

High Stakes Testing: What departments must know to get a step ahead of cheaters

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Abstract

With information easier to share than ever before – whether through e-mail, text messaging, social media, or otherwise – recent cheating incidents involving public safety professionals serve as a grim reminder that high stakes testing procedures have not kept pace with advances in technology. As a result, not only does public confidence in our first responders suffer, but lives and dollars may be at risk. And with public and media scrutiny of law enforcement approaching historic levels, the chances of poor testing procedures having a negative impact on an agency are higher than ever before. But by learning from the tactics and mistakes of previous incidents, as well as the consequences flowing therefrom, administrators can take the steps to discourage, detect, and manage future cheating incidents in their jurisdictions.

Cheating is everywhere

Earlier this year, a different type of scandal rocked the law enforcement community when it was alleged that nearly 30% of the cadets in the Pennsylvania State Police Academy had cheated on their required exams.¹ Though it may be tempting to dismiss the event as an isolated incident, or one caused by factors unique to that locale, history suggests that high stakes testing will tempt examinees to cheat regardless of geographic boundaries. Administrators in Pennsylvania may find some degree of respite in that fact, as the state is reeling from its third cheating scandal in the past seven years.

1. A total of 29 cadets either resigned or were dismissed (Larimer, 2016).

The first, in 2009, resulted in the decertification of 15 officers from Delaware County. In that incident, answer keys were sent to police academies on CD-ROM. An officer circulated an email containing the answers to one of the three test forms, but at least two officers forwarded the email to their chiefs. The test form was swapped, and many officers failed by using the original test answers.²

In the second incident out of Pennsylvania, 30 municipal officers from Mon Valley and Allegheny County allegedly cheated on their annual recertification tests. An officer used a cell phone to distribute test answers, but thanks to a whistleblower, the test was swapped at the last moment. Again, the cheaters were detected by failing the exam using the previous form's answers.³

The third and most recent of the incidents was discussed above, and while full investigation details have not yet been released, it would be unsurprising if it followed a similar pattern. Without the ability to readily coordinate a change between different exam forms, as well as having the assistance of whistleblowers, Pennsylvanian authorities may not have been able to detect nor prove that cheating occurred.

While some are quick to credit the abundance of cheating incidents in Pennsylvania to poor administration rather than their proactive detection methods, it is undeniable that these same problems have plagued departments in other states, too. In fact, as remarked by Dr. Brian D. Fitch, "the sheer number of cases presented, even by way of a cursory search, can be somewhat alarming given the prominent role law enforcement plays in many modern societies" (Fitch, 2014).

In 2004, 18 officers in North Carolina faced suspension after it was discovered the recruits were copying questions from 20 previous tests and creating a study guide based on those questions.⁴ Likewise, in 2007, a lieutenant and two sergeants in Virginia were terminated after an investigation determined that they had cheated on a leadership test.⁵ And in 2013, the Washington State Patrol investigated cheating by as many as 60 patrol officers at the academy who had also created a study guide using previous exams.⁶

Nor is cheating on high stakes testing limited to those at

2. Had the original test form been used, each officer would have scored either 90% or 100% using these answers (Castaldi, 2012).

3. Ironically, the course and test involved investigating digital evidence on cellphones and other personal communications devices (Prine, 2014).

4. Those involved included not only the officers going through the academy, but also academy staffers and a recruit trainer (Associated Press, 2014).

5. Once the situation was discovered internally, a month-long investigation followed before a decision could be made (Frank, 2007).

6. The study guide contained questions and answers for multiple written exams, and was shared amongst students on a thumb drive (Miletich, 2013).

the academy and patrol officers. In 2011, a deputy chief in Tennessee had a jailer complete a college course on his behalf, including the creation of a research paper and PowerPoint, and then used the credit from that course to maintain his own certification.⁷ As rightly noted by Professor Sam Walker at the University of Nebraska at Omaha, "It's problematic when you have an officer on the street making an arrest with credibility issues. But in many respects, it's worse when you have a supervisor over all of those people." These problems are no less pronounced at the federal level, either, as demonstrated by the US Justice Department's findings that 22 FBI agents cheated on an exam of counterterrorism procedures in 2011.⁸

Equally important for developing and evaluating best practices is to realize that the issue of cheating on high stakes tests is not limited to law enforcement. Rather, because the problem is common to all first responder disciplines, techniques for discouraging, detecting, and enforcing cheating violations should be shared within the industry.

Last year alone, at least three instances of cheating in the fire service were made public. In North Port, Florida, a battalion chief and firefighter-paramedic resigned after an investigation into an unauthorized study guide reported by an employee.⁹ Then, an indeterminate number of lieutenants at FDNY were alleged to have accessed an answer key from their cell phones in the bathroom during an examination.¹⁰ Later in the year, seven Alabama firefighter trainees at the Montgomery Fire/Rescue Academy were terminated for allegedly cheating on the final EMT exam after the test had been compromised.¹¹

Incidents from last year also highlight that high stakes cheating is not a uniquely American problem. In Scotland, a police chief was accused of cheating on his command course by passing off a subordinate's work as his own.¹² In fact, since at least AD 606, there have been instances of cheating on the Keju Chinese civil service exams.¹³

The fallout from a cheating scandal can be far-reaching

Aside from the negative implications on public relations, cheating on high stakes testing can jeopardize funding as well as departments' missions to provide public safety. Sometimes,

7. Both the supervisor and jailer were suspended for violating the department's password policies (Burger, 2011).
8. Examinees were allowed to use their books and notes during the exam, but improperly consulted with supervisors and a legal advisor (Wollack & Fremer, 2013).
9. The study guide was believed to contain known testing material (FireRescue1, 2015).
10. The firefighters used their phones to access a web page purporting to have answers to all 100 multiple-choice questions (Garger, 2015).
11. This group represented nearly a third of all the trainees in the class (Montgomery Advertiser, 2015).
12. The subordinate officer who completed the work was not investigated (Leask, 2015).
13. Cheating was rampant despite severe sanctions, up to and including death (Wollack & Fremer, 2013).

these consequences are handled through the judicial process, though not always the same types of plaintiffs and claims. On one hand, departments must contend with lawsuits by alleged cheaters. This litigation can be centered around the reinstatement of decertified officers, as in *Barbour v. Municipal Police Officers Education and Training Commission*.¹⁴ Likewise, lawsuits can be filed by alleged cheaters for lost wages and/or defamation, such as a recently settled New Jersey case which spanned eighteen years and resulted in a \$215,000 payment, notwithstanding the proverbial mountain of legal fees that had to be scaled beforehand.¹⁵

Going against the schoolhouse maxim that cheaters are only cheating themselves, lawsuits are also filed on behalf of non-cheaters impacted by the cheaters' behavior. One such example is the Atlanta firefighters who did not receive the appropriate promotions due to a cheating scandal.¹⁶ Or, one could consider the position of prospective employees and the endangered public affected by the hiring freezes which usually result from cheating scandals while investigations and procedural changes are ongoing.¹⁷ Departments may also lose the benefit of federal funding that could otherwise be used to buy new equipment, hire new personnel, or better train existing personnel, such as the \$363,000 that was forfeited in Atlanta from a public school system cheating scandal (*Atlanta Teachers in Cheating Scandal Could Get Another Year Contract*, 2012).

But perhaps the most severe consequences are the criminal convictions that are jeopardized or entirely reversed because of an invalid license or certification of an officer caused by cheating or faulty test mechanisms. In 2015, the New York State Police tried to fire 15 DNA analysts for an alleged cheating scandal which surfaced from pretrial testimony in a murder trial.¹⁸ After admitting to the unauthorized sharing of information on the training exams, at least one forensic scientist was reinstated, but "the internal investigation has resonated in courtrooms across upstate [New York] because the scientists handled evidence in numerous other criminal cases, including many slated for trial." In other words, evidence necessary to convict murderers may be held inadmissible because of cheating, resulting in overturned convictions and verdicts of "not guilty."

14. Though the reinstatement in this action was eventually denied, the litigation spanned more than three years (*Barbour v. Municipal Police Officers Education and Training Commission*, 2012).
15. The case stemmed from officers' complaints that those receiving a make-up test had an unfair advantage. Within days of the original test, unknown persons had typed out and distributed sixty-five of the seventy-one questions (Malinconico, 2015).
16. The class action lawsuit filed by 173 firefighters won the right to re-take the test and to have their \$320,000 of legal fees covered by the city (*WGCL-TV*, 2012).
17. One such cheating scandal in Suffolk County, New York revolved around officers giving false answers to autobiographical questions (*Atlantic Legal Foundation*, 2005).
18. A supervisor admitted to the unauthorized sharing of information on a training exam, which itself cost more than \$1 million to develop and implement.

Likewise, a technical glitch in the recertification of police officers in Massachusetts responsible for administering Breathalyzer tests could potentially upend more than 100 DWI cases which depend on the testimony of at least 64 affected officers.¹⁹ These cases make it clear that public safety depends on reliable and secure examination procedures for high stakes testing.

19. Officers were able to pass a two-part online exam without completing both sections by merely finishing the second half before the first (Blackman, 2015).

The integrity of high stakes testing is worth upholding

When the prevalence of cheating by law enforcement and other public safety professionals is combined with the severity of the consequences that befall the employing agencies and overall public, it is fair to openly question whether high stakes testing is a practice that should be maintained, or whether other methods of evaluation and promotion are preferable.

However, while better methods may exist or be developed, it is undeniable that high stakes testing remains integral to the legal defensibility not only of hiring, but also of training. In his book, *Police Assessment Training* (2010), Major John Coleman notes that “in today’s ‘sue-prone’ society, a police organization can more effectively defend promotions, hiring, or transfers based on an objective and standardized assessment practice.” For all their faults and obstacles, written high stakes tests are used because they can eliminate biases that “infest work-simulated assessment centers” by applying a more objective evaluation method. And without objective and standardized indicators of success, training and promotional policies would undergo even more second-guessing by plaintiff’s attorneys than they already do.

Reinforcing the sentiment that cheating is a shared problem across first responder disciplines, it should be recognized that the symptoms, causes, and treatments for this affliction are often the same. Accordingly, when describing the rationale for using nationally standardized tests in the recruitment and testing of firefighters, a report published by FEMA explained that when these tests are “supported by extensive research” they will “withstand close scrutiny” by third parties (Iwanski, 1999).

Strive to make cheating preventable, detectable, and punishable

Though investigative and media reports shed a light on what methods cheaters are employing, thereby illuminating faults in the test administration, it is possible for departments to be proactive in their approach to cheating rather than simply reactive. As the impulse to cheat seems firmly entrenched in the human psyche – judging by its geographic and temporal expanse – it may not be possible for policies and procedures to completely prevent cheating from happening. Thus, administrators must take note and ensure that any cheating which does occur is both detectable and punishable.

First and foremost, prevention requires administrators to implement stringent security requirements at the testing site. It is important not only to address the aforementioned instances of cheating, such as sharing answers or referencing an unauthorized document during the test, but also to ensure that the examinee is who they claim to be. In the Handbook of Test Security, it is noted that “examinee impersonation, or ‘proxy testing,’ is an age-old trick that has been nursed by time and technology into a world-wide syndicate enterprise” (Wollack & Fremer, 2013). When examinees physically visit a third-party assessment site that has limited knowledge of your personnel and even more limited means to verify their identities, these risks are obviously higher than they would be if you administered the test yourself or used sophisticated digital means of identification.

When cheating occurs nevertheless, utilizing new technology helps departments to both detect and prove that it occurred. Where, as above, answer keys have been shared before the test, and a whistleblower prompts an agency to change the form of the test, cheating may often be detected by comparing the wrong answers on one test to the correct answers on the other. However, this practice fails to address the officer who had the intention to cheat, but notices halfway through the exam that the answer key simply does not match the content of the questions. When exams are done on pencil and paper, departments have occasionally used erasure analyses as a way to catch these cheaters. However, learning from the example of high stakes testing in the public education sector, departments should be forewarned that “erasure analyses

do not prove that cheating occurred” and that a “reliance on erasure analysis in some cases has led [some] to apologize for [those] prematurely accused of cheating.”

It is for these and other reasons that “computer testing will become the norm for high-stakes testing.” Again taking a page from the Handbook of Test Security, it should be noted that “answer copying is a much more serious problem on a multiple-choice exam where all examinees see the same test questions than it is with computerized adaptive testing. Furthermore, using computerized testing enables departments to more easily perform test data analyses, such as copying and gain-score analyses, which have been extensively upheld by courts as sufficient to establish the invalidity of a test result.”²⁰

Finally, preventative methods and efforts at detection are likely to be in vain unless administrators have already created policies that punish cheaters. Methods of punishment include suspension, termination, decertification, indictment, and a private right of action to any person harmed by the subversive activities.²¹

These policies can be implemented at the local level, such as Roanoke County, Virginia Police Department’s selection requirements that disqualify anyone convicted of a crime involving moral turpitude. However, because rejected or terminated officers may seek employment in other jurisdictions, the best policies are often those statewide laws and regulations that specifically reference cheating.

In North Carolina, for example, 12 NCAC 02I.0211(a)(10)-(11) allows for the suspension, revocation, or denial of certification for cheating. Likewise, in Pennsylvania, 37 Pa. Code § 203.14(a) (9) allows for the revocation of a certification for cheating. While such policies can be implemented with the hope of deterring future instances of cheating, their true value is in being able to preserve the integrity of the profession by permanently removing unethical officers from its ranks.

Conclusion

Cheating on high stakes tests is an issue that deserves consistent attention from all public safety administrators. When cheating goes undeterred, uncaught, or unpunished, administrators face not only a loss of public confidence,

20. In both the 5th and 11th Circuits, for example, Federal Courts of Appeal have acknowledged that “testing behaviors identified by gain-score and copying analyses are...indicative of test fraud, and therefore relevant and reliable evidence” (Hunt, 2006).

21. Minnesota Statute § 604.19(b) provides that “any person damaged or likely to be damaged by an examination subversion practices may seek injunctive relief in district court and recovery of damaged cause by the practice.”

but also the possibility of lawsuits from several angles. At its worst, cheating also threatens the ability of prosecutors to secure and maintain convictions against dangerous criminals, thereby jeopardizing law enforcement's mission to protect and serve. Nonetheless, high stakes tests provide objective and measurable indicators for training, certification, and promotions, all of which are designed to ensure not only that the best officers are on the front lines, but also that they return home safely. Rather than searching for an alternative to high stakes testing, administrators should work to ensure the integrity of their examination procedures. Cheaters will continue to use technology in new ways, so it is up to administrators to make sure they are also using technology effectively in their attempts to deter, detect, and punish cheaters. Where this requires the implementation of new policies, administrators are advised to be proactive in their efforts, or else cheaters may successfully seek employment at other agencies.

References

Associated Press. (2014, December 1). 18 N.C. Officers Could Face Suspension of Police Certification in Cheating Case. Retrieved from PoliceOne: <https://www.policeone.com/investigations/articles/94173-18-N-C-Officers-Could-Face-Suspension-of-Police-Certification-in-Cheating-Case/>

Atlanta Teachers in Cheating Scandal Could Get Another Year Contract. (2012, February 20). Huffington Post. Retrieved from http://www.huffingtonpost.com/2012/02/20/atlanta-teachers-in-cheat_n_1289023.html

Atlantic Legal Foundation. (2005, August 4). Police Exams Put to The Test - Lawsuits, Debates Surround Efforts to Diversify Cops. Retrieved from <http://atlanticlegal.org/2005/08/04/Police-Exams-Put-to-The-Test-Lawsuits-Debates-Surround-Efforts-to-Diversify-Cops/>

Barbour v. Municipal Police Officers Education and Training Commission (Commonwealth Court of Pennsylvania July 5, 2012). Retrieved from <http://caselaw.findlaw.com/pa-commonwealth-court/1605335.html>

Blackman, J. (2015, June 23). Dozens of DWI cases in question due to faulty police certification exam. Concord Monitor. Retrieved from <https://web.archive.org/web/20160131160432/http://www.concordmonitor.com/home/17439068-95/dozens-of-dwi-cases-in-question-due-to-faulty-police-certification-exam>

Burger, B. (2011, June 12). Deputy chief denies cheating on college work. Times Free Press. Retrieved from <http://www.timesfreepress.com/news/news/story/2011/jun/12/deputy-chief-denies-cheating-college-work/51762/>

Castaldi, R. (2012, October 30). PA Officers Decertified for Cheating. Retrieved from Law Enforcement Today: <http://www.lawenforcementtoday.com/pa-officers-decertified-for-cheating/>

Coleman, J. (2010). Police Assessment Testing. Springfield: Thomas Books.

FireRescue1. (2015, January 30). Firefighters resign after EMS test-cheating investigation. Retrieved from <https://www.firerescue1.com/fire-chief/articles/2094849-Firefighters-resign-after-EMS-test-cheating-investigation/>

Fitch, B. (2014). Law Enforcement Ethics: Class and Contemporary Issues. Los Angeles: SAGE Publications, Inc. Retrieved from <https://books.google.com/books?id=YhAi-SlrY8UC&printsec=frontcover#v=onepage&q&f=false>

Frank, J. (2007, May 4). Three Beach police officers fired for cheating on leadership test. Virginian-Pilot. Retrieved from http://pilotonline.com/news/three-beach-police-officers-fired-for-cheating-on-leadership-test/article_2c77da58-acb8-5cd5-b4f1-8bb5343f450b.html

Garger, K. (2015, August 18). Firefighters 'cheated' on exam during bathroom breaks. New York Post. Retrieved from <http://nypost.com/2015/08/18/firefighters-accused-of-taking-bathroom-breaks-to-cheat-on-exam/>

Hunt, R. (2006). Legal Defensibility of Scoring Decisions. Caveon LLC. Retrieved from http://www.caveon.com/articles/df_legal_defensibility.pdf

Iwanski, D. (1999). An Analysis of Entry-Level Firefighter Recruiting and Testing for the Fry Fire District. FEMA. Retrieved from <https://web-beta.archive.org/web/20120425014422/http://www.usfa.fema.gov/pdf/efop/efo30482.pdf>

Larimer, S. (2016, February 27). A cheating scandal has hit the Pennsylvania State Police Academy. Now 29 cadets are out. Washington Post. Retrieved from <https://www.washingtonpost.com/news/morning-mix/wp/2016/02/27/a-cheating-scandal-has-hit-the-pennsylvania-state-police-academy-now-29-cadets-are-out/>

Leask, D. (2015, September 22). Police chief accused of cheating on command course to learn his fate. Herald Scotland. Retrieved from http://www.heraldscotland.com/news/13776887.Police_chief_accused_of_cheating_on_command_course_to_learn_his_fate/

Lyons, B. (2015, May 17). State Police reinstate forensic scientist after alleged cheating scandal. Times Union. Retrieved from <http://www.timesunion.com/tuplus-local/article/State-Police-reinstate-forensic-scientist-after-6269637.php>

Malinconico, J. (2015, June 17). Paterson to pay two police officers \$215k to settle test cheating claims. Paterson Press. Retrieved from <http://www.northjersey.com/news/paterson-to-pay-two-police-officers-215k-to-settle-test-cheating-claims-1.1357455>

Miletich, S. (2013, October 28). State Patrol to investigate police academy test cheating. Seattle Times. Retrieved from <http://www.seattletimes.com/seattle-news/state-patrol-to-investigate-police-academy-test-cheating/>

Montgomery Advertiser. (2015, December 23). 7 Ala. firefighter trainees fired for cheating on exam. FireRescue1. Retrieved from <https://www.firerescue1.com/Firefighter-Training/articles/43019018-7-Ala-firefighter-trainees-fired-for-cheating-on-exam/?ly=1>

Police recruits fired for cheating on exams. (2002, May 14). Lubbock Avalanche-Journal. Retrieved from http://lubbockonline.com/stories/051402/upd_075-1573.shtml#.WCnX0PkrJhF

Prine, C. (2014, February 25). Pa. Police probe recertification cheating allegations. Pittsburgh Tribune-Review. Retrieved from <https://www.policeone.com/investigations/articles/6904050-Pa-police-probe-recertification-cheating-allegations/>

Roanoke County Police Department. (n.d.). Police Officer Selection Requirements. Retrieved November 14, 2016, from <http://www.roanokecountyva.gov/DocumentCenter/Home/View/880>

WGCL-TV. (2012, March 7). Atlanta firefighters in cheating scandal must re-take tests. Retrieved from CBS46: <http://www.cbs46.com/story/17104403/atlanta-firefighters-in-cheating-scandal-must-re-take-tests>

Wollack, J., & Fremer, J. (2013). Handbook of Test Security. New York: Routledge.