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Liability, Stress and Community: Communicative Issues in Policing

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Liability, Stress, and Community: Communicative Issues in Policing

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Payne, D.M. (2002). *Police liability*. Durham, NC: Carolina Academic Press, pp. xvi-224. ISBN 0-89089-144-3 (pbk: \$30). Toch, H. (2002). *Stress in policing*. Washington, DC: American Psychological Association, pp. xvii-259. ISBN 1-55798-829-3 (hbk: \$39.95 [APA members: #34.95]). ISBN 1-59142007-2 (pbk 2003: \$29.95 [APA members: 24.95]). Morash, M., & Ford, J.F. (Eds) (2002). *The move to community policing*. Thousand Oaks: Sage, pp. xvii-299. ISBN 0-7619-2472-8 (pbk: \$36.95) & -2473-6 (hbk: \$69.95).

With crime statistics volatile, TV cop shows prevalent, media concerns about police accountability rampant, and homeland security an issue of our times, we feel the study of law enforcement (and the roles of communication in it) to be not only timely, but essential. The three books reviewed herein, also themselves, make claims as to the social relevance of the topics explored. Payne, for instance, states that “police liability should be of the utmost concern to the general public. They are the ones who ultimately bear the brunt of liability suits in the form of increased taxes...” (p. xi). In the preface to Toch’s book, Chief Kerlikowske declares that “this text is both a wake-up call and a warning for elected officials, law enforcement leaders, and anyone who cares about how their cities and towns are policed” (p. ix), while the preface to Morash and Ford’s volume speaks to the fact “that police and citizens throughout the world are struggling to reform or develop community-oriented approaches to policing” (p. xv). While these books present action research aimed at effecting appropriate social change and policies, they are also permeated with communication issues that not only present some perhaps unexpected findings, but are pertinent to those who study organizations, the legal system, cultures, and civic communities.

Payne’s book deals with lawsuits against the police, and he himself has been involved as an expert witness in over two hundred such cases, not to mention those in which he was involved previously as a police officer. He brings to our attention fifty-two recent American cases, normally covered in fewer than three pages each, that deal with a range of issues from excessive use of force to vehicle pursuits to failing to shoot a violent person. These are concisely addressed in a standard format, first with “the facts” through Payne’s eyes and then an analysis of what the officer(s) did (or did not do) which led to the outcome. In the main, they are lively and absorbing narratives (even short stories) that could be used as the basis for poignant training programs in and of themselves. The cases are hived off into separate sections in the book and embedded within helpful relevant reviews of the literature, police procedures, and the law. Unfortunately, an error in describing the law regarding damages in civil suits might lead some readers to question Payne’s expertise in all relevant domains. Payne states that “actual damages can also be collected for expenses such as medical bills, property damage and lost wages. Punitive damages refer to pain and suffering experienced by the plaintiff as a result of the injury” (p. 5). But pain and suffering are, in truth, part of actual (also known as “compensatory”) damages and, punitive damages, which require a higher level of proof and are granted far less frequently are, as Black’s Law Dictionary clarifies, “based upon an entirely different public policy consideration – that of punishing the defendant or of setting an example” (p. 204). Payne is not alone in this confusion; mock jurors also appear to blur the lines between pain and

suffering and punishment, even when warned against doing so (Anderson & MacCoun, 1999). But even in law school, damages are frequently taught separate from other legal concepts. Accordingly, we read the book understanding that perhaps only this short section of the book was outside Payne's expertise, which really lies in analyzing the liability issues raised in different fact scenarios.

Arguably the most valuable take-home lesson from Payne's analyses of the cases reflects the importance of communication in preventing police liability. For example, police officers' failure, at the time, to document all details about incidents and their contexts can lead, sometimes years after any memory of the event has lapsed, to negative legal outcomes. When inadequate communication exists – and or is allowed by supervisors to remain - in reports, and especially when departmental policy is insufficiently known or communicated within the ranks, then not only is the risk of harm to civilians and law enforcement increased, but the liability costs to law enforcement, and ultimately society, are increased as well. For example, in reviewing the literature on police pursuits (with rather incomplete bibliographical citations), Payne alleges that “officers and administrators were uniformly unfamiliar with the content of pursuit policy and that among many agencies, the pursuit policies were either non-existent or perceived as too complex to be useful by patrol officers” (p. 70). Indeed, as a result of pursuit injuries and their subsequent lawsuits, some police agencies have severely limited police pursuits. Beginning just this year, under Los Angeles Police Department's new Police Chief, William J. Bratton, a very recent policy requires officers to not initiate vehicles pursuits stemming from only minor traffic infractions (Blankstein, 2003). The book's concluding chapter thus recommends communication mechanisms be put in place to insure officers are trained in policies and to follow maxims like “...The old adage: if you didn't write it down, you didn't do it” (p. 214).

One rather obvious source of liability concern would be the potential for harm should a police officer suffer from stress given that policing is an occupation where all-too-often there is insufficient opportunity to ventilate about certain emotional angsts (see Tuffin, 2002). This brings us to our next book, Stress in policing. Interestingly, Toch's concern was not so much that police officers are any more stressed than employees in other job sectors, “I did not gain the impression that disproportionate numbers of officers could be categorized as stressed,” but that “any stressed officer could be in a position to do serious harm” (p. xvi). And, indeed, while police officers must make instantaneous life and death decisions, most of the stress Toch found did not stem from such external stimuli: “it has become painfully obvious that stress-related concerns of police officers are disproportionately organizational” (p. xvii). Toch thoughtfully investigates stress in policing (with some focused attention on race and gender discrimination-based stresses). This book may not appeal to the scholar who is all fired up by theory (apart from those attracted to self-actualization processes) but, while it is written by an academic (with longstanding criminological credentials) for other scholars and to assist practitioners at the ground level. That said, both Police liability and Stress in policing are ripe for theory-development, not least with regard to intergroup communication processes – groups abound even within the department itself - such as social-linguistic categorizations, expressed differentiations, and nonaccommodations (Boggs & Giles, 1999; Harwood & Giles, in press). Interestingly, Toch's work has been published by the American Psychological Association which has demonstrated a significant commitment to involving itself in the psychology of law enforcement – an inclination we could well complement and foster from a communicative standpoint (Giles, 2002; Gundersen & Hopper, 1984; Kidd & Braziel, 1999).

The research strategy in this book is more social scientifically conventional than the prior book's - and multi-method in a rich and careful way. After an introduction to organizational stress, Toch employed 22 semi-structured interviews with law enforcement employees as a springboard for preparing a survey to both a city and suburban police department. The analysis that follows catalogues

both satisfying as well as traumatic aspects of the profession and is replete with (sometimes exceedingly) long extracts. These are, indeed, informative but too many appear one after another without interpretive work to maximize their messages. Nonetheless, they demonstrate, via a very engaging fly-on-the-wall perspective, that officers are incisively aware of stress, how it impacts family life, and often how they can minimize and manage it. This was followed by eight focus group discussions where, in ways that endorsed the tenor of the interview data, “departmental politics” emerged as the primary stressor, particularly as it related to biased promotional procedures, fairness, and lack of consistent top-down as well bottom-up communications. Such issues were rated the most stressful in the ultimate survey (n = 374), with the lowest perceived stressful events being difficulties in the community and violence; urban versus suburban differences were negligible. The questionnaire data – as well as non-participatory field observations (via ridealongs) – indicated that certain social categories of officers (referred to as female, those with higher seniority, “black” and “Hispanic and other”) experienced and had to manage various forms of stress and conflict differently. The questionnaire numbers and percentages are usefully provided in the Appendix, although more sophisticated analyses could have been performed on these had more specific empirical questions guided the research. Interestingly, some findings were not even subtle in their call for communication scholarship: “Our advisory group had listed communication as an area of concern . . . ‘communication’ comes to mean conflicts” (p. 207). Again, the time is ripe to theoretically examine the role of different kinds of stresses as well as fulfillments – how these communicatively emerge and are managed – in the work of policing and with what kinds of internal and external systems outcomes (e.g., family, health, and occupational culture).

Toch thoughtfully presented many of his findings to the two participating departments. Ultimately, and despite the concrete array of recommendations for implementation on the basis of the data, only very modest gains in reform, if any, were evident (although the process could take way more time to be evolving in that direction). Nevertheless, Toch’s emphasis on involving police officers intimately in the entire process, from assessment of the problems to solutions, demonstrates how such an approach can be applied to law enforcement situations, regardless of the issue on the table – police liability, stress, or even implementing community policing. What is more, in the last two chapters the author provides engaging analyses that might – if reaching receptive national audiences – ferment communicative strategies about how to promote internal police reforms (see Maguire & Wells, 2002).

Interestingly, a major stress reduction mechanism is for police officers “to feel empowered to take more control of their activities and to be more of a helper than simply a defender . . . [resulting in] lower burnout and stress on the part of the officer” (Morash & Ford, p. 2). This kind of police reform lies at the core of community policing, the topic of our third book. What’s more, this third book flows naturally from the concerns of police liability as well: “One wishing to embark on identifying long term solutions to police law suits must consider the need to examine the entire agency and its connections with the community it is designed to serve” (Payne, p. 216).

In concert with the philosophy of community-oriented policing and the Michigan Regional Community Policing Institute in particular, editors Morash and Ford compile an invaluable resource book of over a dozen chapters for academics and practitioners. The issue is how to move away from a reactive force that deals purely with calls to service to one which works with the community in partnership to solve neighborhood problems and, hence, is proactive against crime. Sometimes these are conceived of as contentious dichotomies (especially by experienced officers in the field) rather than as two-dimensional spaces (or even dialectics) - as calls to service will inevitably continue to play a crucial role in policing in the near future. Again, there is no explicit chapter on communicative

issues, yet it is telling that there is the acknowledgement, early on, “that communication would be critical at all levels” (p. 26; see also, Molloy & Giles, 2002). In sum, the thrust is how to get police agencies, businesses, schools, and community groups – in fact, all sectors of society - to successfully embrace community-oriented policing and, once started, how to maintain the momentum.

The first section of three chapters, “Developing data-driven systems,” emphasizes the role of data gathering in effecting these changes. It suggests, in part, that law enforcement agencies ought themselves to be research institutions in terms of specifying goals, collecting data about community expectations, transforming conduct consequentially, and evaluating these changes and reforming yet again. The chapters, based on consultative experiences around the country, talk to multiple methods for achieving these ends and invoke cogent theoretical models toward them. The second section looks at “Changing the police culture,”– issues inherent in the above two books reviewed. In separate chapters, particular attention is afforded the roles of mid-level and upper managers and their leadership styles, on the one hand, and the expressed urgency for change and long-term vision in a de-centralized system, on the other. An interesting empirical chapter (Chapter 6) by Mastroski and colleagues explores, via observational data, styles of policing (viz., so-called “professionals,” “reactors,” “tough cops,” and “avoiders”). Having laid out their – essentially communicative – characteristics, the authors go on to relate these to attitudes toward community-oriented policing. Clearly, officers with certain styles are less sympathetic to the latter than others, although the causal connections are open for further empirical work. The authors leave no doubt that while one may conceptualize community-oriented policing as improved communication between law enforcement and the community (see the book’s Section 3, below), without improved communication throughout the ranks *within* the police department, any such program is likely to be poorly executed (no pun intended) and perhaps even resented (see Morash & Ford, Chapters 6 & 8).

The third section, “Creating partnerships,” looks at how police agencies need to forge partnerships with other stakeholders such as schools (with respect to safety issues) and how the communication patterns need to be quite different from the traditional ones police have had with these institutions. Correia (Chapter 11) provides us with a very useful model for predicting successful and unsuccessful partnerships with particular attention to the presence or absence of the informal (communication) networks already in place in the target communities. The other partnership collectives considered here are those of police unions and victim advocacy groups. The final section acknowledges that the perceived commitment of any police agency to community-oriented policing is critical to sustaining the energies and involvement of the other stakeholders involved. They argue for a more customer-oriented approach where officers interact with members of the public and Carter (Chapter 13) underscores the fact that most policing is in actuality a form of social service rather than law enforcement *per se*, with de-militarization being a longstanding call for decades. The epilogue chapter (by the editors and others), which analyses past mistakes and the need for system planning and monitoring, argues that “this transformational approach to community building requires that police and community members come to trust each other, understand each other, and even empathize with each other in the process of participation” (p. 281).

Although, as above, the matter is improving, communication scholars have been woefully absent in understanding, analyzing, and contributing to better policing (see however, Perlmutter, 2000) – a truly societal network issue (and not just the monolith police culture) that has many unique challenges as evident from the books reviewed here. Clearly, the communication discipline can contribute much, theoretically and empirically – police science should not be the sole province of psychology, management science, law and criminal justice schools. One important way to move forward would be to analyze the roles of trust and confidence between police and community –

constructs that emerged across these books and domains (e.g., Payne, p. 133; for a fuller discussion of the psychology of trust as it relates to law enforcement, see Tyler and Huo, 2002). How did present levels of these emerge, via what media, when, and what do these concepts variably mean to different constituencies and why? How via various contact theory programs (Dovidio, Gaertner, & Kawakami, 2003) – which also have irreverently few contributions from the communication discipline – can we affect changes in trust and confidence between police and community? When and how do we need to de- or re-categorize, and when and how do we, nonetheless, still need to communicate with each other in intergroup terms? Hopefully, when we next review on the topic of law enforcement for this Journal, we will have more communication players in the books with whom we can engage.

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