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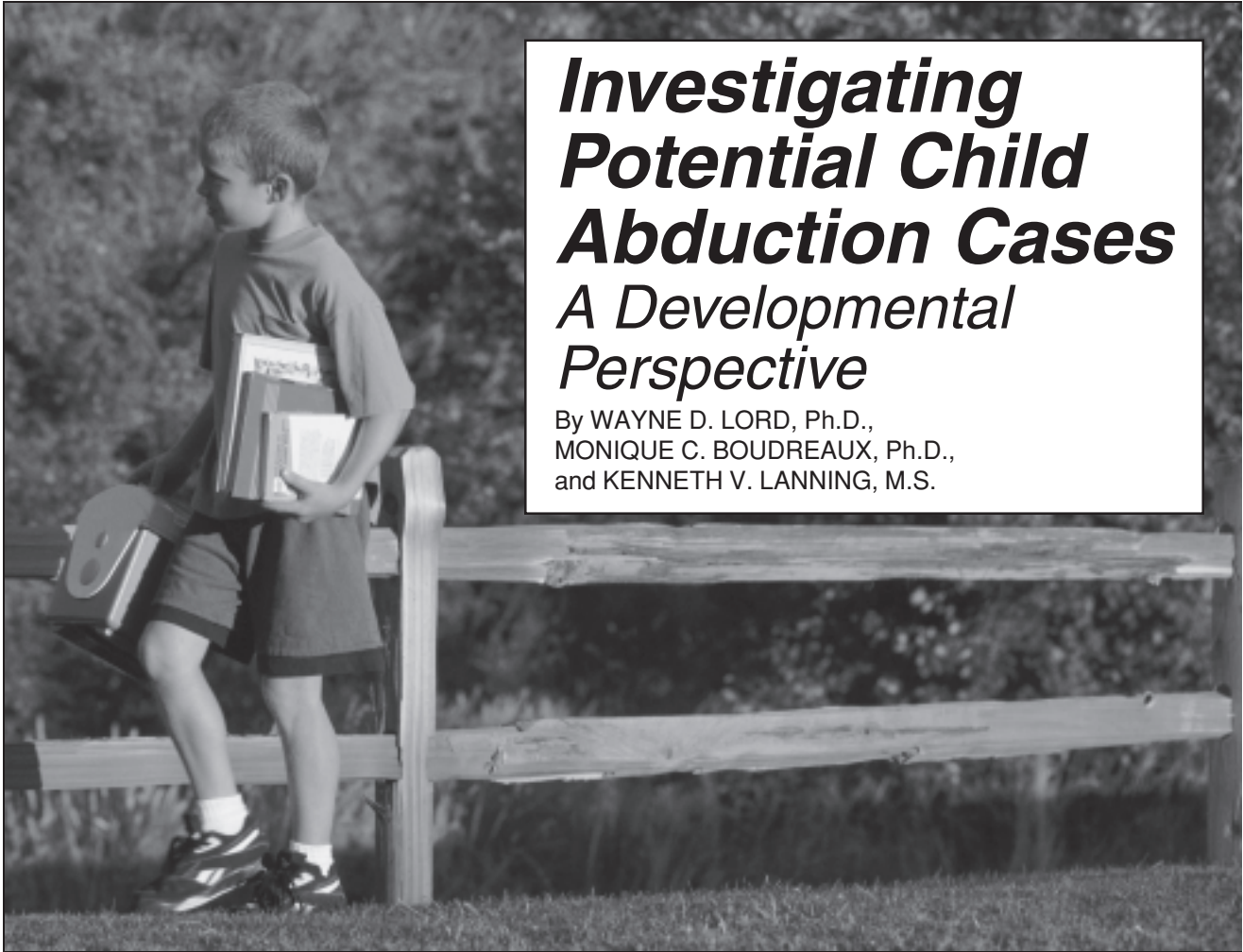
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Investigating Potential Child Abduction Cases A Developmental Perspective

By WAYNE D. LORD, Ph.D.,
MONIQUE C. BOUDREAUX, Ph.D.,
and KENNETH V. LANNING, M.S.

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The concern that people share for the welfare of their own children, as well as for the children of others, illustrates the fundamental value children hold in society. Few relationships are as powerful or emotional as those between adults and children. Parents, families, neighborhoods, and communities strive continually to create programs and practices that provide their children with healthy, secure environments where they can thrive and grow. Due to their physical, emotional, and cognitive dependence on adults, however, children remain uniquely susceptible to

abuse, neglect, and exploitation, which make them vulnerable as victims for a variety of differing offenders who abuse and exploit them for such reasons as sex, revenge, and profit. Occasionally, this maltreatment results in missing, abducted, or allegedly abducted children.

The value people place on children makes missing child incidents among the most widely publicized cases encountered by law enforcement. The reported abduction or mysterious disappearance of a child captivates families, neighborhoods, communities, and entire nations. In

the 1980s, several highly publicized stranger-perpetrated child abduction cases heightened public and parental concerns and fears and led to the widespread belief that stranger abductions had become increasingly common. This awareness caused parental groups, civic organizations, political representatives, and government agencies to support programs focusing on missing children.

PREVIOUS RESEARCH

While public fears and perceptions focused on stereotypical stranger abduction, in which an



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older adult male from outside the community preyed randomly upon an unsuspecting child for sexual gratification, initial research findings painted a different picture. Studies found that abductions by family members represented the most prevalent child abduction type, ranging from 163,200 to 354,100 cases annually.¹ In contrast, the national incidence of child abductions perpetrated by nonfamily members ranged from 3,200 to 4,600 cases annually, with only 62 percent of these cases committed by strangers.² Additionally, long-term stranger abductions, where serious risk of victim mortality existed, only accounted for between 200 to 300 cases annually. These statistics included children ranging in age from birth to 18 years and, therefore, displayed diverse victim characteristics and vulnerabilities. Stranger abductions, although a serious and potentially lethal problem, did not appear as widespread as experts believed

originally. More recent child abduction and child homicide research generally supports these findings.

A DEVELOPMENTAL PERSPECTIVE

Contemporary analyses of nationally representative child abduction patterns demonstrate that law enforcement and criminal justice professionals can better understand the dynamics of child abduction by assessing child victimization from a developmental perspective.³ Simply put, as children progress through life they become more physically and emotionally mature, more independent, and more mobile. As they age, their attributes, vulnerabilities, and accessibility change, and they gain exposure to and become desired by different types of abductors who exploit them for different reasons. Younger, more constantly monitored children (birth to 5 years), for example, generally have a greater risk of victimization by parents or

other trusted caregivers who have access to their protective confines. More independent school-age children who experience lapses in supervision by caretakers are more accessible and more often victimized by acquaintances or strangers outside their homes.⁴ Thus, during their lives, children face different abduction and victimization scenarios and risks.

MOTIVATING FACTORS

Why are children abducted? Interpretation of offender motivations and behaviors often is complicated,⁵ particularly in abduction cases where children simply seem to vanish. In such cases, the ensuing investigation involves searching for both the victim and an offender who may be a parent, relative, friend, acquaintance, or total stranger. This differs from other scenarios, such as parental abductions, where the identity of the offender and sometimes the location of the abducted child are known, and the

offender's motivation is more obvious.⁶ Even in the most clear-cut cases, however, law enforcement may have difficulty determining exactly why the offender abducted the victim. The apprehension of the offender and a reliable confession may not even provide law enforcement with the true underlying motive. However, an accurate understanding of the behaviors and intentions of offenders who abduct children and how these crime characteristics change as potential victims get older can provide investigators with important insights early in a developing case and allow them to use their resources more effectively.

Research and investigative experience have shown that family abductions, motivated by domestic discord and custody disputes, overwhelmingly represent the most frequent type of child abduction. Short-term, nonfamily incidents where abductors release or return children, often before anyone knows they are missing, constitute another type of child abduction. Short-term cases often involve sexual molestation. Long-term, nonfamily abductions are the least common and those that result in child homicide happen rarely. These cases frequently come to the attention of police as missing child reports and rarely result in quick resolution. Motivations for long-term, nonfamily abductions include: sexual gratification; retribution (e.g., revenge or "collecting" on an unpaid debt); financial gain (e.g., ransom or extortion); desire to kill (this, alone, is reported to motivate and gratify some offenders);

and, maternal desire (where an offender desires to possess a child and abducts primarily newborns and infants).⁷ Sexually motivated abductions represent the most common type of nonfamily abduction and classically pose the highest risk of victim mortality.⁸ Long-term, nonfamily child abduction cases shock the public conscience and, because of their potentially lethal nature, law enforcement must conduct expeditious, informed, and well-managed investigations.

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FALSE REPORTS

Investigators also encounter cases involving false allegations of abduction. Typically, a parent or primary caregiver perpetrates these cases. They report a child as missing or abducted to hide their involvement in the child's death or conceal their knowledge of the child's location. Such was the case of Susan Smith, who fastened her two sons into their car seats and watched the car coast into a lake. Subsequently, Smith told police that an armed carjacker had taken both her car and her children. A timely and thorough investigation conducted by experienced law enforcement personnel ultimately

proved the fallacy of this allegation. In another case, a mother reported her teenage daughter missing and claimed to have received a telephone ransom demand. An intensive 3-day investigation located the daughter at a friend's house where she had been staying with her mother's knowledge and approval. An overwhelming need for attention appeared to motivate the mother's false report.

INACCURATE REPORTS

Most long-term abductions are reported to the police, not as abductions, but as missing children. The majority of the 450,000 children reported to police as missing each year are lost or have run away.⁹ Most of these children are found quickly and law enforcement resolves their cases with minimal investigative effort. Consequently, determining whether someone has legitimately abducted a child, particularly if the missing child is a teenager, often is not obvious or easy. In short, because most missing children are not abducted and most abducted children are not missing, investigative complacency becomes a statistically understandable response. The investigation of a missing child who possibly was abducted, however, constitutes the most serious and perplexing challenge facing law enforcement agencies. It can rapidly overwhelm and exhaust all available resources (e.g. financial, personnel, logistical) and impose heavy personal and professional burden on investigators, support personnel, and management. Because nonfamily abductions are comparatively rare,

law enforcement agencies often find themselves unprepared for such demanding and emotionally taxing investigations.¹⁰

LAW ENFORCEMENT'S RESPONSE

Aware of the patterns and dynamics generated by scientifically sound child abduction research, law enforcement can conduct more efficient and effective missing child investigations. While each case presents unique challenges, comprehending the ways that child abduction cases typically occur and understanding the abduction scenarios most commonly seen within specific age groups can assist in the evaluation process, provide investigators with early intervention strategies, and facilitate the time-critical management of investigative resources prior to expert consultation. To this end, the FBI, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention, the Washington State Attorney General's Office, the National Center for Missing and Exploited Children, and the British Home Office¹¹ have conducted valuable child abduction and child homicide research. Additionally, the FBI's Critical Incident Response Group (CIRG) employs a nationally responsive team of child abduction experts who provide investigative support to requesting law enforcement agencies.

The collective research, training, and case experience of CIRG's child abduction experts have resulted in child abduction typologies. These descriptions exclude family abduction cases centered in custody disputes. They

illustrate the patterns typically seen in cases where a child is reported to police as missing and potentially abducted. These typologies may not represent all child abduction incidents.

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Newborns (birth to 1 month)

Two basic types of child abduction scenarios typically appear in newborn cases. The most common form, “infant abduction” or “maternal desire abduction,” generally involves a female stranger abducting a very young victim for the purpose of raising the child as her own. These offenders need children to save a failing or stressed relationship with a significant other, to fulfill their own maternal desires, or the desires (perceived or real) of their partners. Typically, these women abduct newborns from hospitals or from the child's home, and often live miles away from the place of the abduction. Interviews with these offenders indicate that they plan their abductions well, with some offenders effectively feigning pregnancy for months and creating elaborate ruses (posing as nurses, hospital employees, and other child

care specialists) to gain access to suitable victims.¹² They often report visiting multiple hospitals prior to attempting an actual abduction, “casing” the facility much like a bank robber does when selecting a victim, the child's sex is not important, with male and female children at equal risk. However, the victim's race is important, because it generally must match that of the offender or her partner. Recent statistics indicate that hospital abductions have decreased, most likely due to increased awareness and the implementation of safety precautions and procedures in maternity and neonatal departments. As a result, abductions from alternative locations (e.g. victim's home, health clinics) may increase. Abductions from nonhospital settings more often result in violence because the abductor frequently prepares for a physical confrontation with the child's mother, father, or other caregivers.¹³

The 24-hour period following any child abduction is particularly critical; thus, law enforcement must prepare a rapid and intensive investigative response. One of the most effective investigative strategies in infant abduction cases involves the cooperation of media to alert community members and to seek their help in the recovery of the victim. Tips from caring community members resolve many infant abduction cases. Interviews with offenders indicate that media publicity generally does not affect their behavior or additionally risk the child's safety. With guidance from law enforcement, media coverage can focus on sympathetic pleas for the safe return

of the child from the victim's parents, grandparents, or respected community members. Minimization of the criminal culpability of the offender and the criminal nature of the abduction is crucial. Cases involving this type of abduction have a high resolution rate, with 9 out of 10 victims returned home safely.

The second form of abduction involving newborns involves victimization for emotion-based reasons (e.g., anger, frustration, revenge, or retribution). Most of these cases do not represent true abductions. Emotion-based abductions include child abuse fatalities resulting in parents claiming abduction (i.e., false allegations), revenge, retribution, and rage-based crimes. Emotion-based offenses may target the child (i.e., primary caregivers with inadequate coping and parenting skills) or serve as a means of punishing the child's parents. These forms of abduction are more common among infant and toddler victims. However, for newborn victims, the biological mother is the most common offender in emotion-based cases, with or without assistance from the biological father. The mother often uses abduction claims to hide the child's untimely death. In instances where the offender attempts to dispose of the victim's body, the remains usually are packaged in some manner (e.g., plastic bag, box), hidden, and disposed of relatively close (within 5 miles) to the victim's home.

Infants (1 to 12 months)

As with newborns, infants also frequently are victims of either

emotion-based crimes or maternal desire abductions. However, maternal desire offenses become progressively less common as these children age and emotion-based cases predominate. Because maternal desire abductors generally require newborn victims to play a part in their elaborate maternal fantasy, an infant more than a few months of age may be too old for their purposes. When compared to newborn

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victims, the dynamics of the infant maternal desire offenses are similar. However, for infant-age victims, who no longer require hospitalization, many abductions occur outside of a clinical setting. Although offenders sometimes use ruses, the risk of violence to mothers, fathers, and other primary caregivers increases.¹⁴

The most common abduction scenarios involving infant-age children are emotion-based. In such cases, male infants face a higher risk of victimization than females. Generally, males (particularly biological fathers) perpetrate these

emotion-based offenses. Offenders often impulsively kill victims in their residences in personal ways that require close physical contact (e.g., blunt force trauma, suffocation) and subsequently report them to the police as missing. Typically, they dispose of victims close to their home (within 1 mile of the offender's residence) in a secure location familiar to the offender. The remains of most victims are found outside, hidden or buried, and in many cases, the offender has placed the child in some type of container (e.g., plastic bag, box) prior to disposal. Most emotion-based offenses occur impulsively and lack detailed planning. The frequent recovery of the victim's remains near the home may reflect either the offender's reluctance to leave familiar territory or, more likely, a hastily prepared disposal plan.

Toddlers (1 to 2 years)

Like their infant counterparts, toddlers are victimized primarily for emotion-based reasons, and the characteristics of these crimes are similar. Although rare, toddlers also are victims of sexually motivated abductions. Like infants, male toddlers face a slightly higher risk of abduction in emotion-based offenses, with offenders usually being biological parents and other family members. The mother's boyfriends and ex-boyfriends also are common offenders. Similar to other emotion-based offenses, these cases appear impulsive and lack extensive planning.¹⁵ Furthermore, precipitating domestic stressors that result in displaced aggression frequently precede them. Accessibility to the

Remember to Enter Those Children

Federal law requires *immediate* entry of all missing children into the National Crime Information Center's (NCIC) Missing Person File. The Missing Children's Assistance Act (42 U.S.C. Section 5772) defines a missing child as an individual under 18 years old whose whereabouts are unknown to the individual's legal custodian, and who was either taken from the control of the legal custodian without the custodian's consent *or* the circumstances of the case indicate that the child is likely to be abused or sexually exploited.

The National Child Search Assistance Act of 1990 (42 U.S.C. Section 5780(2)) states that law enforcement agencies may not observe a waiting period before accepting a missing child report and that *each* missing child reported to law enforcement must be entered *immediately* into the state law enforcement system and NCIC.

The Missing Children Act (28 U.S.C. Section 534) clarifies that "any information that would assist in the location of any missing person" should be entered into NCIC, and that the *abductor need not be charged with a crime* to enter a missing person's report into the NCIC Missing Person File. *All* children who have been taken from their legal custodian should be entered into NCIC—even if they are with a parent. A child still is considered "missing" when his or her general location is unknown. The child should remain in NCIC until the exact address where the child can be found is determined.

Also, remember to place the child abduction (CA) flag in the Missing Person field in appropriate missing children cases. Specifically, the flag should be used under the following conditions:

- There is a reasonable indication or suspicion that a child has been abducted and

is missing under circumstances suggesting foul play or a threat to life.

- A child has been snatched off the street by a stranger.
- A particularly young child disappears from the home or a public place.
- A child is missing with an abusive, suicidal, or homicidal parent.
- A runaway child is known to be suicidal or has a severe, life-threatening medical condition.

Entries with the CA flag are immediately automatically transmitted to the FBI's 24-hour Strategic Information Operations Center (SIOC) and the National Center for Missing and Exploited Children. The SIOC alerts the FBI's National Center for the Analysis of Violent Crime (NCAVC) and other appropriate FBI entities. Experience and research have shown that the first hours after an abduction are critical to the resolution of the case. The NCAVC provides operational assistance to federal, state, local, and foreign law enforcement agencies through the following services:

- profiles of unknown offenders;
- crime analysis;
- threat assessments;
- investigative strategies;
- interview and interrogation strategies;
- behavioral assessments;
- trial preparation and prosecutive strategies;
- expert testimony; and
- coordination of other resources, including FBI Evidence Response Teams and FBI Laboratory services.

victim remains a critical factor in the toddler abduction equation. Toddlers constantly depend on others for their supervision and care. Thus, strangers generally have very limited access to these children.

Sexually motivated abductions of toddlers are rare, which may be due, in part, to the physical immaturity and undesirability of these children as sexual objects. When they occur, however, male offenders with ready access to the locations and routine activities of these children are the primary perpetrators.

Preschool Children (3 to 5 years)

When compared to cases involving toddler victims, emotion-based offenses are less common in preschool children. Sexual crimes, however, occur more frequently. Toddlers, whose increased mobility and desire for independence make them more difficult to control, may cause their caregivers increased stress and frustration.¹⁶ Preschoolers, on the other hand, are often more physically and emotionally developed. This generally reduces dependence and pressure on parents and primary caregivers, decreasing the number of parental emotion-based incidents. Along with their physical and emotional development, however, preschoolers exhibit greater autonomy and experience more prolonged lapses in adult supervision. For example, parents often allow preschoolers to play in their front yards with minimal supervision, providing strangers and acquaintances greater access to these children. Increased ease of access, greater physical maturity, and inherent vulnerability may account for the increase in

sexual and profit crimes involving preschool victims as compared to toddlers. Not surprisingly, strangers and acquaintances are often the perpetrators of sexually motivated and profit-based offenses in preschool children.



For preschoolers, emotion-based crimes are predominately familial with biological parents (primarily fathers) and parental boyfriends/girlfriends commonly responsible for these offenses. Offenders are most often males and their victims primarily female, which differs from the slightly higher male victim population in the infant and toddler groups. In cases where offenders kill victims, approximately one-half dispose of the body within 100 yards of the abduction site (almost always the victim and offender's shared residence). However, some offenders who kill their victim transport the remains greater distances, attempting to separate themselves in time and space from the abduction site.

Sexually motivated abductions, while more common than in

toddlers, occur less frequently in preschoolers than emotion-based crimes. When they occur, however, females are usually victims. The race of both the victim and the offender closely matches the demographics of the area where the abduction takes place. Usually, offenders are male and an acquaintance of the victim (commonly neighbors). This represents a drastic departure from the large number of family offenders found in emotion-based preschool cases. Again, the accessibility of the victim appears to be a critical factor in dictating victim-offender relationship.

Preschoolers who are victimized by sexually motivated offenders are often abducted from their yards or neighborhoods by offenders who know them and who have ready access to these locations. These offenders often have a history of previous sexual misconduct. Some of these offenders desire children as their preferred sexual partners (preferential offenders) while others are simply sexually indiscriminate (situational offenders). Almost all sexual abductions of preschoolers occur at or within 1 mile from the victim's home.

Profit-based offenses (e.g., ransom, extortion, robbery, drug related) involving preschool victims are rare. Stereotypical incidents involving young children kidnapped for ransom are especially rare (less than 1 percent).¹⁷ In preschoolers, profit-based abductions generally occur in the context of crimes against older victims, where the abducted preschooler is taken because of a pre-existing parental drug debt or in the course of a carjacking or robbery. A thorough investigation

of friends, associates, and subordinates of the child's parents often provides valuable insights into the origins of these crimes.

Elementary and Middle School Children (6 to 14 years)

Child abduction patterns change dramatically when children reach school age. Victimization rates almost triple and, while the sex of a victim generally is not a critical factor in offense patterns involving younger children, school-age females are at least 3 times more likely to be abducted and murdered than school-age males. These trends appear to be related directly to an offense motive. In school-age children, sex represents the overwhelming reason for abductions. Offenders usually are male and select female victims.

The relationship between offenders and victims also changes dramatically for school-age children with most cases perpetrated by acquaintances or strangers. This trend becomes more evident in older school-age children where stranger abductions predominate. Again, changes in victim access, physical maturity, and vulnerability appear to be primarily responsible. When children reach school age, they often acquire more independence and mobility. They become exposed to new environments and situations, often without the guidance and supervision of their parents or primary caregivers. In these situations, they become more accessible to nonfamily offenders who find them physically mature enough to be sexually desirable and vulnerable enough to be easily controlled

and exploited. Thus, while younger children are victimized more often by family members and acquaintances in protected circumstances, acquaintances or strangers seeking sexual gratification typically abduct older, more physically mature children outside of the home.

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Strangers are responsible for about one-half of elementary school abductions, and acquaintances, such as neighbors, family friends, and adult associates are responsible for the rest. For middle school children, however, strangers are the most frequent offenders. The offenders in these cases often have a history of previous sexual misconduct, impulsive behaviors, violence, substance abuse, and psychiatric treatment. They usually display poor social skills and work habits, and frequently are deemed “socially incompetent.”¹⁸ Their inability to interact effectively with others may cause them to obtain victims by abduction. These individuals often reside, work in, or frequent the area where they commit their crimes, which gives them a legitimate explanation for their presence.

Most abductions of elementary school children occur in or around the victim's home, with the vast majority of the victims abducted within 1 mile of their residence. As they age, however, school-age children frequently are abducted from more distant locations such as playgrounds, shopping malls, and other areas of recreation. Disposal sites of the remains also become more distant as victim age increases. In cases where offenders kill the victims, the remains of younger school-age children generally are recovered within 1 mile of the abduction site, although some offenders dispose of their victims over 10 miles away (one-half of these victims are found more than 30 miles away). A larger number of older school-age children are recovered from distant sites. As found in other age groups, these offenders often are familiar with the disposal sites they select and typically make little attempt to hide the victim's remains. These offenders leave most remains unconcealed or superficially cover them with available materials—few bury their victims or conceal them in packaging materials.

Compared to the abduction of younger children, emotion-based offenses are much less common in school-age children. As found in emotion-based cases involving younger children, the sex of the victim does not appear to be a critical risk factor. Primarily, offenders are male and familiar with their victims. Victimization occurs typically in the victim's home or front yard. Similar to cases with preschoolers, profit-based offenses are extremely rare among school-age children.

High School Children and Older Teens (15 to 17 years)

While sexually motivated abductions are particularly prevalent in elementary and middle school children, the number of sex crimes decreases in the high school group. Profit and emotion-based offenses, however, become more prevalent. The older child's possession of money or other valuable belongings may contribute to the increase in profit offenses. Also, high school children often have increased exposure to and involvement in drugs and other high-risk activities, which increases the risk for profit-based offenses.

Offense characteristics in sexually motivated abductions involving middle and high school children generally remain similar. High school sex crimes primarily involve female victims and male offenders. Offenders are usually strangers or acquaintances of the victim. Family members rarely commit these abductions. While abductions of high school children sometimes occur in their homes and yards, most are nonresidential, with the majority occurring in public areas outside the victim's neighborhood or in vehicles. Often these offenses occur more than 1 mile from the victim's home. In cases where offenders kill their victims, they typically dispose of the remains within 5 miles of the abduction site. As with sexually motivated abductions of elementary and middle school children, offenders typically do not hide the victim's remains, but might superficially cover them with available materials. Few victims are buried. Concealment in containers or

packaging materials is extremely rare.

High school profit-based abductions involve more male victims. These offenses primarily pertain to the sale and distribution of drugs, and offenders are usually strangers or acquaintances. These offenses occur most often in or around the victim's home, with only a few occurring outside of the victim's neighborhood.

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High school emotion-based offenses closely resemble adult crimes of domestic violence. They overwhelmingly involve teenage females victimized by boyfriends, ex-boyfriends, and paramours in stalking and domestic-type disputes. Thus, it appears that as children enter their older teen years, their patterns of abduction and victimization begin to resemble those found in adults.¹⁹ The overwhelming prevalence of female victims represents a distinct change from the victimology of emotion-based offenses involving younger children (younger male and female victims were generally at equal risk).

Predictably, offenders usually are male and acquaintances or paramours of the victim. These offenders generally abduct their victims in domestic-type disputes, which represents a departure from the familial emotion-based cases typical of younger children. Abductions frequently occur in close proximity to the victim's home, with most taking place within 1 mile. In high school children, abduction-related deaths generally involve more weapons than abduction-based homicides involving younger children. This may reflect the necessity to subdue physically stronger and potentially adversarial victims. In cases where offenders kill their victims, they generally dispose of the remains within 5 miles of the abduction site.

CONCLUSION

Crimes against children, particularly those involving abduction and homicide, continue to become problematic both as a social phenomenon and as the responsibility of law enforcement. Although missing child cases frequently are not abductions, law enforcement agencies must prepare themselves for the inevitable life-threatening case by establishing child abduction investigation protocols and memoranda of understanding with adjacent law enforcement agencies. Such planning is effective only when initiated prior to an abduction allegation and the ensuing investigation. Additionally, each agency must provide specialized training to specific investigators who can manage these potentially complex and high-profile investigations. Because of the intense personal nature

of these cases, investigators also must master the difficult task of controlling their own emotions to objectively evaluate all possible scenarios.

Child abduction investigations can burden law enforcement agencies, quickly depleting resources and emotionally exhausting personnel. The 24-hour period following an abduction represents a particularly critical time, and law enforcement must prepare to respond immediately and effectively.

At the onset of an abduction investigation, information can be vague. However, when coupled with a thorough understanding of how and why child abductions occur, even limited initial information can provide investigators with avenues for investigation. As children get older and become more independent and mobile, abduction risk levels change and different victimization patterns emerge. Agencies can use their knowledge of these patterns to effectively direct investigative resources. Additional factors, such as identifying the location of the last-seen, abduction, assault, homicide, and remains disposal sites can improve case resolution and solvability.²⁰ Modern law enforcement technologies, such as computer-aided case management systems, geographic profiling services,²¹ aerial-mounted remote sensing equipment, and computer-based interagency communication networks also can supplement classical investigative procedures. Every abduction case presents unique challenges and police investigations must be immediate and thorough. Understanding statistical

probabilities only represents part of the investigative equation. Thorough investigations include detailed victimology, intensive neighborhood and roadblock canvasses, timely witness interviews, detailed crime scene searches, media coordination, and common sense.²² ♦

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...child abduction investigations can burden law enforcement agencies....

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Endnotes

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¹⁴ Supra note 12.

¹⁵ Supra notes 3 (Boudreaux, Lord, and Dutra) and 4 (Finkelhor).

¹⁶ Supra note 4 (Finkelhor).

¹⁷ Supra note 3 (Boudreaux, Lord, and Dutra).

¹⁸ Supra note 8.

¹⁹ Supra notes 3 (Boudreaux, Lord, and Dutra) and 4 (Finkelhor).

²⁰ R. Keppel and W. Birnes, *Signature Killers* (New York, NY: Simon and Schuster Inc., 1997).

²¹ D. Rossmo, *Geographic Profiling* (Washington, DC: CRC Press, 1999), 347.

²² The FBI’s Critical Incident Response Group (CIRG) employs a nationally responsive team of child abduction experts available to assist requesting law enforcement agencies with investigative support and case consultation services. Additionally, the National Center for the Analysis of Violent Crime has published an investigative guide to child abduction investigations, titled “The Child Abduction Response Plan.” Copies of this guide are available to law enforcement agencies, at no charge, through their local FBI offices. Informational inquiries and requests for case assistance should be directed to CIRG, FBI Academy, Quantico, Virginia, 22135, telephone number (703) 632-4333.

Bowling Alone but Not Patrolling Alone

By Tobias Winright, M.Div., M.A.



In 1995, sociologist Robert D. Putnam published an article describing a disturbing trend in American civic life and culture. Titled “Bowling Alone,” the article and a thoroughly researched and recently published book by the same title state Putnam’s thesis that civic involvement by U.S. citizens is in decline.¹ Turning to bowling as an example, Putnam observes that although Americans may be bowling as much as ever, they are notably less likely to bowl in organized leagues.

In both publications, Putnam identifies evidence of declining participation in a wide range of civic venues, including, to mention a few, political parties, religious groups, unions, parent-teacher associations, and fraternal organizations. Putnam worries, moreover, that as citizen participation in these spheres wanes, so too does America’s “social capital,” namely, those connections between people that foster cooperation and trust. A number of culprits, according to Putnam, are to blame for today’s deterioration of civic engagement, such as generational differences, excessive television viewing, and the pressures of

time and money. The erosion of such social capital arouses concern, on the part of Putnam and most academics accepting his observations as accurate, for the future of American participatory democracy.

Here in this ceremony today, however, 22 citizens who are becoming reserve police officers for the Des Moines, Iowa, Police Department can see themselves proudly representing at least *one* countervailing example to this trend of “bowling alone,” correct as Putnam’s thesis generally may be. The members of this graduating class are organized to volunteer their time and energy to assist the Des Moines Police Department to serve and protect the community. Each person *already has* devoted nearly 5 months to training, 2, 3, and sometimes 4 days a week. And, from this day forward, each has committed to serving as a reserve officer for at least 16 hours every month for only 1 dollar a year.

History of Citizen Involvement

In volunteering as reserve officers, they are joining a long tradition of citizen and community policing that extends back into history even prior to the establishment of the first police department in 1829 by Sir Robert Peel in London. After the Norman conquest of England in 1066 by William the Conqueror, each county (or shire) had a *shire reeve* (from

Mr. Winright, a professor of religion and ethics at Simpson College in Indianola, Iowa, and a reserve police officer for the Des Moines, Iowa, Police Department, delivered this speech at the graduation ceremony of the fourth basic reserve police officer class for the Des Moines Police Department.



which sheriff is derived) who was responsible for calling together a posse of citizens whenever the need arose to apprehend a suspected criminal who was believed to be likely to try to flee the area. In addition, from the thirteenth century on, there was the night watch, which consisted of a rotation of citizens who protected property and maintained order.

Similar community night watches were transplanted onto American soil at Boston in 1636 and New York City in 1686.² These watches, done by men over the age of 18 and holding other jobs, included patrolling streets, making rounds, reporting fires, dealing with runaway animals, announcing the time and weather conditions, caring for street lamps, and raising a general alarm upon discovering criminal activity.

To be sure, the increasing disorder associated with industrialization and urbanization by the nineteenth century became too much for the system of community watches to handle and, therefore, required the formation of police departments with full-time personnel. Today, however, such disorder continues to exist, and many departments, such as the Des Moines Police Department, again are turning to civilian volunteers from the community who can help full-time police officers maintain the thin blue line. This class of reserves has responded to that call in the face of the factors that Putnam has identified as inhibiting such civic volunteerism.

Obstacles to Citizen Involvement

Generational differences have not hindered the Des Moines Police Department's efforts to recruit volunteers to become reserve police officers. Looking at this class, one can discern 3 decades represented among its ranks, including persons in their 20s, 30s, and 40s. According to Putnam, although the decline in civic engagement in other organizations is especially evident in how younger citizens are much less likely

to be involved in community groups than their older fellow citizens, this class of reserves is comprised of both younger and older citizens. Channel-surfing couch potatoes definitely fails to describe this group of men and women, including those at the younger end of the spectrum. The dedication, the engagement, the desire, and the motivation of these people has proved uniform and impressive across the spectrum of ages.

Moreover, each of these reserve police officers already has another job and knows the pressures of time and money. Occupations represented among this class include grocery store worker, business owner, city employee, security officer, dispatcher, priest, college student, and college professor. Many of these reserve police officers also have spouses, children, and other significant commitments. Most have had little time and energy to spare, especially during this training period in the academy; however, they discovered that they could make the time and somehow find the energy. Such obstacles did not deter these volunteers from this form of

civic engagement. Indeed, much of America may be *bowling alone*, but this class of reserve police officers is here today to volunteer its time, energy, and skills to help serve and protect the citizens of Des Moines, Iowa, ensuring that the full-time officers of the Des Moines Police Department are not *patrolling alone*. ♦

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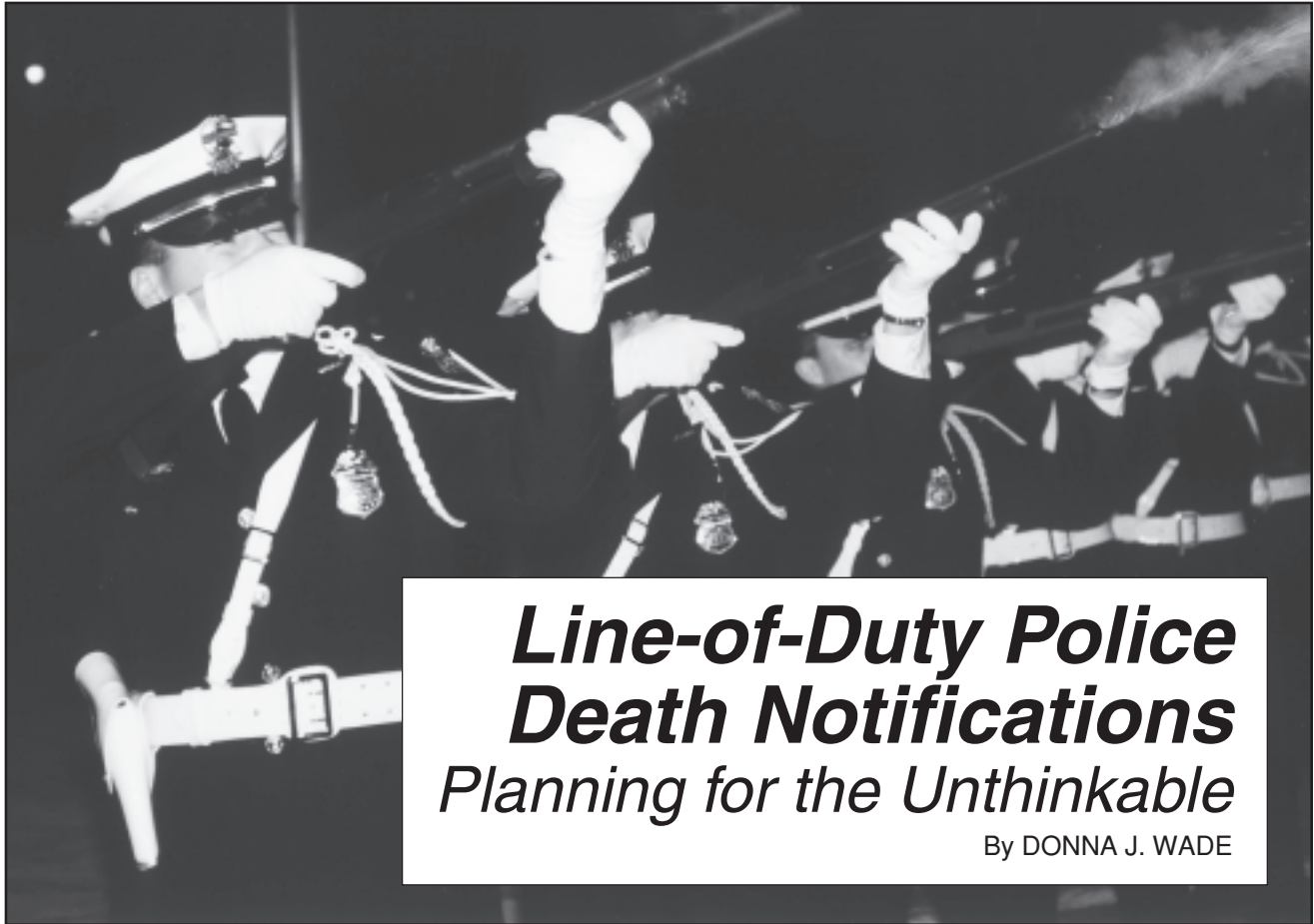
...reserve police officers...can see themselves proudly representing at least one countervailing example to this trend of 'bowling alone'....

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Endnotes

¹ Robert D. Putnam, "Bowling Alone: America's Declining Social Capital," *Journal of Democracy* 6/1 (January 1995): 65-78; and *Bowling Alone: The Collapse and Revival of American Community* (New York, NY: Simon and Schuster, 2000).

² Mark H. Moore and George L. Kelling, "To Serve and Protect: Learning from Police History," *The Public Interest* 70 (Winter 1983): 50-51; Raymond B. Fosdick, *American Police Systems* (New York, NY: The Century Company, 1920), 58-59; and Roger Lane, *Policing the City: Boston 1822-1885* (Cambridge, MA: Harvard University Press, 1967), 6-7.



Line-of-Duty Police Death Notifications Planning for the Unthinkable

By DONNA J. WADE

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One of the most dreaded, traumatic events any law enforcement agency can experience, line-of-duty deaths create chaos within any organization, impacting every sworn officer and civilian employee. During such emotionally challenging times, only the quick and efficient implementation of a well-prepared plan of action can keep the “organized” chaos from degenerating into full-blown dysfunction.

Even before command officers can respond to the crime scene or hospital, they have seen numerous simultaneous events set in motion. While crime-scene protection, tactical operations (if the suspects are

outstanding), and witness interviews may constitute primary investigative concerns, the timely and compassionate notification of the fallen officer’s family must remain the highest overall priority. No one deserves to get that kind of gut-wrenching, life-shattering information from a television news bulletin.

Even when the news media withholds the name of the deceased officer, family members often can narrow the possibilities to their loved one. Will they wait for the chief to arrive at their front door? What if they call the station and ask? What will they be told and by whom? Agencies will find it better for all concerned if they formulate

answers to these questions when compassionate, clear-thinking heads rule, rather than in a moment of emotional and organizational chaos.¹ One such agency—the Los Angeles, California, Police Department (LAPD)—has a plan for responding to a line-of-duty death that includes prompt, compassionate notification of both the victim officer’s next of kin and the police family while reducing the stressful impact of such a tragic duty on the messenger.

THE LAPD PLAN

For the last 15 years, the LAPD has averaged two line-of-duty deaths per year.² In light of this

unpleasant reality, the LAPD Employee Assistance Unit (EAU) implements a comprehensive plan for a coordinated response to these tragedies. Though this plan does not exist as a formal written policy,³ it has become standard operating procedure for LAPD's EAU by detailing the order in which survivors are to be notified, the individuals responsible for making those contacts, and resources available to assist the department and the surviving family. By implementing such a plan, LAPD reverses a commonly held assumption that all an agency must do is have a fellow officer drive to the victim officer's residence and inform the family. While this represents the most important, and often the most emotionally difficult, aspect of the entire death notification process, the fact that only one opportunity exists to deliver such horrific information

may elevate substantially the stress level of the person designated to break the news. LAPD's notification plan ensures that the people charged with performing such a solemn duty have an accurate idea of what they may encounter and are as prepared as time and circumstances allow.

Notifying the Immediate Family

When a line-of-duty death occurs, officers report it immediately to the department command post, as they do with all unusual occurrences. Then, the command post makes the initial departmental notifications to the chief, the Robbery Homicide Division (which investigates all LAPD line-of-duty deaths), and the officer in charge of EAU. Supervisors at the fallen officer's division quickly assemble and assess data on the next of kin to develop the most expeditious, yet

compassionate approach possible, subsequently dispatching personnel to notify these individuals. The officer in charge of LAPD's EAU and EAU's primary funeral coordinator respond immediately to the family's location.

Always notified first, the immediate family customarily receives this news from the fallen officer's divisional commanding officer and another officer that the family knows. These officers assess the family's need for a counselor or clergy to meet with them, rather than having one come along on the initial notification. EAU personnel repeat this assessment throughout the first day.

The department attempts to limit the police presence at the residence because the family is experiencing a highly private, emotional time, and an overwhelming police presence potentially exacerbates the situation. To this end, LAPD assigns a department member of the family's choosing to act as a support person and liaison with the department. Not a pressing need at the beginning of the notification process, this action can wait until the family's initial shock has passed. The selected officer chooses whether to accept the assignment. If, however, this officer is in crisis because of being the deceased's partner, someone so involved may not be the best person to support the family. Instead, LAPD includes the partner in the support system, but discourages this person from becoming the primary liaison because of the close relationship. Additionally, agencies may consider having officers list in their



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Ms. Wade, a former Los Angeles, California, Police Department specialist reserve officer and civilian instructor of cultural diversity training for over 10 years, currently is a freelance writer and a civilian member of administrative trial boards that adjudicate allegations of officer misconduct in Los Angeles.

personnel records the individual they would prefer to notify their families in the event of their death.

Notification Order

Variables, such as the incident's time of day and day of the week, as well as the number of family members involved, their ages, and geographic location, will influence and sometimes place specific demands on even the best plan. For instance, if the next of kin resides locally, LAPD representatives always make the notification in person. If the next of kin resides outside the area, LAPD will request the local law enforcement agency to send officers or a chaplain to break the news and remain with the family until LAPD representatives arrive, or until they can arrange for transportation to Los Angeles. Because many of LAPD's 9,400 officers reside well outside the city limits (some as far away as 100 miles), personnel from EAU often arrive at the residence after the local agency has made the initial notification. While notification via telephone or telegram would prove faster, it is neither personal nor compassionate.

A situation where a fallen officer is married with two children and the death occurs in the middle of the day presents additional challenges to a timely, compassionate notification. Will the spouse be at home, work, or elsewhere? Are the children likely to be at home, school, or day care? Will they require transportation to the hospital or another location? As a general rule, LAPD representatives will inform the spouse first, alone, and

follow the spouse's wishes regarding how the representatives should handle notifying other family and friends.

By contrast, if the officer is critically wounded, transported to a hospital, and later dies, the family and coworkers usually are present, as are members of the media. In such cases, it proves imperative that a department spokesperson field all media inquiries until such time, if any, that the family expresses a desire to speak to the press.

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Notification Delays

Inaccurate information in officers' personnel packages sometimes inadvertently delays the notification process. Responding to a location to make a notification, only to find that the surviving family no longer lives there, represents a waste of precious time. "The most significant impediment to the prompt implementation of our notification plan is inaccurate or incomplete information in the fallen officer's personnel records. Time-critical, emergency situations are not when you want to discover that you have outdated records...."⁴

While it remains an officer's responsibility to update these records as information changes, far too many procrastinate. LAPD has learned through experience to regularly review these records with officers and verify all information as current. While some officers prefer to list their station address and phone as their home address and phone, LAPD strongly discourages this practice because havoc can ensue if that officer becomes a victim or is required as an integral part of the response effort. Moreover, LAPD impresses upon officers, first and foremost, that while personnel records remain confidential, they also must contain comprehensive updated information if they are to serve any useful purpose in an emergency.

LAPD has encountered several other problems with incomplete records. For example, officers frequently—

- list their spouse/domestic partner while omitting parents, siblings, dependent and adult children, and clergy;
- become estranged, divorced, or no longer cohabit with their spouse/domestic partner;
- fail to include additional children or other dependents; and
- omit or list domestic partners as "friend."

While LAPD considers domestic partners as a spouse for notification purposes, omitting or incorrectly categorizing these individuals usually results in the department notifying them after any family members listed or, perhaps, not

at all. Such problems illustrate the need for agencies to keep personnel records as current as possible.

Notification Follow-up

After the initial notification, LAPD's EAU funeral coordinator establishes rapport with the family and begins to provide basic emotional support, assuring them that LAPD representatives will help them through the difficulty. For example, a few hours following the initial notification, surviving family members usually begin to ask a variety of questions. While quite normal, these questions often have nothing to do with what is going on that day. Who is going to pay for the

services? What church are we going to use? Has anybody notified distant relatives? LAPD representatives answer these questions to allow family members to simply take care of themselves that first day. This helps prepare them for the realization that, maybe not the first day, but probably the second, they will have to start talking about and planning the funeral.⁵

The family typically does not want to wait more than a week to hold the funeral. The officer in charge of LAPD's EAU handles logistical preparations for the funeral, which require a certain amount of time to complete. "We like to have 5 working days to coordinate things.

We can do it in 4 if we have to, but 3 days would be almost impossible. In a line-of-duty death, there will be several thousand people attending, so it goes beyond just the church and cemetery arrangements. We have to realize that not only does our department have to prepare, but other agencies want the opportunity to participate as well."⁶

Notifying the Police Family

Death notifications do not end with the immediate family. LAPD carefully considers how to inform the police family and what counseling resources to immediately mobilize to help them process their feelings of fear and grief. Shortly after an officer dies, LAPD's Press Relations Unit releases the available details. The unit sends this notice not only to the media, but distributes it throughout the department. A few days later, the unit follows up the press release with a funeral announcement, detailing the logistics of the services and ceremonies.

One of the agency's most pressing needs involves providing emotional support for the fallen officer's coworkers and other officers who were on the scene when the incident occurred. LAPD realizes that many employees, civilian and sworn alike, will need some sort of comfort or care. A line-of-duty death potentially traumatizes every employee and, perhaps more important, their families, now painfully aware that they just as easily could be the grieving survivors.

At such times, LAPD's Behavioral Sciences Section deploys critical incident response teams to the impacted divisions.⁷ Teams consist of a psychologist, a

Death Notification Guidelines

Law enforcement agencies should conduct line-of-duty death notifications in person, in pairs, with compassion, and in the order of kinship.

- 1) Spouse/domestic partner
- 2) Minor children: living with spouse/domestic partner or with biological parent, resulting from divorce or estrangement
- 3) Adult children
- 4) Parents
- 5) Siblings
- 6) Grandparents
- 7) Other relatives and friends listed in personnel records
- 8) Spouse/domestic partner's relatives and friends: notify only with the spouse/domestic partner's consent and recommendations
- 9) Clergy, if listed on personnel records or requested by spouse/domestic partner

chaplain, and a pair of peer counselors, all trained in crisis debriefings. Group debriefing sessions assess the impact of a fellow officer's death on involved personnel and advise them of available resources if they find that they need long-term assistance.

Personnel from outside agencies that work closely with the department, such as firefighters and paramedics, also may experience a strong emotional reaction to the tragedy. How each responds to the situation, of course, varies with the individual. LAPD's organized response demonstrates that when an agency's reaction plan includes helping employees psychologically process this kind of tragedy, the likelihood of an individual experiencing serious emotional or professional consequences is reduced significantly.

CONCLUSION

Certainly, no one relishes planning for the unthinkable. Evidence of this exists in the number of families each year that experience devastating financial difficulties after the death of a primary breadwinner. In these situations, the mere thought of a person's own untimely demise is sometimes so frighteningly overwhelming that actually planning for the inevitable seems more unpleasant than the ramifications of not doing so.

Further spurring the refusal to even consider the possibility of untimely demise, the prevalent superstition that planning for tragedy causes it reveals how many law enforcement agencies ascribe to the emotionally convenient, though

unrealistic, attitude of "it won't happen here." Unfortunately, such agencies remain in denial. Sooner or later, a line-of-duty death will occur, regardless of whether a department has 8,000 members or 8. When it does, the difference between a well-handled response and chaos rests with an effective notification plan and comprehensive follow-up care for the fallen officer's immediate family and co-workers.

The Los Angeles, California, Police Department has experienced the tragedy of losing several of its members over the years. Because of this sobering reality, the department has devised a well-developed plan to effectively and compassionately notify next of kin and its own employees when such a calamity occurs. By preparing for the unthinkable, the department has helped its officers face one of the most appalling, yet inherent aspects of the law enforcement profession. ♦

Suggested Reading

The Trauma of Law Enforcement Death, Concerns of Police Survivors (COPS), P.O. Box 3199, S. Highway 5, Camdenton, Missouri 65020; telephone 573-346-4911; Web site <http://www.nationalcops.org>.

Death Notifications: Breaking Bad News with Concern for the Professional and Compassion for the Survivor, Mothers Against Drunk Drivers (MADD); telephone 800-438-6233; Web site <http://www.madd.org>.

Roger C. Haddix, "Responding to Line-of-Duty Deaths," *FBI Law Enforcement Bulletin*, February/March 1996, 22-27.

Brian J. Scott, "Preferred Protocol for Death Notification," *FBI Law Enforcement Bulletin*, August 1999, 11-15.

Endnotes

¹ For assistance and training, agencies can contact Concerns of Police Survivors (COPS) at <http://www.nationalcops.org> and the author at deejwade@aol.com.

² Sergeant John Cooley, officer in charge of LAPD's Employee Assistance Unit (LAPD/EAU, 977 North Broadway, Suite 409, Los Angeles, California 90012; 213-485-0703), who is responsible for making timely notifications and handling funeral arrangements in LAPD line-of-duty deaths, interview by author, July 2000.

³ For an example of a model line-of-duty death notification policy, contact the International Association of Chiefs of Police (IACP) National Law Enforcement Policy Center, 515 North Washington Street, Alexandria, VA 22314-2357; telephone 800-THE-IACP; <http://www.theiacp.org/pubinfo/>; accessed March 6, 2001.

⁴ Supra note 2.

⁵ Supra note 2.

⁶ Supra note 2.

⁷ "Those that are closest to the officer or those who were at the scene are ordered to attend a debriefing. Once they get there, they do not have to participate. They can sit there quietly, but they have to attend" (Sergeant John Cooley, officer in charge of LAPD's EAU, interview by author, July 2000).

VICAP Alert

Attention: Homicide, Sex Crimes, and Robbery Units

Any agency that has a case exhibiting similar modus operandi, even if the case is not a homicide, should contact the O'Fallon, Illinois, Police Department at 618-624-4537.

At approximately 9 p.m. on Friday, December 31, 1999, the O'Fallon, Illinois, Police Department received a 911 call from a local clothing store. Upon entering the building, responding officers observed that the front of the business appeared undisturbed. However, a blood trail led them to the women's restroom. Here, the officers found a white female (age 20, 5'5" in height, weighing 105 pounds, with blond hair and green eyes) dead from a close-range gunshot wound to the head. The victim was lying on her back, unclothed from the waist down. Her shirt and undergarments were disheveled, partially exposing her breasts. The victim's legs were posed in an open position, indicating a possible sexual assault. However, subsequent laboratory examination for sexual assault proved inconclusive. The victim had a small abrasion on the inner right thigh and a hand impression on the breast area, consistent with a person wearing thick gloves.

The death appears to have occurred between 2:30 and 3:15 p.m. Investigators believe the victim, who was working alone, was standing in front of the cash register when she was shot. No money was missing from the cash register.

Crime Scene

The clothing store is a one-story brick structure positioned approximately 2 blocks from a major highway on a dead-end road. The rear of the building joins a railroad track and overlooks large farm fields. The front of the building faces the rear of a convenience store/gas station. This business district is

located at the interchange of Interstate 64 and U.S. Highway 50 in O'Fallon, Illinois.

Investigators found no shoe prints at the scene. Also, they located no fingerprints on the victim's body that resulted in the development of a suspect.

Possible Suspect Information

A patron of the clothing store reported that he and his daughter had been shopping at about 2:10 p.m. on December 31, 1999. They observed a suspicious male who appeared to be shopping alone. He was described as a white male in his 40s or early 50s; 5'6" to 5'8" in height; weighing between 170 and 175 pounds; unshaven, but no beard; wearing a gray T-shirt, dark ski jacket, dark jeans, and white tennis shoes. He drove a maroon 1990s-model vehicle, possibly a Pontiac, with a blue license plate that had mountains in the background. The witnesses could remember only a partial number of "3V8."

An employee of a realty company, located near the crime scene, reported that at approximately 3 p.m. on December 31, 1999, a suspicious male entered the establishment. In the course of their ensuing conversation, the man asked the employee if she was working alone. She pretended that other people were in the building. When she asked for his name, he left without answering. He was described as a white male, 5'7" or 5'8" in height, weighing about 170 pounds, with light brown hair parted on the side, and wearing blue jeans and a short-sleeved, green-plaid shirt.

Alert to Law Enforcement

Law enforcement agencies should bring this information to the attention of all crime analysis personnel and officers investigating homicides/crimes against persons, sex crimes, and robberies. Any agency with solved or unsolved crimes similar to this one should contact Investigators Jim Cavins or Jay Spanley of the O'Fallon, Illinois, Police Department at 618-624-4537 or Butch Rabiega of the FBI's Violent Criminal Apprehension Program (VICAP) at 703-632-4170. ♦



*Suspect's
description
from clothing
store patron*

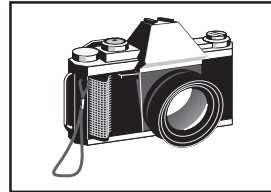


*Suspect's
description from
realty company
employee*



*Composite
of both
descriptions*

Wanted: Photographs



The *Bulletin* staff is always on the lookout for dynamic, law enforcement-related photos for possible publication in the magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the various tasks law enforcement personnel perform.

We can use either black-and-white glossy or color prints or slides, although we prefer prints (5x7 or 8x10). Appropriate credit will be given to contributing photographers when their work appears in the magazine. We suggest that you send duplicate, not original, prints as we do not accept responsibility for prints that may be damaged or lost. Send your photographs to:

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Contact with Individuals with Autism Effective Resolutions

By DENNIS DEBBAUDT and
DARLA ROTHMAN, Ph.D.

In contemporary 21st century law enforcement, police managers have become increasingly proactive in their efforts to develop officer awareness of volatile circumstances and situations. They want their officers to learn to properly handle these situations not only for the safety of the officers and citizens involved, but also to avoid future potential litigation. Because today's work force is increasingly diverse, new laws, such as the Americans with Disabilities Act, ensure that persons with developmental disabilities remain a part of that diversity.

Recent research concluded that the developmentally disabled are approximately seven times more likely to come in contact with law enforcement than others.¹ In light of this conclusion, law enforcement officers should receive training to prepare to evaluate information and

physical cues or body language that may indicate the person they come in contact with has autism. Because autism affects every sector of society, officers first must understand the condition. Second, they must learn to apply certain techniques in the initial contact or interview, which may increase the probability of appropriate responses and lead to a successful outcome of the encounter.

What is Autism?

Autism is a developmental disability that manifests itself within the first 3 years of a child's life. While some individuals with autism have mental retardation, autism is not retardation. It is a broad spectrum neurological disorder, which presents itself in a variety of symptoms that affects individuals differently. Estimates of persons having some form of autism exceed



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500,000 nationally, becoming the third most common developmental disability in the United States.² Autism affects the normal development of the brain relating to social and communicative interaction. Individuals with autism have difficulty appropriately communicating with, or relating to, others.

When responding to a call that involves a person with autism, officers may face a situation that will challenge the training, instincts, and professional conduct of even the most experienced police veteran. Is the individual intoxicated? On narcotics? Or is the person developmentally disabled?

Where are Individuals with Autism Usually Found?

Because approximately 80 percent of patrol responses do not involve criminal activity, contact with individuals with autism may occur anywhere in the community.³ Because autism affects each individual differently, many people with autism often function well in society—they may have regular employment in a supervised or unsupervised workplace, and may live in traditional or assisted living homes. Therefore, the initial call for assistance to law enforcement may first appear as a domestic disturbance; however, upon arrival, the officers may receive information or otherwise determine that the subject is affected with autism and has reacted inappropriately to some event. The initial contact may be predicated by a request for medical assistance. Reports estimate that as many as 25 percent of individuals with autism will have seizures by the age of 21.⁴ Other calls may

involve complaints of strange behavior, such as being in an unfamiliar place or just wandering around or doing unusual things. Autistic persons have not developed the social awareness usually expected by others in the community. Law enforcement must not forget the characteristics of individuals with autism when responding to calls. For example, if they receive a call for assistance involving a stranger sitting on a porch swing or rocking chair or looking into the windows of a house, it may not indicate a person on drugs or a potential burglar, but rather an individual with autism who just wanted to self-stimulate through rhythmic motion or to see what was inside the house. In another example, a complaint from a store owner of a person rearranging items or display objects may not be a shoplifter, but, instead, an autistic individual engaging in the obsessive-compulsive

behavior of “ordering” those items in some sequence that other individuals may not notice.

While responding officers always must consider their own safety, as well as that of others, in such circumstances, their presence may cause further inappropriate responses by an autistic individual. Persons with autism do not know the implications of their behavior—they do not understand the consequences of their actions, especially aggressive actions. An officer’s approach may cause people with this condition to flee, sometimes failing to respond to an order to stop. Other autistic individuals may react by dropping to the floor or ground and rocking back and forth, averting eye contact with the officer. Officers should not interpret an autistic individual’s failure to respond to orders or questions as a lack of cooperation or as a reason for increased force.



Mr. Debbaudt heads a private detective agency and trains police officers nationwide on recognizing and responding to persons with autism.



Dr. Darla Rothman is a curriculum specialist and certified instructor with the Maryland Police and Correctional Training Commissions.

Although autistic individuals are usually self-abusing, they may escalate into tantrum-like behavior (e.g., screaming, pushing, kicking, hitting) from fear, frustration, or confusion. They can not conceptualize meanness or acts of purposeful injury to others. They just want the circumstances to change but do not know how to implement that change. This presents an obvious dilemma to responding officers.

What are Some Common Signs of Autism?

In the case of autism, there are no external indicators. Individuals with autism look like any other person; however, visual cues exist that an observant officer can use to help indicate they are dealing with an autistic individual. These often subtle cues may depend on the functionality level of the autistic person. Recognition of the behavioral symptoms of autism and the techniques of approach can reduce the risk factors of such encounters. These risks include the physical safety of the officers and of the individual with autism, as well as the resulting litigation from inappropriate responses to the incident by the officers.

Among the most difficult assistance calls are those that concern the welfare of children. When an officer responds to the scene of a complaint of possible child abuse and observes an adult wrestling with a screaming, struggling, red-faced child, the officer must use split-second judgment. Is this a possible kidnapping? Is this a blatant case of child abuse? Or could it be an extremely painful episode for the parent of a child with special needs

who, for whatever reason, is out of control? While the officer has a responsibility to resolve the call, patience and understanding will help reduce the stress for all involved, including the child who would be further traumatized if the officer acts aggressively against the parent.

One characteristic of autistic individuals, especially children, is their propensity to run. They do not believe that they are running away, but possibly just returning to a favorite place or going back to look at something attractive. They may not be lost and may be very content where they are; however, to the general public, unattended children are cause for concern.

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Persons with autism do not know the implications of their behavior....

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Police unwittingly may charge parents of autistic children with endangerment, which forces them to attend hearings to retrieve their bewildered children from protective services. Moreover, a child found alone may not respond to an officer's efforts and consolation because they are quite content to stay where the officer found them. Individuals with autism, particularly children, usually cannot process multiple stimuli at one time. Brights lights, sirens, K-9 partners,

different smells, loud voices, or attempts at consolation may push an individual with autism to react in a way that may make it impossible to regain their attention and may jeopardize the safety of those involved in the incident. For example, an autistic person may abruptly flee into busy traffic, because they do not realize the inherent risk in that act.

What is an Appropriate Response?

Law enforcement officers are trained to handle unexpected situations they may encounter on routine calls. By understanding the nature of autism, responding officers can manage calls involving individuals with this condition more effectively. Officers can use the acronym AUTISM to help them remember the methodology they should use when dealing with individuals with autism. They should—

Approach the person in a quiet, non-threatening manner. Because autistic persons may be hypersensitive to stimuli, officers should attempt to avoid quick motions and gestures that an autistic person may perceive, even remotely, as threatening.

Understand that touching the autistic person may cause a protective “fight or flight” reaction. Officers should never touch an autistic person on the shoulders or near the face. Autistic hypersensitivity includes being touched and even extends to invasions of their personal space.

Talk to the person in a moderate and calm voice. Although officers may have to repeat their directions or questions several times, they should be patient and wait for

answers. Speaking loudly will not help and may even be viewed as threatening.

Instructions should be simple and direct with no use of slang. An autistic person will take an officer's statements literally. "Do you think that's cool?" or "Up against the wall!" probably will cause confusion and result in an inappropriate or unexpected response. Officers should use specific commands, such as, "stand up" or "go to the car, now" to reduce the chance of confusion.

Seek all indicators to evaluate the situation as it unfolds.

Maintain a safe distance until any inappropriate behaviors lessen, but remain alert to the possibility of outbursts or impulsive acts.

What If a Crime Has Been Committed?

If officers take an individual into custody and even remotely suspect that the person may be developmentally disabled or autistic, to reduce the risk of abuse, injury, or both, they should segregate the individual and never place them in the general incarcerated population before a mental health professional can evaluate them. Once professionals have determined that the individual is developmentally disabled, officers should contact the prosecutor's office for further advice or directions.

Oftentimes, individuals with autism confess to crimes they did not commit because of their desire to please and willingness to accept an authority figure's version of events, even if untrue, or because of their inappropriate responses or interpretations to questions from the

interviewer. This response often results from "conditioning" they received throughout their lives by caregivers.

The interviewer must ask specific questions toward what information is sought and avoid ambiguity. For example, if the interviewer asks, "Did you take the money?" the person with autism most probably will say "Yes," whether or not the individual actually took it. Investigators should ask a more

clear question, such as, "What did you do?" allowing time for the individual to provide a response. If the investigator asks, "Were you with your family or John?" the autistic person may respond, "John" because that was the last choice of the sequence. If the investigator asked the question again, but reversing the order, the autistic person may answer, "my family" for the same reason. Neither may be correct. Investigators should ask a more specific

Indicators that an Individual May Be Autistic:⁵

- the individual actively may avoid eye contact even if you change your location to be in the person's line of sight;
- the individual may be nonverbal (50 percent of autistic persons do not speak) or may have limited vocabulary and point or use gestures;
- the individual may speak in monotone without expected inflections;
- the individual may repeat exactly what the officer says;
- the individual may engage in repetitive physical actions, such as hand flapping, finger flicking, or twirling objects;
- the individual may rock back and forth, pace, or engage in self-abuse (temper tantrums are an expected response to fear, confusion, or frustration as an effort to stop the stimuli);
- the individual may have a pigeon-toed gait or running style;
- the individual may not respond to verbal commands or sounds;
- the individual may not understand body language or recognize command presence, or a police uniform;
- the individual may be dressed inappropriately for the weather, such as a tee shirt and shorts in winter;
- the individual may not ask for help or show any indications of pain, even though injury seems apparent; and,
- the individual may wear medical alert tags or possess other written material indicating their autistic condition.

question such as, "Who were you with?" thus reducing the influence of suggestion to the subject.

Conclusion

As the American work force becomes more diverse and requires more professional law enforcement, officers in the 21st century will confront situations that demand high levels of performance and insight resulting from more comprehensive training. Dealing with individuals with autism and other developmental disabilities requires officers to have additional training to handle these situations. When responding to calls for assistance involving

individuals who are autistic, education, perception, and understanding can help officers avoid situations that can become unpleasant or even dangerous. Remembering the adage that no call is "routine" will help ensure that the resourceful officer will keep their composure and evaluate the sensory data or cues on the scene. This behavior will resolve the incident in the best spirit of their duty to protect the public, especially those who cannot protect themselves. ♦

Endnotes

¹ K. Curry, M. Posluszny, and S. Kraska, "Training Criminal Justice personnel to

Recognize Offenders with Disabilities," Office of Special Education and Rehabilitative Services News in Print, (Winter 1993).

² The Autism Society of America, <http://www.autism-society.org>; accessed December 12, 2000.

³ Based on author research and survey of law enforcement agencies.

⁴ Supra note 2.

⁵ D. Debbaudt, (handout developed for the Wayne County, Michigan, Workshop Series for Trainers and Officers of Law Enforcement), September 21, 1996.

The authors developed this article from the State of Maryland Police and Correctional Training Commissions Curriculum.

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Using Drug Detection Dogs An Update

By JAYME S. WALKER, J.D.

Law enforcement officers use dogs to find people, clear buildings, sniff out bombs and to locate evidence or contraband. The use of dogs by officers implicates the Fourth Amendment. The Fourth Amendment preserves the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”¹ This article addresses when courts consider an officer’s use of a dog to sniff the exterior of an item, a location, or a person for contraband to be a search under the Fourth Amendment.² This article does not address the use of dogs in border contexts.

SUPREME COURT GUIDANCE

In 1983, the U.S. Supreme Court decided *United States v. Place*,³ a case involving the exposure of a temporarily detained piece of luggage to a dog trained to detect narcotics. In *Place*, agents seized Place’s bag and, 90 minutes later, submitted it to a dog sniff. The Court found the initial seizure of Place’s luggage legitimate based on



a reasonable suspicion that it contained contraband. However, the Court proceeded to find that the length of the detention of the bag, standing alone, constituted a Fourth Amendment violation in the absence of probable cause. After stating that a person has a privacy interest protected by the Fourth Amendment in the contents of luggage, the Court specifically noted that:

A “canine sniff” by a well-trained narcotics detection dog, however, does not require opening the luggage. It does not expose noncontraband items that otherwise would remain hidden from public view, as does, for example, an officer’s rummaging through the contents of the luggage. Thus, the manner in which information is obtained



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through this investigative technique is much less intrusive than a typical search. Moreover, the sniff discloses only the presence or absence of narcotics, a contraband item. Thus, despite the fact that the sniff tells the authorities something about the contents of the luggage, the information obtained is limited. This limited disclosure also ensures that the owner of the property is not subjected to the embarrassment and inconvenience entailed in less discriminate and more intrusive investigative methods.⁴

The Court concluded that the exposure of the luggage to a canine sniff in the *Place* case did not constitute a search.

In 1984, the U.S. Supreme Court decided *United States v. Jacobsen*,⁵ a case involving a DEA agent who opened a damaged package containing four plastic bags of white powder concealed in a tube

initially opened by employees of an overnight delivery company. The agent removed a trace amount of the powder from one of the bags, conducted a field test, and determined the substance to be cocaine. The Court concluded that “[a] chemical test that merely discloses whether or not a particular substance is cocaine does not compromise any legitimate interest in privacy.”⁶ The Court also stated that: “[h]ere, as in *Place*, the likelihood that official conduct of the kind disclosed by the record will actually compromise any legitimate interest in privacy seems much too remote to characterize the testing as a search subject to the Fourth Amendment.”⁷ And most recently, in *City of Indianapolis v. Edmond*,⁸ the Court stated that: “Just as in *Place*, an exterior sniff of an automobile does not require entry into the car and is not designed to disclose any information other than the presence or absence of narcotics. Like the dog sniff in *Place*, a sniff by a dog

that simply walks around a car is ‘much less intrusive than a typical search.’”⁹

DOG SNIFFS OF INANIMATE ITEMS OR LOCATIONS

The Court’s decision in *Place* only determined that a dog sniff of lawfully detained luggage in a public place does not constitute a search. The recent decision by the Court in *Edmond* appears to extend this principle to the dog sniff of the exterior of a vehicle to which police have legitimate access. Lower courts have been left to decide whether a dog sniff in other contexts constitutes a search.¹⁰ In cases not involving dog sniffs of luggage in a public place, some courts will consider the specific level of privacy that a person expects in a particular item or location.

Luggage

Assuming that a piece of luggage has been lawfully detained, typically via obtaining consent from the owner or the development of a reasonable suspicion that it contains contraband, the use of a dog to sniff such luggage is not considered a search.¹¹ Court decisions holding that the use of a dog in this situation is not a search rely on the Supreme Court’s decision in *Place*.

Additionally, if the luggage has been entrusted to the care of a third-party common carrier, the use of a dog to sniff such bags without a warrant has been upheld.¹² For example, in *United States v. Garcia*,¹³ the U.S. Court of Appeals for the Tenth Circuit held that using a dog to sniff luggage on a train baggage car did not constitute a search. Officers in that case obtained

permission from the train attendant to enter the baggage car with a certified drug detection dog. The defendant argued that the baggage car was a semiprivate area and that the sniff violated the Fourth Amendment. The court rejected the defendant's argument, noting that there was an expectation of privacy in the bag itself but not in the air surrounding the bag.

Packages

Law enforcement officers have used dogs to sniff packages sent through the mails via package services and with common carriers. The majority of the cases involve packages temporarily detained on the basis of reasonable suspicion that they contain contraband.¹⁴ For example, in *United States v. Lyons*,¹⁵ an airline employee noticed that a suspicious lightweight, crunchy envelope had been sent from New York to Minneapolis via airport-to-airport guaranteed arrival delivery service. The employee observed that the sender had paid the transportation charges in cash and that the airbill did not list the contents of the package. Officers responding to the employee's call recognized the name of the sender as a person involved in an earlier cocaine investigation, and found that the driver's license number given on the package belonged to another individual who also was involved in a prior drug investigation. The police brought a drug dog to a room containing the suspicious package in addition to 15 to 20 other packages. The dog tore open the suspicious package in the process of alerting to the presence of narcotics

and cocaine spilled out onto the floor. The U.S. Court of Appeals for the Eighth Circuit held that neither the initial dog sniff of the package, nor the tearing open of the package by the dog constituted a search.

Warehouses or Garages

Most courts addressing cases involving a dog sniff of the exterior of a warehouse or garage from a public location have found that it is not a search.¹⁶ For example, in *United States v. Vasquez*,¹⁷ the U.S. Court of Appeals for the Seventh Circuit held that a dog sniff of a

“...a person's reasonable expectation of privacy varies according to the context of the area searched....”

garage from a public alleyway did not constitute a search. In *Vasquez*, officers in a gang crimes unit began surveilling the defendant. The officers observed the defendant repeatedly go to a garage and engage in suspicious behavior. The officers saw the defendant open the locks on the garage door, open the door only high enough so he could crouch down and enter, and then quickly shut the door. While the defendant entered the garage empty-handed, he emerged a few minutes later holding a partially filled garbage bag. He then drove to a house where

he entered with the bag, stayed for 10 minutes, and then left empty-handed. After a brief stop at a pay phone, the defendant returned to the garage and repeated the same steps two more times before the end of the day. The surveilling officers observed the same sequence of events on May 19, 20, and 23. On May 24, a confidential source informed the officers that the garage contained a large amount of cocaine. The officers took a drug dog to the public alleyway abutting the garage. The dog alerted to the presence of a controlled substance in the garage, whereupon the officers applied for and obtained a search warrant. Upon execution of the warrant the officers found cocaine. The defendant in the case argued that the dog sniff of the garage constituted an unauthorized search. Relying on *Place* and *Jacobsen*, the *Vasquez* court stated that they had held consistently that “a canine sniff test that is used to detect the presence of contraband is not a fourth amendment search.”¹⁸

Cars

The United States is an extremely mobile society and the work of law enforcement officers frequently involves cars. Many courts have concluded that the issue of whether the use of a dog to sniff the exterior of a car constitutes a search depends on whether the police have legitimate custody of the vehicle¹⁹ or where it is physically located at the time of the sniff.²⁰ In *City of Indianapolis v. Edmond*,²¹ police set up checkpoints to interdict illegal drugs. During the course of the 5 minute or less stop, officers

walked drug dogs around each stopped car. While the U.S. Supreme Court found the checkpoints violated the Constitution and that the stopping of the cars constituted a seizure, “[t]he fact that officers walk a narcotics-detection dog around the exterior of each car at the Indianapolis checkpoints does not transform the seizure into a search.”²²

In *United States v. Rodriguez-Morales*,²³ police officers stopped the defendant’s vehicle for a traffic violation and determined that neither the driver nor the passenger had a valid driver’s license. The police impounded the car and took it back to the police station. At the police station, the officers called for a drug dog to sniff the exterior of the car. The dog alerted to the presence of contraband in the vehicle. The officers obtained a search warrant, and, subsequently, found cocaine hidden in the door panels of the vehicle. After citing *Place* and *Jacobsen*, the court concluded that:

We hold that the canine sniff of the exterior of a vehicle which is legitimately within the custody of the police is not a search within the meaning of the fourth amendment; and that subjecting the exterior of such a motor vehicle to the olfactory genius of a drug detection dog does not infringe upon the vehicle owner’s fourth amendment rights.²⁴

If the police already do not have legitimate custody of the vehicle at the time of the dog sniff, the location of the car is important. If the car is parked in a public place, some courts have found that a dog

sniff is a search requiring reasonable suspicion that the car contain contraband, while others have held that such a dog sniff is not a search.²⁵ For example, in the U.S. Court of Appeals for the Fifth Circuit’s decision of *United States v. Ludwig*,²⁶ an agent walked a trained narcotics detection dog through a motel parking lot to see if the dog would alert to any of the cars. The agent had obtained permission from the motel owner to walk the dog through the parking lot for this purpose. The dog alerted to the defendant’s car. The agent

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searched the car and found marijuana inside. The *Ludwig* court found that the defendant failed to prove that either he or the motel owners had a reasonable expectation of privacy in the parking lot. The court held that “even such random and suspicionless dog sniffs are not searches subject to the Fourth Amendment.”²⁷ Significantly, however, the court also stated:

Of course, the government agent may not unlawfully enter

an area in order to conduct such a dog sniff. The physical entry itself may intrude on a legitimate expectation of privacy. This requires separate analysis, however, and we have explained above that the agents’ entry into the parking lot and Ludwig’s parking space did not intrude on a legitimate expectation of privacy and therefore was not a search under the Fourth Amendment.²⁸

Buses

Again, assuming that a package or a piece of luggage has been lawfully detained, the use of a dog to sniff it will not be viewed as a search. In the case of *United States v. Gant*,²⁹ after all of the passengers exited, officers boarded the bus and moved all of the bags from the overhead racks to the seats below.³⁰ The officers brought a dog on the bus to sniff the bags for contraband. The dog alerted to two bags. The officers returned the bags to the overhead racks. After the passengers returned to the bus the officers asked who owned the two bags on which the dog had alerted. One of the passengers claimed one of the bags, but disclaimed ownership of the other. No other passenger claimed the second bag. The officers took the unclaimed bag off of the bus, opened it as abandoned property, and found cocaine inside. The officers reboarded the bus and obtained consent from the passenger to open the other bag. Inside that bag an officer found a box of laundry detergent that contained cocaine. The U.S. Court of Appeals for the Sixth

Circuit held that the use of a trained dog to sniff the bags did not constitute a search or seizure in violation of the Fourth Amendment.³¹

Trains

Reported cases involving officers using dogs on trains include using dogs in baggage or sleeper cars. Most courts that have considered the issue found that the use of a dog in a public corridor of a sleeper car to sniff the area outside of a roomette does not constitute a search.³² For example, in *United States v. Colyer*,³³ an Amtrak drug enforcement unit investigator monitoring computerized reservations reported his suspicions to law enforcement in Washington, D.C. regarding a particular passenger's ticket purchase. When the train arrived in Washington for a regularly scheduled stop, officers boarded it with a dog. The dog alerted to the roomette occupied by the passenger who had made the suspicious ticket purchase. The passenger consented to a luggage search and the officers found cocaine. The court addressed the question of whether the use of the dog intruded upon the passenger's legitimate expectation of privacy. Citing *Place* and *Jacobsen*, the court stated that: "[t]he Supreme Court has indicated on at least two occasions that the ability of an investigative technique to reveal only items in which the subject has no legitimate expectation of privacy—and no other arguably private fact—bears heavily on whether the procedure has effected a search."³⁴ In holding that the use of the dog did not constitute a search, the court stated:

[i]n sum because Max's sniff "d[id]not expose noncontraband items that otherwise would remain hidden from view," and was not conducted in a manner or location that subjected appellant "to the embarrassment and inconvenience entailed in less discriminate and more intrusive investigative methods," *Place*, 462 U.S. at 707, 103 S. Ct. at 2644, we conclude that the *Place*-enunciated rule governs, and, thus, no search occurred.³⁵



Motel Rooms

In the only published federal case to address the issue of the use of a canine to sniff a motel room door, officers in *United States v. Roby*³⁶ approached Roby in the Little Rock, Arkansas, airport after learning that he had traveled on a one-way overnight cash ticket from Los Angeles, California. Roby refused to consent to a search of his briefcase and proceeded to his hotel. The officers followed Roby to his hotel and later used a trained

dog to sniff the door of his room from the corridor. The dog alerted positively to the presence of contraband in the room. The officers eventually obtained a search warrant for the briefcase and found 10 kilograms of cocaine inside. The U.S. Court of Appeals for the Eighth Circuit held that the dog sniff outside of the motel room door did not constitute a search. The court stated that a person's reasonable expectation of privacy varies according to the context of the area searched, and that:

Mr. Roby had an expectation of privacy in his Hampton Inn hotel room. But because the corridor outside that room is traversed by many people, his reasonable privacy expectation does not extend so far. Neither those who stroll the corridor nor a sniff dog needs a warrant for such a trip. As a result, we hold that a trained dog's detection of odor in a common corridor does not contravene the Fourth Amendment.³⁷

Apartments/Homes

In *United States v. Thomas*,³⁸ officers used a dog to sniff the door of an apartment. The dog alerted to the presence of contraband in the apartment and a subsequent search yielded contraband. The U.S. Court of Appeals for the Second Circuit held that the use of the dog to sniff the door constituted a Fourth Amendment search. The court acknowledged that using dogs to sniff luggage at airports did not constitute a search. After indicating that the question to consider is whether the use of the dog intrudes

on a legitimate expectation of privacy, the court stated that:

A practice that is not intrusive in a public airport may be intrusive when employed at a person's home. Although using a dog sniff for narcotics may be discriminating and unoffensive relative to other detection methods, and will disclose only the presence or absence of narcotics, see *United States v. Place*, 103 S. Ct. at 2644, it remains a way of detecting the contents of a private, enclosed space. With a trained dog police may obtain information about what is inside a dwelling that they could not derive from the use of their own senses. Consequently, the officers' use of a dog is not a mere improvement of their sense of smell, as ordinary eyeglasses improve vision, but is a significant enhancement accomplished by a different, and far superior, sensory instrument.... Because of defendant Wheelings' heightened expectation of privacy inside his dwelling, the canine sniff at this door constituted a search.³⁹

Notably, the *Thomas* decision has been expressly rejected by the U.S. Court of Appeals for the Ninth Circuit and criticized by other courts.⁴⁰ In the only other published Federal case involving the use of a dog to sniff the exterior of a house, the district court in *United States v. Tarazon-Silva*⁴¹ determined that the use of a dog in that case did not constitute a search. In *Tarazon-Silva*, officers used a trained dog to

sniff at the base of a house near a dryer vent. The court noted that the U.S. Court of Appeals for the Fifth Circuit has stated that a dog sniff is not a search and that "if a police officer, positioned in a place where he has a right to be, recognizes the odor of, for example, marijuana, no search has occurred."⁴² The officer and the dog in *Tarazon-Silva* were in a location near the house accessible to neighbors, repair, and sales people that was an extension of the driveway and not included within an enclosure surrounding the home. The court found that the sniff did not constitute a search because the officer and dog were in an area where they had a lawful right to be at the time of the alert.

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...using dogs to sniff luggage at airports did not constitute a search.

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DOG SNIFFS OF PEOPLE

There are few reported cases addressing the use of narcotics detection dogs on people.⁴³ While the Supreme Court has never addressed the issue of whether a dog sniff of a person constitutes a search, one Justice has stated that: "I have expressed the view that dog sniffs of people constitute searches."⁴⁴ Cases addressing the use of narcotics dogs to sniff school children and detect

drugs have generally held that the use of such dogs is an unconstitutional search, although one court found such a sniff was not a search.⁴⁵ Courts holding the dog sniffs unconstitutional drew a distinction between sniffs of objects or places and persons, noting that "the fourth amendment 'protects people, not places.'"⁴⁶

CONCLUSION

As the use of dogs by law enforcement has increased, so too has the amount of case law addressing the Fourth Amendment implications of dog sniffs. One judge has stated that:

[i]t would seem apparent that *Place* and *Jacobsen* stand for the proposition that a canine sniff capable of detecting only the presence or absence of a contraband item is not a search within the meaning of the Fourth Amendment.... I agree that *Place* and *Jacobsen* compel the conclusion that a canine sniff of an inanimate object is not a search under the Fourth Amendment, regardless of the object or area sniffed.⁴⁷

Despite the fact that *Place* and *Jacobsen* can be read in the manner stated by this judge, until the Supreme Court clarifies the law regarding dog sniffs of persons, items, or locations other than luggage located in a public place, or with the exterior of vehicles as mentioned in the *Edmond* decision, the circumstances under which an officer uses a dog to sniff for contraband will continue to impact whether the dog sniff will be considered a search.

The following insights can, however, be drawn from a review of the existing case law. The Supreme Court has decided that the dog sniff of lawfully detained luggage in a public place does not constitute a search, nor apparently does the dog sniff of the exterior of a legitimately detained vehicle. Whether a dog sniff of the exterior of a car constitutes a search will depend on a number of factors such as whether law enforcement officers have lawful custody of the car or where the car is located at the time of the sniff. Some courts have held that reasonable suspicion is required to have a dog sniff a vehicle.

A dog sniff of luggage entrusted to the care of a third-party common carrier and packages sent through the mail package services and common carriers, in most circumstances, are not searches. Dog sniffs outside of warehouses and garages conducted where the law enforcement officer has a right to be have generally been held not to be a search. Similarly, with respect to dog sniffs from the outside of train roomettes and apartments, and by association motel rooms and homes, some courts have held that such sniffs are not searches, while others conclude that the sniff is a search that requires a reasonable suspicion or even probable cause to believe contraband is at the location prior to the sniff. Finally, while the Supreme Court has never directly addressed the issue, an examination of lower court case law indicates that a dog sniff of a person is generally considered a search. Because courts are divided over when a dog sniff constitutes a search, and

because state courts may find dog sniffs are searches under their own state constitutions,⁴⁸ officers should consult with their legal advisors before using a dog to sniff items, locations, or persons for the presence of contraband. ♦

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Endnotes

¹ U.S. Const. Amend. IV.

² This article updates the article by Kimberly A. Kingston, "Hounding Drug Traffickers—The Use of Drug Detection Dogs," *FBI Law Enforcement Bulletin*, August 1989, 26.

³ 462 U.S. 696 (1983).

⁴ *Id.* at 707.

⁵ 466 U.S. 109 (1984).

⁶ *Id.* at 123.

⁷ *Id.* at 124.

⁸ 121 S. Ct. 447 (2000).

⁹ *Id.* at 453 (citations omitted).

¹⁰ Courts also have addressed such issues as the training and reliability of the dogs, *see, e.g., United States v. Williams*, 726 F.2d 661, 663 (10th Cir.), *cert. denied*, 467 U.S. 1245 (1984), the amount of suspicion necessary to effect a detention of an item to submit it to a dog sniff, *see, e.g., United States v. Green*, 52 F.3d 194 (8th Cir. 1995), and whether a positive dog alert constitutes probable cause, *see, e.g., United States v. Hernandez*, 976 F.2d 929 (5th Cir. 1992), *cert. denied*, 508 U.S. 914 (1993); *United States v. Stone*, 866 F.2d 359, 364 (10th

Cir. 1989); *United States v. Knox*, 839 F.2d 285, 294 n.4 (6th Cir. 1988), *cert. denied*, 490 U.S. 1019 (1989).

¹¹ *See, e.g., United States v. Avery*, 137 F.3d 343, 348 n.2 (6th Cir. 1997); *United States v. Thomas*, 87 F.3d 909 (7th Cir.), *cert. denied*, 519 U.S. 975 (1996); *United States v. Mendez*, 27 F.3d 126 (5th Cir. 1994); *United States v. Moore*, 22 F.3d 241 (10th Cir. 1994), *cert. denied*, 513 U.S. 891 (1994); *United States v. McFarley*, 991 F.2d 1188 (4th Cir.), *cert. denied*, 510 U.S. 949 (1993); *United States v. Jones*, 990 F.2d 405 (8th Cir.), *cert. denied*, 510 U.S. 934 (1993); *United States v. Allen*, 990 F.2d 667 (1st Cir. 1993); *United States v. Attardi*, 796 F.2d 257 (9th Cir. 1986).

¹² *See, e.g., United States v. De Los Santos Ferrer*, 999 F.2d 7 (1st Cir.), *cert. denied*, 510 U.S. 997 (1993); *United States v. Riley*, 927 F.2d 1045 (8th Cir. 1991); *United States v. Massac*, 867 F.2d 174, 176 (3d Cir. 1989); *United States v. Beale*, 736 F.2d 1289, 1292 (9th Cir. 1984), *cert. denied*, 469 U.S. 1072 (1984); *United States v. Bronstein*, 521 F.2d 459 (2nd Cir. 1975), *cert. denied*, 424 U.S. 198 (1976); *United States v. Fulero*, 498 F.2d 748 (D.C. Cir. 1974).

¹³ 42 F.3d 604 (10th Cir. 1994), *cert. denied*, 514 U.S. 1073 (1995).

¹⁴ *See, e.g., United States v. Daniel*, 982 F.2d 146 (5th Cir. 1993); *United States v. England*, 971 F.2d 419 (9th Cir. 1992).

¹⁵ 957 F.2d 615 (8th Cir. 1992).

¹⁶ *See, e.g., United States v. Venema*, 563 F.2d 1003 (10th Cir. 1977) (dog sniff of locker at rental storage facility not a search); *United States v. Cook*, 1990 WL 70703 (6th Cir. 1990) (unpublished) (same); *cf. State v. Smith*, 939 P.2d 157 (Ore. Ct. App. 1997), *rev'd*, 363 P.2d 642 (Ore. 1998).

¹⁷ 909 F.2d 235 (7th Cir. 1990), *cert. denied*, 501 U.S. 1217 (1991).

¹⁸ *Id.* at 238. *See also United States v. Lingenfelter*, 997 F.2d 632 (9th Cir. 1993) (Agents walked a trained dog through a public alley by a warehouse after receiving a tip from an informant that a subject was storing 2 tons of marijuana inside. The dog alerted to the presence of contraband in the warehouse. The court held that the dog sniff did not constitute a search.).

¹⁹ *See, e.g., United States v. Hunnicut*, 135 F.3d 1345 (10th Cir. 1998); *United States v. Holloman*, 113 F.3d 192 (11th Cir. 1997); *United States v. Carrasco*, 91 F.3d 65 (8th Cir. 1996); *United States v. Williams*, 69 F.3d 27 (5th Cir. 1995), *cert. denied*, 516 U.S. 1182

(1996); *United States v. Jeffus*, 22 F.3d 554 (4th Cir. 1994).

²⁰ See, e.g., *United States v. Brown*, 24 F.3d 1223 (10th Cir. 1994); *United States v. Diaz*, 25 F.3d 392 (6th Cir. 1994); *United States v. Solis*, 536 F.2d 880 (9th Cir. 1976); *Griffith v. Trudette*, 866 F. Supp. 254 (D. Md. 1994).

²¹ 121 S. Ct. 447 (2000).

²² *Id.* at 453.

²³ 929 F.2d 780 (1st Cir. 1991), *cert. denied*, 502 U.S. 1030 (1992).

²⁴ *Id.* at 788.

²⁵ See *United States v. Quinn*, 815 F.2d 153 (1st Cir. 1987) (reasonable suspicion); *United States v. Watson*, 783 F. Supp. 258 (E.D.Va. 1992) (reasonable suspicion); cf. *Hearn v. Bd. of Public Education*, 191 F.3d 1329 (11th Cir. 1999), *cert. denied*, 120 S. Ct. 1962 (2000) (dog sniff of car in school parking lot not a search).

²⁶ 10 F.3d 1523 (10th Cir. 1993), *appeal after remand*, 74 F.2d 1250 (10th Cir. 1995).

²⁷ *Id.* at 1527.

²⁸ *Id.* at 1527 n.1.

²⁹ 112 F.3d 239 (6th Cir. 1997).

³⁰ With respect to the officer moving the bags from the overhead racks to the seats for the dog to sniff, the court stated that “[b]ecause there was no meaningful interference with defendant’s possessory interest in his bag, there was no seizure.” *Id.* at 242.

³¹ *Id.* at 241. See also *United States v. Graham*, 982 F.2d 273 (9th Cir. 1992); *United States v. Harvey*, 961 F.2d 1361 (8th Cir.), *cert. denied*, 506 U.S. 883 (1992).

³² See *United States v. Trayer*, 898 F.2d 805 (D.C. Cir.), *cert. denied*, 498 U.S. 839 (1990); *United States v. Colyer*, 878 F.2d 469 (D.C. Cir. 1989); *United States v. Battista*, 876 F.2d 201 (D.C. Cir. 1989); *United States v. Taraglia*, 864 F.2d 837 (D.C. Cir. 1989); *United States v. Liberto*, 660 F. Supp. 889 (D.D.C. 1987), *aff’d without opinion*, 838 F.2d 571 (D.C. Cir. 1988). In *United States v. Whitehead*, 849 F.2d 849 (4th Cir.), *cert. denied*, 488 U.S. 983 (1988), the U.S. Court of Appeals for the Fourth Circuit held that bringing a dog into a roomette to sniff luggage constitutes a minimally intrusive search that must be supported by reasonable suspicion.

³³ 878 F.2d 469 (D.C. Cir. 1989).

³⁴ *Id.* at 473.

³⁵ *Id.* at 477.

³⁶ 122 F.3d 1120 (8th Cir. 1997).

³⁷ *Id.* at 1125.

³⁸ 757 F.2d 1359 (2d Cir.), *cert. denied*, *Fisher v. United States*, 474 U.S. 819 (1985).

³⁹ *Id.* at 1366-67.

⁴⁰ *United States v. Lingenfelter*, 997 F.2d 632, 638 (9th Cir. 1993) (“Because *Thomas* rests on an incorrect statement of the law, we expressly reject its reasoning.”); *United States v. Reed*, 141 F.3d 644 (6th Cir. 1998); *United States v. Colyer*, 878 F.2d 469 (D.C. Cir. 1989); *People v. Dunn*, 564 N.E.2d 1054 (N.Y. 1990), *cert. denied*, 501 U.S. 1219 (1991) (canine sniff of exterior of defendant’s apartment not a search under the Fourth Amendment but state constitution required police to have a reasonable suspicion that residence contained contraband).

⁴¹ 960 F. Supp. 1152 (W.D.Tex. 1997), *aff’d without opinion*, 166 F.3d 341 (5th Cir. 1998).

⁴² *Id.* at 1162.

“
...the dog sniff of
lawfully detained
luggage in a public
place does
not constitute
a search....
”

⁴³ See, e.g., *Romo v. Champion*, 46 F.3d 1013 (10th Cir. 1995), *cert. denied*, 516 U.S. 947 (1995) (Plaintiffs in civil suit contended their constitutional rights were violated when a dog sniffed their vehicle and person at a roadblock near a prison entrance. The court found that this constituted a special needs search and did not violate the Fourth Amendment); *United States v. Turpin*, 920 F.2d 1377, 1385 (8th Cir. 1990), *cert. denied*, *Williams v. United States*, 999 U.S. 953 (1991) (dog alerted to presence of narcotics in defendant’s pant pocket but court did not decide whether sniff constituted an improper search); *People v. Fondia*, 2000 WL 1919625 (Ill.App.4 Dist. 2000) (The court found that a dog alert to exterior of car did not, without more, provide probable cause to search the passengers. The court later stated that the officers should have had the dog sniff the defendant/passenger to see if the dog would alert again before they searched defendant’s person.); *People v. Brama*, 655 N.Y.S.2d 280 (Dist. Ct. 1st Dist.

1997) (dog alert to odor of marijuana from pant pocket was a search but was reasonable).

⁴⁴ *United States v. Place*, 462 U.S. 696, 720 (1983)(Brennan, J., concurring in result).

⁴⁵ See *B.C. v. Plumas Unified Sch. Dist.*, 192 F.3d 1260 (9th Cir. 1999); *Horton v. Goose Creek Indep. Sch. Dist.*, 690 F.2d 470 (5th Cir. 1982), *cert. denied*, 463 U.S. 1207 (1983); *Jones v. Latexo Indep. Sch. Dist.*, 499 F. Supp. 223 (E.D. Tex. 1980); but see *Doe v. Renfrow*, 631 F.2d 91 (7th Cir. 1980), *cert. denied*, 451 U.S. 1022 (1981).

⁴⁶ *Horton v. Goose Creek Indep. Sch. Dist.*, 690 F.2d 470, 477 (5th Cir. 1982) (citing *Katz v. United States*, 389 U.S. 347, 351 (1967)). See *United States v. Morales-Zamora*, 914 F.2d 200, 205 (10th Cir. 1990) (“The canine sniffs were made of the exterior of the defendants’ vehicles and did not invade their homes or bodily integrity.”); *United States v. Beale*, 731 F.2d 590, 595 (9th Cir. 1983), *reh’g*, 736 F.2d 1289 (9th Cir.), *cert. denied*, 469 U.S. 1072 (1984) (“We have little doubt that if faced with dragnet sniffing of human beings for evidence of crime, most of our colleagues would join in outrage at the violation of the reasonable expectation of privacy in one’s body.”).

⁴⁷ *United States v. Cook*, 1990 WL 70703 (6th Cir. 1990) (unpublished) (Guy, J., concurring); see also *United States v. Reed*, 141 F.3d 644, 650 (6th Cir. 1998).

⁴⁸ See, e.g., *Pooley v. State*, 705 P.2d 1293 (Alaska 1985)(exposure of luggage to dog sniff is a minimally intrusive search under the Alaska Constitution and requires a reasonable suspicion that contraband is present); *People v. Cox*, 739 N.E.2d 1066 (Ill. App. Ct. 2000)(canine sniff of exterior of defendant’s car without reasonable suspicion during a traffic stop did not violate the fourth amendment but did violate the Illinois Constitution); *State v. Pellicci*, 580 A.2d 710 (N.H. 1990); *People v. Dunn*, 564 N.E.2d 1054 (N.Y. 1990), *cert. denied*, 501 U.S. 1219 (1991)(canine alert by dog in common hallway outside apartment violated state constitution); *Commonwealth v. Johnston*, 530 A.2d 74 (Pa. 1987).

Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

The Bulletin Notes

Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize their exemplary service to the law enforcement profession.



Lieutenant Braafladt

While fleeing from the police at high speeds, a bank robbery suspect crashed his vehicle into several other vehicles at a busy intersection. Lieutenant David Braafladt, of the Roseville, California, Police Department left the safety and cover of his patrol car and moved to the rear of the suspect's vehicle. The suspect exited his car brandishing a handgun. Ignoring commands to drop his weapon, the suspect immediately began firing, seriously wounding Lieutenant Braafladt in the hand and wrist. Despite his injuries, Lieutenant Braafladt and another officer returned fire, fatally wounding the suspect. Lieutenant Braafladt selflessly put himself in significant peril to protect the lives of innocent bystanders.



Special Agent Unruh

While returning from testifying in court, Oklahoma State Bureau of Investigation Special Agent Perry Unruh noticed a car on fire with the driver trapped inside. After retrieving the fire extinguisher from his Bureau car, Agent Unruh immediately doused the flames and extricated the driver. Within a few minutes, the vehicle exploded and was engulfed in flames. Special Agent Unruh's brave and quick actions spared the life of the 19-year-old driver.



Officer Anderson

On routine patrol, Officer James Anderson, of the Danville, Indiana, Police Department responded to a car jacking in progress call. The vehicle's owner and her three children were still in the vehicle. Officer Anderson located the stolen vehicle and pursued it for over 20 miles. When the pursuit ended, the suspect fled, broke into a nearby home, and was later apprehended. It was later determined that the suspect committed two prior car jackings that same night. Officer Anderson's actions resulted in the capture of the suspect, the return of vehicle, and, most important, the safe rescue of the family.

Nominations for the **Bulletin Notes** should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions should be sent to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

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Patch Call



Department features Minnesota's last remaining covered bridge. The historic bridge was completed in 1871, has a span of 120 feet, is 15 feet wide, and serves as a local tourist attraction.



The origins of the patch of the NAVPHIBASE Little Creek Police Department in Norfolk, Virginia can be traced back to British-combined operations forces during World War II. The current patch is an updated and refined version of the original U.S. Amphibious Force World War II logo.