

Maintaining the Balance

by Michael Lindsay, Deputy Director - ILEA - 9/30/08

As always, much of what I write is to stimulate discussion. A large portion is nothing more than my opinion. For those who differ, you are invited to present an opposing view. Or, if you have observations on a totally different subject, please submit those. The purpose of this journal is to keep law enforcement officers discussing important issues of the day. -- Michael Lindsay, Deputy Director

I have recently been in a position to overhear a number of citizens, within several different groups, "grousing" about officers taking an overly aggressive approach to traffic enforcement. It may be that the number of episodes to which I was exposed was merely an anomaly. Nonetheless, this illustrates what a negative effect heavy enforcement can have.

In this age when extreme political philosophies seem to be the norm (supported even by the mainstream political parties), I have also noticed our difficulty in law enforcement with balancing what I believe are two divergent approaches that go to the heart of what our profession's focus should be.

What nearly all criminal justice practitioners realize is that citizens are supportive of strong law enforcement so long as they are not involved. But what some practitioners do not realize is that when a significant number of citizens in a community feel victimized by overly zealous enforcement, it can have an undesirable ripple effect. Conversely, practitioners quickly point out that not enforcing the law has its own set of problems. Herein lies the dilemma.

It is no secret that officers are typically ready to save society when they first graduate the academy. Their citizen contact statistics are typically higher in these years than they are for the rest of their careers. This can be a wonderful thing as it revitalizes the profession. None of these observations are anything new, but they lay the foundation for a discussion on this most important question of balance.

Even hardened law enforcement veterans typically admit that if every law was fully enforced, America would not be a pleasant place to live. Likewise, most citizens do not consider other citizens as being "criminals" after only one violation of a minor law, especially if the violator was not arrested for the offense.

How many of us could say that we never drank an alcoholic beverage before the age of 21? Does that make us criminals, one and all? Not only do we not generally consider these people "criminals", we actually give them police jobs if they have not been arrested for the offense. And once we become police officers, would we be able to remain in the profession if we received a ticket every time that we exceeded the speed limit or rolled a stop sign?

As obvious as these things sound, it is difficult to convince some officers that balance is what a profession is all about, and the exercise of discretion is what allows balance.

This problem has become worse in recent years due to the now popular concept that everyone should be treated exactly equal, in every situation. Nothing could be further from the truth. Performing robotic maneuvers each time a violation occurs may make the law enforcement job easier, but it does not necessarily serve the community better. A second—more devastating—problem with this mindset is that it reduces the profession to a purely ministerial level—as mechanical as an automotive assembly line.

Political action groups and a few governmental officials have perpetuated this line of thought, but it is wrong. If law enforcement hopes to retain its status as a newly emerging profession, we need practitioners who can make decisions concerning the best cases to pursue while ensuring that every possible law violation is not glorified to the absurd, especially within those areas seemingly controlled by the current "politically correct" thought processes.

There is, of course, no formula for correctly exercising discretion, but considerations such as the seriousness of the crime, the likelihood of recidivism and the consequences of the arrest are a few of the factors that should play into the formula. Even getting fellow officers to admit that such considerations should play into a formula is sometimes a monumental accomplishment.

Making an arrest for a major crime is an objective in itself. This serves the community by making it safer. However, many less serious offenses could be viewed more as enabling laws which cumulatively produce a beneficial effect for the community but do not necessarily need to be vehemently enforced every time.

The concept that the law is a "means" or a tool for serving the community rather than being an end unto itself is important. Of course, fastidious adherence to the rule of law by police is hugely important as this provides visible safeguards to our community.

The ultimate goal for a profession, however, should be to serve some higher ideal. A good analogy might be that of using a hammer to tighten a screw. Such an approach will not likely get the job done. Like the rule of law, the rules of mechanics must absolutely be observed, but the goal is not merely to use a tool, but rather to build or repair something. The trick is learning how to use the tool skillfully.

In today's society, exercising discretion is a tough job. Focusing on what is best for the community without being accused of being a racist or sexist or using improper profiling techniques or victimizing the homeless or the poor is a challenge.

Nonetheless, getting homeless people off the street is worthwhile. Arresting serious law violators, regardless of race or sex, has benefits. Even using "street adjustment" techniques to avoid arrests when necessary—although increasingly scrutinized—can have great outcomes. Overly restricting officer discretion to avoid controversy in such worthwhile areas is a simple solution but shortsighted.

The conditions under which police operate have changed dramatically over the last 35 years. Even though officers and administrators often feel overwhelmed by today's demands, we need to realize that such challenges, although probably more frequent today, are nothing new.

A century ago, Teddy Roosevelt—who was an assistant police commissioner for the city of New York before becoming president—said, "It is not the critic who counts; nor the man who points out how the strong man stumbles; or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena." -- Michael Lindsay

Agree, disagree? [Submit your observations to the Journal.](#)

