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# FBI

## Law Enforcement Bulletin

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**The Oakdale and Atlanta Prison Sieges**

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## Law Enforcement Bulletin

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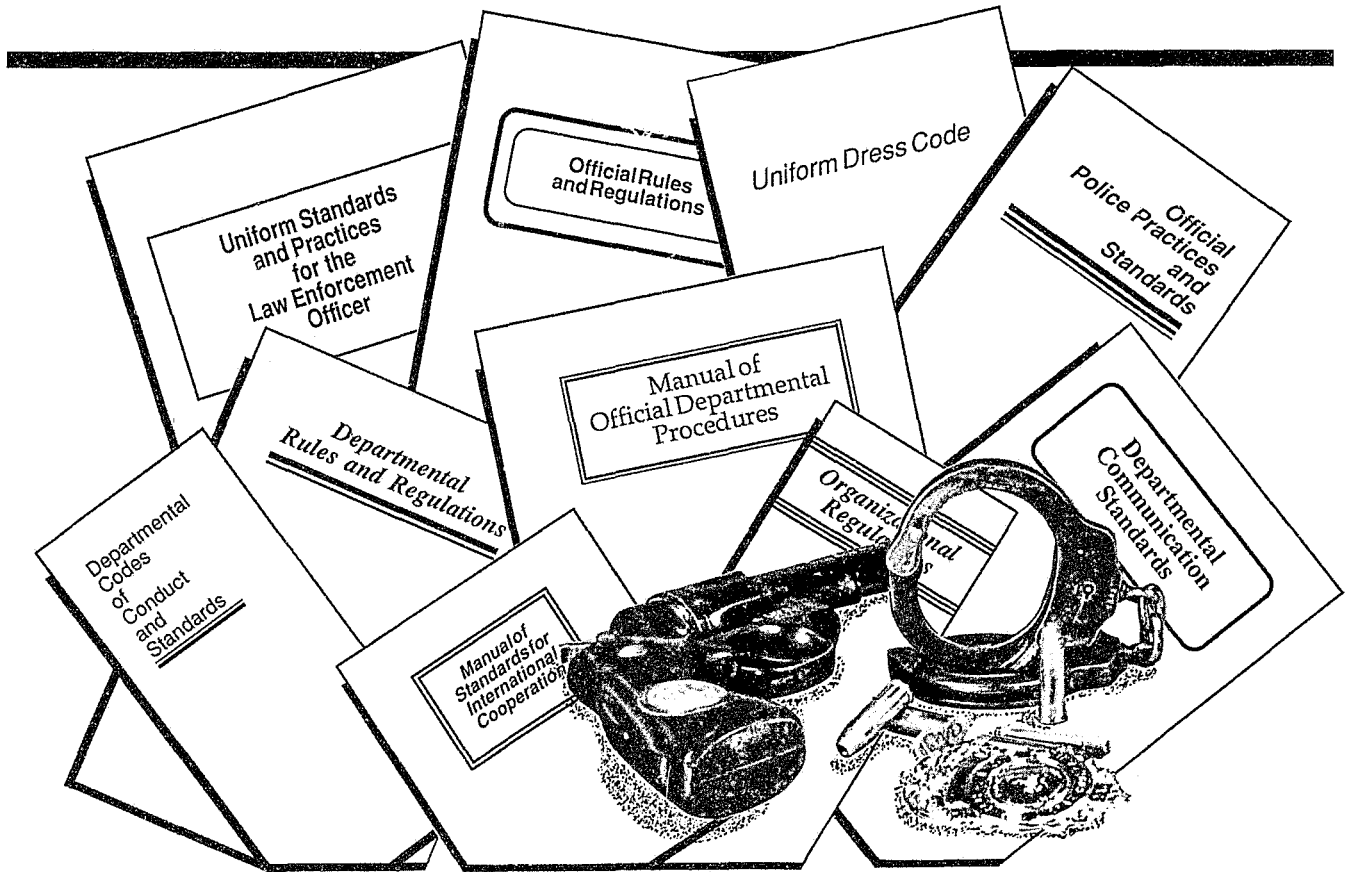
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*The Cover: The Oakdale and Atlanta prison sieges, occurring simultaneously in November 1987, became catalysts for the largest crisis management mobilization in FBI history. See article on page 1.*

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# Written Rules and Regulations Are They Necessary?

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**T**here is probably no clearer current trend in police administration than the proliferation of policies, procedures, rules, and regulations. Model policies are frequently published in professional journals, and the International Association of Chiefs of Police has recently received a major grant from the Bureau of Justice Assistance to establish a

national Law Enforcement Policy Resource Center. The Police Executive Research Forum provides police agencies with assistance to develop written policies, and the Law Enforcement Agency Accreditation Program requires that most of the 900+ standards used by departments be written directives. The prevailing wisdom in modern police administration is that pol-

icies and rules are needed to govern every contingency and every substantial aspect of operations and management.

On the other hand, the trend in business management, or at least in popular writings about business management, seems to be in exactly the opposite direction. Peters and Waterman report that the most successful companies

minimize formal rules and instead emphasize shared values.<sup>1</sup> More recently, Peters has identified a number of companies that have successfully reduced their reliance on formal rules. He cites as the most radical example a major nationwide retail corporation—its entire policy manual is “Use your best judgment at all times.”<sup>2</sup>

Why these opposing trends? Significant reasons for police reliance on written regulations have been identified. However, extensive written guidelines can have serious detrimental effects that may be unnecessary, particularly when alternatives to written regulations are available. What needs to be considered is whether the current police enthusiasm for written regulations is as beneficial as we assume them to be.

### The Demand for Rules

The primary justification for extensive law enforcement rules, policies, and procedures is the expressed need for management direction and control. Written rules and directives specify both correct and incorrect behaviors. They act as a performance guide for police employees and as a yardstick for evaluating performance.

The wide variety of duties that police officers perform, compiled with the wide discretion granted them, help to account for the proliferation of written directives. Because of the breadth of police duties and functions, there are a tremendous number of tasks and situations that are potential topics of written guidelines. And because of police discretion, simple, straightforward directives are rarely possible. Instead, lengthy

directives specifying numerous factors to consider, and offering preferred responses for different combinations of factors, are regrettably much more common.

The tendency to promulgate rules, policies, and procedures to enhance direction and control has been exacerbated by three contemporary developments. One is the requirement for administrative due process in police discipline. This

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has been encouraged by court rulings, police officer bill-of-rights legislation, and labor contracts. More and more, disciplinary action against police employees must follow an orderly process and must demonstrate violations of specific written rules. Thus, police departments feel the increasing need to have written rules prohibiting all the kinds of inappropriate behavior that they want to punish, as well as to have written procedures outlining the disciplinary and grievance processes.

Another development pushing police departments to establish written directives is civil liability. Lawsuits against local governments, police departments, and police managers seeking damages for the wrongful acts of police officers have become more common in recent years. Written in-place guidelines prohibiting the

acts in question provide a principal avenue of defense against civil litigation. In essence, police managers try to show that it was not their fault that officers erred; however, to have this avenue of defense available, written policies and procedures are needed.

A third stimulus is the accreditation movement. While less than one percent of all police departments are presently accredited, many are either working toward accreditation or simply using the accreditation standards as a model for improvement. Further, the stature of the accreditation program is augmented by the fact that it is sponsored by the four major law enforcement executive membership associations. As mentioned before, most of the standards identify topics and issues that must be covered by written directives. Agencies pursuing accreditation or just looking to the program for guidance are clearly and strongly influenced in the direction of more extensive policies and procedures.<sup>3</sup>

### The Effects of Rules

In the narrowest sense, police departments clearly seem to benefit from an exhaustive set of written rules and regulations. They are better able to make punishments stick. They can more readily defend themselves from civil liability. They can become accredited.

However, from a wider perspective, is management direction and control enhanced by more extensive written regulations? Stated another way: Does the existence of written directives make it more likely that police employees will know how to act, and more likely

that they will act in those desired ways? The answers to these questions are less obvious. Many observers have made the point that written directives in policing typically identify prohibited behaviors.<sup>4</sup> This may be particularly true in those tense, unpredictable, and demanding situations when the use of discretion is greatest, time is of the essence, and supervisors are not usually present.

Do police officers learn the correct way of doing police work from written directives? Probably not to any great extent. For the most part, they learn by doing and through apprenticeship, and to a lesser extent, through training in standard operational practices and procedures.<sup>5</sup> They may look to written directives when unsure about an administrative matter, but not often when deciding how to perform police work.

Do written directives contribute to management control in a police department? Certainly, some police misbehavior is prevented because officers know that the behavior is prohibited and that punishment is likely. There is evidence, for example, that restrictive shooting policies can reduce improper use of firearms.<sup>6</sup> Similarly, unauthorized high-speed driving by officers may be deterred.

In general, however, extensive written rules and regulations provide more of an illusion of control in police departments than genuine control.<sup>7</sup> Most police behavior is low-visibility, never comes to the attention of managers, and is so contingent on "an intuitive grasp of situational exigencies"<sup>8</sup> that directives are of little value for guidance or even ex

post facto control. In fact, many police officers regard written regulations simply as tools that managers keep handy for those times when they want to punish an officer.<sup>9</sup> Because officers often see these punishments as arbitrary, and rule-breaking in street settings as inevitable, written rules and regulations sometimes lose relevance, even as guides to avoiding punishment.

### Rules and Effectiveness

The question of most importance is whether extensive written directives make police organizations more effective. Do rules and regulations improve the quality of police service? Do they contribute to police goal attainment?

The answers to these questions are not really known. No experiments have been conducted to test the effectiveness of written rules and guidelines. There simply is not much agreement about how to define or measure the effectiveness of a police agency.

Perhaps a negative way to

Thus, one could speculate that extensive rules probably do enable police administrators to reduce corruption, excessive use of force, and some other types of scandalous behavior, and in that sense, may contribute to police effectiveness.

But to what extent do written rules contribute to protecting life and property and maintaining order? To crime prevention, to apprehension of offenders, and to free and orderly movement of people and vehicles? Arguably, these conditions are achieved (or are not achieved) as the result of hundreds or thousands of discretionary actions and decisions by individual police officers—actions and decisions that are not substantially guided or controlled via written rules or directives.

### Alternatives to Rules

A serious mistake is made when it is thought that rules are the only means by which direction and control are achieved in organizations. Among the other tradi-

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look at police agency effectiveness would be to focus on avoiding the negative publicity of a scandal. Wilson has argued that in fact, police management tends to avoid the negative rather than achieve the positive, in part because goal attainment and service quality are so difficult to define or measure.<sup>10</sup>

tional mechanisms used by police agencies to achieve direction and control are training, education, socialization, rewards, supervision, and inspections.

More and more, business literature stresses the importance of culture and values for guiding employee behavior. Peters and

Waterman found that "every excellent company ... is clear on what it stands for, and takes the process of value shaping seriously."<sup>11</sup> To the extent that employees adopt an organization's values and are guided by its cul-

tures and shared values acquired from the work group and the police subculture, rather than from management. Sometimes these cultures and values have accepted such abuses as corruption, excessive force, and citizen harassment.

codes of ethics should not be overlooked.

The recruit training process provides an opportunity at a crucial point in an officer's career to shape the values of employees. Indeed, the department's philosophy, goals, and values deserve as much attention as skill development and knowledge transmission. Recruits should leave training with no doubts about the kind of department for which they are working. In this regard, State police agencies, with their boot-camp-style academies, have traditionally given value-shaping more priority than other police departments. That these academies have typically inculcated legalistic and militaristic values does not preclude the possibility that other values could just as readily be emphasized.

Some police administrators may scoff at these proposals for shaping police values. However, such very proposals have been successfully employed in a wide variety of private sector situations, including those beset by adversarial management-labor relations. While it is certainly true that police organizations display some unique characteristics, and that police subcultures can be particularly intractable, the benefits to be derived from successful value-shaping are substantial enough to justify the effort.

Some movement in this direction can now be seen in police administration. The Second Annual Policing State-of-the-Art Conference held in 1985 focused on developing excellence in police organizations. In the aftermath of that meeting, the Houston Police Department developed an Excel-

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***The police administrator's challenge is to provide leadership by instilling desired values and culture within the police organization.***

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ture, extensive written regulations become less necessary. In essence, direction and control are internalized by employees.

There may be some good reasons to use methods other than extensive rules to direct and control employee behavior. Excessive rules send a message to employees that they are not trusted. They may also contribute to a punitive atmosphere in an organization. They encourage employees to adopt bureaucratic behavior—an orientation toward following the rules and covering themselves rather than toward providing quality service.

In a nutshell, an excessive number of rules discourages innovation, risktaking, imagination, and commitment to the ideals of the organization. If organizational success depends on these kinds of employee attitudes and actions, it makes sense to consider alternative means of direction and control.

### **Police Values and Culture**

Much of the direction and control in police organizations has been achieved through cul-

Frequently, they have supported police isolation from the rest of the community, extreme police autonomy, and a narrow view of the police function.

The police administrator's challenge is to provide leadership by instilling desired values and culture within the police organization. This requires a single set of values for all employees, rather than conflicting "management cop" and "street cop" cultures.<sup>12</sup> If a police chief can succeed in making it clear what the department stands for and can shape the values of employees to conform to his or her vision, direction and control will be greatly enhanced.

How can a chief accomplish this? A number of mechanisms are available. The entire recruitment, selection, and socialization process should be geared toward the basic institutional values that are most important. Promotion, assignment, and other rewards also reflect the importance of these basic values. The chief's behavior and pronouncements consistently should reinforce such cherished values, and the effects of slogans, simple mission statements, and

lence in Policing in America project designed to discover the key characteristics of high-performing corporations and how they can be translated to the police world.<sup>13</sup> Couper has recently described quality leadership as an important prerequisite to excellence in policing.<sup>14</sup> This quality leadership includes greater reliance on teamwork and trust in police management and less reliance on formal rules.

### Minimizing Rules

Could a police agency confine its written directives to "Use your best judgment at all times"? As long as its officers acted properly at all times, it could. Unfortunately, no police chief can be certain of such perfect performance. This is particularly true of police work, because amid the danger and excitement, quick discretionary decisions have to be made. Under such conditions, even competent officers, trying their best, will make mistakes.

If some written guidelines are absolutely necessary, which ones? When I became police chief in St. Michaels, MD, the department had but one or two pages of miscellaneous written rules. In my 3 years as chief, I wrote comprehensive policies on the use of force, arrest, emergency driving, media relations, communications, and records. I intended to do more but didn't have the time.

In retrospect, I'm not sure how much more I should have done. It would have been tidier to have had a more complete set of written directives, but would it have mattered? The police officers in the department knew what was expected of them, and when they

sometimes performed unsatisfactorily, it was due to lack of experience, lack of imagination, laziness, or boredom, not lack of rules. Certainly, it would have been simpler for me to discipline them if we had extensive rules of conduct, but formal discipline was rarely needed.

Suppose a police department limited itself to a bare minimum of written guidelines, and then said, "In all other matters follow the law, established police procedures, the philosophy and mission of this department, and your own best judgment"? And suppose that supervisors and commanders were clearly responsible for making sure that their subordinates understood the law, established procedures, and the department's philosophy, and that they demon-

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strated good judgment? Under such a system, couldn't police officers, supervisors, and commanders be held accountable, despite the general absence of written regulations?

Admittedly, some legal advisers and insurers might be opposed to the minimization of written guidelines. But what evidence do they have that extensive rules produce better police service (or even lower awards and settle-

ments, for that matter)? Police chiefs should manage for the benefit of their communities, not to make their lawyers' jobs easier. It's time that chiefs stopped managing defensively, simply to avoid scandals and lawsuits, and started managing to improve the quality of police service. A good way to start might be by eliminating unnecessary and demeaning rules, instead of continuing the current practice of promulgating rules to cover every conceivable exigency.

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### Footnotes

<sup>1</sup>Thomas J. Peters and Robert H. Waterman, Jr., *In Search of Excellence: Lessons from America's Best-Run Companies* (New York: Harper & Row, 1982).

<sup>2</sup>Thomas J. Peters, "Don't Send Memos," *The Washington Monthly*, November 1987, pp. 13-16.

<sup>3</sup>Stephen D. Mastrofski, "Police Agency Accreditation: The Prospects of Reform," *American Journal of Police*, Fall 1986, pp. 45-81.

<sup>4</sup>James Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, MA: Harvard University Press, 1968).

<sup>5</sup>Ibid.

<sup>6</sup>James J. Fyfe, "Administrative Interventions on Police Shooting Discretion," *Journal of Criminal Justice*, vol. 7, 1979, pp. 313-335.

<sup>7</sup>Gary W. Sykes, "The Functional Nature of Police Reform: The 'Myth' of Controlling the Police," *Justice Quarterly*, vol. 2, No. 1, March 1985, pp. 51-65.

<sup>8</sup>Egon Bittner, *The Functions of the Police in Modern Society* (Washington, DC: U.S. Government Printing Office, 1970).

<sup>9</sup>Peter K. Manning, *Police Work: The Social Organization of Policing* (Cambridge, MA: MIT Press, 1977).

<sup>10</sup>Supra note 4.

<sup>11</sup>Supra note 1.

<sup>12</sup>Elizabeth Reuss-Ianni, *Two Cultures of Policing: Street Cops and Management Cops* (New Brunswick, NJ: Transaction Books, 1983).

<sup>13</sup>Lee P. Brown, "Excellence in Policing: Models for High-Performance Police Organizations," *The Police Chief*, April 1988, pp. 68-78.

<sup>14</sup>David C. Couper, "Quality Leadership: The First Step Towards Quality Policing," *The Police Chief*, April 1988, pp. 79-84.