Law Enforcement, Communication and Community
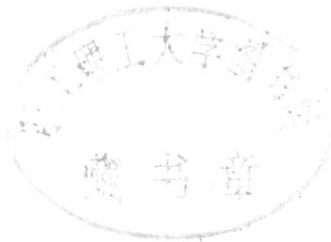
Edited by Howard Giles

Law Enforcement, Communication and Community

Edited by

Howard Giles

Center on Police Practices and Community
University of California, Santa Barbara
and Santa Barbara Police Department

Dedicated to the Uniformed Heroes of September 11, 2001 and to Jane and Robbie who always live through the fear of tragic outcomes every time I go out on patrol.

Foreward

Camerino (Cam) Sanchez
Chief of Police
Santa Barbara Police Department

In a world where clear and effective communication is essential at all levels of life in order to accomplish personal and professional goals, it is extremely critical that one focus on not just communication gaps being filled in society, but in fact should include an exclusive study on the desire to truly understand another person's prospective and needs.

In the complicated world of law enforcement, one must always remember that the goal is to always look for strategies that will improve how we serve our constituency. Assisting others with their needs, be it through the enhancement of routine services or through examining ways in which to improve communication within a police organization as well as within the communities we serve is essential.

This outstanding text will assist us all in examining further the need to establish collaboration that will improve communication in order to succeed in the establishing of clear understandings between various groups of individuals who rely on law enforcement as an essential tool to solving problems.

What this text will bring out time and time again, is that the need to enhance all of our abilities to communicate in a variety of ways is a continuous process. That establishing clear communications verbally or by listening will require our complete attention if we are to succeed in learning what to do next as a problem-solver.

Establishing outstanding communication will allow us to help others, plain and simple. It will allow not only law enforcement personnel to solve crimes and provide proactive options to keep crime rates down, but will give ample opportunity for our constituency to understand how policing in partnerships work, whether or not we speak each other's language or not, or whether we fully

understand the possible cultural barriers which in the past have become stumbling blocks for problem-solving.

Together, as both a speaking and listening audience we can in a large manner improve how we grow in the understanding of clear communications and partnership building.

Table of contents

Revoking our right to remain silent

Law enforcement communication in the 21st century

Michelle Chernikoff Anderson, Thomas Knutson,
Howard Giles and MaryLinda Arroyo

University of California, Berkeley, USA (Anderson)
California State University, Sacramento, USA (Knutson)
University of California, Santa Barbara, USA (Giles)
Santa Barbara Police Department, USA (Arroyo)

Law enforcement is a profoundly important institution in our society given its critical role in maintaining legal and social order, topics especially salient in times of global unrest. Our quest in this book is to underscore that Communication research has considerable potential to benefit law enforcement and that policing is a domain of critical importance to the Communication discipline. Yet, until now, Communication scholars have only afforded matters of law enforcement sporadic attention at best. For these reasons, we have written this book to be accessible to both academic and law enforcement audiences.

The chapters assembled for this volume display a wide range of topics relating to law enforcement. They address significant communication issues pertaining to the improvement of both public harmony and officer safety. Although law enforcement has undergone considerable changes over the years, the continuing essence of an officer's job involves communicating with people. Successful law enforcement depends on the vital ability to communicate capably and competently not only on the street, but also within the police organization and other branches of the government, such as the courts. Indeed, the ability to communicate appropriately represents an officer's prime worth in terms of safety and the community good.

Law enforcement is ubiquitous in widely-absorbed fictional drama and standard fare in news-reporting. Few Americans, however, have much direct

contact with law enforcement officials apart from when they occasionally invite service or are pulled over for a traffic violation, though at times such as September 11, 2001, the media coverage aids the public in understanding some of the risks and dangers officers willingly undertake for the sake of their communities. As such, the ordinary citizen has little understanding of the reality of this unique occupation (see Perlmutter 2000), let alone the role of communication in law enforcement. While one distinguishing aspect of law enforcement is the institutionally-endorsed ability to engage in lethal force when absolutely necessary (a feature clearly announced communicatively on the persona of uniformed officers in the United States and elsewhere), an under-appreciated fact is that law enforcement officers are an integral part of, and not separate from, the community — citizens when off-duty. Also poorly understood are the uncertainties, emotions and parameters of discretion that affect an officer's choice and use of communication, discretion which is frequently necessary to accommodate a wide range of humanity (including victims, those falsely claiming to be victims, witnesses and alleged criminals), some of whom are in dire and/or stressed psychological states. Furthermore, one of the infinite number of challenges to which law enforcement communications must adjust (see Chapter 2) is the constant ebb and flow of public tastes, municipal pressures, governmental edicts, legal requirements, and ever-changing forms of new criminal activity (Seave 2001).

Given this collection is really the first of its genre, we cannot cover every captivating topic at the interaction of law enforcement, communication, and community. Even if we had the scope to do so, with the current state of embryonic research data, that would be impossible to accomplish and we are at the mercy of what can be garnered. Encouragingly, there are, as this volume attests, committed and high caliber scholars mining this research arena. Hence, through the following topics we provide what we hope is an intriguing and wide-ranging sample of important issues addressing law enforcement, community and communication: community policing; police talk; new technologies and policing; media images of police; and the policing of domestic violence, child sexual abuse, stalking, hate crimes, and hostage negotiation crises. We have tried to provide, where feasible in terms of extant research, an international flavor by including contributors (see Chapters, 3, 5 & 7), and data in other chapters (see Chapter 9), from other than the United States. Clearly, the communicative practices of law enforcement are a function of the historical, political, and ideological contexts in which they are embedded. Methodologically, there is an eclectic blend of qualitative (see Chapters 3 & 7) alongside

quantitative data (e.g., Chapter 9). In addition, contributors have, where feasible, provided guidelines — non-prescriptively — for applying their approaches for the consideration of professionals in the field (see Chapters 6–10). And finally, new theoretical models are introduced, giving this enterprise theoretical teeth as well (e.g., Chapter 5, 9 & 10).

In this opening chapter, we provide the reader with an overview that attempts to capture the essence of each chapter. Moreover, we contextualize each one in broader terms if and where each might align with relevant communication models, and especially as each aligns with legal ones. We do this acknowledging that all contributions, to varying degrees (but especially Chapter 6–9) recognize the important relationships between law enforcement and the judiciary, connections incidentally that are rarely portrayed in the media (Perlmutter 2000). The law both proceeds and frames police–citizen communications; the law also follows law enforcement actions into the courts and elsewhere. In so doing, we attempt to raise pertinent questions beyond those constituting the authors' own proposed research agendas for the future. In addition, we proffer constructs and processes (particularly as they relate to *intergroup* matters) where Communication research can be informative to law enforcement.

But before engaging on this path, it is important to underscore the fact that law enforcement has, for the longest time, understood the value of communication; indeed, Santa Barbara Police Chief Sanchez's Foreword expresses this sentiment well. Recognizing this, we first overview communication training for law enforcement in our own region: California, U. S. A.

The POST mandate

The emphasis placed on peace officer communication is evident in California's Peace Officers Safety and Training (POST) Basic Academy and in a variety of other programs, workshops, and seminars. All law enforcement officers in California must complete this Basic Academy prior to exercising peace officer powers and responsibilities. POST reflects California Law Enforcement's understanding that the vast majority of law enforcement responsibilities involve effective communication.

Even though discussions of violence are an integral component of many of the chapters herein (e.g., Chapters 9 & 10), much of law enforcement does not involve crime and danger. Most peace officers report upon retirement, for

example, that they have never used lethal force in the performance of their legal responsibilities. POST clearly recognizes this situation, as well as the necessity for officers to take proactive steps to promote positive interactions with community members. The vast majority of an officer's work requires an ability to improve community relations. The POST Basic Academy devotes considerable time to training officers in techniques to give them"… an active knowledge of the perceptions and expectations the members of the community in which officers serve have toward law enforcement in order to promote positive officer interactions with members of that community" (California Commission on Peace Officer Standards and Training [CCPOST] 1999:1–1). The POST Community Relations course strongly emphasizes a proactive approach to enlist citizen support in all aspects of law enforcement. Officers must maintain order, enforce the law, and prevent crime, but they are also called upon to deliver service and to educate the public.

Communication is seen as the basic tool to accomplish these goals and to ensure that the public perceives officers as a *part* of the community. Accordingly, the POST Basic Academy stresses the benefits of tactical communication to reduce the likelihood of physical confrontation (CCPOST 1998). Improved communication is also aimed at improving community relations and decreasing citizen complaints and civil liabilities. POST maintains that physical force should be avoided except under specific circumstances where communication through words is not effective.[1] While peace officers in California are required to use force under some circumstances, the overriding goal of law enforcement communication is to generate voluntary compliance with reasonable conversations and lawful commands (CCPOST 1998:2–10).

The POST Basic Academy courses summarize basic communication theory as applied to law enforcement responsibilities. Elements include concepts that will be familiar to many readers of this book as well as other factors found in subsequent contributions to this book: source; message; noise; channel; receiver; feedback; listening; nonverbal cues; empathy; radio and telephone demeanor; and cultural influences. These concepts are taught as methods to improve law enforcement communication with the community by focusing upon the following:

— always treating people in a professional manner;
— responding promptly to any calls;
— being courteous to all persons contacted;
— avoiding pre-judging individuals based on previous experience;
— remembering not to underestimate individuals based on their appearance;

- maintaining self-control at all times; and
- becoming familiar with cultural customs of different community groups (CCPOST 1999: 2–32).

Beyond these basic interpersonal communication applications, officers also receive instruction in applied communication techniques in the following areas:

- components of crime prevention;
- crime risk factors;
- crime prevention techniques;
- basic problem solving strategies; and
- community-oriented policing.

The POST Commission recently declared that personal and tactical communication is a perishable skill (CCPOST Regulations 2001) and thus requires officers, beginning in January 2002, to engage in Continued Professional Training in communication skills. POST (both through basic academy and the continued professional training) is one of the ways in which California's law enforcement officials have demonstrated persistent and reassuring determination to improve the quality of interpersonal communication which provides for public safety and professional credibility — and may act as a model for other agencies throughout the United States. Indeed, constructs related to professional credibility such as legitimacy, trust, cooperation, rapport, and empathy are frequently encountered in subsequent chapters. We return now to what scholars have to report on topics at the interface of law enforcement, communication, and the community, beginning with community policing.

Chapter overviews

We begin the chapters with a satellite view of the landscape which maps the many junctions between community policing and communication research. We end the chapters with a powerful zoom lens focusing on specific intersections of law enforcement and the community in which the authors demonstrate the critical role of communication and thus communication research. In Chapter 2, Maguire and Wells lay the groundwork for demonstrating the benefits of applying communication research and theory to improving and assessing community policing programs. The authors point out that many community policing reform efforts are intended to improve communication at many levels.

To date, however, few studies have addressed whether such policies actually improve community policing. After beginning with a history of the community policing movement, the authors discuss the role of community policing reforms in external communication, that is, communication between the police and the communities they serve. The authors apply public relations theory to analyze how the police communicate with citizens and the purposes and effects of such communication. Externally-improved police–community relations are intended to result in safer, less fearful, and more satisfied communities. Chapter 2 also examines internal communication reforms, i.e., within the organization itself, such as changing vertical, functional, spatial and/or temporal organizational structures. Internal community policing reforms are intended to reduce bureaucracy and, thus, to allow the law enforcement agency to respond more flexibly and creatively to problems in the community.

Maguire and Wells point out that the assumptions underlying such reforms and the effectiveness of specific implementation approaches, however, are almost completely untested. They suggest that recent corruption scandals and allegations of police violence raise tensions between the police and communities. They argue accordingly that the need for a framework to view the role of communication reform in community policing, particularly to test proposed reforms, is only increasing. By integrating theories and concepts from public relations, organization theory, and policing, the authors have established such a framework for viewing the role of communication reform in community policing.

Maguire and Wells' welcome approach notwithstanding, we add that changes to both the external and internal communications of the police also have *legal* ramifications. External communication raises legal concerns of the sort the public is most accustomed to hearing: those between the police and the community. Maguire and Wells, for example, refer to Los Angeles' then Mayor Riordan's suggestion that the city set aside up to $300 million worth of tobacco settlement money to pay for the lawsuits stemming from the Los Angeles Police Department's Rampart Division corruption scandal. Any communication reform measure will need to be assessed for its impact on preventing these kinds of illegal actions by the police, from drug smuggling and civil rights violations to assault and even murder. In addition, communication reforms should be assessed for how well they will lead to a swift and just resolution to any future breaches of trust between the police and the community, in order to avoid the scandals from mushrooming to the magnitude recently seen in several large metropolitan police departments.

Internal communications, on the other hand, raise employment law issues similar to those of any large organization which, of course, can also have a significant economic impact on the deep pockets of the government. Maguire and Wells, for example, refer to a *Law Enforcement News* (2001) report that a quarter of the four million e-mails sent by officers to one another within one year in the Washington, DC Metropolitan Police Department contained either hate filled language or obscenity. If any of these e-mails, whether as a single incident or a pattern and practice, raises to the level of harassment barred by employment law in the jurisdiction (such as race, ethnicity, gender, disability, age, religion or national origin and, in many jurisdictions, sexual orientation), the offending officer(s), the department itself, and others may be liable. Accordingly, proposed communication reforms need to be assessed as to their effect on such forms of harassment. Does the proposed reform prevent such incidents? Does the proposed reform improve the timeliness and accuracy in reporting such incidents? Or does the proposed reform impede modes of communication originally aimed at hindering harassment?

Chapter 3 also employs a widescreen lens to communication, law enforcement and the community by employing discursive methods to understanding police talk. In Chapter 3, Tuffin argues from the viewpoint that language is constructive, not merely descriptive. For this reason, he considers three separate studies of the language used in three different contexts of police work in New Zealand. These discursive studies involved interviews with the police and analyses of the common language used in police settings. First, Tuffin considers attitudes towards gay cops. The 1986 change in the legal status of gays and lesbians as a result of New Zealand's Homosexual Law Reform Act meant that police officers who once regarded gays and lesbians as *criminals* under New Zealand law now found themselves unable to discriminate against gays and lesbians with whom they were *working*. Interestingly, Tuffin found that police officers constructed their unfavorable reactions to gay officers as reflecting prejudice outside their control, that is, prejudice which impacted all of society, including the police. They blamed a negative reaction to gay cops as stemming from internal pressures from *others* on the force, not themselves, and on a presumed negative public reaction which, in turn, would have a denigrating impact on the reputation of the police. In this way, the police justified their negative reactions to gay officers by suggesting that they were not the enforcers of prejudice, but rather, victims themselves of much wider forces of bias.

Second, the author examines internal pressures operating within police culture. Tuffin discusses three kinds of police discourse which contribute to an

overall police culture supportive of conformity to, and maintenance of, the status quo: (a) police status (the reputation of the police in society); (b) adherence to standards upon which the reputation of the police rests; and (c) internal pressure, such as peer monitoring and threats to job safety through a failure of fellow officers to assist noncompliant officers in need.

Third and lastly, Tuffin examines the complex set of rules by which police speak or choose not to speak of their emotions following a traumatic event. Though officers will openly state that discussing such events can be helpful given that the emotions are natural human responses, emotion is also seen as highly irrational — and thus dangerous — in a job requiring firm, decisive, rational, and controlled actions. Accordingly, fearing repercussions to their careers, officers have developed a carefully chosen set of circumstances under which it is acceptable, indeed actually encouraged, to share such emotional discourse.

Similar to our discussion above of Maguire and Wells' chapter, in which we considered the effect of communication reform on police employment law issues, the discursive methods applied by Tuffin could be applied to reduce and/or prevent violations of employment law via a better understanding of the constitution of bias within the police force. With this improved understanding of the construction of negative attitudes, of gay law enforcement officers for example, more effective policies could be implemented to prevent sexual orientation discrimination. Because the biased attitudes and the conformity culture to which Tuffin refers raise the legal issues we touched upon in discussing harassment law issues implicated in Chapter 2, proposed communication reforms also need to be assessed as to their effect on such forms of harassment.

Discursive analysis of police culture also provides a means to recognize problems of officer safety, such as where fellow law enforcement officers threaten to purposely fail to assist noncompliant officers, threats which might go unnoticed to the lay ear. Might similar discourse patterns be observed in law enforcement officers who fail to respond to the needs of particular individuals or segments of the community? Such analyses open the door for recognizing and preventing officer threats and/or acts for which the police may be criminally or civilly liable. Gerber's (2001) model of cross-gendered patrol partnerships, also, might be a fruitful way of theorizing further this important affective arena (see also, Boggs and Giles' [1999] model of miscommunication in the gendered workplace).

Lastly, Tuffin's discussion of emotional discourse leads us to suggest that the military's experience may provide some worthwhile lessons. The Marine Corps and the Air Force have responded differently to suicides in the services and have

had different results as well. The Air Force has focused on early therapeutic outreach to troops, protection of confidentiality and the separation of therapy from one's career. The Air Force's record low level suicide rate suggests this is working. In contrast, the Marine Corps offers very little confidentiality and their suicide rate has remained much higher than that of the Air Force (even accounting for the fact that is was higher than that of the Air Force prior to the Air Force's new confidentiality policies). When asked why none of the Marine Corps suicide victims had sought counseling, the Marine Corps psychiatrist, Captain Scott McClelland, answered, "I think they're afraid for their careers. I think they fear that it will be discovered" (ABC News (Nightline) 1999). These sentiments differ little from those Tuffin discusses regarding "emotion in police talk." Accordingly, Communication research from one service, whether law enforcement or the military, may be useful in understanding and improving the others. Fortunately, more research will soon be available to help develop a firmer understanding of the effects of police emotional discourse. For example, the National Institute of Justice has funded a research project to determine if the availability of psychological counseling increases police officers' resistance to stress and if it is related to relational communications (S. Chadwick, Iowa State University, personal communication, 29 June 2001).

In the next set of chapters we turn to specific issues at the intersection of police communication and community. In Chapter 4, Flanagin asserts that while modern technology has fundamentally altered communication between and among institutions and has resulted in improvements in organizational efficiency and effectiveness for many institutions, one does not find many of these benefits in police organizations. Flanagin argues that barriers which are specific to police organizations, such as the bottom-up flow of information, have prevented police organizations from fully embracing many of these new communication technologies.

The author argues that many of these technologies provide a lower return for police organizations than for other organizations. He suggests that explanations lie in the nature of police organizations, the work they perform, and the conditions necessary for effective information processing. He also recommends ways in which the police may be able to take advantage of some of these technological tools that, until now, have failed to benefit them.

We concur that there is a need for law enforcement to be well-versed in new technologies and suggest the need spans beyond any advantages the devices may serve for law enforcement's own use. If law enforcement is not familiar with modern communication technology, how will it be able to

address old wine (old crimes) in new bottles (cloaked in new technology), some of the more recent examples being identity theft, child endangerment via the web, and bioterrorism?

In addition, our jurisprudence needs to be flexible in order to respond to the issues raised by technological advances. Just as intellectual property jurisprudence has had to adjust to reflect the reality of globalization and the internet, so too will our constitutional jurisprudence need to reflect the reality of modern communication technologies. Moreover, each new device that enables law enforcement greater access to otherwise private information about civilians, raises constitutional right to privacy issues. Indeed, technological advances such as flight and heat sensing have raised new 4th Amendment questions where law enforcement has sought to apply such technology to searches. For example, the plain view doctrine holds that "what a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection" (Katz v U.S. 1967:351). The Court has applied this doctrine to allow electronic tracking beepers, pen registers, hidden microphones and flight surveillance of back yards without a warrant (Harvard Law Review 1986).

The Court has, however, drawn a line such that warrantless surveillance is not, in all cases, as open as the latest technology. For example, this year the Court held that the use of thermal imaging to detect high heat inside a house (as an indicator of the cultivation of marijuana) constitutes a "search." That is, "obtaining by sense enhancing technology any information regarding the interior of the home that could not otherwise have been obtained without physical intrusion into a constitutionally protected area" (Kyllo v U.S. 2001:15) is a search and thus requires Fourth Amendment protection.

Where the searches or seizures pass constitutional muster, they may still raise other evidentiary issues for the court. The prejudicial value of evidence bearing the authoritative mark of "advanced technology," which may not accurately reflect the validity of the device in question, still needs to be weighed against its probative value in assessing its admissibility in court. Lastly, in light of the tragedies of 11 September 2001, the United States Congress has just passed legislation expanding law enforcement's potential uses of communication technologies such as wire-tapping (USA Patriot Act 2001). Not surprisingly, the debates preceding the votes on this legislation revolved around constitutional issues such as those raised here and no doubt some of them will be tested in the courts. Next we focus on what we can learn from another set of communications involving law enforcement — the media's fictional cops.