



The “First Do No Harm” Model of Policing

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August, 2021

In 1829, Sir Robert Peel famously put forth his nine principles for policing which has served as a model for representative democracies throughout the world. The First Peelian Principle, crafted by the creator of the Metropolitan Police in London and the man often credited with being the father of modern policing, simply states that “the basic mission for which the police exist is to prevent crime and disorder”.¹ This principle has guided American policing policies for generations. **But there is a new model that has emerged in recent years that seeks to discard the First Peelian Principle in favor of other objectives.**

I refer to this model as the “First Do No Harm” model of policing. **Borrowing from the often misunderstood medical concept, this term is intended to paint a picture of a defensive policing model focused not on preventing crime but on minimizing legal liability, citizen complaints, negative publicity and disparate racial impacts. The prevalence of violent crimes, including homicides, are not significant considerations in this new model.**

When the COVID-19 pandemic first broke, many agencies effectively communicated to the public what normal operations in which they would and would not be engaged. Minor traffic violations, misdemeanors and property crimes would not be enforced due to fear of contagion. Similarly, the fear of lawsuits, public outcry and much more have resulted in many agencies experiencing a seventeen-month stretch of limited enforcement.

In some ways, this approach is not new. De-policing in times of public outcry has been frequent and widely documented. What *is* new is that the **“First Do No Harm” model is being pursued as a long-term strategy and is being codified into law in a way that de-policing was not.**

¹ Lentz, S. A., & Chaires, R. H. (2007). The invention of Peel’s principles: A study of policing “textbook” history. *Journal of Criminal Justice*, 35(1), 69–79.

De-Policing Versus a Formalized “First Do No Harm” Model

The strategy of de-policing is intended to decrease officer interactions with citizens and suspects. This is done in order to minimize the likelihood of controversial enforcement actions that could have negative results for individual officers as well as their agency leaders and elected officials. It is not new. Whether referred to as “No Contact, No Complaint” or “Hands Off” or any number of other terms, the strategy of disengaging from proactive policing strategies have proven time and again to be disastrous for society’s most vulnerable. De-policing results in more innocent men, women and children being victimized and fewer criminals being successfully prosecuted. And these disastrous results disproportionately harm those in low-income and disproportionately Black and Hispanic neighborhoods.

But in light of the recent public proclamations by some local political and law enforcement leaders, it seems clear that de-policing is being elevated from an informal and generally short-term reaction to public scrutiny, into a more permanent strategy.

There is a logical argument in favor of formalizing the “First Do No Harm” approach which is distinct from any debate regarding the wisdom of such an approach. If cities are going to engage in de-policing, for better or for worse, then there is arguably an ethical obligation to formalize this policy for officers and citizens. Officers are entitled to concrete guidance regarding the rules of engagement and citizens are entitled to know what police leaders will and will not direct their officers to do in their official capacity. Residents and business owners in cities across the country are being put on notice that “low level” crimes are no longer police matters.

The Hippocratic Oath and Law Enforcement

The Hippocratic Oath, from which the “First Do No Harm” model is derived, is often misunderstood. As Dr. Robert Shmerling, a physician writing for the Harvard Medical School Health Blog, recently stated:

[I]f physicians took "first, do no harm" literally, no one would have surgery, even if it was lifesaving. We might stop ordering mammograms, because they could lead to a biopsy for a non-cancerous lump. In fact, we might not even request blood tests — the pain, bruising, or bleeding required to draw blood are clearly avoidable harms.

But doctors do recommend these things within the bounds of ethical practice because the modern interpretation of "first, do no harm" is closer to this: doctors should help their patients as much

*as they can by recommending tests or treatments for which the potential benefits outweigh the risks of harm.*²

As Dr. Shmerling points out, it would be clearly unethical for doctors to allow patients to suffer and die out of an abundance of caution with respect to their own responsibility. But police agencies across the country, at the behest of elected officials, are pursuing such an approach. If more people are shot, stabbed, murdered, raped and otherwise victimized, that is a function of factors outside of law enforcement's control, the argument asserts. *We cannot arrest our way out of this problem* is the common mantra. **If crime and disorder spreads, under this model, the policing strategies are not to blame. We know this because so many police leaders and elected officials remind us continually that issues like “systemic racism” and gun control policies are to blame, not the nature of police activity.**

The Value of Naming the New Model

In order to assess the costs and benefits of what we are seeing in departments across the country, it would be helpful to name it. The “First Do No Harm” model of policing is in its infancy. We do not yet know the extent of the impacts it will have in the months and years to come. But it seems clear that assessing crime patterns and quality of life developments *without* considering the impact of law enforcement strategies makes the task of common sense analysis impossible.

As an attorney who has spent nearly 9 years training and advising law enforcement professionals in the areas of legal liability and risk management, the assumption has always been that managing—rather than eliminating—liability should be the goal due to the nature of the job. If you are pulling over drunk drivers and responding promptly to calls for service and acting when you see crimes in progress, there is going to be some liability. **The “First Do No Harm” model seeks to move our agencies much closer to zero liability.** It seems safe to assume that legal liability will be lessened because the less police officers engage in police work, the less often costly mistakes will be made.

But the more fundamental question is: if the “First Do No Harm” model is the future of policing for many communities, why should those citizens incur the cost of a police department in the first place? Why pay a doctor who simply observes a patient but provides no actual medical remedy? The new model may actually prove to be one of the strongest arguments in favor of de-funding the police.

The Nine Peelian Principles, taken as a whole, emphasize the vital importance of gaining the consent of the governed. Sir Robert Peel asserted that if the police do not have voluntary

² Smerling, R. H. (June 22, 2020). First, do no harm. *Harvard Health Blog*. Retrieved from: <https://www.health.harvard.edu/blog/first-do-no-harm-201510138421>

cooperation and support of the public, their operations are not sustainable. It would seem helpful to describe the “First Do No Harm” approach to the public clearly and honestly so that they can make informed decisions about the kind of policing that they will support.

Citizens deserve to be as informed as possible when it comes to the safety of themselves and their families. And if the human costs of this new model of policing prove too heavy for them to bear, they are entitled to know what allowed the contagion of violence to spread.

It is called the “First Do No Harm” approach to policing. And it may have very serious consequences.

About the Author

Matt Dolan is a licensed attorney who specializes in training and advising public safety agencies in matters of legal liability, risk management and ethical leadership. His training focuses on helping agency leaders create ethically and legally sound policies and procedures as a proactive means of minimizing liability and maximizing agency effectiveness.

A member of a law enforcement family dating back three generations, he serves as both Director and Public Safety Instructor with Dolan Consulting Group.

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