent only a sample of those cases decided by the courts. All cases that are decided in court are not published. When a judge believes that a case does not merit a written opinion or set legal precedent, the
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Case analysis reveals 64 per cent of the litigation involved municipal police departments, 29 per cent county sheriff departments, 5 per cent state police agencies, and 2 per cent transit authority police agencies. These cases were all initiated from police officers’ actions, followed by allegations of inadequate training (100 per cent), failure to supervise (45 per cent), failure to discipline (30 per cent), and failure to direct (25 per cent). Analysis indicates that failure to train and failure to supervise were combined as managerial liability issues in 54 per cent of the cases.

Table I identifies the ten most frequently litigated training categories. Police administrators prevailed in slightly less than two-thirds of the litigation, or a two-to-one ratio. Less-than-lethal force and lethal force (e.g. excessive force claims) combine to be the most litigated areas asserting a failure to train officers (25 per cent). Allegations asserting inadequate training in non-lethal force pertain primarily to physical force techniques and the use of the police

<table>
<thead>
<tr>
<th>Topic</th>
<th>Plaintiff prevailed % (#)</th>
<th>Police prevailed % (#)</th>
<th>Average award ($)</th>
<th>Average attorney fee ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-lethal force (n = 225)</td>
<td>44 (99)</td>
<td>55 (126)</td>
<td>351,219</td>
<td>79,592</td>
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<tr>
<td>Physical (55%)</td>
<td></td>
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<tr>
<td>Baton (20%)</td>
<td></td>
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<tr>
<td>Restraints (17%)</td>
<td></td>
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<td>Aerosols (6%)</td>
<td></td>
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<td>Taser (2%)</td>
<td></td>
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<tr>
<td>False arrest/detention (n = 185)</td>
<td>37 (69)</td>
<td>63 (116)</td>
<td>155,100</td>
<td>35,300</td>
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<td>Search and seizure (n = 170)</td>
<td>35 (60)</td>
<td>65 (110)</td>
<td>148,000</td>
<td>34,800</td>
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<td>Residence (44%)</td>
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<td>Personal (23%)</td>
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<td>Vehicle (19%)</td>
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<td>Strip (14%)</td>
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<tr>
<td>Failure to protect (n = 160)</td>
<td>38 (60)</td>
<td>62 (100)</td>
<td>185,000</td>
<td>39,400</td>
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<td>Detainee suicide (n = 153)</td>
<td>37 (57)</td>
<td>63 (96)</td>
<td>231,000</td>
<td>73,600</td>
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<tr>
<td>Lethal force (n = 152)</td>
<td>42 (64)</td>
<td>58 (88)</td>
<td>1,212,567</td>
<td>96,100</td>
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<td>Emergency vehicle (n = 145)</td>
<td>39 (57)</td>
<td>61 (88)</td>
<td>1,389,789</td>
<td>95,900</td>
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<td>Medical care (n = 138)</td>
<td>38 (52)</td>
<td>62 (86)</td>
<td>472,789</td>
<td>100,500</td>
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<td>Police as plaintiff (n = 100)</td>
<td>19 (19)</td>
<td>81 (81)</td>
<td>Not reported</td>
<td>Not reported</td>
</tr>
<tr>
<td>Other (n = 97)</td>
<td>16 (15)</td>
<td>84 (82)</td>
<td>289,678</td>
<td>Not reported</td>
</tr>
<tr>
<td>Total (n = 1,525)</td>
<td>36 (552)</td>
<td>64 (973)</td>
<td>492,794</td>
<td>60,680</td>
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</tbody>
</table>

Table I. Top ten categories in police training litigation since Canton
baton (impact weapon), 75 per cent. Five of the categories (50 per cent) involve issues of citizen deaths or injuries (lethal and non-lethal force, detainee suicide, pursuits, and medical care issues). Four of the categories (40 per cent) involved high compensatory awards to the plaintiffs (pursuits, lethal/non-lethal force, and medical care issues). Three of the categories (30 per cent) pertain to potential officer safety issues (non-lethal/lethal force and pursuits).

The data show the standard of deliberate indifference is a high hurdle for the plaintiff to overcome when asserting a training deficiency. Despite this result, the plaintiffs prevailed in approximately one-third of the cases overall, and the average award is significant, amounting to over $450,000. Lethal force and emergency vehicle operations categories skewed the average award due to claims which stem from wrongful death lawsuits. Claims asserting the denial of medical care and non-lethal force also account for high average awards granted to the plaintiff. Attorney fees averaged just slightly over $60,000 dollars.

Determining accurate award trends in police civil liability cases is problematic. These figures must be read with caution as the courts do not document the award or the amount of attorney fees assessed in every published case. Moreover, the figures do not reflect the cost nor the time officers, administrators, or counsel spent in preparing to defend or try the case. Therefore, these figures are only presented to show limited trends in these categories and to reveal those categories where higher awards are more likely to occur, should the plaintiff prevail.

Further analysis of the cases reveal emerging longitudinal prevailing trends. Table II shows two distinct five year patterns by prevailing party for each litigated category. From the initial decision of Canton in 1989 to 1993, the federal district and appellant courts granted overall case decisions to the police entity in slightly more than half of the cases (51 per cent). During this time period however, the plaintiff prevailed slightly more frequently in seven of the ten categories. Plaintiffs infrequently prevailed in emergency vehicle operations and police as plaintiff categories.

<table>
<thead>
<tr>
<th>Litigated category</th>
<th>1989 to 1994 Number and (%) won</th>
<th>1995 to 1999 Number and (%) won</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litigated category</td>
<td>Plaintiff Administrator</td>
<td>Plaintiff Administrator</td>
</tr>
<tr>
<td>Non-lethal-force ((n = 225))</td>
<td>127 (56) 98 (44)</td>
<td>96 (43) 129 (57)</td>
</tr>
<tr>
<td>False arrest/detention ((n = 185))</td>
<td>99 (54) 86 (46)</td>
<td>65 (35) 120 (65)</td>
</tr>
<tr>
<td>Search and seizure ((n = 170))</td>
<td>99 (58) 71 (42)</td>
<td>58 (34) 112 (66)</td>
</tr>
<tr>
<td>Failure to protect ((n = 160))</td>
<td>88 (55) 72 (45)</td>
<td>58 (36) 102 (64)</td>
</tr>
<tr>
<td>Detainee suicide ((n = 153))</td>
<td>81 (53) 72 (47)</td>
<td>54 (35) 99 (65)</td>
</tr>
<tr>
<td>Lethal force ((n = 152))</td>
<td>83 (54) 69 (46)</td>
<td>65 (43) 87 (57)</td>
</tr>
<tr>
<td>Emergency vehicle operations ((n = 145))</td>
<td>60 (41) 85 (59)</td>
<td>56 (39) 89 (61)</td>
</tr>
<tr>
<td>Medical care ((n = 138))</td>
<td>81 (59) 57 (41)</td>
<td>54 (39) 84 (61)</td>
</tr>
<tr>
<td>Police as plaintiff ((n = 100))</td>
<td>10 (10) 90 (90)</td>
<td>15 (15) 85 (85)</td>
</tr>
<tr>
<td>Other ((n = 97))</td>
<td>24 (25) 73 (75)</td>
<td>34 (35) 64 (65)</td>
</tr>
<tr>
<td>Total ((n = 1,525))</td>
<td>752 (49) 773 (51)</td>
<td>555 (36) 970 (64)</td>
</tr>
</tbody>
</table>

Table II. Prevailing party trends of training liability by time period
Emerging trends in police failure to train liability

operations, police as plaintiff, and the category of “other.” The largest margin where the plaintiff prevailed was in the categories of failure to protect, search and seizure, and non-lethal force.

From 1994 to 1999 police prevailing percentages increased by 13 per cent, indicating a winning ratio of almost two-to-one. The trend reveals each category changed considerably from the first period. Search and seizure and detainee suicides represent two categories where prevailing percentages increased considerably. In comparison, however, claims of failure to train in non-lethal or lethal force remain the closest prevailing category for the police, despite the overall percentage increase.

Discussion

Each litigated category represents the most fundamental and critical tasks police officers routinely perform, yet with regular frequency deficiency in training is asserted in conjunction with the primary claim. The prevailing ratio indicates two important factors of the deliberate indifference standard. First, this standard is difficult for the plaintiff to establish. Second, a majority of police departments appear to be providing training and successfully defending these allegations in a significant number of cases. Despite the prevailing record the potential for liability still exists as the following discussion of case examples illustrates.

Lethal and non-lethal force

These two categories represent critical issues for police agencies and exhibit high risk areas for liability. Further, both categories represent high awards granted to prevailing plaintiffs. Police administrators are encouraged to ensure their force policies reflect the *Graham v. Connor* (1989) and *Tennessee v. Garner* (1985) decisions, and provide ongoing refresher training for all officers in competently using their firearms, empty hand control techniques, restraints, other control equipment, and the constitutional limits of using force. In *Davis v. Mason County* (1991), a jury in the Ninth Circuit Court awarded four plaintiffs $528,000 in compensatory damages, $225,000 in punitive damages, and $323,559 in attorney fees in an excessive force case involving four deputies. For approximately four months these deputies illegally stopped, beat, and illegally arrested citizens. The court determined the county exhibited deliberate indifference to the training needs of the deputies in the constitutional limits of force. In *Bordanaro v. McLeod* (1989) the plaintiff was awarded $5.3 million for deliberate indifference due to a “practice of breaking down” doors without a warrant. A lack of training after the academy was found to rise to a level of deliberate indifference involving deadly force, search and seizures, and pursuits. The court found the department was “ill prepared and ill equipped to perform the obvious and recurring duties of police officers.” The department was operating under policies established in 1951 and there was no supervisory training provided. The court in *Walsweer v. Harris County* (1990) awarded $6.3
million to a man rendered paraplegic after he was shot five times by the police. The county was held liable for inadequately training officers in the use of deadly force and maintaining deficient policies regarding force.

**Failure to protect**

The police have a duty to exercise reasonable care toward arrestees. The duty commences at the time of arrest and continues until release from custody (Silver, 1996). The Supreme Court, however, in *DeShaney v. Winnebago County of Social Services* (1989) held generally police are not liable for failure to protect individuals from harm inflicted by third parties, nor from liability for injury inflicted by law enforcement officials (del Carmen, 1991). An increasing number of actions have been successful where the lawsuit has proven there was actual failure to protect, and where there are facts and circumstances which make the harm or injury which occurred different from a risk faced by the general public. The plaintiff may claim he is different than the public in general and the police had knowledge of him and his situation. Training of police officers in this topic area is a policy concern for administrators as liability may attach for the city when a lawsuit is filed for failing to protect an arrestee from himself or from actions by officers. Potential training and policy issues in this area include equal protection concerns of racial basis under the Fourteenth Amendment, domestic violence situations, and discrimination violations under the American with Disabilities Act (ADA). In *Barber v. Guay* (1995) a mentally impaired arrestee prevailed in a deliberate indifference claim to training under the ADA when he alleged the arresting deputy denied him proper police protection and fair treatment due to his psychological and alcohol problem. The city of Chicago was liable for failing to protect a wife from domestic violence from her husband who was a police officer in the department in *Czajkowski v. City of Chicago* (1993). The husband’s partner was found liable as he failed to intervene and assisted the officer in attempting to cover up the abusive incident. It was determined that the department had a custom of failing to take action and was deliberately indifferent to officer training. In *House v. New Castle County* (1993) there was a factual basis for the plaintiff’s claim the county inadequately trained police officers for situations involving black citizens in violation of equal protection guarantees.

**Emergency vehicle operations**

Of the ten frequent litigated training areas operating the police vehicle represents the most frequently performed police function. This study revealed these lawsuits represent the highest awards granted to prevailing plaintiffs. Researchers have documented the need for policy development and ongoing training in operating the police vehicle in emergency situations (Alpert, 1997; Beckman, 1987; Falcone, Charles, and Wells, 1994; Gallagher, 1989; NIJ, 1998). Legal allegations plaintiffs frequently assert include being deliberately indifferent in training to policy concerns, decision making to pursue or to terminate, the use of spikes, roadblocks, ramming, failure to use emergency
Emerging trends in police failure to train liability

equipment, improper use of the vehicle in a risky environment, and wrongful deaths of citizens. Based on a review of over 250 pursuit type cases Kappeler (1997) found that generally one factor alone is insufficient to establish a valid claim, but as the number of factors increases so does the likelihood of liability. The Supreme Court in County of Sacramento v. Lewis (1998) established in police pursuits the standard for reviewing police actions is “shocks the conscious.” This new standard will make it more difficult for plaintiffs to prevail in such cases and more time is needed to evaluate the impact of the decision.

Past case rulings reveal conflicting trends in court decisions. In Frye v. Town of Akron (1991) a passenger was killed after a high pursuit chase involving a motorcycle. The court held that police pursuits may violate due process and failure to train in the mechanics of hot pursuit can be characterized as “deliberate indifference.” In Fulkerson v. City of Lancaster (1992) the court determined there was no “obvious need” for specialized training in high-speed pursuits, beyond what was given in the academy. The court found a single incident was insufficient to impose liability in a pursuit case where the city had not developed policy, but rather allowed the officer to use his discretion whether to pursue or not (Dismukes v. Hackathorn, 1992). According to the court the chase was not objectively unreasonable and there was no evidence that the department had a history of pursuits which resulted in damage or injury.

False arrest/unlawful detention

Taking a person into custody, charging them with a crime, and detaining them is certainly a recurring circumstance for police officers. It occurs over 14 million times a year (BJS, 1998).

False arrest and detention can be the basis for liability under Section 1983. Both are considered intentional torts and the individual is restrained or deprived of freedom without legal justification (del Carmen, 1991). The plaintiff may allege the administrator failed to properly instruct officers in the laws of arrest and detention and or the department practiced a custom of allegedly arresting and detaining people. In Clipper v. Takoma Park, MD (1989) the city was found to be liable for inadequate training as an improper arrest coordinated by the lieutenant who was in charge of the detective bureau and by the department’s training coordinator. The investigating officer did not receive training materials giving typical examples of arrests properly based on probable cause. The arrestee was mistakenly arrested for a bank robbery which was video recorded. The court held this evidence met the deliberate indifference standard and the plaintiff was awarded $304,355. In Tilson v. Forrest City Police Department (1994) the city was not held liable for failing to train regarding detention of arrestees. The arrestee was in a county jail for 14 months without being formally charged with a crime. The detainee was not in their custody during the period, and the mere fact the chief knew the plaintiff had been arrested and lacked written procedures for conducting criminal
investigations were insufficient grounds for imposing liability. In *Rivas v. Freeman* (1991) the sheriff was found to be liable for inadequately training deputies and detention officers in the mechanics of arrest and detention. The plaintiff sued for wrongful detention as he was misidentified as a probation violator. He was awarded $100,000 as he was detained for six days.

**Medical care**

The Supreme Court has ruled that the police do not specifically owe a duty of medical care to an individual citizen, absence a “special relationship,” *City of Revere v. Massachusetts General Hospital* (1983). The due process of the Fourteenth Amendment requires a governmental agency to provide medical care to persons who have been injured while being apprehended by the police. Frequently this is a major allegation in excessive force claims, pursuits, arrests of intoxicated or the mentally impaired, and injuries sustained while in detention. The plaintiff will likely assert the governmental entity was deliberately indifferent to the needs of the arrestee and failed to properly train officers in summoning medical care, observing symptoms of medical or psychological distress, and how to properly respond to such situations.

This study revealed the third highest award was granted to plaintiffs in this category. In *Burkhart v. Washington Metro Area Transit Authority* (1996), the plaintiff was awarded $109,000 in damages claiming the transit authority inadequately trained officers in how to deal with disabled patrons. The courts in *Wamsley v. City of Philadelphia* (1989) and *Vine v. County of Ingham* (1995) held the police agencies were not deliberately indifferent to the medical needs of arrestees. In these cases the court underscored the fact the police agency had provided minimum training in responding to medical needs of arrestees, such as first aid, and when to summon medical assistance. The officers were not required to have detailed training in medical treatment.

**Arrestee/detainee suicide**

Suicides and attempted suicides of arrestees taken into custody present a significant problem for the police. There has been a proliferation of cases brought against the police and millions of dollars awarded to plaintiffs during the past 25 years. These actions normally allege the agency and its employees failed to take steps to prevent an attempt or a suicide, and typically claims for inadequate training emerge. Under Section 1983 plaintiffs allege the city violated the constitutional rights of the person for self injury, failure to protect, and frequently for deficient building and policies. In *Farmer v. Brennan* (1994) the Supreme Court held deliberate indifference must be established in prisoner safety and health cases based on showing the official was subjectively aware of the risk and made no effort to reduce it. This still places some responsibility on administrators to ensure minimal safeguards when placing arrestees in detention. Legal standards require that policies and training be reasonably adequate to address the particular subject or problem. The courts in *Smith v. Blue* (1999), *Wallace v. Estates of Davis* (1994, $1.4 million awarded), *Hare v.*
City of Cornith, MS (1993), Bragado v. City of Zion Police Department (1993), Elliott v. Chesire County (1990), Burns v. City of Galveston (1990), and Simmons v. City of Philadelphia (1991) found the governmental entity deliberately indifferent to training methods, screening procedures, and the protection of suicidal arrestees. Each case dealt with deficiencies in minimum training guidelines and policies surrounding the foreseeable needs of arrestees exhibiting intoxication, mental impairment, and the stress associated with detention.

Search and seizure
Police officers frequently search and seize citizens’ vehicles, property, dwellings, businesses, and individual persons. Plaintiffs alleging the police improperly conducted a search and improperly seized property are more likely to file a lawsuit under Section 1983 because they pertain to a violation of the Fourth Amendment constitutional right. Police administrators must ensure that officers routinely receive updated training which is commensurate with the law. A $6.1 million judgment was granted to a plaintiff in Doe v. Calumet City (1990) as the officers strip searched females during traffic and various misdemeanor arrests without probable cause. The city had adopted a policy prohibiting such searches but failed to distribute it to officers and failed to conduct training explaining the policy. In Hufford v. Rodgers (1990) a sheriff was liable for inadequate training and supervision of a deputy who seized a child from a mother pursuant to papers supplied by her former husband erroneously implying that he had a right to the child. The city of North Reading, MA was not deliberately indifferent to the rights of the plaintiff during a personal search in Swain v. Spinney (1997). During booking at the lockup the plaintiff was strip searched for possible drug possession and claimed emotional trauma after her eventual release. The city produced a policy and training manual developed by a statewide risk management group specifying when strip searches are warranted. The city had also provided training to officers. The plaintiff in Wall v. Gwinnett County (1993) settled out of court for $9.8 million over six site searches of his business and residence. Over 100 boxes of financial records were seized through the searches. The suit claimed the search warrants were obtained by misrepresentation and the searches were intended to damage the plaintiff’s business. Allegations of inadequate training/supervision and emotional distress emerged.

The legality of a search poses critical concerns for police officers and the case decisions are rapidly expanding. Like many other officer tasks and legal areas this requires administrators to facilitate ongoing training. A case in point is the Supreme Court’s decision in Wyoming v. Houghton (1999), which involved the search of a motor vehicle passenger’s purse. The court analyzed the situation as if the purse were a container in a car. The court determined when officers have probable cause to search a car, they can inspect a passenger’s belongings found in the car if the container could conceal the object of the search.
Police officers are becoming plaintiffs and filing claims against citizens for injuries or wrong committed against them, and the department for failing to train. This category of litigation is emerging and reveals several case examples. In *Carlson v. City of Tonawanda* (1995) the deceased officer’s estate prevailed when the deputy was fatally shot attempting to arrest a suspect. The estate sued the city on the basis of deficient polices and regulations, and inadequate training policies which created additional risks to those ordinarily faced by officers arresting a suspect. The court ruled in *Darrow v. Schumaker* (1993) the mere failure to adopt a special training policy for special events could not be the basis of liability when there was no showing that any failure was the direct cause of an injury. The court held in *McCormick v. City of New York* (1991) the city’s failure to provide officers with a newer type of vest could not make the city liable for the shooting death of the officer nor could a claim of failure to train be valid. In *Collins v. City of Harker Heights, TX* (1992) the court ruled federal civil rights law does not provide a remedy for a municipal employee fatally injured during employment because of the city’s customary failure to train or warn its employees about known hazards in the workplace.

In *Anthony v. County of Sacramento Sheriff’s Department* (1994) a female deputy stated a cause of action for a hostile work environment which led to sexual harassment and inadequate training of department policy. In *Farmers Insurance Group v. County of Santa Clara* (1995) the county settled out of court in a sexual harassment claim for $1,283,000 for failing to train and develop policy on sexual harassment. A male deputy’s sexual harassment of three female deputies, including one who he had training responsibility for, was not within the scope of his employment. The Supreme Court in *Faragher v. City of Boca Raton* (1998) has addressed the issue of sexual harassment. This case has implications to governmental agencies as it holds administrators responsible for the misdeeds of an employee when the employee uses the agency relationship to further the harassment. The court ruled that Title VII requires employers to prevent sexual harassment in the workplace by developing and training to policy and enforcing it by promptly correcting any sexually harassing behavior.

Other/emerging topics
Case analysis reveals additional areas which appear to be emerging as training concerns for administrators. Frequently police officers are being requested to respond or intervene with individuals suffering from high levels of chemical influence and/or mental illness. A litigation trend has emerged as plaintiffs or estates of the deceased individual assert the police improperly responded due to policy and training deficiencies. Intervention with this special needs population can heighten the liability risk for the officer and the local government. In *Young v. City of Atlanta, GA* (1995) the court found the city liable for inadequately training officers in the city lockup to recognize arrestees with mental problems and dispensing prescribed medication during detention. In *Russo v. City of*
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Cincinnati (1992) the court held the city liable for failing to train officers in how to respond to “disturbed individuals.” Officers shot and killed a schizophrenic person in possession of two knives when he charged them. An investigation revealed that the training of new and in-service officers was virtually nonexistent regarding the handling of mentally disturbed individuals. The court held the chief liable in Roy v. Inhabitants of Lewiston, et al. (1994) on the grounds that he failed to adequately train officers in non-lethal alternatives for subduing dangerous but intoxicated persons.

Issues of custodial deaths after a violent struggle and restraint with individuals under the influence of a chemical substance or suffering from mental impairment are emerging as a training concern. In the cases of Guiterrez v. City of San Antonio, et al. (1998), Kinner v. Gall (1996), Animashaun v. Chicago Police (1994), Elmes v. Hart (1994) officers were forced to restrain a highly combative individual who was under high levels of intoxicants or exhibiting signs of psychosis. After restraint the subject suddenly died in police custody. The governmental entities were all found liable for inadequate polices and training in directing officers in how to respond, restrain, and provide medical care to the arrestee. Conversely no liability attached in Harris v. District of Columbia (1991), Estate of Phillips v. City of Milwaukee (1996), Cottrell v. Caldwell (1996), Melendez v. Howard County Government (1997), and Guseman v. Martinez (1998) for claims of inadequate policy or training in the restraint of intoxicated or mentally impaired individuals. All of these entities had provided policy direction and training for their officers in how to properly intervene and control such persons. This area and the many variables associated with it such as: issues of force, restraints, responding to special needs population, medical/psychological care, and transportation concerns, suggest considerations for training and potential policy revision.

Recommendations
This analysis reveals that deliberate indifference is a difficult standard for plaintiffs to establish in asserting claims of inadequate training. The trends and the margin for winning civil lawsuits by the police illustrate this point. As several case examples have shown police administrators should note specific training categories which may apply to their respective department. Police administrators are encouraged to review the following recommendations in an effort to shore up potential agency deficiencies to insulate the agency, supervisors, and officers from civil liability.

First, each police administrator should conduct an internal assessment of recurring tasks officers and supervisors perform on a routine basis. Police incident reports, calls for service, citizen complaints, disciplinary actions, and changes in job requirements spanning a three-year period should be assessed based on the criticality and frequency of the activity. As changes in the law impact job functions commensurate training should be developed. Based on
this assessment annual to biannual training should be provided to all officers and supervisors in those activities. At a minimum each category identified in this study should be a priority addressed on a recurring basis.

Second, once a training assessment has been finalized, police administrators are encouraged to revise those policies and procedures which parallel training topics. For example, the use of force policy should be reviewed annually and revised to accompany the training. As force laws and authorized restraint techniques and equipment change, training should be performed which addresses the policy change. Moreover, a policy of annual/biannual training should be established by the administrator which outlines those topics to be trained and by what time interval the training will be conducted. It is recommended that training in high liability areas requiring physical skills and competency be provided on an annual basis. Minimally this would include lethal and non-lethal force (and equipment), emergency vehicle operations, arrest and search and seizure laws. Officers should be provided with “realistic incident based” training in these areas. Training for officers in their constitutional requirements in these high liability areas is also suggested. In the past 30 years search and seizure laws and laws of arrest have been more likely to change which impact officers’ and supervisors’ Fourth Amendment duties, therefore annual training is recommended in these areas. Police administrators are encouraged to provide training which comports to the standards as specified by the training and standards council for their respective state.

Third, to avert future failure to train liability and to maintain occupational professionalism, supervisory training should be instituted. This should include pre and post promotion training, conducted at least biannually, concentrating on supervisory duties, including policy interpretation, implementation, and enforcement, as well as performance evaluation of subordinates. Supervisors should also receive regular training which emphasizes managerial responsibilities in risk management and the reduction of administrative liability. A commitment to ongoing training for supervisors is essential for the efficient operation of the department.

Fourth, it is critical that all training be documented and accurate training records be maintained. Several computerized programs have been designed to record training and administrators should utilize these programs appropriately for their needs. Training records for each officer and administrator should be maintained and inspected at least twice a year to ensure their completeness. Administrators should monitor and evaluate current and future training needs annually. It is also recommended that police administrators review their Field Training Officer (FTO) program in light of the research findings. Training scenarios for FTOs could be developed from these high liability areas which place the new officer in positions where he/she will be evaluated regarding their response which would be most beneficial in reinforcing appropriate decision making and future behaviors. Administrators are encouraged to enlarge their
roll-call training, with documentation, and consider providing training through tele-conferencing, interactive computer based training, and training available on the Internet.

Since the Canton decision the police have prevailed in a majority of civil lawsuits and continued strides are being made toward providing regular training for police personnel. Police administrators must continue to maintain the commitment in providing and expanding regular training in order to increase the winning ratio of future civil lawsuits claiming inadequate training. Implementing these recommendations can produce more capable officers, more efficient departments, and communicate to the community the commitment to providing the best police services available. It will also ensure the department’s ability to more successfully defend the next lawsuit asserting failure to train.

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