

# SUBJECT TO DEBATE

A NEWSLETTER OF THE POLICE EXECUTIVE RESEARCH FORUM



Plan to Attend  
PERF's Town Hall Meeting  
in Denver on October 4

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VOL. 23, NO. 8 | AUGUST 2009

## Only 59 Percent of Agencies Require Officers To Wear Body Armor, PERF/BJA Survey Finds

NEARLY ALL LAW ENFORCEMENT AGENCIES REPORT that they provide body armor to their officers, but only 59 percent of the agencies require their officers to wear body armor at least some of the time, according to a soon-to-be-released report by the Police Executive Research Forum (PERF).

The report details the findings of a survey that PERF conducted in partnership with the Justice Department's Bureau of Justice Assistance (BJA). The survey was sent to a large nationally representative sample of law enforcement agencies. Eighty percent responded to the survey, for a total of 782 participating agencies.

Perhaps the research team's most encouraging finding is that almost all agencies responding to the survey—99 percent—ensure that body armor is made available to their officers.

“Our survey findings suggest an overall move by agencies towards promoting the wearing of body armor and providing the necessary resources to do so,” the report states. “As a result of these policies, officers are probably more likely to be wearing body armor while assaulted in the line of duty, and the number of officer deaths is lower than it otherwise would be.”

However, the report suggests that police agencies can make further improvements in their policies and practices to help ensure that officers actually use body armor as much as possible, and to provide more thorough controls on fitting of armor to individual officers, maintenance of the armor, and periodic inspections to ensure that officers' armor is in good condition.

The report notes that there have been sharp fluctuations in the numbers of officers killed by firearms in recent years. In 2008, 39 officers died in firearms-related incidents in the U.S., a 43-percent reduction from the 68 officers killed in 2007, according to the National Law Enforcement Officers Memorial Fund. The 2008 death toll was the lowest since 1956. However, in the first six months of 2009, firearm-related deaths increased 10 percent compared to the same period in 2008, from 20 to 22.

Detailed findings include the following:

- **Most departments do not have written policies:** Among the 59 percent of agencies that mandate that body armor be worn at least some of the time, fewer than half have a written policy on this issue, making enforcement of the policy more complex.
- **Most everyday armor does not protect against high-caliber weapons or rifles:** Most agencies do not issue body armor for everyday wear that protects against rifle or armor-piercing bullets, but most agencies at a minimum use body armor that protects officers against 9mm and .40 caliber bullets. Overall, these levels of protection offered to officers have been sufficient against most handgun threats, but not against threats from high-caliber weapons or rifles.
- **Trauma plates:** Only 29 percent of the agencies surveyed issue supplementary trauma plates to officers for added protection for the most vulnerable part of the body—the torso.
- **Fit and maintenance:** Some agencies do not have stringent fit and maintenance policies. Twelve percent of the departments said their officers are not fitted for body armor, other than receiving a size that approximates their body size. “Given the importance of fit to the proper functioning of body armor, as highlighted in the National Institute of Justice (NIJ) body armor standards, this percentage is of some concern,” the report said.
- **Inspections:** The vast majority of agencies (90 percent) do not conduct inspections to ensure that officers' body armor fits well and/or is maintained properly. Of the few agencies that do conduct these inspections most frequently, inspections for fit are conducted only once a year or less (57 percent).
- **Replacement schedules:** A large majority of law enforcement agencies (78 percent) do not have a database or automated record system for a body armor replacement schedule (e.g., replacement of armor every five years). Nearly one-quarter of agencies have no

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# PERF's Busy Summer, and Prospects For an Exciting Fall, Winter and Spring

AS THE DAYS OF SUMMER DAYS COME TO AN END, I'd like to offer an update about a few things that have been happening at PERF and what you can expect in the coming year.

We've had a busy summer, which included three great sessions of the Senior Management Institute for Police (SMIP), our three-week education program for up-and-coming police leaders. In spite of tough economic times that are hurting police budgets all over, we continue to see strong demand for our SMIP program. This year we had unprecedented levels of participation by federal agencies and foreign police departments. It is gratifying to see that even in a bad recession, police departments place a high value on SMIP. Much credit goes to Tony Narr, who does a superb job year-round in overseeing this terrific program for future police executives.

PERF also has been working for several months now on a major project to help reduce violence against school-age children in Chicago. This will be a long-term continuing project involving the city's public school system as well as the police and the community.

And as many of you are aware, the July 16th incident involving a Harvard professor and Cambridge police sergeant has prompted a wide-ranging discussion across the country. In September I will be chairing a committee at the request of the City of Cambridge that will try to identify the teachable moments and lessons that will be helpful to Cambridge and police departments across the country.

PERF also is again assisting the City of Los Angeles in the selection of a new police chief. Applications are due September 23.

We have several interesting events on the horizon for PERF members, starting with a conference on DNA to be held here in Washington on Wednesday, September 23. This meeting will be sponsored by the Justice Department's COPS Office. Lately it seems that DNA issues are in the news every week:

- In June, the Supreme Court held that inmates have no Constitutional right to DNA tests that might prove them innocent.
- A week later, the court ruled that when DNA tests and other types of forensic evidence are presented in court, defendants have the right to question the police crime lab analysts who prepared the forensic reports. Thirty-five states had filed a brief warning that such a ruling could create a huge new burden on the justice system.
- In August, scientists in Israel showed that it is possible to fabricate DNA evidence. It's too soon to say how this might affect the value of DNA tests in criminal cases.
- And more states are mandating the collection of DNA samples from arrestees and suspects, in addition to convicted offenders. Meanwhile, many state and local governments are struggling with backlogs of DNA evidence waiting to be tested.

PERF will be bringing together some of the leading experts on DNA evidence from the United States and other countries to discuss these and other issues. I invite any of you who are interested to please plan on joining us for this important meeting. For additional information, contact Molly Griswold at [mgriswold@policeforum.org](mailto:mgriswold@policeforum.org).

Another major issue we will be focusing on is the impact that guns are having on our cities, especially with respect to violent crime. We are knee-deep now in preparations for a summit that we will have on guns in November. PERF will be sending out a comprehensive survey to obtain your views on gun issues, and we will be identifying particular jurisdictions to serve as case studies. Our goal is to look at every aspect of the gun violence issue—how some cities are making a difference with innovative programs, whether certain laws and police agency policies have an impact, the role of federal law enforcement, and so on. This meeting is part of PERF's Critical Issues in Policing series. For further information on this, contact Andrea Luna at [aluna@policeforum.org](mailto:aluna@policeforum.org).

And for those of you who are planning to attend the IACP's annual conference in Denver, PERF will hold its Town Hall meeting at the Sheraton Denver Downtown Hotel starting at 1 p.m. on Sunday, October 4. This is one of the most well-attended and popular events we do all year. Once again, I will be sending an email to all our members asking what issues are at the top of your mind. One issue I know we'll be talking about is the New Haven firefighters case and its impact on police promotional exams. We also plan to discuss police codes of conduct regarding the extent to which officers should be disciplined for making various kinds of false statements. As always, the Town Hall meeting will be followed by a reception where you can relax and talk with your colleagues. We are very grateful to Verizon Wireless for being the sole sponsor of this event.

And in the spring, PERF's 2010 Annual Meeting will be held on April 15–17 in Philadelphia.

In addition to all these upcoming events, I want to mention that we will be sending you a new book that PERF has produced about police leadership, as discussed by 25 experienced chiefs. You also will be receiving a report that we are producing about gangs. And because of increasing concern that the H1N1 flu virus may come back with a vengeance this fall, we

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# PERF, NSA, and BJA Issue Report and Guidelines On Use of CEDs in Custodial Settings

PERF, THE NATIONAL SHERIFFS' ASSOCIATION (NSA), AND THE JUSTICE DEPARTMENT'S BUREAU OF JUSTICE ASSISTANCE (BJA) recently announced the release of a new report on the use of Conducted Energy Devices (CEDs) in jails and other custodial settings.

CEDs increasingly are being deployed in detention and correctional facilities and courts for various purposes, such as controlling prisoners during transport, removing recalcitrant inmates from cells, and ending riots and other disturbances. (In this context, CED devices include CED guns as well as other equipment, such as "stun shields" that can administer a contact shock and "stun belts" that can administer a shock by remote control to a prisoner who attempts to flee or exhibits aggressive behavior.)

With support from BJA, PERF and NSA combined resources to examine issues pertaining to the use of CEDs in custodial and court environments. PERF conducted a survey of sheriffs' departments regarding their deployment of CEDs and related policies, and based in part on the results of that survey, NSA developed guidelines for CED use in a custodial setting.

PERF's survey revealed that 64 percent of 288 responding sheriffs' departments authorize the use of some type of CED weapon. Most agencies allow deputies to "arc" the CED or use a laser-dot aiming device as a warning, and large majorities of respondents believe those techniques are effective in deterring aggressive behavior. Most agencies' CED policies are part of their general use-of-force policy, but 39 percent have stand-alone CED policies. Most agencies use CED manufacturers' recommended training but also incorporate additional material in their CED curriculum, while 35 percent rely strictly on the manufacturer's training curriculum.

The new report, *Conducted Energy Devices: Use in a Custodial Setting*, provides further details about PERF's survey, and also includes the text of the NSA recommended general order for use of CEDs.

Following are excerpts from the CED guidelines. The full text of the guidelines is available on PERF's website at [http://policeforum.org/upload/CEDs%20-%20Use%20in%20a%20Custodial%20Setting\\_857432755\\_8212009111143.pdf](http://policeforum.org/upload/CEDs%20-%20Use%20in%20a%20Custodial%20Setting_857432755_8212009111143.pdf).

## EXCERPTS FROM "RECOMMENDED GENERAL ORDER FOR USE OF CONDUCTED ENERGY DEVICES"

It is the policy of the agency that personnel only use that level of force objectively reasonable to perform their official duties.

Conducted Energy Devices (CEDs) have been proven effective and are authorized for use in appropriate circumstances by trained personnel.

### Authorized Users

Only those employees who have satisfactorily completed the agency's approved training course shall be authorized to carry a CED. Agency members will be given annual retraining on the use of a CED. The CED is approved for use both on-duty and during enforcement related off-duty.

Deputies may carry their personally owned CED and accompanying equipment with approval from the Training Division Commander. All personally owned CEDs and equipment shall comply with this policy.

### Weapon Readiness

The device shall be carried by authorized deputies in an approved holster on the non-dominant side of the body. Those authorized to use the device and assigned outside of uniformed patrol duties may utilize other department-approved holsters, and carry the weapon consistent with department training.

The device shall be carried fully armed with the safety on in preparation for immediate use when authorized.

Deputies approved to use the device shall be issued a minimum of one spare cartridge as a back-up in case of cartridge failure or the need for reapplication.

### Deployment

Subject to the conditions below, the CED may be used when level 4 (Active Physical Resistance)<sup>1</sup> or higher resistance is encountered. The justifications are the same officer/subject factors that exist in any other force decision.

The CED may be deployed in the case of a sudden attack or when a subject is actively resisting.

Deputies shall evaluate other options (e.g. verbal commands, hands on techniques, OC spray) and use caution before deploying a CED in elementary schools, on young children, the elderly, females reasonably believed to be pregnant, and individuals with apparent physical disabilities impairing their mobility.

Additional factors that must be considered when making use of force decisions include:

- a. Subject Factors:
  1. Seriousness of crime committed by subject.
  2. Size, age, and weight of subject.

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1. Active Physical Resistance is defined as "slight to moderate physical harm: a subject makes physically evasive movements to defeat a deputy's attempt at control. This may be in the form of bracing or tensing, attempts to push/pull away or not allowing the deputy to get close to him/her."

3. Apparent physical ability of subject.
  4. Number of subjects present who are involved, or who may become involved.
  5. Weapons possessed by or available to the subject.
  6. Known history of violence by subject.
  7. Presence of innocent or potential victims in the area.
  8. Whether the subject can be recaptured at a later time.
  9. Whether evidence is likely to be destroyed.
  10. Indicators of attack exhibited by the subject such as but not limited to: verbalization of a hostile/aggressive intent, hostile/aggressive posturing, muscular tensing of the body, etc.
- b. Deputy Factors:
1. Size, physical ability, and defensive tactics expertise of the deputy.
  2. Number of deputies present or available.
  3. Immediate reaction in the case of sudden attack.
  4. Weapons or restraint devices available to the deputy.
  5. Legal requirements.
  6. Agency policy.
  7. Environment.
- c. The above listed subject and deputy factors are not all inclusive. Any and all determining factors must be properly articulated by the deputy(s) employing physical force.

The CED should not be intentionally aimed at a person's head, neck or groin.

The CED shall not be used in a punitive or reckless manner.

The CED shall not be used for extracting evidence or contraband.

Deployment of the CED is authorized on handcuffed, or otherwise secured subjects who present a Level 4 active physical resistance.

The CED should not be used in any environment where potentially flammable, volatile, or explosive material (gasoline, natural gas, propane, flammable chemical sprays, etc.) are present.

In preparation of deployment, the CED shall be pointed in a safe direction, taken off safe, and then aimed. Center mass of the subject's back should be the primary target while center mass of the chest or the legs are the secondary targets.

Deputies shall attempt to secure the subject under power as soon as practical, when submission/ compliance cannot be achieved through a minimal number of activation cycles.

The device may also be used in certain circumstances in a "touch stun" mode. This involves removing the cartridge and pressing the unit against an appropriate area based on training.

The CED shall be pointed at the ground in a safe direction with the safety on during administrative handling procedures.

No changes, alterations, modifications or substitutions shall be made to the CED. All repairs to a CED shall be completed by an authorized vendor.

Uniform deputies issued a CED shall carry the CED when engaged in any uniform assignment.

Nothing in this order shall prevent a deputy from utilizing any readily available object or empty hand technique as a weapon

in circumstances or situations where the actions of a subject constitute Level 6 Resistance that could result in great bodily injury, permanent disability, permanent disfigurement or death to the deputy or others.

### Reporting

Deputies shall notify his/her supervisor as soon as practical after each intentional or unintentional discharge, with the exception of function tests and training exercises, and complete the Use of Defensive Tactics/K-9 Report Form. Copies of the Use of Defensive Tactics/K-9 Report Form shall be forwarded to Professional Standards and Training. After a deputy uses a CED the deputy shall:

1. Handcuff the subject to minimize the threat of injury to either the deputy or the subject.
2. Notify emergency medical personnel when deputies respond to incidents in which it is anticipated that a CED may be activated against a person.
3. Ensure that all persons who have been exposed to a CED activation receive a medical evaluation. Agencies shall consult with medical personnel to develop appropriate medical protocols. All persons who have been subjected to a CED activation should be monitored regularly.
4. Remove the CED probes at the earliest opportunity. The CED probes shall be removed in accordance with agency approved training. CED probes that have penetrated a sensitive area including the face, groin, female breasts, or male nipple area shall be removed by medical personnel. Agencies should coordinate with medical personnel to develop training for such removal.
5. Recognize that CED probes that have struck a person's body are to be considered a biological hazard and shall be handled and disposed of in accordance with General Order: Exposure Control Program.
6. Document the injury on the Use of Force/K-9 Report Form if an injury is sustained.
7. Photograph all significant injuries. All photographs shall be forwarded to Forensics.
8. Note the absence of injuries on the Use of Force/K-9 Report Form.

### Downloading Data

The data port on the CED stores the time and date the CED was fired.

During the deputy's annual inventory at Material Control/Supply, the information from the data port will be downloaded.

Material Control/Supply shall download from the data port information from the CED prior to any factory repairs/maintenance.

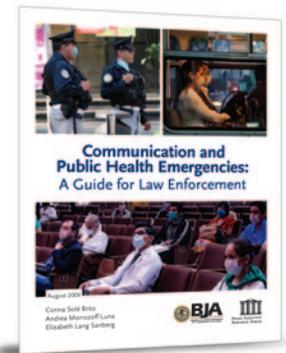
Only personnel assigned to Professional Standards or Material Control/Supply may download the information from the data port.

Supervisors or managers may request a download at any time. Any deputy issued such an order will immediately respond to this request as instructed by the supervisor.

Training shall prepare an annual report on the product reliability, recommended training needs and/or policy modifications related to the uses of force, which will include a section on the use of the CED.



# New Guidebook Offers Communications Plan For Police Handling of Flu Pandemic Or Other Public Health Emergency



PERF AND THE BUREAU OF JUSTICE ASSISTANCE have announced the release of *Communication and Public Health Emergencies: A Guide for Law Enforcement*, a 59-page book that describes the issues that police executives should consider in dealing with an influenza pandemic or other public health emergency.

The guide, part of a series of PERF/BJA documents on public health emergencies, covers police chiefs' communications during a crisis. This includes internal communications within the police agency, as well as external communications to other agencies, to the public, and to the news media.

The guide is available online at [http://policeforum.org/upload/Risk%20Comm\\_August\\_1070498003\\_842009095413.pdf](http://policeforum.org/upload/Risk%20Comm_August_1070498003_842009095413.pdf).

Following are excerpts from the publication:

## The Effects of a Flu Pandemic on Law Enforcement Agencies

A pandemic flu will affect how local law enforcement agencies operate.

**Most importantly, departments will lose staff members.**

Many predict that the percentage of employees affected in some way (e.g., exposed, infected, or taking care of sick loved ones) will range from 10 to 40 percent. Agencies will need to activate their internal emergency operations plans, shifting resources to the duties considered most critical. Calls for service will likely increase (dramatically at first), yet with fewer officers available to work, response time will suffer and services will be reduced. Because pandemics can circle the globe in waves, these issues will likely hit departments several times over the course of the pandemic.

**A public health emergency may result in closure of public gathering places** (e.g., shopping malls, places of worship), the dismissal of students from local schools, the creation of special mechanisms for the distribution of medication and vaccines, and the overcrowding of medical facilities. Law enforcement agencies will be expected not only to maintain public order, but also to assist public health officials in their efforts to seek compliance with related health orders. Most law enforcement agencies have pre-established communication networks that undoubtedly will be called upon to help broadcast public health messages.

To ease residents' concerns, to reassure them that essential law enforcement services will continue, to provide them realistic expectations, and to encourage people to prepare for and comply with public health recommendations and related orders, law enforcement officials must address pandemic-specific issues in their department's public health emergency communication plans.

## Tips for Effective Communications About Law Enforcement/Public Health Issues

- Understand that regardless of the type of emergency, residents will look to law enforcement for reassurance and guidance.
- Prepare residents for potential changes in the law enforcement role prior to a public health emergency to help alleviate concern when a public health emergency strikes.
- Be cognizant of the different demographic groups served by the agency. Have materials translated as necessary.
- When a public health emergency occurs, local law enforcement should keep the public apprised of the changing status of the emergency and how the agency is modifying its roles accordingly.
- Know who will represent the agency during press conferences and interviews. Have a media plan in place regarding when and how briefings will take place, and be sure to have a succession plan in case the law enforcement agency's media representative becomes ill or is otherwise affected by the crisis.
- Engage the media before a public health emergency occurs, and when a crisis happens, prepare as much as possible for press conferences, anticipating questions.
- As soon as possible after a public health emergency is concluded, incorporate "lessons learned" into the communications plan. Share this information throughout the agency and with the community at large.



**Many people may not realize** that flu pandemics are not a merely theoretical threat. As recently as 1968–69, the "Hong Kong flu" caused 34,000 deaths in the United States. The worst flu pandemic in recent history was the 'Spanish flu' of 1918–19, which killed as many as 50 million people worldwide, and 675,000 in the United States.

Military hospital in Camp Funston, Kansas during 1918–19 influenza epidemic. Photo courtesy of the National Museum of Health and Medicine.

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## What Police Leaders Should Tell the Public During a Public Health Crisis

*What kind of information should a local law enforcement agency share during the initial stages of a public health emergency?*

- Public health orders and the police role in enforcing them
- The value of complying with voluntary quarantine and/or isolation or other civil orders
- Reasons behind reprioritization of calls for service
- Reassuring messages (e.g., that the agency is still responding to crime, but police will be focusing their efforts on the most serious incidents while they are short-staffed)

*How can a local law enforcement agency continue to keep the community apprised of the emergency situation?*

- Community listservs, podcasts, website, links with public health department
- Law enforcement leaders could consider offering the public health department use of variable message sign boards directing residents to view web sites and/or use information lines
- Distribute flyers (remember those who do not speak English, the homeless population, and others)
- Local hotline
- Reverse 911
- Non-emergency information line



## The First Message

*What a law enforcement executive says in the first message to the community during a public health emergency is critical to how the audience will feel about the agency's handling of the situation as a whole.*

*The Centers for Disease Control and Prevention list six essential components of the first official message in a crisis:*

1. An empathetic expression (e.g., “I know this situation is alarming and you are looking for answers.”);
2. The facts and action steps that have been confirmed;
3. What the agency representative does **not** know about the situation;
4. The process the police executive is using to address unanswered questions (e.g., working closely with public health officials to get answers);
5. A “statement of commitment” that indicates the agency is going to be working with the community for the duration of the event; and
6. Details about how to get more information, and when the executive will be delivering the next message.

## Preparing for and Participating in Press Conferences

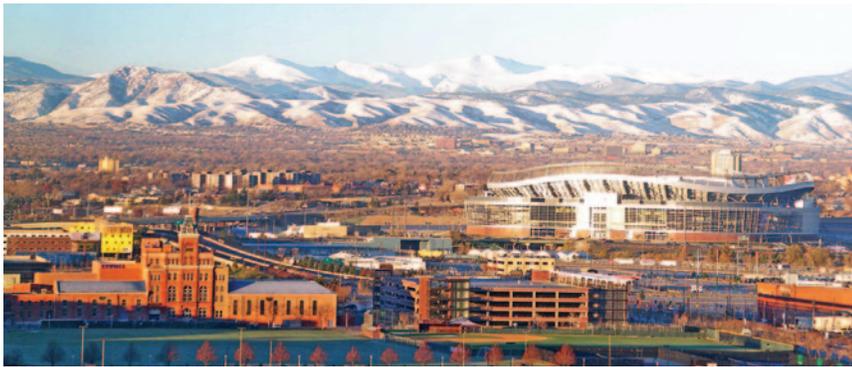
*In preparing for press conferences, law enforcement executives should:*

- Make sure that notes, visuals, and other materials are in order;
- Anticipate questions and prepare responses;
- Prepare a specific message;
- Involve the agency's legal representative, if necessary; and
- Practice delivering the message.

*Experts suggest that law enforcement executives giving a press conference should strive to:*

- Project authenticity and reliability;
- Be responsive, yet cautious when answering questions;
- Be ready to think on the spur of the moment, and make sure you understand the question before answering;

- Keep responses and statements simple and to the point;
- Be aware of appearance and body language;
- Avoid law enforcement jargon and speak clearly;
- Avoid using the word “I” when discussing acts performed by other personnel;
- Leave the media with a quote that will summarize the agency's position and serve as a “sound bite”;
- Tell press contacts where to find additional information (e.g., the agency's web page, e-mailed press releases);
- Keep copies of all notes used, statements made, and questions answered to ensure consistent messages are delivered; and
- Provide copies to patrol officers, who will be asked the same questions by community members. If officers say “I don't know” or give an answer different from that given at the press conference, the result will be doubt and fear.



## Plan to Attend PERF's Town Hall Meeting in Denver on October 4

Time: Sunday, October 4, 2009  
1:00 to 5:00 p.m., followed by a reception  
Place: Sheraton Denver Downtown Hotel  
Denver, Colorado

>> from **Body Armor Survey** on page 1

policy concerning replacement of body armor, and it not clear how often they actually replace their armor.

- **Officers shot in areas not protected by armor:** According to FBI data, 306 of 521 officers who were feloniously killed between 1997 and 2006 were wearing body armor. More than half of those 306 officers were shot in the head area, nine percent in the neck/throat area, and 34 percent in the torso area. Of the 103 shots that hit officers in the torso area, 20 penetrated the vest because it was not designed to stop that particular ammunition, while the remainder entered the torso through open side or shoulder panels, or above or below the vest. This finding suggests that in addition to body armor, other protection should also be considered, such as enhanced training on using cover/concealment during firearm incidents.

The survey was the second phase of a large-scale project regarding body armor and officer safety. The first phase, conducted by PERF in 2005, focused solely on the use of Zylon-based body

armor by the 100 largest law enforcement agencies in the United States.<sup>1</sup> Zylon body armor was found to have unexpectedly high rates of degradation and failure when exposed to heat, humidity, and perspiration. In response, NIJ introduced new, highly rigorous standards for body armor.

“Given the turbulent nature of the policing environment and dramatic variation over the past couple of years in the number of officers killed in the line of duty, there may soon be a need for a nationwide effort to encourage agencies to revisit their body armor wear policies to increase their comprehensiveness and stringency,” the PERF/BJA report concluded. “We believe improvements can be made in terms of mandatory body armor wear requirements and more stringent fit/maintenance policies.”

*The BJA/PERF Body Armor National Survey: Protecting the Nation's Law Enforcement Officers* is undergoing final review and will soon be posted on PERF's (<http://www.policeforum.org>) and BJA's web sites (<http://www.ojp.usdoj.gov/BJA>). 

1. See <http://www.policeforum.org/library.asp?MENU=191> for a copy of this report.

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may be sending you additional alerts about the work we have done recently on police agency planning for pandemics.

One more thing: I am happy to report that for state and local police agencies, Washington is a difference place than it was a year ago. Attorney General Eric Holder, ONDCP Director Gil

Kerlikowske, and the White House have been actively encouraging our input on many occasions since January.

All of this promises to bring a very busy fall, winter and spring for PERF, which we are glad about. Once again, I am grateful for your support, and if you have any thoughts you'd like to share on any of these matters, please contact me at [cwexler@policeforum.org](mailto:cwexler@policeforum.org). 



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*Subject to Debate*  
is generously supported  
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