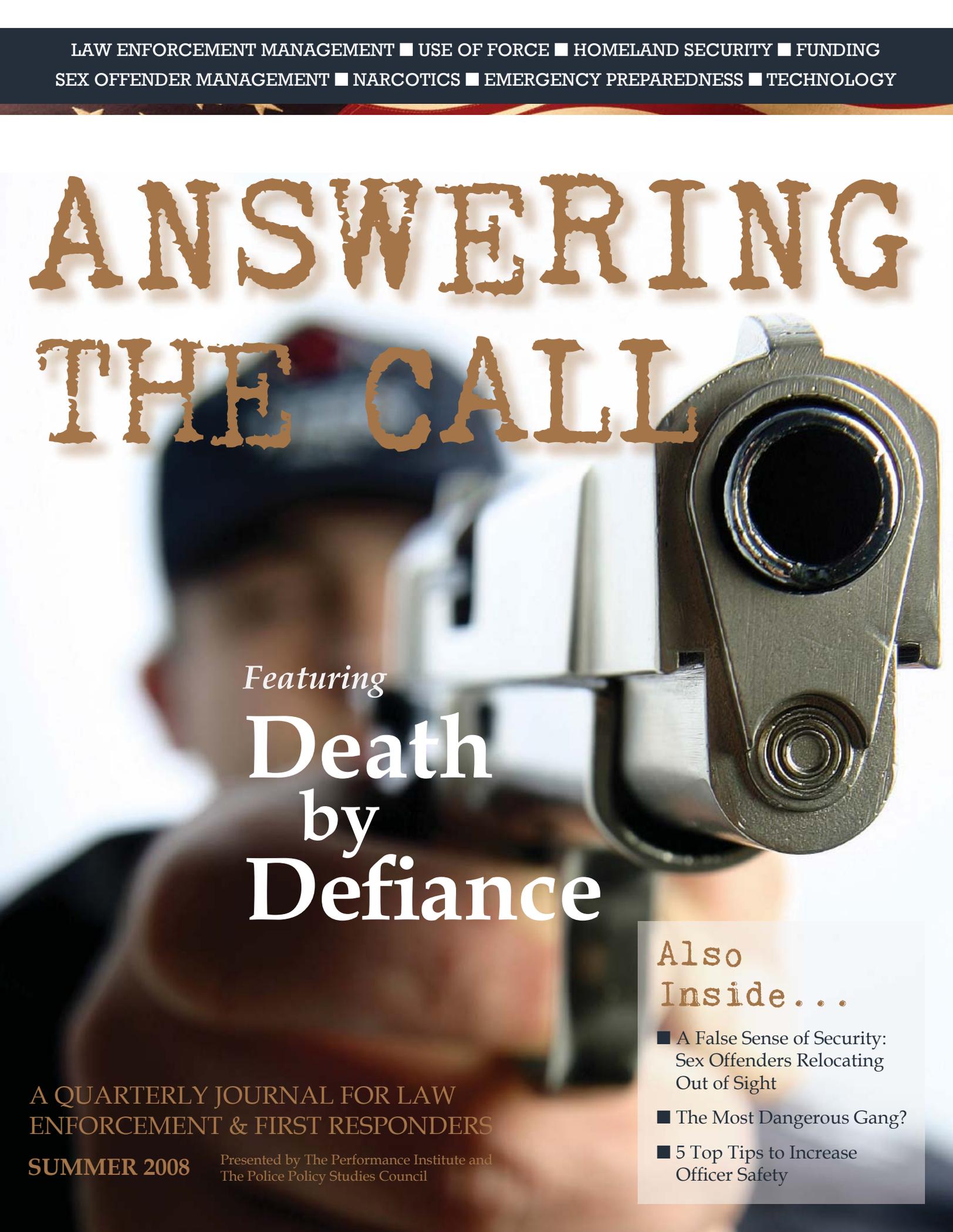


# ANSWERING THE CALL



*Featuring*

## Death by Defiance

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# DEATH by defiance

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**A ground-breaking new study offers fresh, critical insight on how officers make deadly force decisions**

## Introduction

While many professions embody a preponderance of decisional absolutes, there are professions that require a significant amount of discretionary latitude. Law enforcement officers are entrusted with a considerable degree of discretion, which is essential in navigating a world of human behaviors and circumstances that are often ambiguous. However, such latitude often creates greater hesitancy and indecision while an officer attempts to determine the “appropriate” response to a given situation.

Most of the recent research pertinent to the use of deadly force by police has been focused on what police do more than upon why they do it. Social scientists who have wandered aimlessly into this research realm have done so largely ill-prepared to discover anything of practical value. When they’ve attempted to determine “why” police use deadly force, they seem to fall victim to their own lack of personal insight about the nature of policing.

Not surprisingly, race has been explored exhaustively as a factor in the “disproportionate” police use of deadly force.

But, as a research variable, race has almost always been manipulated without meaningful context.<sup>1</sup> One is left to wonder why this tendency persists. This study embedded officer and suspect race as research correlates simply because their inclusion has become almost obligatory.

While many previous social science research endeavors have focused keenly upon the issue of “stereotype congruence/incongruence” in officers’ decision-making processes, we sought to embark on a study that would delve deeply into the generally overlooked micro-issues that are the very essence of the police decision-making process. These issues all fall within the realm of situational context and suspect behavioral cues.

In developing the methodology for our study, we conceded that where race appears to play a critical role in police decision-making, it may well be attributed to behavioral nuances that are perceived as being defiant and even threatening by

police. Weitzer and Tuch (2004)<sup>2</sup> presented evidence that members of ethnic minorities often feel as if they’ve been mistreated by the police (see also Sunshine & Tyler, 2003). The implication has been that the police are racist and that officers use excessive force against minority suspects. In response, it has been suggested<sup>3</sup> that black people may engage in more confrontational behavior toward police officers, perhaps adding to a cycle in which hostility toward police might prompt more severe applications of force by police.

Does defiant behavior toward authority contribute to the frequency of police shootings – especially under ambiguous circumstances? That question appears to be a legitimate one to ponder since “death-by-defiance” (to police) seems to be of predictive value when situational and behavioral cues are extreme in nature. One component of this study attempted to quantify whether defiance

1 Correll, J., Park, B., Judd, C.M., & Wittenbrink, B. (2002). The police officer’s dilemma: Using ethnicity to disambiguate potentially threatening individuals. *Journal of Personality and Social Psychology*, 83, 1314-1329

2 Weitzer, R., & Tuch, S. A. (2004). Race and perceptions of police misconduct. *Social Problems*, 51, 305-325

3 Reisig, M.D., McCluskey, J.D., Mastrofski, S.D., & Terrill, W. (2004). Suspect disrespect toward the police. *Justice Quarterly*, 21, 241-268.

(i.e., non-compliance to officer/deputy commands) contributed to the officer/deputy perception of an imminent threat. After a literature review of relevant research, we decided to establish a different research pathway and not rely on the synthesis and/or reinterpretation of previous studies.

The genesis of this study actually stems from consideration of an ACLU allegation<sup>4</sup> made on their website in 1998: 25% of all suspects shot by police are “unarmed and not-assaultive.” One of the three corroborative studies<sup>5</sup> cited by the ACLU was conducted by Marshall Meyer (1980). Meyer analyzed data provided by the Los Angeles Police Department from 1974-78 and reached a myriad of interesting conclusions about the LAPD’s use of deadly force. While noting disparities in the number of black suspects shot by LAPD, he noted; “In almost all instances, the suspect’s act precipitating a shooting incident is the final act that caused the officer to fire, that is, that act but for which the shooting would not have taken place.” pg.101

Believing that Marshall Meyer’s observations were at the heart of a very complex set of dynamics, the Police Policy Studies Council (PPSC) sought to conduct an experimental research project, focusing on specific micro-behavioral issues that seem to precede an officer’s use of deadly force. The Michigan Municipal Risk Management Authority saw sufficient value in the scope of this project to agree to provide a portion of the needed funding, with PPSC picking up the bulk of the remaining expense. The study, once structured, was named, “A Critical Analysis of Police Shootings Under Ambiguous Circumstances.”

<sup>4</sup> <http://www.aclu.org/police/abuse/index.html>

<sup>5</sup> Meyer, M.W. (1980), “Police Shootings of Minorities: The Case of Los Angeles”, *Annals of the American Academy of Political and Social Science*, Vol. 452, pp. 98-110.



## Study Overview

To undertake this study, actors were hired to facilitate filming 80 scenarios of three types; (1) Robbery-in-Progress, (2) Burglary Alarm Activation-in-Progress and (3) an officer-initiated “Suspicious Incident.” The “Alarm Activation” scenario always evolved into a “Burglary-In-Progress” upon the officers “arrival.” The officer-initiated “Suspicious Incident” usually evolved into a “Mugging-In-Progress.” The actors utilized as “suspects” in these scenarios were “young,” “old,” “black,” “white,” “male” and “female.”

There were 307 officers/deputies from six agencies participating in this study, engaging a total of 117 “unarmed” suspects. In examining whether there was correlation between officer’s attributes (race, sex, age, experience, type of duty location) and an officer’s action, we found that no significant correlation exists. Nor was there any significant correlation between officer action and order of scenario videos, subject race or subject sex.

This study found significant correlation existed between officer action and action of the subject (shoot, surrender with object in-hand, and surrender without object in-hand), acting quotient, and video setting (burglary, robbery, and mugging). Also, significant correlation existed between an officer’s action and two attributes of the subject – subject’s age and subject’s dress.

Officers/deputies participating in this study were more likely to shoot when the subject was young (rather than old), in punk dress (rather than business dress), and when the acting quotient was high (rather than low). Officers were also more likely to shoot in robbery scenarios than in muggings and more likely to shoot in mugging scenarios than in burglary scenarios. Lastly, officers are more likely to shoot when a subject’s action is “shoot” than when a subject’s action is “surrender without,” and more likely to shoot when a subject’s action is “surrender without” an object in-hand than when it is “surrender with an object in-

**DEATH BY DEFIANCE**, *Continued on p. 10*

# FEATURES

This apparent anomaly is explained by the high correlation found in scenarios which had been assigned high “acting quotients” (AQ) for the amplitude of critical acting variables. The higher the acting quotient, the higher the correlation was for officers shooting “unarmed” suspects.

■ OFFICERS/DEPUTIES PARTICIPATING IN THIS STUDY WERE MORE LIKELY TO SHOOT WHEN THE SUBJECT WAS YOUNG (RATHER THAN OLD), IN PUNK DRESS (RATHER THAN BUSINESS DRESS), AND WHEN THE ACTING QUOTIENT WAS HIGH (RATHER THAN LOW). ■

## Acting Quotient (AQ)

In an effort to pursue more meaningful data interpretation – primarily to explain (or predict) certain anomalies in the way that participating officers reacted to specific scenarios, we scored acting qualities for “values” that appear to add varying levels of “compelling quality” to each scenario. For instance, if an actor turned more quickly toward the camera in one scenario than another, a participating officer might react to that turn with more belief that it represented the initiation of a threat than if that turn had been less rapid. Likewise, if the actor turns with his/her hands at waist level – where a secret weapon is believed to have been accessed, the officer might be more inclined to shoot than if the actor turned with his/her hands held

high, in more of a “surrender” posture. AQ values are scored cumulatively and it is assumed that a higher AQ cumulative value (3-4) will result in a higher frequency of “unarmed” suspects being shot than in scenarios with lower AQ cumulative scores (0 - 2.5). For example, a turn characterized by E,LH,PC, CH would have an AQ score of 3.5.

## Actor’s Quotient Values

| Actor’s Action      | Symbol | Value |
|---------------------|--------|-------|
| Tepid Turn          | T      | 0     |
| Energetic Turn      | E      | 1     |
| High Hand(s)        | HH     | 0     |
| Low Hand(s)         | LH     | 1     |
| Upright Stance      | U      | 0     |
| Partial Crouch      | PC     | .5    |
| Full Crouch         | FC     | 1     |
| Open Hand(s)        | OH     | 0     |
| Half-Closed Hand(s) | HC     | .5    |
| Closed Hand(s)      | CH     | 1     |

An anomaly that wasn’t fully considered until the research project began was the realization that the actors behaved differently in those scenarios in which they were given a handgun and instructed to turn and fire at the movie camera. None of the five actors identified themselves as recreational shooters – or even gun owners. All were given an orientation with the .38 Smith & Wesson M640 revolver used in the “armed” scenarios. The actors were not instructed in the intricacies of “combat shooting,” they were merely familiarized with function and safety of that specific handgun. It came as a surprise that when later reviewing each filmed scenario, actors behaved noticeably differently with the handgun in-hand. They tended to turn with more of a body crouch, with their shoulders forward and knees somewhat bent. In addition, a grimace was somewhat noticeable on actors’ faces when turning with a handgun. There may have been a prac-

tical reason for that, since the full-flash “Hollywood Blanks” utilized for effect were loud and bright during night-time filming. Whatever influenced the actors to grimace, it added more visual emphasis to their turn toward the camera. The combination of crouching and grimacing contributed to a more “intense” look when actors turned with, and fired, a handgun.

It is essential to note that suspect hand movement – even that which seemed tepid, as he/she turned toward the camera, was almost always too fast to determine the nature of any object being held in the suspect’s hand. Suspect hand movement, as viewed from the camera lens, almost always encompassed 4-5 feet of an arc of movement toward the camera. With that much viewed distance of hand movement being covered in one second or less to achieve (1) at least 90% completion of a full turn or (2) the suspect firing his/her first shot at the camera, the latency period of saccadic eye movement falls far behind the rapid movement of the hands. This visual phenomenon becomes apparent when rapid movement is perceived as a blur or a “smear” of motion. Subsequently, it was often difficult for participants to discern when a suspect’s hands were not holding any objects until rapid hand movement terminated. This tends to explain why some participants shot suspects who turned to “surrender” with empty hands. The manner in which some suspects turned and the context in which they were viewed (i.e., the type of crime that they were perceived committing), often compelled participants to shoot before there was any certainty about whether the suspect was armed.

In addition to movement of the hands, another substantive hand-variable was noted after all scenarios were filmed and reviewed. Actors were not instructed when to “open” their hands when turning toward the camera into a “surrender” position. Subsequently, some actors initiated their turns toward the camera with open hands while others initiated turns with clenched hands.

# ANSWERING THE CALL

Even with the rapid hand movement evident in all scenarios, the difference was almost always readily apparent. And, the difference is significant to trained eyes. An open hand is perceived as a much less threatening hand since it is almost immediately recognized as an “empty hand.” An empty hand is perceived as a weaponless hand. A clenched hand, especially when viewed in rapid movement, exudes significant behavioral ambiguity. A rapidly moving clenched hand is much less likely to be viewed innocuously if the situational context is severe.

For the scenarios involving the (actor’s) use of deadly force (which was 1-in-3 of all scenarios), we gave an orientation to the actors relative to using a Smith & Wesson M640 revolver in .38 Special caliber. The revolver was being loaded with “full-flash” Hollywood blanks for each scenario that involved the “suspect” using deadly force.

What this study did not originally account for was the manner in which actors appeared “stimulated” whenever they acted out scenarios that involved them holding/firing a handgun. They appeared to turn (toward the camera) at roughly the same pace, but they more frequently turned in a crouching posture with hands more clenched. Even facial expressions changed in substantive ways that might be perceived as being “more aggressive.” Actors often appeared to grimace in anticipation of the loud report and flash of the blank cartridges that were fired from the handgun. But, to a trained observer, that same grimace might be perceived as an expression of defiance and determination.

## Empty-Hand vs. Object In-Hand Suspect Variations

In an attempt to determine the nature in which suspects might be shot while unarmed, we filmed two variations of the unarmed scenarios. In all three types of scenarios (burglaries, muggings, robberies), actor/suspects were filmed with firearms in one variation, innocuous objects



(cell phone, flashlight, police ID wallet) in another variation and empty-handed in yet another variation. Due to the eye’s (saccadic) latency period in tracking rapidly moving objects, it was believed that objects held like weapons would in fact be confused for weapons when actors were moving rapidly, and under the low light conditions in which all scenarios were filmed. Since at least 71% of all “mistake-of-fact” police shootings occur at night (Aveni, 2002), this research element was deemed critically relevant.

## “Death by Defiance™”

Death by Defiance™, or DBD, may have been the most important derivative of our deadly force study. The forensic and police training implications are many. DBD, as defined by our study, is a synergistic behavioral phenomenon occurring (1) where and when non-compliant behavior (2) is viewed as being hostile within what appears to be a felonious context (3) eliciting the police use of deadly force when a threat of death or serious bodily harm is perceived as being imminent to that officer. An officer’s perception of imminent danger can be reasonably construed when (1) the officer has issued concise audible commands (e.g., “Police – don’t move!” or “Police, show me your hands!”) yet is met with defiant behavior construed from direct non-compliance of said commands. If, given substantive situational context,

the officer senses (non-compliant) furtive movements that appear consistent with the initiation of a lethal threat, the officer might reasonably believe that the preemptive use of deadly force is appropriate.

To characterize Death by Defiance™ as concisely as possible, we’re offering this definition: **A justifiable police homicide that occurs after a flagrant level of furtive, suspicious or otherwise reckless behavior is viewed concurrently with a subject exhibiting non-compliance to stated and/or exhibited police authority. When such behavior is confronted within substantive situational context, and the officer senses that the subject’s (non-compliant) actions appear consistent with the initiation of a lethal threat, an officer might justifiably use deadly force in a pre-emptive manner. Thus, the subject’s defiant behavior becomes a compelling determinant of the officer’s use of deadly force.**

*As one might imagine, the nature and depth of this study is difficult to synopsise in a short article. Likewise, the implications of this study (e.g., training, administrative, investigative) are too many to enumerate here. However, the Police Policy Studies Council offers the full 44-page text of this study for FREE download on the PPSC website ([www.theppsc.org](http://www.theppsc.org)). If anyone wishes further information about the study, or about its direct training and forensic applications, feel free to contact the study’s author directly at [tom@theppsc.org](mailto:tom@theppsc.org).*