

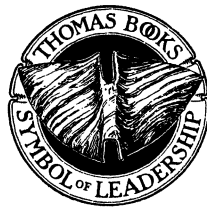
FIT, UNFIT OR MISFIT?

FIT, UNFIT OR MISFIT?

**How to Perform Fitness for Duty Evaluations in
Law Enforcement Professionals**

Edited by

KATHLEEN P. DECKER, M.D.



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CONTRIBUTORS

FABIENNE BROOKS attended Western Washington University and subsequently received an Atlantic Fellowship in Public Policy in 1996. She is a graduate of the FBI National Academy's 180th session and the Pacific Northwest Command College in 1999. Her law enforcement career included positions as a patrol officer, field training officer, and patrol operations and precinct commander. She was also involved in media relations, major crimes investigation, and supervision. She retired in August, 2004, as Chief of the Criminal Investigations Division with the King County Sheriff's Office in Seattle, Washington, after more than 26 years of service.

Chief Brooks has extensive leadership experience. She has directed a number of programs and associations and provides international training. During her 1996 Atlantic Fellowship in Public Policy, she worked with the Office of Public Management in London, England, to provide training to community members and law enforcement officials on the topics of "Policing for Safer Communities," "Policing through Partnerships," and "From Difference to Diversity." Chief Brooks is a former president of the Black Law Enforcement Association of Washington (1981), the Washington State Chapter of the FBI National Academy Associates (2003), and is the in her second term as president of the Washington State Chapter of the National Organization of Blacks in Law Enforcement (NOBLE).

Her company, Brooks S-A-C, Inc., is a consulting firm specializing in training, expert witness evaluations, community relations, and motivational speeches. She currently provides training to a local Washington fire department on the issues surrounding harassment and hostile work environment. Chief Brooks has extensive experience developing regional partnerships between law enforcement and community organizations to achieve common goals. She is on the board of directors of

the King County Sexual Assault Resource Center and the Public Defender Association. She is a trustee for the First AME Church of Seattle.

KATHLEEN P. DECKER, M.D., completed her Honors Undergraduate B.S. in Biochemical Genetics at the University of Michigan. She attended Stanford University School of Medicine and received an National Institute of Health Medical Scientist Training Program Award during medical school. She then completed a residency in psychiatry as well as a Postdoctoral Fellowship in Neuropsychopharmacology at Stanford. She received a Levine Grant Fellowship and a Spunk Foundation Fellowship in 1987 and a Meyer Foundation Fellowship in 1991. Other awards include mention for Clinical Teaching Award (2nd) in 1997 at the University of Washington and she was listed in Seattle's Best Doctors for Women (Seattle Magazine) in 2003.

Her academic appointments include Acting Assistant Professor, Department of Psychiatry, University of Washington from 1992 to 1995 and Clinical Assistant Professor from 1996 to the present. While she was a full-time faculty member at the University of Washington, she was appointed Acting Director of Inpatient Services at Harborview Hospital from 1992-1993 and the Director of Inpatient Dual Diagnosis Program, Harborview Hospital in Seattle from 1992-1993. She served as Medical Director of Psychopharmacology Clinic at Harborview Hospital from 1993-1996.

Dr. Decker has performed over 175 fitness for duty evaluations for more than 40 police departments and 30 other law enforcement agencies and the Washington State Department of Corrections. She was a psychological consultant to the Washington State Department of Corrections-Armed on Duty Program from 1998 to 2002. She has performed fitness for duty evaluations for civilian agencies including the Department of Health Social Services, the State of Washington, the University of Washington, and the Washington State Investment Board.

She has testified in multiple civil proceedings involving fitness for duty issues, allegations of employment discrimination, hostile work environment, sexual harassment, disability, competence, and chemical dependency. She has testified as an expert witness in criminal cases involving assault and homicide (including capital punishment) in the states of Washington and Alaska. She currently provides pre-employ-

ment psychological evaluations to several large sheriff's offices and police departments in Washington State.

Dr. Decker has lectured and conducted workshops for the Washington Association of Sheriffs and Police Chiefs on fitness for duty evaluations since 1999. She is a member of the American Academy of Psychiatry and the Law and is currently a member of the Law Enforcement Liaison Committee. She is also an affiliate member of the Washington Association for Sheriffs and Police Chiefs, and a member of the American Psychiatric Association.

She has been active in community service throughout her career. She has served as Mentor for the University of Washington's Minority Recruitment Programs since 1994. She is an adult leader with the Boy Scouts of America and was appointed Seattle Medical Officer as well as a National Medical Officer for the National Boy Scout Jamboree at Fort AP Hill, Virginia in 2005.

ANNE E. KIRKPATRICK, J.D., obtained a Bachelors degree in Business Administration from King College, a Master's degree in Counseling from the University of Memphis, and pursued post-Master's education in Counseling/Psychology. She received her Doctor of Jurisprudence from Seattle University Law School and is a licensed attorney in the state of Washington. She is a graduate of the FBI National Academy (Session #203) and the FBI's Law Enforcement Executive Development School (LEEDS) in Quantico, Virginia (Session #48).

She was a Memphis Police Officer from 1982 through 1986. In 1987 she joined the Redmond Police Department in Redmond, Washington. She was a uniformed patrol officer and a sergeant throughout most of her career in Memphis and Redmond. She also was assigned to the Washington State Police Academy where she was the Criminal Procedure Instructor and the Academy sergeant while employed in Redmond. In 1996, she became the Chief of Police of Ellensburg, Washington. Chief Kirkpatrick served the Ellensburg Police Department for four and half years and then became the Chief of Police of Federal Way, Washington in 2001, where she currently serves. Federal Way is the third largest city in King County and seventh largest in Washington State.

Chief Kirkpatrick has held a number of leadership and teaching positions in the law enforcement community. She has been a Commis-

sioner for Washington State Criminal Justice Commission and is the current President of Washington State Chapter of FBI Academy Graduates. She is currently Co-Chair of the Washington Association of Sheriffs and Police Chiefs and she is Chair of King County Police Chiefs Association's Auto Theft Task Force. She has taught in a number of capacities. She was Director of Criminal Justice and an Instructor at Green River Community College in Auburn, Washington, from 1995 to 1996. She is currently an instructor at the FBI National Academy in the FBI's Law Enforcement Executive Development School.

BRIAN J. WILSON is a 26-year veteran of municipal law enforcement. He received his B.A. from Washington State and his M. P. A. from Seattle University in 1985. He is a graduate of the FBI National Academy (Session #196). He began as a patrol officer with the Renton, Washington Police Department and over 16 years rose to the rank of Commander. In May of 1996, he joined the Federal Way, Washington Police Department as a Deputy Chief where he is still the current Deputy Chief.

He has served on a number of committees of the Washington Association of Sheriffs and Police Chiefs and is currently a board member of the South Puget Sound Regional Emergency Mobilization Board. He has served as a member of the City of Federal Way's negotiation team and been a major contributor to successful relations with the Police Guild, the Police Support Services Association, and the Lieutenant's Association since 1996.

Deputy Chief Wilson has also been an active leader in nonlaw enforcement organizations. He is currently Vice-Chair of the Board of Directors of Woodstone Credit Union and a member of the Board of Directors of Valley Cities Counseling Services, an organization that provides mental health counseling to South King County. In addition, he has served terms as President, Vice-President, Secretary, and Treasurer of the Federal Way Youth and Family Services Board.

PREFACE

This book is the product of a decade of clinical practice, research, and collaboration with a variety of professionals. The impetus to write the book was generated partly by a number of police chiefs and sheriffs who requested I provide “written guidelines,” including practical information about the conduct and expectations of Fitness for Duty (FFD) Evaluations. In the same time frame, I have been teaching psychiatrists about this area of expertise. The book combines primary research conducted on law enforcement personnel referred for Evaluations in Washington State with reviews of research from the literature. Certain sections of the book also contain data from surveys completed by Washington State police officers regarding their views on a number of issues.

Chapter 1, entitled “Introduction to the FFD Evaluations in Law Enforcement Personnel,” presents an overview of the reasons for performing FFD evaluations and an understanding of the process. The chapter outlines the reasons why such evaluations are performed and reviews expectations of the professionals conducting such evaluations. A vignette is used to illustrate some of the principles and difficulties involved in maintaining neutrality in the performance of FFD evaluations. The chapter ends with a checklist of the steps of a FFD from the agency perspective.

Law enforcement is a very high-stress occupation. There are many reasons that law enforcement professionals may experience difficulty with performance. In Chapter 2, entitled “Stress in Law Enforcement Personnel,” some of the many stressors and officers’ response to stress are explored. For example, there are stressors related to the intrinsic risks of working in a potentially violent environment, administrative issues, and balancing career and home life. In addition, there are the negative stereotypes of law enforcement professionals and a lack of

understanding of the demands of the unusual environment in which they operate. Chapter 2 presents a discussion of these stressors as well as coping mechanisms so that the reader may better understand the sources of stress and stress responses that may result in unfit officers.

Chapter 3 is entitled “Common Causes of Unfit Officers.” This chapter represents a key shift in the literature in the understanding of “unfit” officers. To date, no other publication has systematically examined the psychiatric diagnoses of unfit officers, and none which refer to the major accepted classification for psychiatric disorders, the Diagnostic and Statistical Manual for Mental Disorders (DSM-IV). Previous authors have tended to focus on behavioral reasons for referral rather than the presence (or absence) of specific psychiatric diagnoses. While many FFD evaluations are undertaken because of behavioral issues, it is important to understand why individual officers exhibit these behaviors. Original research data is presented in this Chapter on FFD Evaluations performed during a five-year period by the author. The data shed light on psychiatric diagnoses found in officers referred for FFD evaluations. Although, the study has limitations as any data set may be biased in spite of the sequential nature in its collection. Therefore, generalizing all of the results to all agencies and officers is not suggested. However, the data presented detail both major psychiatric syndromes, personality disorders, and interesting findings regarding family psychiatric history in officers found fit or unfit for duty.

Chapter 4, “Psychological Tests for Fitness in Law Enforcement Personnel,” discusses many of the myriad of structured psychological tests that can be used in FFD Evaluations. The use of some of these tests in pre-employment psychological evaluations is also discussed, as it is often useful to compare pre-employment psychological test data with that obtained during the course of a FFD Evaluation. Although both psychiatrists and psychologists are qualified to perform FFD evaluations, fewer psychiatrists currently perform them. Part of this is because standard psychiatric residencies teach only cursory information regarding standardized psychological tests such as the MMPI-2, MCMI-III, and others. Psychologists’ training usually includes detailed instruction and supervision regarding the interpretation of such tests. If psychiatrists intend to perform FFD Evaluations, it is important that they undertake significant education regarding the performance and interpretation of these tests, or collaborate with a psychologist who performs the structured testing.

Issues involving complex interactions of underlying medical and psychiatric conditions with various medications are becoming more important than in past decades. In part, this is due to the plethora of medications available and improved public education regarding the availability of medications. In part, it is also due to the recognition that an increasing number of law enforcement personnel are taking a wide variety of medications. Just as psychologists' training usually provides them with a more detailed understanding of psychological tests, psychiatrists' education provides them with the detailed understanding of medical and psychiatric conditions. As psychiatrists are physicians first, and specialists in psychiatry second, they possess skills at diagnosing and treating a variety of disorders which may affect officers' ability to perform their duties. A detailed knowledge of medicine and psychiatry is necessary to understand the impact of these medications on performance. Chapter 5, entitled "Medication Issues in FFD Evaluations," explores some of the potential impact that medications may have on officers' fitness. Chapter 5 presents a simplified overview so that police executives can have a framework for concerns. It is also meant to educate psychiatrists on the special skills necessary in law enforcement that may render the use of certain medications inadvisable although, such use might be acceptable in other occupations. Vignettes illustrate some of the complexities associated with medication use in law enforcement personnel.

Chapter 6, entitled "Police Officers' Expectations of Mental Health Professionals," outlines stereotypes and expectations that law enforcement personnel have regarding mental health personnel. The chapter quotes established literature as well as presenting data from a survey on Washington State local law enforcement personnel's attitudes. For evaluators, an understanding of the lack of information and misconceptions that officers have may assist them with interacting and educating officers and referring departments. For police executives, the chapter may serve as a reference to address officers' concerns prior to referral and throughout the process of a FFD evaluation. For both sets of readers, the chapter outlines some possible strategies to reduce the barriers between two disparate professions that share many of the same goals, e.g., helping others and community and individual safety.

As its title suggests, Chapter 7, "Gender and Ethnic Issues in Hiring, Stress and FFD Evaluations," reviews data regarding issues which are of special importance in different subgroups of law enforcement per-

sonnel. Literature regarding differences in hiring, stress, and FFD in different ethnic subgroups is reviewed. The chapter reviews the limited data on differences between male and female officers. Original research on gender similarities and differences based on the Washington study of law enforcement personnel referred for FFD evaluations is presented. Although the issues presented in this chapter are expected to evolve substantially as society changes, it provides a window into current practices and beliefs.

One of the least common but most stressful events for law enforcement personnel is duty death—when an officer is killed in the line of duty. Chapter 8, “Duty Death: A Major Stressor,” explores several aspects of duty death. Literature regarding the nature of the stress experienced by law enforcement personnel is reviewed. Next, interviews with command staff from a department that lost an officer due to duty death (by homicide) are presented. Finally, the chapter quotes a number of police officers’ comments on duty death which were made in the course of the survey of attitudes of Washington police officers. It also includes primary data that indicates interesting trends in the interventions officers believe may aid them after a critical incident. Their perceptions do not prove a specific intervention is useful. Their comments provide important insight into the nature and structure of future interventions to reduce stress.

Another uncommon but important event is detailed in Chapter Nine which is entitled “Police Suicide and Fitness for Duty.” The sometimes controversial data regarding police suicide is reviewed in this chapter. Certain investigators have claimed the rate of suicide is dramatically higher amongst law enforcement personnel and others that it is no different than that of the general population. A large body of literature is reviewed which summarizes the current state of knowledge in this area. A case scenario illustrates some of the concepts involved in determining whether an officer has a low or high risk of suicide. A second scenario highlights the radically different outcomes that are possible depending on how suicidal officers are approached and respond to treatment. The chapter attempts to reconcile discrepancies between different research studies in this area.

“The Management of Misfit Officers,” Chapter 10, explores some of the issues encountered when an officer is not necessarily mentally ill, but has become unsuitable for his or her current position. Examples include officers who experience personality shifts due to aging, changing priorities, as well as officers who misunderstood their own psycho-

logical makeup or the demands of the profession when they were hired. The chapter highlights some creative ways that departments and/or evaluators can work with officers to either shift roles within an agency or come to terms with their own psyche. Case scenarios are presented to illustrate fictionalized accounts of real cases in which “misfit” officers have been accommodated by agencies or shifted their focus.

Chapter 11, entitled “Legal Considerations: Discipline Versus Illness,” outlines a number of legal considerations and constraints involved in the conduct of FFD evaluations. It also provides an introduction to prior case law regarding FFD issues. Clearly, a single chapter cannot be viewed as an exhaustive resource as the law changes quite rapidly. There are also local and state variations in laws and interpretations which may contradict approaches in another jurisdiction. However, there are certain overarching legal principles which are addressed in this chapter. It is presented to give both police executives and evaluators a window into the legal consequences and constraints of FFD evaluations.

I have tried to incorporate a variety of objective and subjective observations on the field of FFD in law enforcement personnel. No one resource can answer all questions, but I hope this work will stimulate thought and discussion. In addition, it will hopefully assist future attempts to better understand and treat the difficulties that law enforcement professionals encounter in the performance of their hazardous and stressful public service.

KATHLEEN P. DECKER

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A large number of individuals have contributed to this book. I thank my great friend Dr. Walter van Schalkwijk for his encouragement, critical reading, and kindly prompting to finish this book. He lent his considerable literary skills to detailed editing suggestions, although the subject is outside his field. He exhibited great tenacity and encouraged me to pursue my dream. Chief Anne Kirkpatrick assisted not only with facilitation of distribution of surveys to police officers but contributed her perceptions regarding various topics. She coauthored the legal chapter. I also thank for her insistence that the topic of Fitness for Duty Evaluations needs to be more widely disseminated in the law enforcement community.

Deputy Chief Brian Wilson and (Retired) Chief Fabienne Brooks contributed both comments and constructive criticism of specific chapters. Mr. Leo Poort, Esquire (Chief Legal Counsel, City of Seattle) was kind enough to read and comment upon the legal chapter. Dr. Lawrence G. Wilson contributed valuable comments on certain chapters.

The unnamed officers who were kind enough to fill out survey forms regarding a variety of opinions are once again thanked for their participation. The author wishes the officers whose data were presented in FFD results in this book an easier, healthy future regardless of the outcome of their evaluation. Finally, I also wish to thank Dr. David Smith, Ph.D., for his influence on my career and this book. Our early collaborations on FFD evaluations fostered my career development in this area. His desire to improve and maintain the highest standards of mental health in law enforcement professionals sparked a fire in me to continue that tradition and to contribute to the literature in this area. Finally, I am deeply grateful to Mr. Michael Thomas, my editor, for his patience in the preparation of the manuscript. He and his editorial staff worked tirelessly to produce the book.

I hold myself entirely accountable for any inaccuracies in the material presented in this book and apologize for any omissions. I have tried to thoroughly research topics and quote established, controlled studies wherever possible so that the book is not based on the opinions of a single investigator. Because data is often boring to everyone except for scientists, I have tried to enliven the chapters by adding fictional scenarios wherever possible to illustrate points. The scenarios are all based on real incidents, but all of the scenarios have been altered to obscure identifiers and are usually composites of several situations.

K.P.D.

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FIT, UNFIT OR MISFIT?

Chapter 1

INTRODUCTION TO FITNESS-FOR-DUTY EVALUATIONS IN LAW ENFORCEMENT PERSONNEL

KATHLEEN P. DECKER

I. THE PURPOSE

1.1 Why?

There are several reasons to perform FFD evaluations. First, law enforcement personnel are the guardians of public safety. It is important that guardians of public safety are themselves healthy and trustworthy (Wu, 1984). This has been stated in legal language as guaranteeing “stable, reliable and productive workforce” (*Yin v. State of California*, 95 F.3d 864).

Second, law enforcement personnel undergo extensive mental and physical testing and a training process which is highly selective. The department or agency has thus invested time, money, and education to train the officer. If officers contract a temporary or treatable mental illness which affects their ability to perform their job, they should be offered an opportunity to undergo such treatment and resume productive employment. This is codified in the Americans with Disabilities Act (ADA, 1984). Specifically, Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 seek to prohibit discrimination against individuals with disabilities on the basis of disability (42 U.S.C. § 12131, et seq., 29 U.S.C. § 794). If a psychiatrist or psychologist determines that a law enforcement professional is suffering from a disability, the employer must make reasonable accommodations to the employee rather than summarily terminating him or her on the basis of poor performance (Wu, 1984).

A third function of a FFD evaluation is to assist agencies in ascertaining whether a law enforcement personnel's behavior is misconduct or the result of a treatable mental illness. If the set of circumstances or the officer's behavior precipitating the FFD evaluation is found to be the result of misconduct, then disciplinary action is the appropriate course. Both referring agencies and evaluators are unanimous that recommendations regarding law enforcement disciplinary process are *not* the province of a FFD evaluator, but rather must be dealt with according to policies and procedures of the agency in accordance with local, state, and federal employment laws. Thus, determining whether an individual should receive progressive discipline is not an issue for the evaluator to determine. However, if the officer is found to be suffering from a mental health condition, the chief or sheriff may elect to defer or delay certain disciplinary steps due to mitigating circumstances until the officer returns to duty. The author encourages heads of agencies to view the disciplinary process as separate and as a parallel track to the FFD evaluation. It is important for the disciplinary process to proceed whether or not the officer is determined to have a mental illness, but the delivery of such disciplinary action may be changed on the basis of the FFD evaluation.

The conduct of these examinations is important. FFD evaluation is used as a means of evaluating the psychiatric status of an officer. Evaluators need to remember that evaluatees view themselves at risk of job loss from the moment they are informed they have been required to submit to a FFD evaluation. Therefore, it is incumbent upon evaluators to maintain compassion as well as neutrality in the performance of these evaluations. Agencies must be prepared to defend the need for a FFD evaluation and not to seek these evaluations as an alternative to the disciplinary process, or as a solution for personnel issues. It is counterproductive for an agency to order the evaluation and face a lawsuit for invasion of privacy or wrongful termination (*Pettus v. Cole*, 49 Cal. App. 4th 402).

II. THE PROCESS

1.2 Content of the Evaluation

The content of the FFD Evaluation and evaluation materials is similar to that of a general mental health evaluation but has important dif-

ferences. A fitness-for-duty evaluation comprises much of the same material as a general psychiatric evaluation, with some important additional information. The usual categories in an evaluation should be addressed. These include: the referral source, chief complaint, the history of present illness, past psychiatric and medical history, educational history, social history, family history, profile of substance use, allergies, mental status exam, differential diagnosis, and DSM-IV diagnoses (see Appendix I for a sample evaluation).

Several additional kinds of supplemental information are important in fitness-for-duty evaluation which distinguishes it from civilian evaluations. This information includes military history and type of discharge, careful chronology of law enforcement or corrections positions, previous complaints or commendations by supervisors, presence or absence of civilian or inmate complaints against the officer, and past or present involvement by the evaluatee in legal action against the agency or institution (Varela. 1999). It is important to establish personal weapons possessed by the officer as well in light of the potential for suicide or homicide in dysfunctional officers. Finally, as most law enforcement personnel utilize physical training heavily as an outlet for stress, it is also useful to quantitate the evaluatee's exercise regimen and whether there have been any recent changes in the frequency of his/her routine. Collateral information that is necessary for most evaluations includes evaluations by direct supervisor and contacts with Human Resources. Careful consideration of complaints by family members, for example, domestic violence or other pending legal complaints, may also be important. It is advisable that documents pertaining to work performance, attendance and discipline be forwarded to the evaluating professional subsequent to or along with the initial evaluation visit (Johnson, 1995, Perry, 2002, Reynolds, 2002).

1.3 Collateral Interviews

Specific inquiries should be made to discern the origin of problems precipitating a fitness-for-duty evaluation. The evaluator must at times differentiate individual pathology vs. workplace conflicts. Emphasis should be placed on methods to maintain neutrality and provide an impartial evaluation. In certain cases where the evaluatee is resistant to the evaluation process, it may be preferable to provide the work performance and/or complaint documentation *after* the initial evaluation