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Police Custody as a System and Unified Policy: Best Practices
for Reducing Officer and Prisoner Risks of Injury and Death

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Points of view and opinions stated in this document are those of the author and do not necessarily represent the official position or policies of Indiana University of Pennsylvania or the State System of Higher Education.

In Memory of

James "Jim" Fyfe

Champion of police best practices, academic colleague, Deputy
Commissioner New York City Police Department, and always a
friend.

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Abstract

For law enforcement officers to engage in Best Practices to better control prisoners physically in custody, from arrest to jail release, and have essential information to ensure greater safety and security for both officers and prisoners during the entire custody process, policymakers must view custody as a system of continuous and interactive activities, events, and information. Officers must not be expected to integrate and understand the many diverse agency policies and procedures that guide officers conduct during prisoner custody. A comprehensive, unified custody policy with corresponding procedures and training are needed to better ensure greater safety and security for officers and prisoners for the duration of a prisoner's custody. Physical control and information requirements for an integrated and unified "custody system" policy must be identified. Requisite training and education for policymakers and officers will be critical to advance the proposition that custody is a system requiring a unified policy.

* Report has complete internal citations and no reference page.

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Police Custody as a System and Unified Policy: Best Practices
for Reducing Officer and Prisoner Risks of Injury and Death

Introduction

As a matter of law and public policy, law enforcement officers have the authority and power to arrest and detain suspects under certain circumstances. The arrest and deprivation of a person's freedom is the most intrusive action of government against a person and demands that law enforcement officers do it as best as can be done. However, an arrest on the street is only the beginning of a person's/prisoner's custody by law enforcement officers. From the time of arrest until the prisoner is released from custody (lock-up/jail), many activities and events take place over a period of time which, in some cases, may involve numerous officers over several hours or days. It is understood and generally accepted by law enforcement that officers have an obligation and duty to provide and manage the control, safety, security, and well-being of the arrestee, and the officers alike while in police custody. (The terms police and law enforcement, include sheriffs, jailers, state and federal agents, and shall be considered synonymous in this paper.)

Silver (2005) states:

The duty to protect arrestees and jailees from harm and to provide reasonable medical care is premised partially on the notion that the government is responsible for these individuals because it has deprived them of the ability to look after themselves." Silver, Isidore. *Police Civil Liability*. Sec. 2.04[1]. (Rel. 36-7/05, Pub. 543. p. 2-13).

The common police practice of restraining or not restraining properly a prisoner in custody has many implications. A prisoner not restrained with seat belts in the rear seat of a police car can break his neck or suffer serious head injuries if "screen tested" (prisoner slammed violently against cage/screen if police car is in an accident or stops suddenly); a prisoner's balance is impeded by being handcuffed behind the back and can fall forward/backward if not escorted/assisted, striking his head while handcuffed behind his back resulting in serious injuries or death. Very simply, a prisoner who is handcuffed behind the back cannot look after himself because the prisoner is incapable of using his arms and hands to regain his balance or extend his arms to cushion a fall.

A prisoner in lockup, who is not required to turn 360 degrees for the officer's visual inspection before the officer opens the cell door, could have removed his handcuffs and/or procured a weapon and attack the police officer when the officer

opens the door. At this moment the officer is at risk of having a physical confrontation. If the officer has a weapon he is at risk of having the prisoner take it from him and use it against the officer(s). A prisoner in a cell who is permitted to stand at the cell door facing the officer, rather than backing out of the cell door is in a position to hit, kick, spit, or rapidly approach the officer forcing the officer to push the handcuffed prisoner backward causing him to fall. This level of force would have been unnecessary had the door not been opened. In effect the officer's risky action created the dangerous situation.

A prisoner wearing leg shackles with a 14 inch chain cannot be expected to get out of a wagon and step down 15 inches without falling and causing injuries or even death. Also, if a prisoner is not restrained appropriately, the officer's safety may be placed at risk. Likewise, if a prisoner tells the arresting officer he will kill himself and the officer does not inform the jail officer of this, the prisoner is at risk of self-destruction while in a jail cell.

Examples of "bad practices" are endless and demonstrate a need for formulating systematic police custodial best practices. In doing so, it is imperative that custody activities and events not be considered as discrete but rather continuous, accumulative, and interrelated.

However, in such instances, an examination of the post incident reports should conclude the officers failed to follow the best practices, and those failures were the cause of the harm suffered by the prisoner and/or officer. Unfortunately this is unlikely because law enforcement agencies have not viewed custody as a system of activities and events. The reality is that it is highly likely the officers' conduct will not be measured against any standard that considers custody systemically. As a result, the officers' conduct will be excused, the harm suffered by the officer and/or prisoner will be attributed to the prisoner, and police policies, procedures, practices, and training will go unchallenged and unchanged.

Police custody is not a single event but rather many continuous activities conducted by numerous officers over a period of time. Therefore, custody must be considered as a whole rather than as discrete activities. In order for officers to be properly guided and trained in the complexities of custody as a system, policymakers must provide officers with a unified custody policy. Officers should not rely on segmented, discrete policies for effective guidance. For this paper, custody shall be defined as a system of continuing, interrelated, and interacting behaviors, activities, and events contributing to the safety and well-being of both prisoners and the officers

from the moment of street arrest to release from jail/lockup.

The Problem: An Example

When an officer makes an arrest of an injured, intoxicated, aggressive/combative, threatening, poorly spoken/non-English speaking, emotionally disturbed, male the custody complexities become more apparent and more meaningful. Consider further the prisoner, after being arrested begins to joke with the officer and his victim. During transportation he tells the transport officer that his life is not worth anything. During booking/processing he is observed being very quiet. Once in his cell the lock-up officer observes/hears the prisoner crying. If the officers, collectively, do not record and inform each other at each successive activity, officers will be placed at risk of a prisoner who threatened to kill cops. Likewise, if the lock-up/jail officer is not completely aware of the prisoner's seemingly minor mood changes over time, the likelihood of a suicide attempt is high. Additionally, consider that the prisoner is diabetic and suffers from heart disease. How are the police to know? Without any doubt, the human animal in captivity poses complex challenges for his keepers. All of this begins at the arrest on the street.

Clearly, it is highly likely, in the course of daily police work, for officers to have such an encounter. However, it would

not be uncommon or incorrect for such an arrest to be described by an officer as; the prisoner was restrained and taken to the station where he was processed and released later to his family or perhaps to the coroner. However, to understand the complexities involved in custody situations, a more formal examination is necessary.

Currently, in such an encounter, law enforcement management has provided officers with directives and training. The officers will have to know and comply with an array of police directives that may become relevant during the custody process from arrest to jail intake. These directives could include: use of force; control of arrestees; felony stops; high risk warrant service; restraint/handcuffing and leg shackles; soft restraints; mental illness/emotionally disturbed persons; search/pat-down; property inventory; injured prisoners; opposite sex prisoners; Americans with Disabilities Act; first aid; prisoner transportation; transportation vehicles; prisoner movement; prisoner health and medical treatment; police lock-up; weapon security; Sally port operations; jail transfer; police building security; emergency procedures; CCTV/video/audio equipment; special reports; report writing; written directive systems; and, others.

On the dark side, if the officers fail to protect the prisoner and themselves other policies may become relevant

including internal affairs, collective bargaining agreement, discipline, retirement, criminal prosecution of officers, widows and survivors benefits, and others. Of course, the potential for civil litigation is omnipresent.

Unfortunately, many agencies do not provide officers with such guidance and/or training. Also, it is known that arrestees and officers are seriously injured and prisoners, more often than officers, die while in police custody. Under these circumstances, it appears the primary reason for officer and prisoner injuries/deaths is the lack of directives and/or training which results in the officers' lack of understanding of complex custody interactions.

The Challenge

Clearly, law enforcement officers must manage these many activities and events as a complex system. Managing a prisoner in custody requires physical control of the prisoner for the mutual protection of the prisoner and the officer. However, of equal importance is the maintenance of a continuous and accumulative written record of relevant information that accompanies the prisoner and is reviewed by each officer during each successive activity and event while the prisoner is in custody.

The challenge for police policymakers is to develop and provide officers with unified custody policy and procedures and corresponding comprehensive training and education to ensure officers and supervisors understand the many procedural ramifications. This unified policy must recognize custody as a complex system and at the same time present it as simply as possible.

Law enforcement Best Practices must address prisoner custody as two primary custodial elements which, for simplicity and at the expense of being dehumanizing, shall be called packages. Package One is the physical prisoner. Package Two is the relevant information presented as a continuous written record that must accompany the prisoner during custody.

Best Practices

The basic premise of "Best Practice" has nearly a one hundred year history. The notion of "Best Practice" was first presented in "Principles of Scientific Management" by Frederick Taylor in 1919 and became known as the "one best way" (Kanigel, R., 1997, The One Best Way: Frederick Winslow Taylor and the Enigma of Efficiency. New York: Penguin Books.)

Best Practice is a management idea which asserts that there is a technique, method, process, activity, incentive or reward that is more effective at delivering a particular

outcome than any other technique, method, process, etc.

http://en.wikipedia.org/wiki/Best_practice

Best Practice is a very useful concept in that it sets a standard. Hoag and Cooper (2006) offer, "The purpose of any standard is to provide a kind of a plumb line, and therefore that standard must be 'What is possible?' and not 'what is somebody else doing.'" (Hoag, B., & Cooper, C. L., 2006, *Managing Value-Based Organizations: It's Not What You Think*. Northampton, MA and Cheltenham, UK: Edward Elgar Publishing.)

For the purpose of this paper, Best Practices are defined as:

Superior practices, techniques, methods, or processes that optimize the officers' ability to manage and control the physical environment and provide the officer with the physical and psychological advantage to improve the protection, safety, security, and well-being of persons in police custody and for the officers involved in that custody.

Fundamentally, Best Practices in law enforcement must be lawful and ethical. Functionally, custody Best Practices are those practices, techniques and methods that identify and analyze risks to prisoners' and officers' safety, security and well-being, and the best response to those risks. A systems

view of custody brings to the front problems that aggressively must be solved by law enforcement policymakers.

The standard to test or challenge custody Best Practices is whether the alternative increases the likelihood of risks to prisoners and/or officers and/or decreases their well-being, safety, and security. Of course, alternatives also must be lawful and ethical.

It is understood that the basic premise and obligation for law enforcement officers during all of these activities and events are to manage and control the prisoner's physical environment, assume physical and psychological positions of advantage (Package One), and continuously document/report accordingly (Package Two).

Research Summary

A review of more than 400 written law enforcement and jail directives (policies, procedures, general orders, rules, regulations, and training lesson plans), representing more than 80 agencies, indicates that prisoner custody activities, events, and information are not addressed collectively but are addressed by separate, written directives, many in great detail, others rather scantily, and others not addressed at all. The review failed to reveal any agency having a single comprehensive, unified custody policy/directive that addresses all of the

activities, events, and information requirements. The author has no evidence that any law enforcement agency has a directive that addresses custody activities, events, and information as a system.

This administrative failure means prisoners and officers alike, are likely to be exposed to dangerous custody situations created by officers who are left to their own common sense devices. Of course, common sense often is not in the best interest of prisoner and/or officer safety. Officers should not be expected to use common sense approaches to manage the complex and critical dimensions of prisoner custody situations. Likewise, officers should not be expected to comprehend custody as a complex system. If the law enforcement policymakers have not done so, why should individual officers be expected to do so?

Summary of Common Custody Physical Activities and Events from Arrest to Jail/Lockup Release: (Prisoner--Package One)

1. Force used to make arrest (OC, TASER, sustained struggle, positional compression, baton strikes, K-9, firearm, others);
2. The moment of arrest/restraint/handcuffed;
3. Physical movement to the transport vehicle, walk/escort, mobile transportation to a hospital,

lock-up, jail, court, or other facility;

4. Transportation by car or wagon;

5. Physical movement from mobile transport vehicle to lockup/jail cell or other facility;

6. Processing (intake, booking, property, medical treatment, court, and other activities out of lock-up/cell);

7. Isolation/Placement into cell;

8. Control/supervision while in cell;

9. Physical movement out of cell to mobile transportation or release from custody.

At first blush these activities may appear to be simple and capable of being accomplished by mere common sense. However, over many years, law enforcement agencies, researchers, academics, and professional organizations have made numerous recommendations regarding prisoner custody and officer safety that have influenced police policies and training. As a result, Best Practices have evolved and include the following to accomplish the previously listed activities and events.

Summary Outline of Generally Accepted Best Practices of Physical Control of Prisoner and Officer for Security and Safety

includes: (Prisoner--Package One)

1. Handcuff from behind and double lock handcuffs;

2. Pat-down for weapons/contraband;

3. Walk/stay behind and to the side of prisoner to limit risk of officer being kicked or lounged at;
4. Touch/hold prisoner while walking to prevent falling/escape;
5. Match/use equipment to prisoner needs (physical disability, pregnant, leg shackle chain to be longer than height of highest step, etc.);
6. Restrain with seatbelts in rear of car or wagon during transportation;
7. Separate officer from prisoner with barrier (car cage, cell bars/wall/doors);
8. Search transport vehicle and cell/holding area for weapons and contraband;
9. Officer must manage and control ingress and egress at all doors (violators car, police car, residence, wagon, sally port, cell, etc.);
10. Remove and/or apply handcuffs from behind prisoner while being separated by a barrier (prisoner not facing officer);
11. Collect, report, and secure all property;
12. Never leave prisoner alone/unattended;
13. Maintain control and security of all prisoner and officers' weapons;

14. Do not enter any enclosed area alone with prisoner (rear car seat, wagon, cell);

15. Maintain one-on-one ratio of officers to prisoners on the street and at lockup;

16. Verify prisoner identity before removing him/her from cell;

17. Review all prior documentation regarding prisoner;

18. Maintain current written record;

19. Others.

The issue of information and reporting requirements, to provide all officers who have a responsibility for the custody and safety of prisoners and attendant officers with a continuous record of custody, is complex, problematic, but necessary and critically important for officer and prisoner safety.

Summary of Common Information Requirements from Arrest to

Jail/Lockup Release: (Package Two)

1. Crime for which prisoner has been arrested?
2. Has prisoner threatened officers?
3. Has prisoner threatened harm to self?
4. Is prisoner injured?
5. Is prisoner physically disabled?
6. Is prisoner diabetic, epileptic, pregnant, other?
7. Does prisoner wear a prosthetic?

8. Does prisoner take any medication?
9. What is the medication?
10. Is prisoner under a doctor's care?
11. Does prisoner have any Med-Alert type identifiers?
12. Is prisoner responsible for any unattended children, dependant, or sick people?
13. Describe prisoner's on-going/changing behavior?
14. What information can witnesses/neighbors provide about the prisoner?
15. What is the prisoner's mood/behavior?
16. Is prisoner, based on police training, exhibiting signs or symptoms of mental illness or emotional disturbance?
17. Prisoner is released to whom?
18. Others.

At the expense of being repetitious, law enforcement Best Practices must address prisoner custody as two primary custodial elements. Package One is the physical prisoner. Package Two is the relevant information presented as a continuous/y written record that must accompany the prisoner during custody. The physical and informational dimensions of police custody must not be and cannot be neatly separated and discrete. Physical custody and custody information are integrated and interactive, as presented below.

A Unified Custody Policy-Integrating Physical Activities,
Events, and Information as a System of Custody Best Practices:
A Summary Narrative

A unified custody policy must address, at a minimum, the following topics and reflect the complex interactions inherent to custody. In turn officers must be educated and trained so they understand custody as a system. They must no longer view custody as arrest or transportation or force or restraint. Rather, officers must view custody as arrest, **and** transportation **and** force **and** restraint, as an example. Simply, systems are really about understanding **and**. Education **and** training are most important to understanding a unified custody policy.

The following presents a more detailed, but not an all inclusive, discussion of integrated physical and information needs of custody. An attempt is made to present an operational rationale and demonstrate the importance of and relationships between physical control and the essential corresponding information during custody. It should become apparent that when custody is considered a system of activities, events, and information police policy, training, supervision, and performance will be challenged in new and significant ways.

The following topics are presented, approximately as a chronology of police custody activities.

Prisoner handcuffed, double-locked behind back, record events of arrest. Police custody begins and officers are responsible for managing the prisoner while in custody. Prisoner pat down completed. The circumstances of the arrest and the amount of force used must be documented. The officer should record whether the prisoner struggled and resisted the officers, if pepper spray (OC) and/or a TASER used, if the prisoner was restrained on the ground, and if officers held him down for control and restraint. This information may be critical to supervisors, medical, and lockup/jail personnel as they assess for positional/compression asphyxia and the potential for custody death.

Physically control (hold) and escort prisoner to police transport vehicle. Officer holding prisoner to prevent escape and falling. With hands handcuffed behind his back a prisoner is unable swing his arms to maintain normal balance and is off-balance. Should he fall he cannot extend his arms to break the fall. This is accentuated for uncooperative, blind, physically impaired, injured, pregnant, physically ill, alcohol/drug intoxicated, irrational, and uncooperative prisoners.

Prisoner placed into inspected transportation vehicle and restrained with seatbelts/restraints. The transport vehicle interior will have been inspected for weapons, etc. and cleaned of body fluids and debris prior to prisoner entry. If the

prisoner is grossly obese, contaminated excessively with body fluids, violent, or any other reason that seatbelt/restraint cannot be accomplished, the prisoner will not be transported in a police vehicle. Medical transport will be arranged and the prisoner transported to a medical facility.

Field medical screening for physical injuries, illness, and medication. Determine visually if prisoner is physically injured, intoxicated, able to understand and respond coherently. Determine visually if he has a Med-Alert type necklace or bracelet. Ask prisoner if he is injured. Ask if he takes any medication from a doctor (prescription). Ask same questions of others who may know prisoner.

Field behavior/mental screening for indications of mental illness, any behavior placing prisoner at risk. Record prisoner's initial mood at time of arrest and any changes in behavior/mood during custody. For example, changes in mood from anger to happy to sad, to crying, to silence can be important indicators of potential suicide later in police lockup and/or jail. Lockup and jail officers should be provided this information. Likewise, behavior may indicate an illness such as diabetes or seizure as the prisoner does not respond coherently.

The presence of alcohol can mask serious physical and mental conditions.

Determine prisoner destination such as hospital, mental facility, judicial officer, lockup, or jail. The officer must consider all facts present. Any prisoner being non-responsive to questions, unconscious, bleeding, exhibiting symptoms of mental illness or other illness, extreme alcohol or drug intoxication, display of Med-Alert type identification, who talks about suicide, or states he is sick or requests medical care.

Transport prisoner and medications, if available. Inform police dispatch with prisoner name, location, odometer reading, and destination. If prisoner is of the opposite sex of driving police officer, interior vehicle lights should be illuminated so police/prisoner activities can be better observed from the outside. Interior lights should not be illuminated if officer has reasonable information someone is likely to use a firearm to shoot the officer or prisoner.

Ask prisoner, witnesses and neighbors about prisoner health and medications. This is especially true if prisoner appears to be intoxicated or otherwise non-responsive to officer's questions. Alcohol, for example, can mask other serious medical conditions.

All prescription medications in labeled prescription containers with the prisoner's name on the label should be transported with the prisoner. The prescription label provides important information including the medicine, dosage, prescribing physician, and pharmacy with telephone number. This information is verifiable prior to the administration of any medication or medical treatment.

Physically control and escort handcuffed prisoner from transportation vehicle into destination facility. Always use sally port properly, if available. Before opening vehicle door, visually inspect prisoner to ensure he remained handcuffed and seat belted/restrained. Have prisoner lean forward to inspect handcuffs. Non-compliant/uncooperative prisoners should always be considered a greater risk. However, compliant/cooperative prisoners must not be considered a non-risk. Be alert and cautious. Once prisoner is out of the transport vehicle and in sally port, conduct search for weapons, contraband etc.

Weapon storage/security. Officers must remove firearms, pepper spray (OC), batons, TASERS, etc. and properly store them before entry into cell area where unhandcuffed prisoners may have access to an officer's person and attempt to get control/possession of the weapons. Appropriate weapons must be accessible to officers, not prisoners, in emergency situations.

Prisoner only, NOT OFFICER, entry into a cell or holding room. A police officer on the street should never enter or reach into an occupied vehicle. An officer, likewise, should never enter an occupied cell alone. When a prisoner is entering any lock-up, holding/detention/jail cell or room the control of the door/locks and keys are critical and the responsibility of the officer(s). It is always better to have two officers present at the cell, one to control the prisoner and the other to control the door. If no sally port search was conducted, when the prisoner is in the cell/holding area, conduct search for weapons, contraband etc. This area should be free of office equipment, tools, and articles that could be used as a weapon or for self-destruction. Adjoining office and other doors should be closed and locked. If the prisoner is going to be unhandcuffed in the cell, his belt, shoelaces, and other items in his possession that could be used as a weapon or for self-destruction should be removed and recorded as property. Prisoners should not be handcuffed for excessively long periods of time, due to the potential for injuries to wrists and shoulders.

An officer should open the cell door and have the prisoners enter the cell handcuffed. The door should be closed and locked and the prisoner, if he is to be unhandcuffed, should be asked to back up against the cell bars and the officer unlock and

remove them while the officer is safely outside the cell. When the cell or room does not have bars or a grill to allow for the above described unhandcuffing technique, the cell door should be opened with the prisoner slightly inside the cell facing the rear of the cell and handcuffs removed. An officer should **not** enter the cell alone, but stand behind the prisoner, in a position when the officer can better withdraw from the doorway and close the door rapidly should the prisoner become agitated, non-compliant, or aggressive.

Prisoner observation in cell. Preferably, non-violent prisoners should not be celled alone allowing other prisoners to observe one another. Prisoners should be observed continuously by closed circuit television (CCTV) and every 30 minutes by an officer's personal visual observation. This allows the officer present to use his senses to better hear, see, or smell anything that would indicate the prisoner is in distress or in some way threatening himself, others, or the facility.

Prisoner should come to officer, officer should not go to prisoner. Just as officers on the street direct suspects to turn around, kneel/get down, etc., prisoners in custody should be given appropriate directions to enhance officer and prisoner safety. Directing the prisoner come to the door, turn around, and back out the cell doorway, is safer than having the officer enter the cell and escort the prisoner out.

Remove cooperative prisoner from cell handcuffed and backward. Prisoners in single and multiple occupancy cells present unique issues. But certain practices are common. Officer control of the cell door is both critical and obvious. The officer controlling the cell door or the officer nearest the prisoners must not be armed. The officer should verbally identify the prisoner to be moved, by name and/or seat location, if in a multi-prisoner cell and have that prisoner stand. All other prisoners should remain seated. The officer should not open the door until he visually observes the prisoner and determines the prisoners handcuffs are in place, he is not holding anything in his hands, and not injured, bleeding, or has visible body fluids on his clothing or in the cell. The officer should remain outside the cell and observe the prisoner by having the prisoner turn 360 degrees. When satisfied the prisoner is prepared to be moved out of the cell the prisoner should be instructed to move toward the door. Before the officer opens the cell door the prisoner should be instructed to turn around, back to the cell door/officer. The officer may now open the door and escort the prisoner out backward by holding him and controlling the cell door. This technique reduces the likelihood the prisoner will lunge or kick, since the prisoner's back is toward the officer. Likewise, by holding the prisoner

the officer increases direct physical control and reduces the likelihood the prisoner will fall.

Remove uncooperative prisoner from cell after being handcuffed in cell by two or more officers. More than one officer is required and appropriate weapons (OC, TASER, Baton, others) may be required, as appropriate. Restraint chairs and security/restraints blankets must be used consistent with policies and prisoner must never be left unattended. Supervisors must be summoned at any sign of distress and evaluated, as trained, for transportation to medical assistance.

Emergency exception to officer entering cell alone. An officer may be permitted to enter a cell alone only if the cell is occupied by one prisoner and that prisoner is in medical distress, i.e., hanging or other situation where the officer is trained and equipped to take immediate action in an attempt to save the prisoner's life or prevent further injury.

Escort and transport prisoners from lockup or jail. (See above.)

Injury or death to prisoner while in custody. Injury or death in a cell, caused by other prisoners or by an officer should be considered a crime scene and protected, preserved (photographed and evidence collected), and processed according to accepted police criminal investigatory practices.

Internal Affairs (IA). Because custody is a system of interrelated activities the death or serious injury of a prisoner/officer must be subject to IA investigation. Even when a death or injury occurs in a facility not controlled by the arresting officer's agency, ex. local police prisoner dies in sheriff's jail, the death must be subject to an IA investigation by the police agency making that prisoner's arrest and commitment to the jail, and another IAI by the department responsible for the management of the lockup/jail. This is essential to determine whether any actions or inactions by the arresting and/or transporting officers contributed to the death or injury in the sheriff's jail. This usually relates to the quality/absence of the information package the police provide jail staff and the jail staff's response to the police information.

Exchange and flow of critical information. From the moment the officer comes into contact with the subject on the street until the subject is released hours or days later from jail, that subject and often numerous officers and agencies are involved with the custody of the subject/prisoner in a variety of ways. These activities and interactions must follow Best Practices including critical information recorded and transmitted/passed appropriately.

Lockup/Jail intake officers must have all relevant information about the prisoner's preceding custody activities to better ensure his safety and well-being while in custody. The sources of that information are the prisoner himself and the committing police officer, but often the committing officer is not the arresting officer, but the transportation officer. It is at this point where vitally important information can be lost. As an example, jail intake forms usually ask, "Has the prisoner's mood changed." Obviously, the intake officer cannot determine from a single observation any mood change. In order to make that determination the intake officer must have knowledge of the prisoner's prior moods as recorded by the arresting and transporting officers. The failure of the arresting and transportation officers to record such vital information places the prisoner at risk. Likewise, a diabetic prisoner, who has the odor of alcohol on his breath or is showing symptoms of drug use is at risk of not receiving appropriate medical treatment. In fact, the prisoner's inability to respond to the intake officer's questions may not be a result of intoxication or drug use, but rather the result of a diabetic episode.

Continuous Information: Meeting the Challenge

Officers must not only be trained; they must be educated to understand custody issues that range from the very obvious to the very subtle. This understanding will better enable officers to detect, record, and transmit essential custody related information. Likewise, this understanding will better motivate officers to consider carefully what officers reported previously during a prisoner's custody.

It is proposed that law enforcement agencies develop a "Continuous Custody Chart (3C)" in which, all officers are competently trained and educated. (Yes, another piece of paper or computer template.) The 3C should reflect the essence of the agency's unified custody policy, in which the officers have been trained and educated. The 3C should serve the officers just as the pre-flight check sheet/card serves pilots. It should reflect the physical and information Best Practices that leave little to officer memory. The 3C is not a ritual but rather a means to get results as measured by reduced risk of injury and death to officers and prisoners, alike. Likewise, the 3C or any "checklist" will not be the end product. It is only a means to remind officers of the many custody factors they have learned during their training and education.

The 3C is not meant to demean officers in any way. It is meant to assist officers. Military and commercial pilots who

are educated and well-trained are provided printed pre-flight and pre-landing check sheets/cards to systematically check all procedures, operations, and systems. This process reflects aviation's best practice and leaves little to pilot memory and results in a nominal chance of error. Similarly, hospitals start a patient's medical chart at the emergency room and that chart collects continuous information that stays with the patient until discharge. This process reflects medical best practice and leaves little to medical providers' memories and results in greatly reduced chances of error. The management of prisoners in police custody is no less important and the consequence of error no less serious.

Prisoner custody management means being responsible and accountable for the total physical and informational requirements of a person in custody. Best Practices means address how the total physical and informational requirements are met resulting in the optimum security and safety of officers and prisoners.

It is ironic that police management has developed checklists, forms, and templates to assist officers gather basic information for criminal incidents and accident reports, inspection of police vehicles and equipment before shift; maintain, track (chain of custody) of a dirty sneaker found at a crime scene collected as evidence; inventory impounded vehicles;

and track internal affairs investigations and command reviews; and performance appraisals, as examples. But no unified protocol is available to assist officers manage the unique and most critical aspect of law enforcement in a free society—protecting prisoners and officers during police custody. As a result, individual officers are left to their own devices and to their individual memory as to what the many police policies require of them as they navigate through the complex waters of protecting and serving persons in police custody and at the same time protecting themselves.

Each officer at every moment while a prisoner is in custody must physically protect the prisoner. However, in order to do this effectively officers must be aware of all prior activities and events relevant to the prisoner. This continuous information is critical for constantly evaluating potential and changing risks to officers and prisoners. Likewise, this information must be in a form that is readily available and easily passed to and reviewed by each officer having custody and control of the prisoner. This is crucial for officer and prisoner safety and well-being during the total custody experience.

It is submitted that the foundation for prisoner and officer safety and well-being throughout a prisoner's custody is effective communications of relevant information. Because

systemic communications is more complex than common sense can accommodate, police must develop a formal model that best assures prisoner and officer safety. Simply, what an arresting officer knows on the street or should know about a person being arrested has important implications about the prisoner's and officer's safety and well-being hours or days later while in custody and under the supervision and control of officers other than the arresting officer(s).

All of the practices, techniques, processes, and methods offered in a Continuous Custody Chart may or may not be found in a criminal justice agency's existing policies, procedures, and training. Nevertheless, what a Continuous Custody Chart will do is compile them into a system of custody Best Practices. A Continuous Custody Chart satisfies the requirements of Best Practice, i.e., it leads to exceptional protection of prisoners and officers; and police organizations and experts recognize prisoner and officer safety, security, and well-being as universal goals and outcomes of prisoner custody.

Training and Education

Law enforcement must continue its struggle from that of a technical craft to becoming a well-educated and highly trained profession. In a complex police organization, training is the organizational function that translates policies to practice.

However, because police officer selection, education, intelligence, attitudes, values, and beliefs are so variable, police training, as well, is variable. Also, it is recognized that some officers are marginally trainable. One training approach, albeit undesirable, is for police trainers to teach-to-test, i.e., the instruction focuses on having the student officer know the answers to tests, rather than having the student officer thoroughly understand the concepts. It is for these and other reasons that police training, whether organizational or centralized statewide, must be viewed with a critical eye. The mere exposure to training courses and materials does not mean the officers "learned" the meaning of the content information. Likewise, the failure to learn means the officers do not understand the information. These training deficiencies can have serious consequences for officers' lives and careers and deadly for those in police custody.

Information--Package Two will require more than technical police training which instructs officers **how** to do things. Package Two will require officers to understand **why** it is done. This is a fundamental difference between training and education and it is a reason for providing a Continuous Custody Chart, in some form, and having policy makers, supervisors, trainers, and officers understand the **why**.

Without understanding **why** custody activities are done and custody information necessary, the likelihood of officers having the knowledge base to appreciate physical and information custody problems is unlikely. Expecting officers to conduct an analysis and formulate a reasonable Best Practice solution to a custody problem is even more remote. Management must accept the responsibility and make the time and invest the resources to provide officers and citizens in police custody with the Best Practices. It is education **and** training that better fosters critical thinking and problem-solving on the streets and in police executive suites.

Conclusion

Herman Goldstein, and later others have advanced the idea of problem solving and problem-oriented policing in the context of community policing. Although the term "problem solving" has been interpreted various ways, generally it has focused on the external problems associated with crime in the community. It is argued here that the complex problems associated with police custody must be resolved internally using the same problem solving methods advanced in community policing. Essential to both is the identification of necessary information and treating it systemically. In this way Best Practices can be discovered, articulated, implemented, and tested.

Police failure to properly control and manage a prisoner and provide relevant information during custody can create a situation requiring the use of force. As a result, should a prisoner become injured or die while in police custody; police policies, practices, and procedures will most likely be carefully scrutinized and rightly so. Using Best Practices as the standard of analysis, four fundamental questions come to the surface:

1. Did the police use superior practices, techniques, methods, or processes that optimized the officers' ability to manage and control the physical environment and provide the officer with the physical and psychological advantage to improve the protection, safety, security, and well-being of the person in police custody and for the officers involved in that custody?
2. Did the officer's failure to you use Best Practices create the dangerous situation that caused the officer or prisoner to be harmed, injured, or die? (Often, the harm, injury or death is a result of the use of force and possibly excessive force.)
3. Did the failure of the law enforcement agency to advance Best Practices through systemic policies, procedures, training, education, and supervision rise

to the level of deliberate indifference and open the door to federal civil rights actions?

4. Should agency Best Practices be considered as conditions of work or considered as safety, health, and welfare issues in collective bargaining?

E. B. White said that with one thing leading to another, he predicted a bright future for complexity. Police custody is complex and the author sees no indications of a changing tide. Likewise, police policies, procedures, training, and education are complex, interrelated, and they must represent the Best Practices in law enforcement. But, officers need help from police management to make collective sense out of all the information to which they are exposed so they can in fact, know and engage in custody Best Practices. Clearly, by following Best Practices, law enforcement should have better outcomes including safer and more secure prisoners and safer officers with more secure careers. However, it is abundantly clear that the devil is in the details.

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