

# Is Higher Education Worth the Cost to the Law Enforcement Professional?

David P. Beaver  
Culminating Research Seminar (Independent Study)  
Professor – Rev. Dr. Christopher J. Hynes  
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### Introduction

We have all heard the lament at one time or another that things are not like they used to be or heard someone express a longing for the good old days. The good old days were those when we were taught that if you worked hard, got a good education, and kept your nose to the grindstone, you would get ahead in life.

Those were the days when only the best kids played sports. When boys played football or baseball and girls played field hockey or were cheerleaders. For every winner there was a loser and at the end of the game, both shook hands before leaving the field. Those were the days when feeling good about yourself was usually the result of something you did, not something you were supposed to do, regardless of the circumstances, just to help increase your self-esteem. Feeling bad about losing or about something you weren't able to do made you try harder the next time.

Gasoline was 30¢ a gallon, television, which was mostly black and white and had less than 10 channels, was free and affordable medical care came to your house when you were sick, spoke English, and then drove away in an American made automobile. Being politically correct meant that you voted for the winning candidate in an election. If you spoke your mind and no one liked what you had to say, no one listened. If you broke the law and got caught, you went to jail. No one cared if you were orphaned at a young age, had a rough life, or suffered from some condition that somehow absolved you from all blame. If you broke the law and got caught, you went to jail. It was that simple.

Today, many things have changed since those times that we refer to as the good old days. Gas is no longer 30¢ a gallon, television is neither just black and white nor free, and affordable health care in this country is about as elusive as an honest politician. Gender lines

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

have not only been crossed, they have been erased, not only in the home and on the job, but on little league fields, Pop Warner football fields and even in locker rooms as can be attested to by the popularity of female sportscasters at NFL events.

Today, if you break the law, we give you another chance. Unless of course it's a traffic violation where the penalties generate revenue, then even first offenses can cost even the most law-abiding citizen literally hundreds of dollars. If you speak your mind and someone doesn't like what you have to say, chances are you're on your way to court, charged either with a biased crime or a civil suit. Today, everyone listens and they all have lawyers.

This then begs the question; with all that's changed in our society, do the benefits of hard work and a good education still exist? Is it naïve to believe that one can go far by keeping one's nose to the grindstone? Do these things that we were taught as children still apply or have times progressed to a point where hard work and education no longer matter?

To those in law enforcement, these questions are of particular significance today. Over the course of the last twenty-five years, we have seen the educational levels for law enforcement personnel rise (Varricchio, 1999). Still, all too often, police officers see less experienced, less qualified individuals given specialist assignments or promoted over others that are more deserving. Oftentimes, the reasons for such moves are apparent. Affirmative action has done much to increase the numbers of minorities and women in managerial positions and many organizations still abide by these policies in their hiring and promotional practices. In other instances, other factors (nepotism, favoritism or politics) sway decisions towards some individuals and away from others. Whatever the reasons, in light of the ever-increasing scrutiny under which law enforcement agencies function and the tendency towards higher educational requirements among law enforcement officers in general, should it

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

unreasonable to expect that higher educated and more experienced personnel achieve more success than others that may be less qualified?

### **The Need for Affirmative Action Programs**

This paper does not intend to advocate that advancement be determined strictly by education nor deny that there was a need at one time for well thought out affirmative action programs. According to such organizations as the American Civil Liberties Union and the National Association for the Advancement of Colored People, police departments and other government agencies have discriminated against minorities in their hiring and promotional practices. Until the 1970's, minorities and women were grossly under represented with respect to their proportionate representation in society. With the passage of the Civil Rights Act of 1964, the federal government became actively involved in the enforcement of affirmative action standards for government agencies and federal contractors. Since that time, police departments across the country now have added significant numbers of women and minorities. Some departments have even approached levels that are reflective of the racial composition of the communities they serve.

Thus far, many improvements in police employment practices have come about through litigation under existing civil rights laws. However, recent court decisions have been more respectful of the rights of innocent individuals and less hospitable to employment discrimination claims. As a result, community groups and civil rights organizations have moved the fight for integration of police departments to the political arena and the media. Still, proponents of affirmative action claim that an integrated police force is important for the following reasons:

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

- Integration will break down the isolation of police departments as they become more representative of the communities they serve. Members of an ethnically diverse force will be less likely to be viewed as outsiders. The presence of women and minorities in high-ranking positions will instill confidence in the community in the ability of the police to identify with the needs of the community's residents.
- Integration of the police demonstrates a commitment to the principles of equal opportunity and equal protection under the law. Both advocates and critics of affirmative action agree that this is an important message for law enforcement to convey.
- Integration may, over time, reduce overtly racist/sexist activities such as brutality, harassment, and other discriminatory practices.

### **A Brief History of Affirmative Action**

During the first half of the twentieth century, racial and ethnic minorities and women were confronted with legal and social exclusion. Blacks and Hispanic Americans were, for the most part, relegated to menial, low paying jobs and women were, in many states legally barred from entering certain professions including fire fighting, law and medicine. In 1954, the Supreme Court's decision in *Brown v. Board of Education* is regarded as having sparked the modern civil rights movement. In *Brown*, the court struck down the previously accepted doctrine of "separate but equal" established in *Plessy v. Ferguson* (1896). In 1961, upon entering office, President John F. Kennedy created a committee on Equal Employment Opportunity and issued Executive Order No. 10925, which instructed government agencies

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

to take “affirmative action” to achieve non-discrimination in its hiring and promotional practices. President Lyndon B. Johnson’s Executive Order No. 11246 requiring federal contractors to ensure the equality of employment opportunity without regard to race, religion, and national origin followed in 1965. In 1968, gender was added to the list of protected categories. In 1963, President Kennedy proposed a civil rights bill aimed at outlawing discrimination in public accommodations, cutting off federal funds to discriminating institutions, and expanding the equal employment opportunity committee he had established. After his assassination, Title VII was enacted as part of the Civil Rights Act of 1964. The act was designed to benefit employees subjected to illegal discrimination and encourage employers to end discrimination. Title VII was substantially strengthened in 1972 by amendments signed into law by President Richard M. Nixon.

Court-ordered remedies to Title VII violations developed in the area of employment at the same time. The 1971 case of *Griggs v. Duke Power & Light* established parameters to determine the validity of employment criteria. It established the four-fifths rule, which stated that any selection criteria are deemed to be valid as long as four-fifths as many minorities are able to pass as whites. *Griggs* also shifted the burden of proof from the plaintiff to the defendant when a prima facie case of discrimination can be demonstrated. This was later reversed by *Wards Packing Co., Inc. v. Antonio* (1989), which shifted the burden of proof to the plaintiff. The court ruled that disparity must be demonstrated between minorities employed by a company and the relevant job pool and that the plaintiff must identify the practice that discriminates. According to *Antonio* the burden rests with the plaintiff to show how another method would meet the employer’s needs without discriminating. The 1991

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

Civil Rights Act restored *Griggs* and mandated that the employer must justify criteria that have disparate impact on minorities.

*Abamarle Paper Company v. Moody et al.* (1975) extended to promotion decisions the rules validating initial employment tests established in *Griggs*. The 1982 case of *Connecticut v. Teal* addressed public sector promotion testing and established the court's view that the impact upon an individual member of a group is as important as the overall impact of the process on the group as a whole. The court ruled that proving there was no disparate impact upon the group as a whole could not defend disparate treatment against individual members of a protected group.

*The Regents of the University of California v. Bakke* (1978) addressed the issue of access to the professions and stated that a selection process that uses race as its sole criterion for admission violates the 1964 Civil Rights Act. It did however specify that the use of race is allowable in combination with other factors in admissions decisions. *Bakke* also established parameters to guide professional degree programs in their affirmative action efforts.

In *Kaiser Aluminum and Chemical Corp. v. Weber* (1979), the court was asked to rule on the acceptability of a special training program for minorities in the workplace that ignored the principle of employee seniority. The court ruled that because Kaiser's training program was voluntary in nature and of limited duration, it fell within the parameters of the 1964 Civil Rights Act and that the Act provided for such corrective programs that attempt to raise blacks in the skilled trades to an established level. Chief Justice Burger wrote in a dissenting opinion that the 1964 Civil Rights Act specifically states that the establishment of programs such as Kaiser's is not its intent. Justice Rehnquist went further in pointing to the exemption of

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

Indian preference laws and argued that Congress had the ability to pass such laws that would address exemptions to nondiscrimination on the basis of race if that were its intention.

Addressing access to skilled trades in government, in *Johnson v. Transportation Agency, Santa Clara County* (1987) the Court applied the *Weber* principle in a case where a woman (Joyce) was promoted over a male worker (Johnson) who's overall rating was higher than hers. Noting that the county's program had no goals or timetables, instead that the promotion was part of a long-term effort to move women into skilled-trade positions in the county; the Court upheld Joyce's promotion.

With the aim of promoting minorities into supervisory and managerial positions over more qualified white candidates, the Supreme Court has authorized the lower courts to use consent decrees to arrive at a mutually agreeable solution without the need for a full blown lawsuit. In *Local 93, International Association of Firefighters, AFL-CIO, C.L.C. v. City of Cleveland et al.* (1986), The City of Cleveland arrived at a consent decree with black and Hispanic firefighters. Local 93 argued that it was not part of the consent decree, had not agreed to it, and that the decree benefited those persons who were not individually the targets of discrimination. The Court ruled that because local 93 was not a part of the original consent decree, it was not required to do anything under its terms and therefore had no grounds to protest.

In Birmingham, Alabama, white firefighters challenged a consent decree between the city and black firefighters stating that they should not be denied promotions based on a consent decree to which they were not a party. In *Martin v. Wilks* (1989) the Court ruled in favor of the white firefighters and opened the door to countless after the fact challenges to consent decrees. The 1991 Civil Rights Act modified the *Martin* ruling stating that after the

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

fact challenges are not permissible if the challenger was given an opportunity to respond in timely fashion to the original decree or if the issue raised was dealt with in the original suit.

Promotion quotas were addressed in *United States v. Paradise et al.* (1987). The Court upheld a one for one promotion rate for black and white state troopers in Alabama. The Justice Dept. objected to the remedies that had been agreed to by the parties of a consent decree: the State of Alabama, Mr. Paradise, and the NAACP. This case clearly indicates the willingness the Court has shown to provide remedies to the actual victims of discrimination. However, the Supreme Court has taken a narrower view when it can be shown that innocent individuals will suffer deprivation of employment or promotion to make way for minorities who were not themselves the victims of discrimination.

In the city of Memphis, a black fire captain filed suit on the grounds that its hiring practices were discriminatory. A consent decree was agreed upon to raise the proportion of black firefighters to 35%. When the City laid off new hires, it did so by alphabet, but skipped over 3 black firefighters. In *Firefighter's Local 1784 v. Stotts* (1984), the Court ruled that it is inappropriate to deny an innocent employee the benefits of seniority in order to remedy the misdeeds of the organization. The court's ruling that the benefits of seniority could not be denied used a strict definition of seniority using how individuals are affected to test discrimination.

In the case of *Wygant v. The Jackson Board of Education* (1986), the Court struck down a proposed plan between the district and the teacher's union for proportional layoffs designed to insure that the proportion of black teachers after the layoff reflected the proportion of those before. The Court held that the plan was not supported by a compelling state purpose and the means chosen to accomplish that purpose were not narrowly. The Court

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

applied a test of how the program affected individuals and in effect ruled that the right of individual members of the majority to maintain their employment was more important than remedying the impact of past discrimination on an entire class of people.

Cases featuring educational requirements have been successfully defended by citing federal studies supporting a high-school diploma for police officers as in *Davis v. Dallas* (1985) and experts testifying that a 4-year college degree is necessary to cope with the exacting training demands for commercial airline pilots, *Spurlock v. United Airlines* (1972).

Finally, although the parameters of strict scrutiny were initially established in *Bakke* and *Wygant*, the Court has since established that two tests must be met to justify quotas: a compelling government interest based upon demonstrable previous discrimination on the part of the organization in question (4/5ths rule) and a narrow remedy (protects innocent members of the majority from undue injury).

### **Higher Education and Law Enforcement**

Law enforcement is perhaps one of the most diverse occupations in existence today. The skills required to perform all that's required in this day and age include first-aid for treating injuries, physics and mathematics for accident reconstruction, a thorough understanding of the criminal and traffic codes, writing and grammar for completing reports, automobile mechanics for helping disabled motorists, communication, psychology and sociology for dealing with people and resolving disputes, and these are just for those who are assigned to patrol. There is also photography, forensics, computers and programming, and fiscal management to name just a few. Where most other professions require long and intensive training for qualification, in most instances, law enforcement personnel are

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

expected to perform the same tasks with little or no formal pre-service training (Heinrich, 2000)

The need for educated police officers is something that has been recognized since the beginning of the twentieth century. The first recognized visionary in law enforcement, August Vollmer, Chief of Police in Berkley, California started a police school in his department in 1909. In 1917, the University of California established a police school on their campus and in 1931, a degree in Police Administration, developed by Vollmer himself, was offered. In 1933, Chief Vollmer challenged the sub-standard selection process for police candidates and called for higher educational standards (Varricchio, 1999). However, the need for better-educated police officers was not universally recognized. The idea was met with resistance in other parts of the country (Goldstein, 1986) and eventually the movement towards education would be tabled for the next three decades due to the depression and a world war (Johnson, 1985).

It was not until the 1960's, during a decade long period of civil unrest and disobedience, which saw the relationship between the American public and the police deteriorate, that the trend towards higher education would rise again. In response to misconduct of some police officers during the urban riots of the time, several blue-ribbon commissions were established. (Travis, 1995) In 1967, the President's Commission on Law Enforcement and Administration of Justice organized efforts to fund higher education programs for police officers (Gross, 1973) in hopes of restoring the public's faith in the police and called on all police officers to have college degrees. (Thibault, Lynch, & McBride, 1995) In 1968, Congress enacted the Omnibus Crime Control & Safe Streets Acts, which created the Law Enforcement Education Program (LEEP), intended to professionalize law

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

enforcement in America (Swain, 1984). In general, there were several recommendations made by the various commissions:

- That at least some college be required for appointment
- That promotional standards be raised
- That educational programs be made a matter of policy
- That higher education be viewed as an occupational necessity (Travis, 1995)

During this time, more than seventy percent of the nation's police departments required a high school diploma. Others required anywhere from a few credits up to two years of college. By the mid 1980's the percentage of departments requiring at least a high school diploma had risen to ninety percent and some police academies were even awarding college credits for part of the training (Lynskey, 2000).

### **Higher Education and the New Jersey State Police**

Of particular interest is the case of the New Jersey State Police, which in 1993 became the second state police organization in the United States to adopt a mandatory degree requirement for new recruits as part of an ongoing effort to legitimize the law enforcement profession (Heinrich, 2000). The organization took another step forward in 1995 when State Police Superintendent, Col. Carl A. Williams implemented new promotional criteria that required active members to have at least sixty college credits to be eligible for promotion to the ranks of Sergeant or Sergeant First Class by 1998, a bachelor's degree to be eligible for promotion to the rank of Lieutenant by 2004, and a master's degree to be eligible for

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

promotion to the ranks of Major or Lt. Colonel by 2006. However, since that time, litigation brought by the N.A.A.C.P. and objections by the organization's various bargaining units have reduced the requirements for admission and delayed the implementation of the new promotional criteria until at least 2006. Despite that fact, the need for qualified, educated police officers still exists.

The current requirements for admission to the academy are either “(1) a bachelor's degree, signifying completion of the undergraduate curriculum and graduation from an accredited college or university or, (2) alternatively, an associate's degree or have completed 60 college credits from an accredited college or university, plus at least two years of satisfactory employment or military experience indicating the maturity of the applicant.” (NJSP, 2005)

Unfortunately, while Col. Williams was trying to professionalize the organization, the United States Justice Department and the State Attorney General's Office were keeping the Division under close scrutiny because of accusations of racial profiling. When two white state troopers shot and wounded three black males in a van that backed into one of the troopers on the New Jersey Turnpike in April of 1998, troopers found themselves labeled as racists and painted with a broad brush, not only by an eager news media, but also by minority members of their own organization. The incident led to the firing in February 1999 of Col. Williams and to the eventual hiring of an outsider, Carson J. Dunbar Jr., an agent with the Federal Bureau of Investigations, to be the first African-American to head the 79 year old organization.

In late December of 1999, the Justice Department and the State of New Jersey entered into a consent decree, which along with the numerous racial profiling issues, addressed a

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

promotional system that troopers “irrespective of race or gender generally indicated little support for...” (Final Report, 1999)

Career success in just about any organization can be defined in several ways; salary, position, your own secretary, a company car or an office with a view. These things are all universally definitive of success to some point no matter where you work or what you do. In the New Jersey State Police however, these things are all tied to a trooper’s rank in the organization. Salaries are all based on rank and time in grade. Assigned vehicles, unless the trooper is assigned to a specialist unit, are only given to troopers above a certain rank. Most general duty road troopers work from a patrol car and don’t have offices or secretaries. The only exceptions to this rule are the educational incentive, shift differential allowance and overtime. The educational incentive, which pays troopers \$500 for an associates degree, \$1,000 for a bachelor’s, and \$1,500 for a master’s or above, is payable to all troopers. Shift differential is paid to troopers and non-commissioned officers for hours worked between 9:00pm and 7:00am. Only troopers and non-commissioned officers receive overtime compensation.

Also, none of these payments are used to calculate a member’s pension upon retirement, which is based solely on the last year’s salary. Therefore, young troopers entering the organization soon learn that they need to move up the rank structure not only to be successful while they are in the organization, but also to maximize the benefits they will receive after they leave.

Heinrich points out promotional criteria based on educational backgrounds have been hotly contested for decades and states that a college education does not guarantee that the individual will succeed as a supervisor. Studies by Cohen and Chaiken (1972), Weiner

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

(1974) and Sanderson (1977) all indicate however that there is a clear-cut relationship between higher education and promotions. Within the Division however, except for the educational incentive and the promotional requirements proposed by Col. Williams in 1995, the implementation of which has been delayed until 2006, there is currently no apparent consideration given to a member's educational background when determining suitability for promotion. This places those who have pursued advanced degrees on the same level as those who have only high school diplomas.

The Division does however publicly endorse its members pursuing advanced degrees. This is evidenced by the existence of such programs as the New Jersey State Police Graduate Studies Program within the Department of Education and Human Services at Seton Hall University. This program offers advanced degree programs designed primarily for members of the New Jersey and New York law enforcement communities. The Seton Hall program, established more than 20 years ago, helps students strengthen their professional knowledge and skills, while increasing their capacity for leadership in their respective law enforcement settings. The program allows students to attend classes on-campus as well as classes at various off-campus sites across the state.

Fairleigh Dickenson University offers a similar program through the college's School of Administrative Science. Students can earn either a Bachelor of Arts in Individualized Studies (BAIS) or a Master of Administrative Science (MAS) and as with Seton Hall; students can attend classes at various sites across the state.

Thomas Edison State College also offers "flexible, high-quality educational opportunities for self-directed adults" directed at the New Jersey State Police and other law enforcement personnel. Thomas Edison State College provides educational programs for the

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

law enforcement professional that accommodate those whose work and lifestyle demands make traditional college attendance difficult.

Continuing education and training helps police officers perform better at their jobs, and many believe that both are becoming essential for advancement. In addition, many agencies will pay the tuition costs for those working towards their degree in criminal justice, police science, administration justice, public administration or any other applicable degree. Recent budget constraints and an increase in the number of troopers pursuing degrees to meet the impending promotional standards have forced the curtailment of the Division's tuition reimbursement program since 2001. Efforts are currently being made to restore the program.

### **Is There an Advantage to Pursuing an Education**

In 1988, a study was conducted on behalf of the Police Executive Research Forum (PERF). Concerned with the diminishing education levels for police, members of PERF, who are mostly mid and upper level police executives, wanted to know:

- How many police agencies require a college degree for employment?
- How many give preference to college-educated applicants?
- How many have formal or informal educational requirements for promotion?
- What incentives exist for police officers to pursue higher education?
- How do educational requirements affect the recruitment of women and minorities?
- What progress has been made in the implementation of educational policies over the past two decades?
- Is the education movement gaining momentum in the law enforcement community?

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

The study consisted of a survey of approximately 250,000 officers and concluded that the general state of police education is good (Carter & Sapp, 1992) with an increasing number of departments requiring at least some college to be eligible for employment or promotion. There were three questions that continually arose;

- Does a college education make a police officer better?
- Has there been any significant change in departmental policies regarding education?
- What does the future hold?

The research was unable to provide a conclusive answer to whether college educated officers were “better” than their non-college counterparts as what makes an officer “better” is subjective and different individuals have different opinions.

The study did indicate that with the increased focus on “community policing,” police departments across the country have had to develop new methods and strategies for accomplishing their goals. Police officers have been given more responsibility and broader discretion in performing their jobs. The issue of a college education has taken on a more critical role as the knowledge and skills officers are required to have under community policing appear to be closely related. It appears that a college education makes an officer “a more effective decision maker, a better service provider, a better communicator, and one who is more responsive to the police mission” (Carter & Sapp, 1992)

Since the 1960’s, the average education level of police officers has risen significantly. In 1967, the average level was 12.3 years; in 1992, the average level was 13.6 years. Despite

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

this increase in educational levels, law enforcement agencies have had to be continually concerned about the discriminatory effects that educational requirements pose to minorities. Unfortunately, minorities are believed to have significantly less access to a college education and those that do have access often have lower college graduation rates as a result of poorer preparation in the public schools. Despite these concerns, however, a college education can still be required for police employment.

In the case *Davis v. Dallas*, (4) the U.S. Court of Appeals for the Fifth Circuit held that the Dallas Police Department's requirement of 45 semester hours of college with a "C" average was a job-related requirement in light of the unique responsibilities of the police and the public responsibility of law enforcement. This decision, however, does not mean that discrimination is no longer an issue.

The PERF study found that minority representation in law enforcement does tend to approximate the general population and that the educational levels of minorities closely resemble those of white officers. Despite this fact, law enforcement agencies must continue to base educational requirements on written policy and continue to recruit minority candidates who meet those requirements to ensure diversity within their organizations.

With respect to departmental policies, the PERF study found that approximately 14 percent of police departments had college degree requirements and of those that did not, college graduates still had a competitive edge over non-graduates. Requirements also varied ranging from 15 semester hours to a bachelors degree with the average being around 60 semester hours. Not all departments required a specific major, but most preferred a course of study related to law enforcement.

## Is Higher Education Worth the Cost to the Law Enforcement Professional?

Promotions were tied to education to a slightly less degree. Only 8 percent of police departments required some college beyond their initial entry requirements and only 5 percent required a bachelors degree, however a notable number of police chiefs indicated that they would prefer their command staff personnel to have college degrees (Carter, Sapp, 1992).

As we progress through the 21<sup>st</sup> century the demands placed on law enforcement will not only increase, they will become more complex and demanding. With the changes in our society, the increase in cultural diversity and the intense scrutiny under which the police function, law enforcement personnel will need to be better educated in order to be properly equipped to handle the demands that will be place upon them. It follows that better educated law enforcement personnel will require better educated leaders. The trend over the past forty years since the federal commissions of the mid 1960's, has been a gradual increase in the educational level of the law enforcement professional. This trend will most likely continue. New policies requiring more education for officers and supervisors alike will no doubt continue to emerge and these policies should specify both standards (minimum acceptable levels) and job-related courses of study, which need not be limited to criminal justice. Fields such as psychology, sociology, business administration and public administration all have relevance to law enforcement.

While educational standards will continue to rise, attracting qualified women and minorities will also continue to be a valid concern. It is evident however that standards for entry or promotion need not be limited. Instead, aggressive recruiting of qualified candidates and sound equal opportunity plans for entry and promotion need to continue so that police departments can achieve and maintain demographic levels respective of the communities they serve.

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Is Higher Education Worth the Cost to the Law Enforcement Professional?

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