

BY KARL G. RULING

What does “best practices” mean?

I REGULARLY HEAR someone say they are following “best practices” because they are following standards. Most standards do not say they are “best practices,” and, even if they do, “best” is a problematic term. Steve Adelman, writing as a lawyer in “Best practices: A legal disclaimer” in the Summer 2015 issue of *Protocol*, argued that “the term ‘best practices’ is not very helpful” and reminded us what our fundamental legal obligation is in caring for each other. As a wordsmith, I would argue “best practices” is a phrase that works for some people some of the time, but “best” might not mean what we think it means.

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My second-grade teacher, in her lesson on the comparative and superlative, explained that you had to have at least three things for one of them to be “best.” If you only have two, one could be better than the other, but not best. That seemed crazy to me. If you gave me a choice between a Big Hunck and a Look candy bar, the Look bar was best because it was chocolate-covered! However, she’d explain it was only better; I’d have to have a choice that included a third item—a Snickers—for the Look bar to be the best. She’d also argue that the best was unique, so I could not have two best candy bars if I had a choice of four or more.



Sears Roebuck & Co. regularly offered three levels of quality in its catalogue: good, better, and best.

Only one would be “best.”

My second-grade teacher’s definition of “best” as distinct from “better” exists today. The Oxford Languages definition pulled up by Google says “best” is an adjective meaning “of the most excellent, effective, or desirable type or quality,” with similar words including “unrivaled, second to none, without equal, nonpareil, unsurpassed, unsurpassable, peerless, matchless,” and so on.

However, another meaning for “best”

often used in conversation and marketing, is “much better.” The *How to Spend It* magazine in the 5 March 2022 *Financial Times* ran a story, “The World’s Best Coffee Shops,” listing 25 shops around the world. Are each of these shops without equal, unsurpassable? That’s no more likely than the children of Lake Woebegone all being above average. If “best” is the top category of at least three categories, what are the other categories? There are only two categories here: one explicit and the other implicit—

the coffee shops listed here and all the others not listed. Despite the title, this is not a listing of “the best” coffee shops; it’s a listing of coffee shops better than the ones not listed. However, a story entitled “The World’s Better Coffee Shops” is not likely to catch a reader’s attention in *How to Spend It*, so, of course, that’s not the title.

Most standards do not say they offer best practices, but a few do. The ones I can find are in law enforcement. In researching for this article, I came across *BSR/ASB BPR 160-202x, Best Practice Recommendation for Initial Response at Scenes by Law Enforcement Officers*, a draft new standard. The description in *ANSI Standards Action* said, “This best practice recommendation provides guidance for the initial response by law enforcement officers (LEOs) to scenes. The guidance includes: arrival procedure, safety considerations, medical intervention, assessing the scene, preventing scene contamination, scene containment and control, evidence identification and preservation, turning the scene over to investigators, and documenting actions and observations.”

The *ANSI Standards Action* listing had a link to a free public review document, so I could actually read it. What the document recommends as “best practice” is broad. Article 4.6, Scene Containment and Control, says “Once an assessment of the scene has been made, responding LEO(s) should establish perimeters in order to control crowds and to restrict access into areas . . . Movement throughout the scene should be limited to only necessary actions by authorized personnel only.” Then the LEO(s) “. . . should make a reasonable effort to:

“a) Control individuals at the scene to prevent altering/destroying the scene and any physical evidence within it, while ensuring and maintaining safety at the scene.

“b) Identify individuals at the scene, such as suspects, witnesses, bystanders, victims/family/friends, law enforcement, medical, and other assisting personnel.

“c) Control the flow of persons, animals, etc. entering and leaving the scene to maintain integrity of the scene.

“d) Document the entry/exit of all people entering and leaving the scene, once boundaries have been established.”

. . . and so on for three more list items. “Reasonable efforts” are by definition reasonable; it would make no sense to require unreasonable efforts, but the range of actions that could be considered “reasonable” is wide. I once accompanied LEOs as they broke up an under-age drinking party at a mansion in Montecito. As the officers arrived, hundreds of adolescents scattered in all directions—far more people than the few officers present could control. Only a few people were detained and identified. In contrast, the New York Police Department marshaled a small army to sweep up hundreds of people from the streets and sidewalks in mass arrests to control demonstrations during the 2004 Republican Convention. Lawyers for the city argued that the arrests were permissible because “where it reasonably appears to the police that a large group is engaging in unlawful conduct, the police have probable cause to arrest the entire group.” Letting people go and arresting everyone on the street all might be “reasonable,” depending on who is making the judgment. Article 4.6 of *ASB BPR 160* doesn’t say exactly what an LEO must do in specific instances other than that the LEO should take **reasonable** steps to accomplish the listed items. Thus, there really are only two classes of actions implied in *ASB BPR 160*: you do what is reasonable or you don’t. My second-grade teacher would say these are not “best practices.” They are “better practices.”

Given the cultural context of law enforcement in the United States, it’s not surprising that a law enforcement standard calls its guidance a “best practice recommendation.” What administrator defending a city’s police is going to say that the officers follow better practices? Of course they are going to follow best practices—just as the *Financial Times* is

going to list the best coffee shops! And the draft standard does offer useful advice, such as making sure that lawn sprinklers don’t obliterate evidence. Much of this would be learned in police academies, but a standard reinforces that body of knowledge and helps make what LEOs are supposed to do clear to the affected public, the people the LEOs work for.

Most standards do not say “best” in the title. Most say somewhere in the scope that they are minimum practices, or they simply give a specification. An example of a minimum practice standard is *NFPA 101, The Life Safety Code*. Article 1.2 says, “The purpose of this Code is to provide **minimum** requirements, with due regard to function, for the design, operation, and maintenance of buildings and structures for safety to life from fire.” [Emphasis added.] Furthermore, it’s a standard written to be enforced by “the authority having jurisdiction designated by the governing authority.” (Article 1.6) It offers requirements that are easy for the AHJ to measure and say have been met or not. For example, article 7.8.1.3 says that the floors in an exit path shall have a minimum illumination of at least 1 foot-candle, except for assembly occupancies (e.g., theatres) where it can be as low as 0.2 foot-candle during a performance. Simple! Put a light meter on the floor and see what it says. If it shows the minimum or more, okay! If less, not okay. This is not a best practice. It’s a better practice since the choices are two: okay or not okay. Okay is better.

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This may seem like a pedantic grammatical argument, but words affect how we think, and what we think affects what we do. If you think standards are “best” practices, and you learned the difference between better and best from your English

teacher, you might think a standard’s recommendations are unrivaled, second to none, unsurpassable. You may be tempted then to do the minimum specified and call it “best.” That may cause problems.

NFPA 101 is a useful document, but if a person thought the minimum illumination levels for exit paths in *NFPA 101* are unsurpassable, the exit path may be impossible to see for some people. Some populations will need more light—residents of a senior living facility, for example—and glare may obscure the floor. I recently was in a theatre where the aisle lights shined up as well as down. I had to shield my eyes to see the floor, although I have no doubt that the floor met the minimum illumination requirement. *NFPA 101* also requires a minimum of one trained crowd manager for any assembly occupancy, and an additional one for every additional 250 occupants, but churches are exempt from this requirement if the crowd is fewer than 500. (Article 13.7.6) If your church only holds 499, you don’t need any trained crowd managers at all per *NFPA 101*. Zero is easy!

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Zero is easy, but is having no one trained in crowd management exercising a reasonable duty of care? What is reasonable depends. For any event—religious or secular—there are going to be risks and steps that can be taken to ameliorate those risks, and what is truly reasonable depends on the event. Perhaps no managers is fine for some religious services, but I’ve been to some Pentecostal services where a few people appointed to take care of those in ecstasy would have been good. I’ve stage-managed jazz fusion concerts where the mandated two managers were frighteningly few for a stoned crowd of 460. Chamber music events in the same venue were easily handled with an usher and a house manager.

“Best” is not a fixed number.

Adelman argued in his Summer 2015 *Protocol* article that the law does not require you to do what is best, only what a reasonable person would do in similar circumstances. “Circumstances” depends on different factors—different for each event. Events are of the moment, and no moment is the same as any other. Shows change, venues change, the surrounding community changes, and people change. (I’m now allergic to chocolate; Look bars aren’t “best.”) “Reasonable” also means that a person must use reason. A reasonable person should have knowledge, experience, and mature judgment to apply to particular circumstances. That means gathering information, talking to others on the production team and in the community, considering the risks, and then, applying good reasoning, coming up with a plan and implementing it. “Reasonable” also means addressing the hazards and events that reasonably can be expected to happen. An event safety plan that includes responding to extraterrestrial alien invasion in addition to active shooters with firearms is not a better plan—it’s only thicker and less likely to be read by the people who need to implement it.

On 5 November 2021 over 50,000 people went to the Astroworld Festival in Houston. Ten died in a crowd-crush and several thousand were injured, despite there being a security team including “more than 500 hundred on-duty Houston police officers” (*New York Times*, 15 November 2021). Texas Governor Greg Abbott formed a Task Force on Concert Safety to determine what went wrong and what can be done to ensure it doesn’t happen again. On 19 April 2022 the Task Force’s nine-page report was published (<http://estalink.us/opyzz>), with five findings that can be summarized as:

- (1) a need for a unified command and control structure;
- (2) a need for a unified permitting process to establish jurisdiction and authority over an ultimate event shutdown;

- (3) a need for adequate training for security and event staff for each specific event;
- (4) a need for event planning with risk assessment relevant to the unique event; and
- (5) a need for a centralized depository of resources to help with the four items above, an *Event Production Guide*.

The *Event Production Guide* can be found on the Texas Music Office website at <http://estalink.us/3ssep>. It’s referred to in the Task Force’s report as a listing of “best practices.” It’s 34 items: standards, books, classes people can take, government regulations, government guidance, PowerPoint presentations pointing to other resources, and a link to ESTA’s TSP published standards website, where many of the listed standards can be downloaded for free. It’s a more heterogeneous list than “The World’s Best Coffee Shops,” but similar in that there are commonalities among these resources. The *Event Management Plan Template* from the Lincolnshire Event Safety Partnership is not the same as the *Guidelines for Concerts, Events and Organised Gatherings* from the Government of Western Australia Department of Health on the other side of the world, but they aren’t that different. Which is best?

What’s best is none of these documents, websites, PowerPoint presentations, classes. These are all only better, but they can help people to use reason to arrive at what is best for their particular event—the act, the venue, the audience, and the people running the event. There is no singular, universal “best practice” any more than there is a world-wide best coffee shop. ■



Karl G. Ruling is ESTA’s Senior Technical Standards Manager. He also serves as *Protocol’s* Technical Editor. Karl can be reached at karl.ruling@esta.org.