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Operation Cellmate

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Director

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FBI Law Enforcement Bulletin

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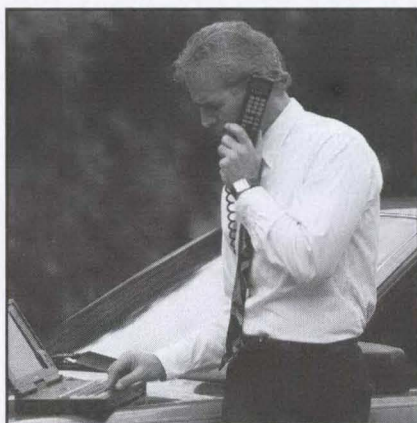
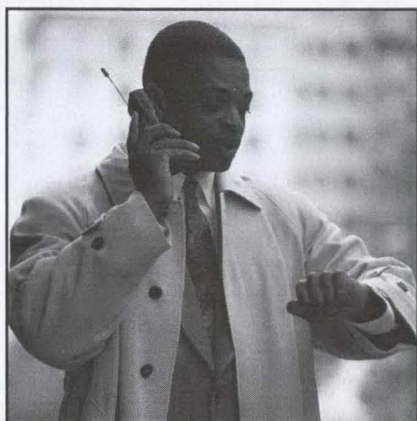
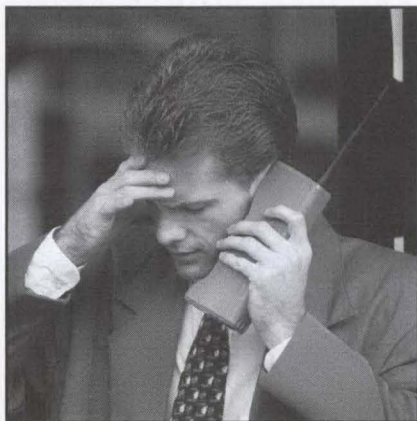
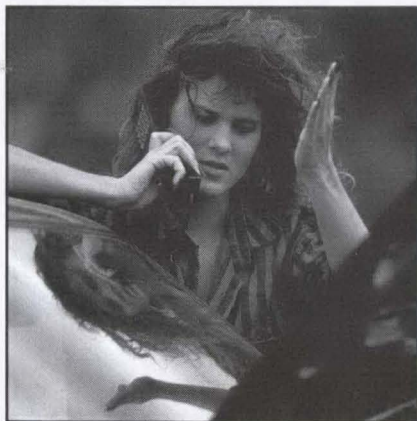
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Operation Cellmate

By P. R. BESELER, M.S.



Photos © PhotoDisc

On the way home from work, a woman dashes into a convenience store to pick up a gallon of milk. In her haste, she leaves her portable cellular phone on the front seat of her unlocked car. When she returns, the phone is gone. Across town, another cellular phone owner opens his mail and discovers, to his dismay, that his monthly phone bill includes over \$800 in calls he never made. Both of these people have become victims of cellular phone fraud.

With the proliferation of portable cellular phones, many criminals have added a new tool to their belts. Stolen and cloned phones are quickly becoming popular tools for criminals not only to obtain free phone service but also to conduct illegal activities using equipment that thwarts law enforcement's traditional wire-tapping techniques.

In an effort to combat this new crime wave, the state attorney's office in Jacksonville, Florida, pioneered a sting operation in which law enforcement officers posed as phone cloners who would, for a fee, reprogram stolen or inoperative cellular phones with numbers purportedly stolen from real cellular phone customers. Within weeks, nearly 100 people took advantage of this offer and were arrested and charged with felonies.

Dialing for Dollars

Every cellular phone has an electronic serial number (ESN). When customers buy phone service, they receive an additional number, known as a mobile identification number (MIN). Together, these

numbers make each cellular phone unique; in essence, they serve as the phone's fingerprint.

Unfortunately, these numbers are vulnerable to thieves. Anytime the phone is turned on, whether the owner is using it or not, a criminal can use an ESN reader to snatch the ESN-MIN combination literally right out of the air. A second machine allows the thief to key the stolen numbers into another phone, which also may be stolen. Using this "cloned" phone, the thief obtains free cellular service, while the unsuspecting victim is stuck with the bill.

In the first 5 months of 1996, thieves in Jacksonville stole over 300 hand-held cellular phones and cloned even more. Members of the law enforcement community knew they had a problem on their hands, but their favored means of fighting these types of crimes—undercover operations—seemed just out of

reach. Indeed, the cost to run a successful venture of this magnitude, which would include cellular phone equipment and air time, could prove prohibitive. Fortunately, a cellular provider in the Jacksonville area offered free equipment and air time for use during this operation.¹ With the financing obstacle removed, "Operation Cellmate" moved forward rapidly.

Calling All Crooks

Investigators from the state attorney's office joined forces with agents from the U.S. Secret Service, whose jurisdiction includes cellular phone fraud, and the Naval Criminal Investigative Service, because of the large naval presence in Jacksonville. Together, they secured a storefront location, renovated the building, and set up a waiting area in the front lobby. A back room was used for cloning, and another room was used for

monitoring transactions via hidden microphones and video cameras.

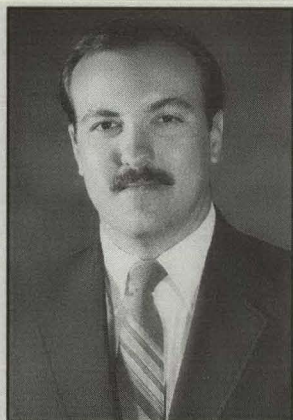
Investigators received training on how to operate the telephone programming equipment and practiced cloning different telephone makes and models. The phone company provided a list of ESN-MIN combinations for investigators to program into customers' phones. With the addition of the logo painted on the front window, Cellmate Communications, Inc., was open and ready for business.

To keep honest citizens from mistaking the new company for a legitimate phone service provider, investigators operated strictly on a referral basis. They gave business cards to informants, who spread the word among drug dealers, prostitutes, burglars, and others engaged in criminal activities. Within days, the first customers began calling to inquire about Cellmate's services.

From the start, investigators told potential customers that the services they were paying for were illegal. By recording these initial phone conversations, investigators showed the suspects' predisposition to commit crimes and prevented them from successfully using entrapment defenses later in court. Finally, customers received directions to the undercover location, where investigators eagerly awaited their arrival.

Investigators were alerted to the arrival of customers by video cameras aimed at the parking lot. As customers entered the store, officers in the monitoring room would start videotaping.

Investigators who greeted the customers quickly realized that



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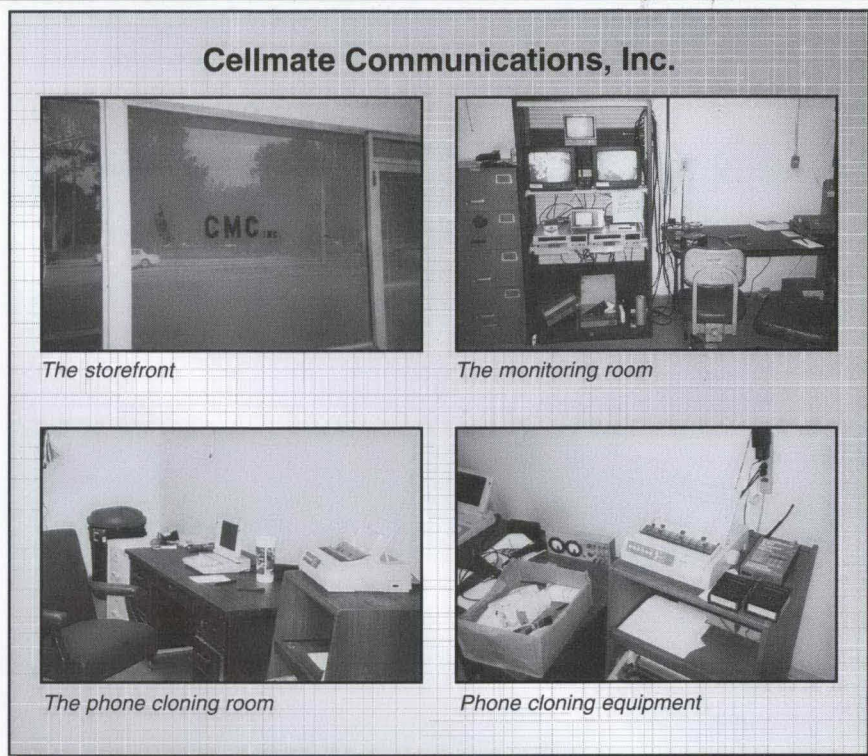
“ Stolen and cloned phones are quickly becoming popular tools for criminals...to conduct illegal activities [and thwart] law enforcement's traditional wire-tapping techniques. ”

many were looking for a secure means of communication to conduct lucrative drug and prostitution transactions and were willing to pay for it. Undercover officers sold these customers preprogrammed phones, making it clear that both the phones and the numbers were stolen. Later, in addition to charges related to purchasing cloned phones, these suspects would face charges for their drug- and prostitution-related crimes, with prosecution made easy thanks to the detailed billing records generated by their phones.

An equal number of customers brought in phones for reprogramming. When investigators asked about the origin of the phones, almost all of the suspects provided accurate details. They represented stolen phones as just that, and others candidly admitted that the phone company had turned off their legally acquired phones due to delinquent payments.

To reprogram a phone, investigators would turn it on near the ESN reader, which would capture and print the ESN-MIN combination. In addition to providing evidence of the phone's original code, this printout gave investigators in the back room a way to verify the identity of the phone's owner.

After calling the cellular phone company to obtain this information, investigators would persuade customers to trade stolen phones for one of Cellmate's phones. If a customer refused or if the phone merely had been turned off for non-payment, investigators would use the cloning equipment to enter a new number. After making a test



call to show the customer that the phone worked, investigators collected the fee.

Fees ranged from \$75 to \$250 for preprogrammed phones, depending on the model. For reprogrammed phones, \$50 guaranteed that the new number would work for at least 2 weeks. Investigators promised to reprogram for free any phones cut off by the legal owner during that time. This gave investigators an opportunity to reiterate the illegality of the suspects' actions. It also set the stage for investigators to cancel the numbers, requiring suspects to return to the shop for new ones. This way, officers could find suspects more readily at arrest time.

Tracking the Clones

Suspect identification proved difficult with walk-in customers,

who usually introduced themselves only by their street names. When possible, surveillance units would obtain tag numbers from the suspects' cars. But the most reliable identification method proved to be pretext traffic stops performed by uniformed officers who completed field interrogation cards on the vehicles' occupants.

Officers made the pretext stops several miles from the store, and no one ever became suspicious. In fact, some even called afterward to brag about how they had cleverly avoided detection or arrest despite having just conducted an illegal transaction.

Suspects who provided driver's licenses made identification easy. For others, investigators had to identify the suspects by searching arrest records and other archives in order to retrieve photographs

and match the faces with the names. In many cases, police reports filed by victims of cellular phone fraud confirmed the suspects' criminal acts.

Early in the investigation, it became apparent that some of the individuals who came to buy cloned phones were involved in a host of other criminal activities. Investigators were offered a variety of different drugs, including "Roofies" (Rohypnol, the "date rape drug"), stolen property, weapons, and even illegal cable television descrambling devices in exchange for phone service. So many suspects came to the shop armed that undercover officers always worked in pairs for protection. One undercover officer, who spoke with a fake Eastern European accent, used the customs of his adopted persona to hug a customer and perform a quick pat-down for weapons.

Bringing in the Thieves

In 36 working days, investigators conducted 172 separate transactions with 98 different suspects. After reviewing the cases, the state attorney's office issued arrest warrants for 92 of them.

In order to arrest as many suspects as possible before word spread to others, investigators arranged for the phone company to disconnect service to all of the phones at 3 p.m. on the day before the scheduled arrests. Naturally, the suspects began calling Cellmate Communications to report that their phone service had been interrupted. Investigators told them to come in the next morning to have their phones reprogrammed for free.

Most were happy to comply. In fact, over 30 suspects were arrested within the first 2 hours of business as they entered the store, phones in hand. By the end of the first day, 72 suspects were in custody.

One customer showed up the following day to have his phone turned on as investigators, wearing sidearms, were loading furniture and emptying out the storefront. It seems that despite being on television and the front page of the newspaper, the sting had gone unnoticed by some of Cellmate's customers.

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In an ironic twist of fate, a flashlight belonging to one of the Secret Service agents working the sting was recovered from one of the suspect's cars at the time of his arrest. The flashlight, with the agent's name engraved into the metal from his days as a uniformed police officer, had been stolen months before.

Finally, agents from the Naval Criminal Investigative Service also harvested the fruits of their labor. The operation uncovered sailors who had used cloned phones to make bomb threats in order to get a day off from work.

Prosecuting the Offenders

During the prosecution of the cases, every plea agreement required that the defendant make full restitution to the phone company and the state attorney's office. Detailed records, including usage bills for each phone and case logs for each suspect, made the process easier.

Suspects with no arrest history were given the opportunity to enter pretrial intervention programs after signing deferred prosecution agreements. These agreements stipulated that if the defendants made restitution, completed community service, and did not reoffend for 1 year, the charges would be purged from their permanent records.

Interestingly, only 6 of the 92 suspects had no prior records. Most of the suspects had extensive criminal backgrounds, some qualifying for enhanced federal penalties for possessing a firearm after three violent felony convictions. For these offenders, jail will be the only cell they will see for a long time.

Deterring Would-be Thieves

The success of any sting operation often is measured by the number of potential offenders deterred from committing similar crimes because of the perceived chance for arrest. Operation Cellmate offered a prime opportunity to deter those individuals who may not have considered phone cloning a "real" crime. People who might have considered buying a cloned phone likely changed their minds after watching the evening news and seeing dozens of suspects chained together and loaded onto jail buses.

To further enhance the deterrent effect and maximize media coverage, investigators asked a national news organization to accompany them during the sting. The team then highlighted the operation on its weekly news magazine show, bringing a flood of interest from law enforcement administrators, telecommunications industry officials, and civilians.

Conclusion

In less than 2 months, Cellmate Communications customers had used over \$165,000 in "stolen" air time. These numbers illustrate the billion-dollar problem this crime represents nationally. Yet, excluding salaries and equipment, the cost of the investigation to taxpayers was under \$3,000, with most of this money paying for building renovations and utilities.

Operation Cellmate focused attention on a new problem facing law enforcement and highlighted the connection between cellular technology and different types of criminal activity. Most important, it proved that law enforcement, working with the private sector, can use new technology and traditional sting techniques to snare criminal opportunists. Indeed, using similar methods, law enforcement agencies in other jurisdictions can give cellular phone thieves a much-needed wake-up call. ♦

Endnote

The cellular phone provider that funded this operation has offered to assist other law enforcement agencies in funding similar operations. For further details, contact the author.

Author Guidelines

Manuscript Specifications

Length: 2,000 to 3,500 words or 8 to 14 pages.

Format: All manuscripts should be double-spaced and typed on 8 1/2- by 11-inch white paper. All pages should be numbered, and three copies should be submitted for review purposes. When possible, an electronic version of the article saved on computer disk should accompany typed manuscripts.

Publication

Basis For Judging Manuscripts: Manuscripts are judged on the following points: Relevance to audience, factual accuracy, analysis of information, structure and logical flow, style and ease of reading, and length. Favorable consideration cannot be given to an article that has been published previously or that is being considered for publication by another magazine. Articles that are used to advertise a product or a service will be returned to the author.

Query Letters: Authors may submit a query letter, along with a detailed one- to two-page outline before writing an article. This is intended to help authors but does not guarantee publication of the article.

Author Notification: Receipt of manuscript will be confirmed. Notification of acceptance or rejection will be sent following review. Articles accepted for publication cannot be guaranteed a publication date.

Editing: The *Bulletin* reserves the right to edit all manuscripts for length, clarity, format, and style.

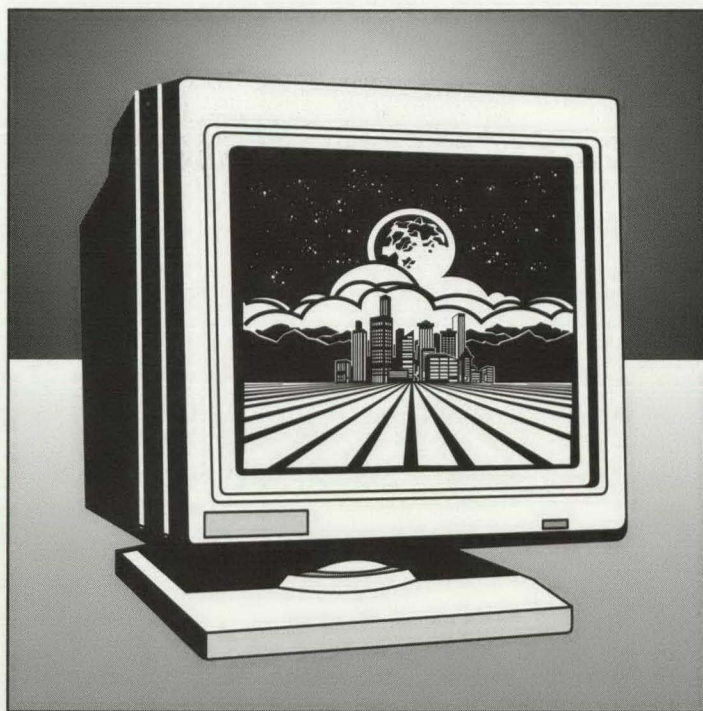
Submission

Authors may contact the police training coordinator at the nearest FBI field office for help in submitting articles, or manuscripts may be forwarded directly to: Editor, *FBI Law Enforcement Bulletin*, Law Enforcement Communication Unit, FBI Academy, Quantico, VA 22135.

Police Practice

Community Policing Online

By Tim Webb



America—and most of the world—is in the midst of a revolution. As the industrial-based societies of the 20th century give way to the information-based societies of the 21st, the age of instant communication offers both promise and peril to law enforcement administrators and their agencies. Those agencies that embrace the changes being ushered in by the information revolution should thrive in the new environment. Those agencies that resist change may find themselves isolated, their effectiveness severely impaired, as the rest of the world interconnects around them.

The Searcy, Arkansas, Police Department has implemented a program to use the state's first police department-operated computer bulletin board system (BBS) as an information gateway to the public. By

doing so, it hopes to strengthen the ties between the department and the community it serves by increasing citizens' access to information regarding the police and enhancing interaction between officers and citizens.

Background

Searcy, a community of approximately 17,500 residents, has emerged as the third-fastest-growing community in the state.

The police department has grown accordingly and now fields 40 sworn officers. For the past several years, it has operated from a community-oriented policing framework.

Like most small to medium-sized law enforcement agencies, the Searcy Police Department embarked on the road to computerization somewhat hesitantly. However, since obtaining its first personal computer in 1992, the department has increased the number of computers exponentially. Today, a personal computer is available to every one of its

officers. A network system connects the individual workstations and allows instant communication and information access throughout the agency.

In early 1995, after learning about courts in several western states that use BBSs to communicate with each other, department administrators decided to implement a similar system to communicate with the public. The chief charged the department's information systems manager with reviewing existing bulletin board applications to determine the best system for Searcy's needs.

During the next several months, the information systems manager researched available hardware configurations and software packages, critiquing their ease of use, expandability, and cost-effectiveness. By late June, the individual components had been chosen,

and the system's hardware configuration had undergone rigorous testing. In July 1995, the Searcy Police Department's BBS became operational.

Features and Capabilities

The system operates from a personal computer with 8 megabytes of random access memory (RAM) and a 540 megabyte hard drive. The computer is equipped with a 28.8 bits per second (bps) external modem that connects to a standard analog telephone line.

Currently, the system can accept two users simultaneously; one through the dial-in modem and one through the local area network (LAN). The system can be expanded to support up to 16 channels at once. The department plans to make use of this expansion capacity as system activity and load increase.

During the testing process, the information systems manager determined that the BBS offers some extended capabilities. A teleconferencing function allows users to communicate in real time on the system. An electronic-mail feature allows users to send messages to the department, other registered users, or public message forums.

Users can post questionnaires, conduct informal polls, and inform other users of upcoming events of interest. The system also will display a registry of users that allows those posting messages to see who accesses them.

Access

Citizens can use any personal computer, standard communication program, and 1,200 to 28.8 bps modem to access the department's BBS. First-time users must answer a brief online questionnaire in order to register with the system. The department provides the bulletin board service at no cost to local telephone customers; long-distance users pay only the cost of a toll call to access the system.

Uses

The Searcy Police Department implemented its bulletin board system primarily as a way for the department to provide information to the citizens it serves. However, the extended capabilities of the system also provide a new way for members of the public to communicate with the department.

Citizens can post questions, leave messages of praise with individual officers, and even file complaints. Complaints filed through the bulletin board are printed and investigated in much the same way as complaints filed in person—the primary difference being that the complainant does not have to travel to the police station.

All messages from citizens are routed and recorded by the BBS software. The information systems manager monitors the BBS and routes general messages to the chief or the public information officer, depending on content. Citizens also can send messages directly to individual officers.

In addition to providing a new way for citizens to interact with the department, the BBS offers a unique way for the agency to provide information to its citizens. All initial reports filed with the police department now are posted on the BBS. To protect personal privacy, the department censors the reports by removing names, addresses, and other personal identifiers. Nonetheless, in a community the size of Searcy, such information-sharing can help dispel persistent concerns from some individuals that the police department covers up certain information. By allowing citizens to see *all* of the reports filed with the department, instead of only those that the news media deem newsworthy, the department believes that these cover-up concerns will become a thing of the past.

The police department also uses the bulletin board system to provide up-to-date information on new laws that may be of interest, general safety tips,

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”**

and reminders of basic traffic regulations that drivers often question. Citizens can download and print these documents, or just view them online.

Public Response

Since establishment of the BBS in July 1995, over 1,360 calls have been processed. Ninety-one citizens have registered with the system. The police department has received more than 1,080 messages from users. Citizens have accessed the system in excess of 600 times to download various documents posted on the BBS.

Perhaps the best gauge for evaluating the effectiveness of the bulletin board service, however, is to measure its success on a more individual basis. On one occasion, the bulletin board helped reassure a former Searcy resident who now lives out of state. After attempting unsuccessfully to contact his elderly mother in Searcy by telephone, the man posted a message to the chief via the BBS. An officer dispatched to the residence located the woman. The chief relayed a message via the bulletin board, advising the man that his mother was fine.

On another occasion, a citizen sent a message via the bulletin board wanting to know why the police had established roadblocks at various locations throughout the city. The man was somewhat irate because his car had been stopped at one of these checkpoints and the vehicle in front of his had not.

The department posted a reply explaining that the patrol division periodically conducts vehicle safety checks to alert motorists of problems with their vehicles that may pose a safety risk. The citizen's attitude toward the police seemed to improve noticeably after receiving the explanation. And, because the department also posted its reply on the public message forum, it conceivably answered similar questions from other citizens who had not posted their concerns about the safety checks.

Unique Advantages

The ability to disseminate information to a wide audience with one message represents a key advantage the BBS offers over telephone communication. Another is that citizens who may be reluctant to bother the department with a telephone call may not think twice about posing a question via the bulletin board system.

Citizens know that a response will be posted when an officer has time to research their concern and draft a reply. The system seems to offer a comfortable distance level that users find reassuring.

Conclusion

In the emerging information age, the level of information exchange in which organizations engage will be an important

standard by which the public will judge their effectiveness and value. Because enhanced communication between the police and citizens also is a central component of community policing, this may prove especially true in the law enforcement field. Fortunately, many law enforcement agencies already possess the basic tools necessary to improve interaction with the citizens they serve by implementing an electronic bulletin board system.

The Searcy Police Department has found that such a service not only offers an innovative medium for the department to provide information to its citizens, but it also serves as a new way for citizens to interact with the department. The BBS uses technology to further a reemerging concept in policing—getting officers involved with the community. As electronic communication becomes commonplace, agencies that embrace this technology will find themselves well-poised to join the information revolution. ♦

Sergeant Webb serves as the public information officer with the Searcy, Arkansas, Police Department. Searcy's BBS number is 501-279-1015.

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The Chicago Bank Robbery Initiative

By PAUL CARROLL and
RONALD JOHN LOCH



The Chicago area, like other major metropolitan areas of the United States, experienced a sharp increase in the number of bank robberies during the past several years. In 1994, the Chicago Police Department, in cooperation with the Chicago Office of the FBI, began researching the problem. Through this effort, investigators identified several key factors that influenced bank robbers' decisions to strike certain institutions at specific times. Investigators also determined which security

measures served as deterrents to potential offenders and which measures proved most effective in helping law enforcement apprehend subjects after a robbery occurred.

The police department and the FBI subsequently drafted specific recommendations to assist banking officials in making their institutions less vulnerable to robbery. Investigators also organized a seminar for bank employees designed to augment the limited security training employees receive when they are hired. During the seminar,

investigators discussed the findings of their research, reviewed federal security regulations, and made specific recommendations for tellers to follow during and directly after robberies.

While some of the data gathered by the investigators through the Chicago Bank Robbery Initiative relate specifically to bank robberies in the Chicago area, most of the information can be applied to robberies involving financial institutions in any jurisdiction. Collectively, these findings help explain

some of the factors behind the rise in bank robberies in communities around the country and provide a basis for enhancing security at these facilities.

RESEARCHING THE PROBLEM

Compared with other well-populated states, the number of bank robberies in Illinois has remained relatively low. In 1994, Illinois recorded 136 robberies of financial institutions. During the same year, the state of New York recorded 329; Florida, 662; and California, 2,215.¹

Despite the comparatively low statewide figures for Illinois, the city of Chicago has experienced a dramatic increase in bank robberies during the past several years. In 1993, a record 71 bank robberies occurred in the city. In 1994, the number climbed to 73. By contrast, in the years between 1979 and

1992, the highest number of bank robberies for the city during any given year had been 50.²

Chicago Police Department detectives and FBI agents participating in the Violent Crimes Task Force pooled their resources to attempt to identify the factors contributing to the rise in bank robberies. To do so, the investigators studied national and local crime records, interviewed local bank robbers, and evaluated the security measures and equipment used by area financial institutions.

Reviewing Records

To help determine basic information about the crime of bank robbery, investigators reviewed national and local statistical data and studied federal and local crime reports. The FD-430, a form completed by FBI agents at the scene of bank robberies, proved especially useful in helping the investigators

identify trends and develop security recommendations for financial institutions. Investigators reviewed and entered these FD-430s and Chicago Police Department bank robbery forms into a database for analysis and future reference.

Interviewing Bank Robbers

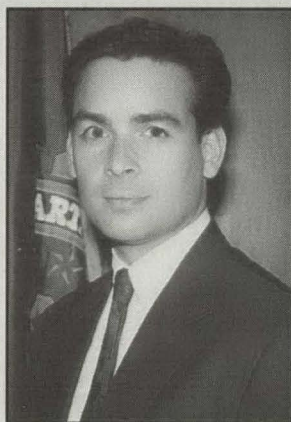
To obtain a clearer picture of what motivated offenders, investigators interviewed convicted bank robbers. Thus far, investigators have interviewed five offenders serving time either in federal or local correctional institutions. The subjects ranged from note passers who were unarmed at the time of the robbery, to lone armed offenders, to members of armed gangs that specialized in taking over facilities and terrorizing witnesses as they emptied the vault.

While the interviews were not conducted as part of a scientific study, they have been of great value in helping investigators determine why offenders chose a particular target over others, how offenders planned the robberies, and what security measures would have deterred them from robbing a particular institution. During the interviews with offenders, investigators sought the following information:

- Their prior arrest records and prior crimes committed
- Reasons for choosing the bank they robbed
- What deterred them from committing the offense at other locations (if applicable)
- How they committed the offense



Sergeant Carroll serves in the Detective Division of the Chicago, Illinois, Police Department.



Special Agent Loch is assigned to the Chicago Office of the FBI.

- Where they wrote the note (if applicable)
- Where they parked their getaway vehicle(s) (if applicable)
- How much planning they did before the robbery
- Their thoughts about security guards, either armed or unarmed
- Their thoughts about bait money and exploding dye packs
- Their thoughts on surveillance cameras and alarms
- Their thoughts on the law enforcement response.

Investigators also asked the offenders about the circumstances surrounding their apprehension, including what factors they believed led to their capture. If the subject proved cooperative, investigators asked more detailed questions about the robbery.

Evaluating Security Measures

To gauge the effectiveness of the different security measures adopted by financial institutions, investigators conducted inspections of area banking facilities to include those that had been robbed and those that had not been targeted. They placed special emphasis on institutions that had been robbed more than once. As new offenses occurred, investigators also inspected those facilities. To date, investigators have inspected seven facilities; four of which have been targeted more than once.

Investigators paid special attention to whether the financial

institutions followed established security procedures, such as instructing employees in the proper use of bait money and dye packs. Federal banking regulations require that federally insured financial institutions maintain bait money—U.S. currency with recorded serial numbers—at each teller position. When an offender begins to spend the bait money, it provides a paper trail for law enforcement officers to track down the subject.

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”**

Dye packs consist of bundles of currency that contain a colored dye and tear gas. Given out during a robbery, they are activated when the subject crosses an electromagnetic field at the facility's exit. Upon activation, the pack stains the money with a brightly colored dye and emits a cloud of colored smoke. When given out properly by bank employees during a robbery, bait money and dye packs cannot be detected by robbers and can greatly assist law enforcement in apprehending offenders.

FINDINGS

Investigators accumulated a wealth of information from this

informal research effort. Some of the data confirm previously held conceptions regarding bank robbery and the offenders who commit this crime. However, in its totality, the information provides a more comprehensive picture of the problem and can be used by investigators and bank personnel to enhance the security of financial institutions.

Crime Facts

National and local crime statistics reveal considerable information about the crime of bank robbery. They also provide information about the subjects who commit these crimes.

The prime time for bank robberies is from 10 a.m. to 3 p.m. Friday remains the day of choice for most bank robbers.

The average offender is a male over 30 years of age. From 1991 to 1994, females participated directly in only 3 percent of the bank robberies committed nationwide.³ On average, bank robbers are older than subjects who commit other types of robberies.

The average offender is not armed. Those offenders who use a note to communicate their intentions generally give the teller a handwritten message that they prepare on some type of readily available bank paper (such as a deposit slip) at the institution just prior to the robbery.

Offender Interviews

Investigators also gained insight from their interviews with convicted bank robbers. All of the interviewed subjects had “graduated” to bank robbery from other

Guidelines for Closed-Circuit Television Systems



Closed-circuit television (CCTV) systems have become the primary surveillance device used by many financial institutions. Although CCTV offers benefits such as continuous coverage of targeted areas, those recorded images often lack sufficient detail to help law enforcement because of their poor reproduction quality.

The lack of photographic detail may be due to many factors. CCTV cameras often are placed too high and too far from the area they are intended to film. The images then sometimes are recorded on a split-image monitor, which further reduces their size, clarity, and reproduction potential. These weaknesses can be minimized if financial institutions design systems that follow these guidelines:

- The CCTV camera should be mounted no more than 7 1/2 feet off the ground and a maximum of 10 feet from the targeted area.
- The CCTV system should monitor the customer lines, the customer desk area, and the facility parking lot. Cameras conspicuously placed to view these areas provide an effective deterrent to crime.
- Cameras should be checked periodically to ensure proper positioning and lighting.
- The CCTV system should record in "real time" speed (20 frames per second) and be convertible to a slower speed (60 frames per second) when the alarm is activated.
- To preserve quality, tapes should be used a *maximum* of three times.
- CCTV should be used only in conjunction with still photography and should not be relied upon as the sole surveillance system in a banking facility.

Excerpted from Robbery Procedures and Security Standards for Financial Institutions, Findings of the Chicago Bank Robbery Initiative, 1995, 4-5. Copies of the booklet can be obtained by writing to Sgt. Paul Carroll, Chicago Police Department, Detective Division, Room 501, 1121 South State Street, Chicago, Illinois 60605.

types of commercial robbery. In fact, each subject's record included prior convictions for robbery.

All of the subjects indicated that they moved up to bank robbery to obtain larger amounts of money. One subject planned his robbery after reading newspaper accounts describing a crime that occurred the previous day, during which a large sum of money was taken.

The offenders unanimously stated that the presence of a uniformed security guard would have deterred them from targeting a particular financial institution. Likewise, they all were aware of the steps that banks take to help police catch bank robbers, such as including bait money and dye packs with the cash surrendered during a robbery. When the subjects committed their offenses, they specifically instructed the tellers not to include these items.

Each of the offenders interviewed believed that bank tellers were trained not to resist during a robbery but to surrender money without hesitation. This may explain in part why most bank robbers do not believe it is necessary to display a firearm during the commission of a robbery.

All of the subjects revealed that one of their primary concerns was being trapped by police inside a bank. Therefore, the subjects devoted the majority of their pre-robbery planning to devising an escape route. If subjects used a getaway vehicle, they either parked their vehicle a considerable distance from the facility and walked to it after the robbery, or they used a stolen car to drive to their own vehicle.

Either way, they were careful to park their own vehicles in a location that would not draw attention—generally in another parking lot or in a residential area where other vehicles were parked. The offenders believed that the transient nature of pedestrian traffic in business districts would make it difficult for law enforcement to locate witnesses outside of the bank.

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The offenders unanimously stated that the presence of a uniformed security guard would have deterred them from targeting a particular financial institution.

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Financial Institutions

Security inspections revealed that closed-circuit television (CCTV) has become the preferred surveillance device of many area financial institutions. The increased use of CCTV followed a 1991 decision by the Federal Deposit Insurance Corporation, the Federal Reserve, the Bureau of the Controller, and the Federal Home Bank Board—the four governing bodies that administer federal financial security regulations—to relax regulations relating to photographic security.

The original regulations, as set forth in the Bank Protection Act

of 1968, required that federally insured financial institutions maintain “...one or more photographic, recording, monitoring or like devices capable of reproducing images of persons in the banking office with sufficient clarity to facilitate...the identification and apprehension of robbers or other suspicious persons.”⁴ The revised regulations only require financial institutions to “...establish procedures that will assist in identifying persons committing crimes against the bank and that will preserve evidence that may aid in their identification and prosecution. Such procedures may include, but are not limited to: retaining a record of any robbery, burglary, or larceny committed against the bank; maintaining a camera that records activity in the banking office; and using identification devices, such as pre-recorded serial-numbered bills or chemical and electronic devices.”⁵

While CCTV meets the standard of the new regulations, still photography (35 or 70mm) offers superior reproduction capabilities. When investigators reviewed and analyzed surveillance films from CCTV systems in use during robberies, they quickly noted the poor quality of the images.

In most cases, the cameras were positioned too far away from the area being monitored—leading to partial images of offenders or images that were too small to reveal adequate detail. Not surprisingly, attempts to produce still photographs from these images for distribution to law enforcement agencies and the public often met with dismal results.

In discussions with banking officials, investigators identified other factors that could inhibit the successful investigation of bank robberies. Some managers were reluctant to use bait money due to a concern that their bank incurred a financial loss by having cash sitting in a drawer not earning interest. Several banking officials expressed concern about safety and liability issues relating to exploding dye packs.

In addition, many banking officials revealed that in the event of a robbery, they have instructed their personnel to wait until the offender leaves the premises before activating the silent alarm. When asked why, they explained that the alarms automatically activate still security cameras throughout the facility. Because the banks ultimately incur the cost of having the surveillance film developed, some officials prefer to have tellers activate the alarms after the offender exits the building so that there is no need to develop the film.

ENHANCING BANK SECURITY

In January 1995, during the early stages of the research effort, FBI and Chicago Police Department investigators conducted a security seminar at one of the branch offices of a major financial institution. Over 250 employees from Chicago area financial institutions attended the seminar. The response was very favorable, and many institutions arranged to receive additional on-site training for their personnel.

Eight months later, the investigators held a second seminar, which incorporated the research findings. Each financial institution in Chicago was invited to send representatives to the seminar. This program primarily focused on enhancing security measures at banking facilities. FBI special agents and detectives from the Chicago Police Department also reviewed the findings of the research effort and made recommendations for employees to follow during and after a robbery.

**“
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RESULTS

Preliminary figures indicate that the initiative, coupled with increased enforcement efforts, has helped stem the tide of bank robberies in the Chicago area. After increasing dramatically over the past several years, the number of bank robberies in Chicago declined even more dramatically after the August 1995 seminar. In the first 6 months of the year, 71 bank robberies were recorded in the city. Twenty-six bank robberies occurred in the last 6 months of 1995.⁶ In the 2 months

directly following the seminar, only five robberies were recorded.

CONCLUSION

Financial institutions always have been attractive targets for criminals. In recent years, however, the number of bank robberies has grown to unprecedented levels in many communities around the country. The Chicago Bank Robbery Initiative yielded a wealth of information that investigators could, in turn, provide to the personnel of financial institutions to enhance the security of their facilities.

Although banks must tread a fine line between safeguarding against robbery and maintaining an accessible environment for their customers, the increased criminal focus on financial institutions calls for a renewed commitment to enhancing bank security. Through the Chicago Bank Robbery Initiative, investigators have gained new insight into an old crime. By working cooperatively with area bank personnel, the FBI and the Chicago Police Department have used this information to increase security at financial institutions throughout the city. ♦

Endnotes

¹ *FBI Bank Crime Statistics: Federally Insured Financial Institutions*, Federal Bureau of Investigation, 1994.

² *Ibid.*

³ *Ibid.*

⁴ *FDIC Rules and Regulations*, part 326, sec. 326.3, “Minimum Security Devices and Procedures and Bank Security Act Compliance,” *The Bank Protection Act of 1968* as amended, effective May 3, 1991.

⁵ *Ibid.*

⁶ Records of the Chicago Police Department.

In Search of Praise

By
Karl S. Leonard

"People ask you for criticism, but they only want praise."

—W. Somerset Maugham
Of Human Bondage

An elusive quality of police supervisors is their ability to extend praise or positive comments to employees who perform admirably. Perhaps this stems from the very nature of police work. After all, citizens rarely, if ever, call on the police to tell officers that they are doing a fine job or how much they appreciate their services. No, citizens usually look to the police only when they fall victim to misfortune.

Still, supervisors need to realize the power of praise. An employee's job satisfaction is directly linked to individual recognition and positive reinforcement for work done well. Continued lack of recognition can have deteriorating effects on personnel and, in turn, on the department.

Individuals tend to retain those behaviors for which they receive positive reinforcement. It would seem that receiving praise satisfies one of mankind's most important needs.

In his "Hierarchy of Needs" pyramid, Abraham Maslow, a psychologist whose lifelong interest involved human motivation, lists five levels of need for all human beings.¹ As individuals reach fulfillment at one level, they move on to the next, until all levels have been achieved or satisfied.

The fourth level in Maslow's pyramid is labeled "Ego/Status." At this level, individuals need to be seen as people of worth by others; they search for recognition, status, prestige, and praise. Failure to achieve this level makes it difficult to move on to the fifth, and final, level of the pyramid, which is self-actualization—the need for self-fulfillment and personal development, to be creative, innovative, and challenged in the work environment.

Given that praise is important to personal and professional growth and well-being, why do some police supervisors fail to satisfy this particular employee need? By examining the potential reasons for the lack of praise, supervisors can learn where their shortcomings may lie and how they can become more praise-conscious.

REASONS FOR THE LACK OF PRAISE

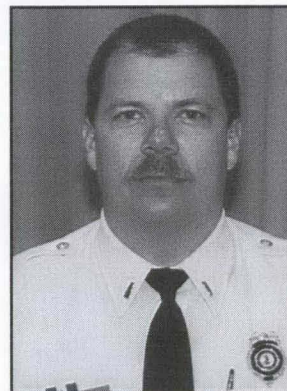
Any discussion of the reasons behind the failure to give praise must begin with an acknowledgement that this affliction does not affect all supervisors. Some supervisors make a conscious effort to extend praise whenever it is warranted. Unfortunately, these individuals are the exception and not the norm. There also are some supervisors who have praised in the past but now have stopped, even though the quality of employee performance has not deteriorated. They, too, may have fallen victim to the failure-to-praise syndrome that afflicts the law enforcement profession. And those who do not receive praise may have difficulty extending it to others.

For the most part, however, a majority of supervisors never have made praise a part of their workday behavior. All of this leads to the question, "Why do so many good supervisors fall short when it comes to praising employees?"

A Paperwork Nightmare

Some supervisors do not praise employees because of the paperwork involved. Unfortunately,

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they do not recognize that praise does not have to be a lengthy, formal, or involved process. In fact, Blanchard and Johnson, in their book *The One Minute Manager*,² list one-minute praises as one of the secrets to being a good manager. What supervisors need to remember is that in most cases, employees receive as much benefit from informal praise as they do from formal commendation.

While awards and medals have an established place in the police culture, so should informal, handwritten notes of thanks, pats on the back, or just some words of encouragement at a roll call. In fact, it is the informal praise that employees come to appreciate more, because in some departments, awards, medals, and commendations are handed out so frequently for trivial deeds that they have become meaningless.

Commitment to Favorable Annual Performance

Some supervisors do not praise because they fear they would be committed to giving those employees

favorable annual evaluations, which also may translate into a paperwork nightmare. However, supervisors must remember that individual acts deserving of praise make up only a small part of an employee's total performance. These praises should not, by themselves, dictate annual performance evaluations. When completing annual performance evaluations, supervisors must give the proper weight to each admirable act and no more.

At the same time, supervisors need to keep in mind that well-deserved praise could spur employees to perform better. When supervisors fail to praise regardless of the accomplishment, employees most likely will adopt a "nothing-I-do-is-good-enough" attitude. This only results in employees doing just enough to get by.

Spectacular Acts Belief

Many supervisors reserve praise only for spectacular acts done beyond the call of duty. Yet, what of those employees who do their jobs well, who complete assignments on or ahead of schedule, who are diligent and conscientious, but who may never perform a spectacular act during their entire career?

Every law enforcement agency employs such individuals. For this very reason, recognition should not be doled out solely for exceptional performance. Praise should be given for everyday work that clearly stands out.

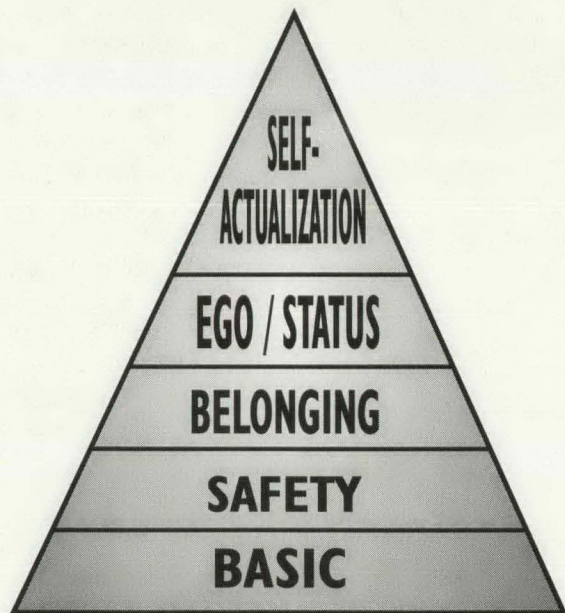
Fear of Competition

In some cases, supervisors are afraid to praise certain individuals because they feel threatened by them. Fear of competition causes many good works to go unrecognized. Every supervisor should strive to make the department the best it can be. Even if some employees are on the "fast track," supervisors should not let this dictate who receives praise. Praise should be given when it is deserved and earned, regardless of other factors.

Jealousy

Closely related to fear of competition, jealousy can influence a supervisor's decision to praise, even if it is truly deserved. Rather than being jealous, supervisors should be proud of their subordinates'

Maslow's Pyramid



Abraham Maslow theorized that all motivation was based on satisfying a hierarchy of needs, progressing from basic physiological needs to eventual self-actualization.

accomplishments and praise them for their good work. Their achievements only reflect favorably on their supervisors' ability to lead others.

Lack of Interpersonal Communication Skills

One of the most overlooked reasons for failure to praise stems from the supervisor's interpersonal communication skills. Some supervisors simply have a difficult time expressing praise and, for this reason, avoid giving it. To help employees counter this shortcoming, departments need to ensure that supervisors receive training in communication skills, human relations, and even public speaking.

THE PRAISE FORMULA

All of the reasons that supervisors may not offer praise assume one thing—that they were aware of an individual's performance but failed to recognize it. This may be where the greatest void exists and why many employees are not given the recognition they so rightfully deserve.

Certainly, every supervisor becomes aware of their employees' heroic and brave acts. But are they aware of their everyday activities? In this age of community policing and employee empowerment, the answer is, "Most likely not." An employee's best work may be found in the way the officer handles a domestic dispute, deals with the parents of a lost child, or responds to a simple inquiry from a citizen.

Supervisors should make a concerted effort, whenever possible, to show up on routine calls. If not, they will miss witnessing some of the best police work being performed.

This does not imply that supervisors should check on employees continually. Obviously, the supervisor's duties and responsibilities will not accommodate going to every call with every officer every day. Rather, supervisors need to be aggressive and willing to create opportunities to experience

first-hand an employee's performance that may result in praise. Blanchard and Johnson recommend trying to catch employees in the act of doing something right.³

At the same time, supervisors need to use every resource available to capture information on the deserving acts of employees. One of these resources is the individuals themselves.

All employees should be encouraged to bring to the supervisor's attention any action they believe stands out, any performance that is worthy of praise. Employees may find this difficult at first. Some employees may feel that bringing their own positive performance to their supervisor's attention will be viewed by others as bragging or shameless self-promotion. But, there is a distinct difference between bragging and simply advising the boss of exceptional performance.

Supervisors need to make employees feel at ease with bringing their good deeds to light. They should listen attentively to what employees have to say, thank them for the informa-

tion, encourage them to keep open the channels of communication, and then praise them appropriately and immediately.

Above all, supervisors need to let others know about the positive performance of their employees. They should take the time to ensure that the recognition of good work is sent up the chain of command as well as down to the line officers. In many cases, peer recognition means more to an employee than recognition by the administration.

A word of caution is warranted. Some supervisors may go to the extreme when praising employees. They will reward individuals merely for doing what they are supposed to do. This diminishes the value of praise. Supervisors should maintain the standards of performance that are worthy of recognition and not minimize the desired effect by making it a common, easily attained reward.

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An employee's job satisfaction is directly linked to individual recognition and positive reinforcement for work done well.

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THE OTHER SIDE OF PRAISE

In many departments, negative criticism far outweighs recognition of positive performance. What supervisors must realize is that each is a necessary function and that they must strike a balance between criticizing negative performance and praising positive work.

Negative criticism attaches to an employee and stays with that individual. Praise, on the other hand, is fleeting; the aftereffects are short-lived and seldom remembered by others. Therefore, in striking a balance, supervisors need to make sure they bring closure to negative performance.

Supervisors should not delay in giving employees negative criticism when the work warrants it, but they should do so privately and in a positive manner. If done properly, even negative criticism can be productive and become a building block on which employees can grow.

CONCLUSION

The act of praising individuals meets one of mankind's greatest needs. Not only must this need be met, but it also must be repeated and reinforced. Praise can act as a catalyst to encourage performance that supervisors want to see from all employees.

Supervisors must, therefore, be aggressive in giving praise to their employees. If not, they might only compound the frustrations that officers experience daily. However, if supervisors praise deserving employees, they will reap the benefits of highly motivated individuals performing their duties as best they can. ♦

Endnotes

¹ Bert Scanlon and J. Bernard Keys, *Management and Organizational Behavior* (New York: John Wiley & Sons, 1979), 223. Maslow theorized that all motivation was based on satisfying a hierarchy of needs, progressing from basic physiological and safety needs to social and ego needs, and ultimately, to self-actualization, a sense of reaching one's fullest potential.

² Kenneth Blanchard and Spencer Johnson, *The One Minute Manager* (New York: Berkley Books, 1983).

³ Ibid., 78.

Correctional Publications

Three recent publications from the American Correctional Association (ACA) can serve as resources for corrections personnel. *Jails in America: An Overview of Issues*, by Gary Cornelius (Item #342-F2), explains the purpose and history of jails, discusses population and staffing, and examines such issues as crowding, privatization, and future trends.

Strategic Planning for Correctional Emergencies, by Robert Freeman, Ph.D. (Item #249-F2), can help administrators test their vulnerability to emergencies, as well as plan for any crisis situation, from natural disasters to episodes of inmate violence. In addition to detailing different types of emergencies that correctional administrators may face, the book discusses early warning signs, media and public relations, evacuation, and physical and psychological recovery.

The *1996-1998 National Jail and Adult Detention Directory* (Item #577-F2) provides information on jails and detention facilities around the country. The name, address, administrator, telephone and fax numbers, and such facts as staffing numbers, capacity, population, and recent construction are listed for each facility. The directory also summarizes facts on personnel, use of jail and detention center space, and inmate programs and expenditures throughout the nation.

Information on these and other ACA publications can be obtained by calling the customer service department at 800-222-5646 or 301-918-1860.

Do Three-Strikes Laws Strike Out?

Two recently published reports question the effectiveness of three-strikes laws. The Campaign for an Effective Crime Policy (CECP) report titled "The Impact of Three Strikes and You're Out Laws: What Have We Learned?" examines federal three-strikes laws, as well as those for 22 states. Although the federal law has produced nine convictions, many states, with the exception of California, rarely convict offenders under their three-strikes statutes. Moreover, the report declares, not only have the new laws not deterred criminals, but they may cause felons to take drastic measures to avoid capture for a third offense. Finally, the report describes court systems clogged by offenders who insist on standing trial rather than striking out with a guilty plea, as well as correctional facilities crowded by an influx of repeat offenders.

A second report, "Diverting Children from a Life of Crime: Measuring Costs and Benefits,"

was published by the Rand Corporation. Researchers in Rand's criminal justice program examined four pilot programs that could be used as alternatives to three-strikes laws. These programs aim to prevent the type of criminal behavior that three-strikes laws punish. According to the report, the best option seems to be offering cash and other incentives to disadvantaged high school students to complete their diplomas. None of the programs were tested in combination with one another or with three-strikes laws.

Copies of the CECP report are available for \$5 from the CECP, 918 F Street, NW, Suite 505, Washington, DC 20004, 202-628-1903. Copies of the Rand report are available through Rand Distribution Services, P.O. Box 2138, Santa Monica, CA 90407, 310-451-7002, World Wide Web address: <http://www.rand.org>.

Youth Violence Summit

As part of its Summit Series, the International Association of Chiefs of Police (IACP) gathered participants from a wide variety of backgrounds for a Youth Violence Summit. Professionals in fields from criminal justice to social services sat alongside students to discuss the growing problem of youth violence and victimization. Participants agreed that comprehensive programs incorporating education, prevention, and punishment that involve

families, educators, social services, the police, the courts, and the community stand the best chance of reducing youth-generated violence.

Details of the summit and its findings can be found in the IACP's report, "Youth Violence In America: Recommendations from the IACP Summit." Copies of this report or information on the IACP's Summit Series, can be obtained by contacting John R. Firman at 1-800-THE-IACP (843-4227).

Managing for Ethics *A Mandate for Administrators*

By TIMOTHY J. O'MALLEY



Law enforcement has experienced both organizational and operational changes in the last several years. These changes, coupled with a formidable and entrenched police culture, call for fresh approaches to managing for ethics in police work.

Unfortunately, little has been written concerning the impact of these changes on the ethical framework of law enforcement agencies. Moreover, only a limited number of studies have analyzed the topic of police ethics as it is currently framed. As a result, today's law

enforcement managers must piece together ideas from a patchwork of commentaries.

This article explores the impact of specific factors on police ethics. It also reviews current literature available to help police executives manage for ethics, identifies areas where additional research is needed, and offers thoughts for promoting ethical conduct in law enforcement.

FACTORS

In the last few years, ethical issues in law enforcement have been

affected by three critical factors—the growing level of temptation stemming from the illicit drug trade, the challenges posed by decentralization, and the potentially compromising nature of the police organizational culture. These factors make managing for ethics today far more different and demanding than it was in the past.

Greater Temptations

Police officers face greater temptations than they did just a decade or so ago. Many of these enticements can be traced to the

explosive and lucrative illegal drug trade. A tremendous amount of illicit cash fuels this market. Potential profits for mid- and upper-level drug dealers continue to climb as criminal sanctions grow stiffer. Consequently, today's officers may be tempted by sizable payoffs from criminals and enticed by opportunities to steal large sums of illicit cash.

The potential for corruption in drug work may be compounded by the nature of officers who excel in this area. Drug investigations rank among the most fast-paced and proactive of any in which officers participate. Undercover work makes up an integral component of these cases.

A recent study established that fast-talking, outgoing, assertive, and self-confident risk takers represent the best candidates for undercover work. While this may come as no surprise, the study also concluded that these personality traits "are often the same ones predisposing [an officer] to corruption and psychological distress."¹

Decentralization

Police managers also must consider the growing impact of the community-oriented policing (COP) approach on police ethics. Historically, police agencies have relied on a strict chain-of-command structure to ensure accountability.² While individual officers exercised some discretion, they generally required supervisory approval for consequential decisions and for extensive contacts with citizens or community organizations.

Community-oriented policing has revolutionized traditional

methods of control and accountability. Attempts to regulate ethical behavior by imposing strict controls have proven counterproductive under the COP approach. Indeed, decentralizing authority is one of the basic tenets of community-oriented policing.

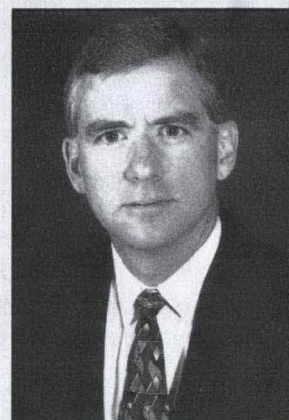
The COP philosophy encourages officers to be creative problem solvers. It also encourages them to work closely with citizens and to initiate contacts with community organizations. Partly because of the sheer volume of these contacts initiated within the COP framework, these activities often go unmonitored, resulting in less accountability. This new freedom necessarily exposes officers to more opportunities for corruption.

Organizational Culture

Finally, managers must consider the influence of some longstanding features of police organizational culture. Many observers have cited what one called "a police culture that exalts loyalty over integrity."³ Many also recognize that

"Police administrators... must...take affirmative steps to encourage ethical behavior, and set their agency's moral tone through observable exemplary behavior."

"



Special Agent O'Malley serves in the Special Investigations Unit of the Minnesota Bureau of Criminal Apprehension in St. Paul.

an implicit code of silence can infect a department from top to bottom.⁴

The problems arising from the clannish nature of police officers can be aggravated further by a dangerous us-against-them mentality. Police officers are tasked with maintaining order and protecting citizens in a society that often is chaotic and violent. They work in a stressful environment where quick decisions that may have life-or-death consequences are later subjected to intense scrutiny under a complex set of legal rules. In such circumstances, even well-intentioned officers motivated by a desire simply to catch criminals may become frustrated and vulnerable to an ends-justifies-the-means mentality.

NEW CHALLENGES

The combined effects of temptation, decentralization, and organizational culture could prove disastrous for the ethical well-being of a law enforcement agency. If left unchecked, these factors could lead to

a climate within a police department where unethical behavior is considered acceptable. Police managers should take proactive measures to ensure that such an environment does not develop.

Most writings relevant to ethics in police work focus on narrowly defined aspects of the larger issue. Some writers have addressed police violence or corruption. Others have looked at the changing roles of police officers. Still others have considered the impact of training and higher education. A few have tied ethical issues to controversial social agendas. While each has offered some insight into how to manage today's police in a manner that promotes ethical behavior, very few have attempted to set forth an integrated approach designed specifically for law enforcement.

To address the ethical challenges posed by the changing law enforcement environment, police managers must develop a comprehensive approach to promoting ethical behavior. As departments place more discretion and authority into the hands of line officers, the responses these officers make to ethical dilemmas will have far-reaching impact on the way the public views their agencies.

Managers must make every effort to ensure that officers maintain the ethical integrity of the department. There are a number of areas that police managers should address to promote ethical conduct within this emerging environment.

Code of Ethics

In any endeavor, an individual's personal values and environmental background serve as the

foundation for their ethical behavior.⁵ Thus, definitions of ethics may be as "varied as the characters of...people themselves."⁶ Yet, despite this diversity—or possibly because of it—a heightened concern has arisen for promoting uniformity in ethical accountability in both the private and public sectors.⁷ Establishing a formal code of ethics represents an essential first step for achieving this accountability.

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”**

In a complex and fast-paced world, individuals rarely can solve ethical problems simply by resolving to do what is right. At the same time, agencies cannot lay down rules that cover all possibilities. However, a well-drafted code of ethics, preferably written with input from all levels of personnel, can provide guidance and clear standards of conduct for police officers.

Leadership

Actions speak louder than words. A finely crafted, workable, and well-publicized code of ethics will ring hollow if it is not supported by the behavior of senior

managers. Police administrators must dedicate themselves to ethical management. They must participate in training, take affirmative steps to encourage ethical behavior, and set their agency's moral tone through observable exemplary behavior.⁸

The importance of upper-level management in determining a department's ethics and overall quality cannot be overstated. A common thread in most widespread police corruption cases is an absence of oversight from above. A recent examination of multiofficer corruption cases uncovered an unwillingness by police executives to acknowledge corruption and found, in some cases, a "willful blindness" to unethical behavior.⁹ A frequent recommendation emerging from the analysis of corruption cases has been to involve senior officers directly in anti-corruption efforts and provide them with incentives for such involvement.¹⁰

Managers also must take a long-term view because something as fundamental as an ethically aware work environment cannot be established overnight. Occasionally, short-term goals can be achieved at the expense of integrity; but, most often, unethical conduct catches up with individuals and organizations.¹¹

Moreover, energy devoted to improving ethics does not detract from improved productivity or service. A 1993 study found "significant correlations between the presence of a strong ethical climate in local government and the emphasis placed on such values as efficiency, effectiveness, quality, excellence and teamwork."¹² This study confirmed the findings of

other research showing a strong correlation between highly ethical organizations and high performing ones.¹³

Finally, police managers consistently must be aware of their visible and critical role. One prominent business consultant emphasizes that "...power is necessary to bring about ethical change in an organization."¹⁴ Even within the community policing framework, most power in law enforcement agencies flows from the top.

Police managers should understand that their tangible support helps create an ethically sound work environment. Perception counts. How employees view the ethical attitudes of their bosses becomes an integral component of this equation.

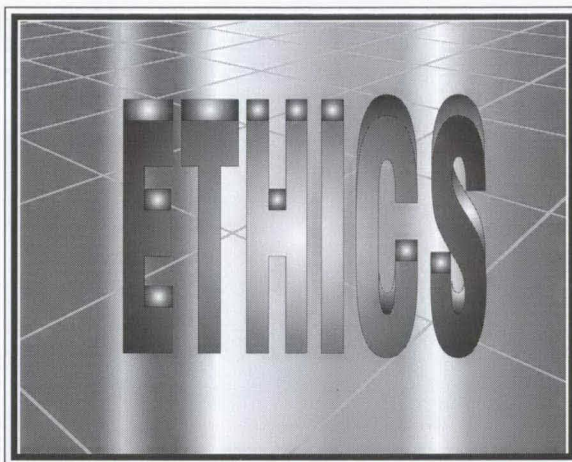
A police executive's image, well-founded or not, will have an impact because of the message it sends to those inside and outside the agency. In fact, the power of appearances is especially strong in public service agencies where just the appearance of impropriety can erode citizens' trust and confidence in government.

Violence and Aggression

Broad operational factors that come to bear on ethical issues cannot be viewed in isolation, but must be considered in terms of how they interact with the traits of individual officers. Certainly, the joining of some external and internal factors contribute to unethical conduct. The limited literature available in this area tends to focus on the use

of excessive force by some police officers.

Discussions generally center on the relationship between aggression and violence. Everyone agrees that police officers work in an uncertain and oftentimes violent world. At the same time, officers face attractive temptations. Their work culture is



sometimes secretive and clannish. Additionally, the decentralization resulting from the implementation of community-oriented policing affords officers greater freedom.

An individual officer's level of aggressive behavior must be added to this mix of variables. This has led to speculation concerning the causes behind unwarranted police violence. This speculation, at times, produces conflicting recommendations.

One research team found that while extreme cases of excessive force may be easy to identify, it is decidedly more difficult to determine underlying causes.¹⁵ The lack of an objective definition for the evasive legal standard of

"reasonable" force significantly impedes meaningful research in this area. However, two consistent factors have emerged that must be considered in examining the reasonableness of a police officer's use of force. Of the two factors—ethical acceptability and the totality of situational circumstances—police managers can significantly influence the first.

On the topic of ethical acceptability, some research focuses on how to identify and deal with violence-prone police officers. One contributor to the debate dismisses as unreliable psychological tests designed to identify violence-prone individuals seeking employment as police officers. This researcher strongly recommends that departments shift resources away from such efforts and focus instead on

providing violence reduction training and police stress management programs for current officers.¹⁶

In contrast, other researchers strongly endorse comprehensive selection processes that include psychological testing. They conclude that such tests can uncover a clear propensity among some police applicants toward later violent behavior.¹⁷

An interesting outgrowth of these debates focuses on determining the level of aggressiveness that should be expected from line officers. At one extreme, an author suggests that several factors cause police officers, in general, to exhibit, "...overly aggressive behavior."¹⁸ Another author claims that police

officers should be as "...aggressive as the law allows," although this author insightfully acknowledges that aggression must be tempered with compassion.¹⁹

These viewpoints, though opposing, need not be viewed as incompatible. Both authors walk a fine line. Clearly, police managers should continuously foster an ethical environment that discourages aggressiveness so extreme that excessive force results. However, an effective police officer dealing with today's criminal element must be aggressive in a positive way. Indiscriminately weeding out aggressive police officers would be disastrous.

Training and Higher Education

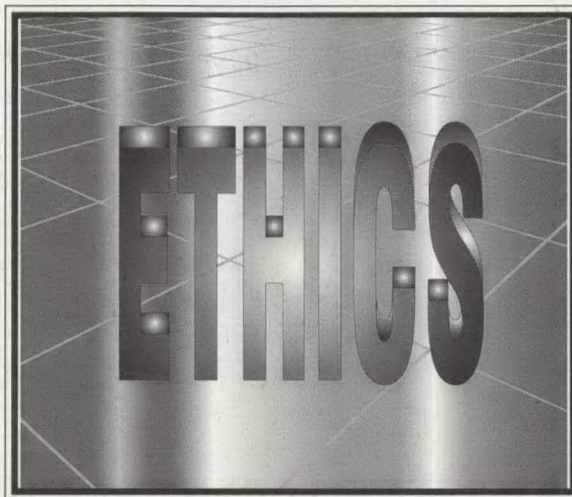
Near-unanimous support exists for the value of training in promoting ethical behavior. Formal training programs can help to:

- Ensure that officers understand their department's code of ethics and related expectations
- Elevate the importance of ethics throughout an agency
- Underscore top management's support, and
- Provide specific assistance in areas directly related to ethical behavior (e.g., stress management, use of force, violence reduction, and behavioral science classes).

Although more study is needed in this area, some empirical evidence supports the contention

that formal ethics training fosters improved ethical behavior. One recent study found that officers specifically trained in anger management had fewer incidents of excessive force in making arrests.²⁰

A distinct but related topic is whether higher education promotes ethical behavior. Clearly, advanced



formal education enhances the maturity and professionalism of police officers. The question is whether those positive attributes spill over into the ethical arena.

Some research suggests a positive relationship. Advanced formal education appears to reinforce previously established ethical values in individuals. At the organizational level, one study identified a commitment to learning as one of the three most prominent characteristics common to highly ethical organizations.²¹

Hiring Practices

The applicant selection process represents a critical, though sometimes overlooked, component

of police ethics programs. A law enforcement agency should conduct interviews, psychological tests, and extensive background checks to ensure an applicant's compatibility with the department's ethical philosophy.

Some disagreement exists concerning the reliability of testing applicants to accurately predict their later behavior as police officers. While preemployment testing cannot guarantee later performance, it can raise red flags that department managers should know about *before* deciding to hire an applicant.

A faulty selection process can make a department much more susceptible to unethical behavior. Analysis in this area becomes sensitive and controversial because of a link drawn between selection processes and efforts to increase diversity within law enforcement. Washington, DC, and New York City both were plagued with well-publicized police corruption in recent years. Minority officers have been involved in a disproportionate number of these corruption cases. Many of these officers were hired under programs that lowered testing standards and relaxed background checks.²² Broad generalizations must not be drawn from such cases. Efforts to achieve diversity within the workforce are not antithetical to promoting ethical integrity.

The relationship between two worthwhile goals—promoting ethics and increasing diversity—must be understood. As one analyst

explains, the problem is not "...diversity per se, or the qualifications of any particular group, but the standard-lowering procedures by which diversity is often achieved."²³

This analyst warns that generalizations finding a group unfit for police service are no more fair today than they were two generations ago when leveled against the Irish. Departments must maintain standards that promote ethics.

Diminished standards or incomplete background checks have resulted in the hiring of armed robbers, burglars, and drug dealers as police officers. Predictably, these same individuals engaged in on-the-job corruption.

Police managers must view their hiring standards as a component of managing for ethics. Diversity in law enforcement will better equip departments to serve a diverse citizenry. However, agencies should not pursue the goal of a diversified workforce at the expense of one of law enforcement's most valued assets—integrity.

CONCLUSION

At first glance, ethics in law enforcement may appear to be a simple issue: Officers should do right, not wrong. Closer examination quickly reveals that several influential factors make managing for ethics far more complex.

Three of these factors—the temptations associated with the illegal drug trade, the shift toward community-oriented policing, and the barriers posed by a strong police culture—will prove pivotal in affecting the ethical health of law enforcement agencies in the years to

come. Police managers must consider the relationship of these factors when formulating an ethics program. Managers also must draw information from a number of sources to understand these and the many additional factors that influence ethical behavior.

Most writers focus on a particular component of the larger issue of ethics in law enforcement. Some stress that in formulating a coordinated approach, managers should consider the value of a formalized code of ethics, the importance of

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A police executive's image, well-founded or not, will have an impact because of the message it sends to those inside and outside the agency.

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training, and the potential benefits of higher education. Others look to the critical nature of leadership and the direct involvement of high ranking officers. Some authors examine underlying causes related to an officer's personal characteristics. Some have challenged the value of applicant testing, while others defend an agency's right to select applicants who meet the agency's ethical requirements. A few have examined the effect of controversial hiring practices on later unethical conduct. Today's police managers must consider all of these

factors when developing an ethics program.

Police managers also should remember that every action an officer takes has an afterlife that reverberates in the community long after the act is completed. Citizens in a democracy have an intrinsic desire to trust law enforcement to provide competent, fair, and impartial service. Police officers who act in an ethically sound manner help maintain the trust that citizens want to place in law enforcement. Officers who act unethically not only betray that trust but also add to the many challenges already facing law enforcement. ♦

Endnotes

¹ J. Bladow, "Good Guys As Bad Guys: The Temptations of the Undercover Cop," *Omni*, May 1994, 12.

² T.R. Jones, C. Owens, and M.A. Smith, "Police Ethics Training: A Three-Tiered Approach," *FBI Law Enforcement Bulletin*, June 1995, 22.

³ J.P. Armao and L.U. Cornfeld, "How to Police the Police," *Newsweek*, December 19, 1994, 34.

⁴ D.B. Boyle, "Police Violence: Addressing the Issue," *FBI Law Enforcement Bulletin*, June 1993, 17; T. Morganthau, "Why Good Cops Go Bad," *Newsweek*, December 19, 1994, 31; *Supra* note 3.

⁵ D. Holmquist, "Ethics: How Important Is It in Today's Office?" *Public Personnel Management*, Winter 1993, 537-544.

⁶ S.A. Wells, "Ethics a.k.a. Morality," *Management Accounting*, September 1993, 67.

⁷ R.E. Berebeim, "HR [Human Relations] Taking Policy Role in Corporate Ethics Programs," *Employment Relations Today*, Autumn 1991, 279-284; M.E. Donahue and A.A. Felts, "Police Ethics: A Critical Perspective," *Journal of Criminal Justice*, 1993, 339-352.

⁸ S. Bonczek and D. Menzel, "Achieving the Ethical Workplace," *Public Management*, March 1994, 13.

⁹ *Supra* note 3.

¹⁰ "NYPD Blue," *Economist*, April 30, 1994, 29.

¹¹ R. Half, "My Boss Is Unethical: What Do I Do?" *Management Accounting*, July 1993, 63.

¹² Supra note 8.

¹³ D.C. Menzel, "Ethics Induced Stress in the Local Government Workplace," *Public Personnel Management*, Winter 1993, 523-536.

¹⁴ F. Narvan, "I Can't Change Anything. I'm Just..." *Transportation and Distribution*, May 1993, 55.

¹⁵ G.P. Alpert and W.C. Smith, "How Reasonable Is a Reasonable Man? Police and Excessive Force," *Journal of Criminal Law and Criminology*, Fall 1994, 481-501.

¹⁶ M.A. Travis, "Psychological Health Tests for Violence-prone Officers: Objectives, Shortcomings, and Alternatives," *Stanford Law Review*, July 1994, 1717-1770.

¹⁷ D.B. Boyle, "Police Violence: Addressing the Issue," *FBI Law Enforcement Bulletin*, June 1993, 17.

¹⁸ Supra note 16.

¹⁹ T. Gabor, "The 1990s: The Time for Aggressive Police Officers," *FBI Law Enforcement Bulletin*, April 1994, 17.

²⁰ A.D. Abernathy and C. Cox, "Anger Management Training for Law Enforcement

Personnel," *Journal of Criminal Justice*, 1994, 459-466.

²¹ C. Lee, "Ethics Training: Facing the Tough Questions," *Training*, March 30, 1986, 30.

²² T. Carlson, "Washington's Inept Police Force," *Wall Street Journal*, November 3, 1993, A23; W. McGowan, "The Corrupt Influence of Police Diversity Hiring," *The Wall Street Journal*, June 20, 1994, A12.

²³ Ibid., McGowan.

Snap Shots

Unusual Accident

Deputies Julie Nagel and Joe Dunn of the Gladwin County, Michigan, Sheriff's Department responded to an accident in which a car had struck a deer. Upon arriving at the scene, the deputies realized that the deer killed in the accident had been pregnant and that the accident had precipitated the birth of two fawns. Deputy Nagel wrapped the fawns in a blanket and kept them warm until local Department of Natural Resources (DNR) officers arrived at the scene. The fawns subsequently were raised by DNR officers who eventually released them back into the wild. This photograph was taken by Deputy Dunn, who reached for his camera when Deputy Nagel reached for the fawns.

If you have a poignant, humorous, or interesting photograph that you would like to share with other readers, please send it to: John Ott, *FBI Law Enforcement Bulletin*, Law Enforcement Communication Unit, FBI Academy, Quantico, VA 22135.



Liability Implications of Departmental Policy Violations

By JOHN C. HALL

A law enforcement agency's internal policies should provide clear guidance and a basis of accountability for important law enforcement functions, such as arrest, use of deadly force, and vehicle pursuits. However, it has become a commonly held perception within law enforcement circles that a police officer's violation of department policy is a valid basis for a lawsuit against the officer and perhaps even the department.

The frequency with which plaintiffs raise the issue undoubtedly perpetuates this view, with potentially unfortunate consequences for agencies and communities. For example, law enforcement executives may be reluctant to develop otherwise appropriate policies if they believe that in doing so they are increasing the risks of liability for themselves and their officers. Moreover, otherwise defensible lawsuits may be unwisely settled by agencies under the erroneous belief that an officer's mistakes in applying policy render the case indefensible in court. This article discusses those misconceptions, clarifying the liability implications of policy violations in general, and deadly force policy violations in particular.

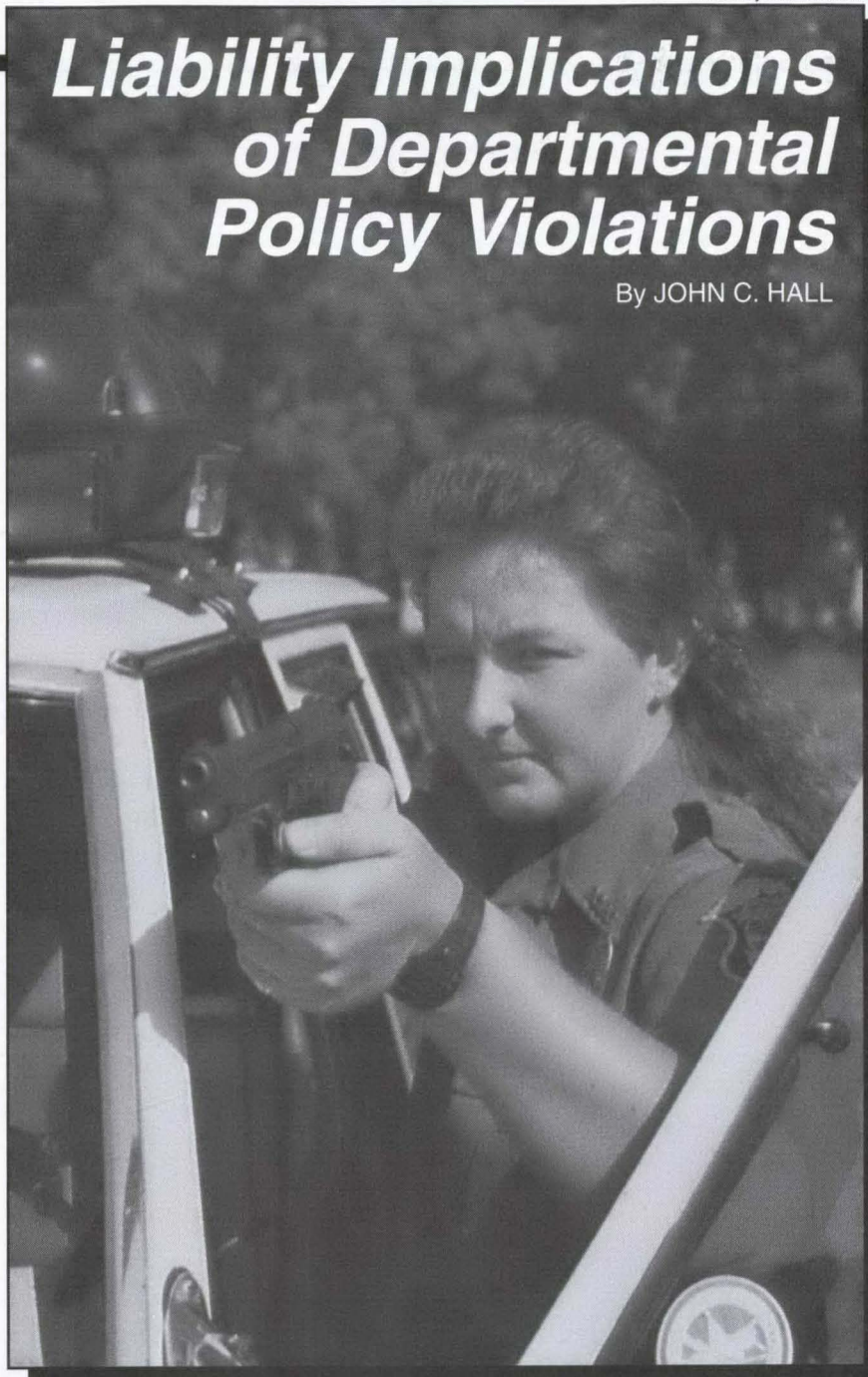
Legal Duties

The basic formula for any lawsuit is 1) existence of a legal duty owed by one party to another, 2) an alleged breach of that duty, and 3) injury or loss resulting from that breach. Legal duties may arise in a variety of contexts, but most generally are established by custom,

statute, or constitutional law. Whatever its source, a legal duty must be owed to the plaintiff by the named defendant in order for a civil suit to be viable. That being the case, a departmental policy must create a legal duty to a potential plaintiff

before a violation of that policy can create liability.

In reality, whether a policy violation is even relevant to the question of the legal liability of an officer or department depends to a large extent upon the nature of the



claim and the forum in which it is brought. For example, policy violations in tort claims brought under state law alleging negligence will generally be treated differently than claims brought under federal law alleging violations of federal constitutional rights. The relevance of departmental policy also can depend upon whether a legal duty, or standard of conduct, is clearly delineated by law, or whether it is determined by reference to custom or practice.

State Tort Claims

A simple tort claim alleges that the defendant breached a legal duty owed to the plaintiff, thereby causing injury or loss. The breach of that duty may have been intentional or merely negligent. In deciding whether there was a legal duty, and whether the defendant breached it, the courts have looked to statutory law as well as custom and practice in the

particular area of law enforcement activity.

While these principles generally are most relevant to private parties rather than public agencies and employees, most states have adopted statutes that permit tort claims against public entities under some circumstances. In such cases, where there is no clearly delineated standard established by law, the courts frequently reference departmental policy as "evidence" of a duty owed, or an appropriate standard of conduct. In such cases, an officer's violation of the department's policy may be used to establish legal liability.¹

Conversely, a policy violation should not be relevant if the appropriate legal standard of conduct is already clearly established by law. For example, if a state statute permits an officer to use deadly force to prevent the escape of a fleeing dangerous felon, a more restrictive policy standard that prevents deadly

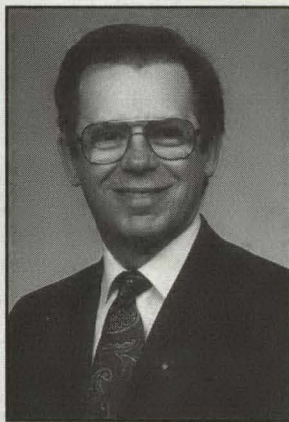
force in such circumstances should not be substituted as a legal measure of the officer's conduct. The public's interest in effective law enforcement is not served if law enforcement agencies are not free to create stricter standards of conduct for their officers without also creating higher risks of liability.

Constitutional Tort Claims

Constitutional tort claims, unlike state tort claims focus on alleged violations of duties established by the United States Constitution—e.g., unreasonable search and seizure, excessive force, etc. Consequently, the bases for suits under the Constitution are generally fewer and more narrowly defined than those under state law, and violations of state tort law may not implicate any federal constitutional rights.

This point was emphasized by the Supreme Court in *Daniels v. Williams*,² in which an inmate in state prison sought damages for injuries sustained when he slipped on a pillow negligently left on the stairs by a prison employee. The Court held that there was no basis for finding a violation of a constitutional right by simply asserting that a government actor was negligent. The Court traced the history of the development of constitutional rights, noted that they were "...intended to secure the individual from the arbitrary exercise of the powers of government" and commented:

We think that the actions of prison custodians in leaving a pillow on the prison stairs, or mislaying an inmates' property, are quite remote from the



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“ ...otherwise defensible lawsuits may be unwisely settled by agencies under the erroneous belief that an officer's mistakes in applying policy render the case indefensible in court. ”

concerns just discussed. Far from an abuse of power, lack of due care suggests no more than a failure to measure up to the conduct of a reasonable person. To hold that injury caused by such conduct is a deprivation within the meaning of the [Constitution] would trivialize the centuries-old principle of due process of law.³

Emphasizing that the protections of the Constitution were not intended "...to supplant traditional tort law" the Court stated:

It is no reflection on either the breadth of the United States Constitution or the importance of traditional tort law to say that they do not address the same concerns.⁴

Thus, while negligence claims against a police officer or the department may be recognized under state law, the Supreme Court has held that simple negligence—or lack of due care—is insufficient to establish the violation of a federal constitutional right. These distinctions between state tort claims and federal constitutional tort claims can have a bearing on the different ways the courts treat allegations of policy violations.

The Role of Policy Violations in Constitutional Rights Litigation

When a federal constitutional challenge is made to a law enforcement officer's use of deadly force, the department's use-of-force policy often becomes an issue. Ironically, the relevance of the policy may be alleged in two

seemingly contradictory ways. In suits brought against an officer under Title 42 United States Code, Section 1983, alleging the officer's use of force violated the Constitution, the plaintiff will frequently assert that the officer's *violation* of the department's policy is evidence of the constitutional violation. On the other hand, if plaintiffs desire to

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Law enforcement agencies should be free to create stricter standards of conduct for their officers without creating higher risks of liability.

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expand the scope of the suit to include the local government entity—i.e., the county or municipality—they may allege that the officer's unconstitutional behavior was caused by a policy, custom, or practice of the agency.⁵ In the latter instance, the plaintiff is asserting that it is *compliance* with the policy, not its violation, that caused the constitutional tort.

In cases alleging the unconstitutional use of deadly force by police officers, the policy issue will generally be raised in two different contexts. The first, relating to the actual use of deadly force, asserts that because an officer's decision to

use deadly force violated the department's policy the action constitutes an unreasonable use of force under the Fourth Amendment. The second, relating to events preceding the actual use of deadly force, alleges that policy and procedural violations leading up to the officer's use of deadly force *caused* the situation that ultimately justified the officer's use of deadly force. Each of these allegations is addressed below.

Departmental Policies and Legal Duties

Whether or not a departmental policy creates a legal duty is a question the U.S. Supreme Court has not directly addressed. In *Tennessee v. Garner*,⁶ the Court considered departmental policies in assessing the consequences of imposing a constitutional standard stricter than the traditional common law rule for using deadly force to prevent the escape of fleeing felons. Noting that most of the major law enforcement agencies had apparently already adopted more stringent policy standards than the common law fleeing felon rule, the Court reasoned that a constitutional standard that does the same thing was not likely to have any significant detrimental impact on law enforcement interests. The Court observed:

We would hesitate to declare a police practice of long standing 'unreasonable' if doing so would severely hamper effective law enforcement.⁷

It is important to note that the Court did not suggest that departmental policies were tantamount to a constitutional standard, or even

evidence of what a constitutional standard should be, but only that they supported the view that rejection of the common law fleeing felon rule would not significantly impair law enforcement functions.

Since the decision in *Garner*, the lower federal courts have been generally consistent in rejecting policy violation claims as a basis for concluding that an officer violated a constitutional right. For example, in *Smith v. Freland*,⁸ the plaintiff asserted that the defendant police officer used deadly force in direct violation of the department's policy. Police officers engaged in a high speed pursuit in an attempt to apprehend the driver of a vehicle for a traffic violation. During the pursuit, the driver evaded several attempts by the police to block his car and forced the officers to take evasive action to avoid a collision.

The suspect eventually turned down a dead-end street, made a U-turn and came to a stop when confronted by one of the pursuing police cars. As the officer got out of his police cruiser, the suspect rammed the vehicle, then backed up and "zoomed around the police car." The officer drew his service weapon and fired one shot which struck and killed the driver.

In the ensuing lawsuit, the district court granted summary judgment in favor of the officer, concluding that he had not deprived the suspect of his constitutional rights. On appeal, the plaintiff asserted, among other things, that the officer's action in firing at the vehicle violated the department's policy which explicitly prohibited

shooting at moving vehicles and using deadly force to apprehend suspected misdemeanants.

The appellate court upheld the district court's grant of summary judgment for the officer, and addressed the policy violation argument as follows:

...the fact that [the officer's] actions may have violated [departmental] policies regarding police use of force does not require a different

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...to avoid the mistaken
view that the creation
of a legal duty was
intended, care...should
be taken to clearly
express the intent or
purpose of a
department policy.
”**

result. Under [Section] 1983, the issue is whether [the officer] violated the Constitution, not whether he should be disciplined by his department. A city can certainly choose to hold its officers to a higher standard than that required by the Constitution without being subjected to increased liability under [Title 42 U.S.C., Section] 1983.⁹

The court reasoned that a different rule "...would encourage all governments to adopt the least restrictive policies possible."¹⁰ The

holding of the court in *Freland* is typical of decisions in other federal courts that violations of a department's deadly force policy are generally irrelevant to the constitutional question.¹¹

As noted previously, in addition to the claim that an officer violated department policy—and therefore the Constitution—by using deadly force, plaintiffs frequently allege that the officer violated "reasonable police procedures," thereby unnecessarily creating the need to use deadly force. For example, in *Salim v. Proulx*,¹² the plaintiff alleged that an officer used excessive force in fatally shooting a juvenile during an attempt to arrest the youth. To support the allegation, the plaintiff asserted that the officer "created a situation in which the use of deadly force became necessary"¹³ by locking his service revolver and radio in the trunk of his police car before approaching the juvenile, by failing to carry handcuffs or other disabling devices, and by failing to disengage when other juveniles joined the fray. The appellate court, reversing the district court's denial of summary judgment for the officer, addressed the particular issue as follows:

...[the officer's] actions leading up to the shooting are irrelevant to the objective reasonableness of his conduct at the moment he decided to employ deadly force.¹⁴

The policy or procedural violations attributed to the officer by the plaintiff in this instance were viewed by the court as irrelevant in light of the narrow scope of the inquiry in excessive force claims under the

federal Constitution. However, these alleged policy or procedural violations may be relevant in establishing liability for negligence under state law.

The Purpose of Departmental Policy

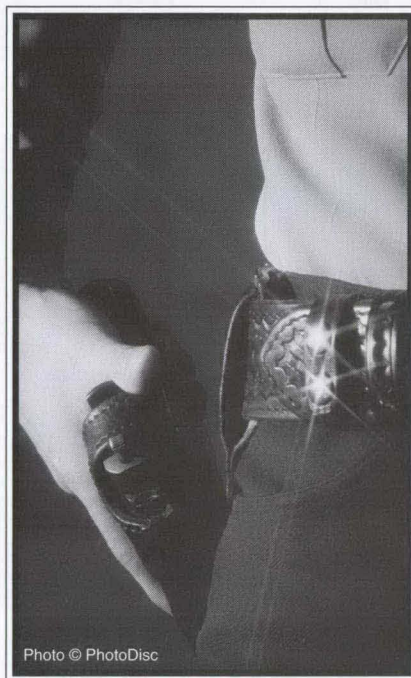
In *Scott v. Henrich*,¹⁵ two officers responded to a call that a man had been firing shots from a rifle or shotgun in the street, and that he had just entered a nearby apartment building. Immediately upon entering the building, the officers were confronted by a man who pointed a rifle at them. The officers fired several shots, mortally wounding the subject.

In a lawsuit against the officers, an "expert" witness testified that the officers' actions were unreasonable because, among other things, they violated the department's policy on how such situations should be handled. In other words, if the officers had done things differently they would not have placed themselves in a threatening situation where deadly force became necessary. Relying upon the department's policies and guidelines, the plaintiff contended that the officers should have developed a tactical plan, sealed possible escape paths, called for back-up, and attempted to coax the suspect into surrendering. Addressing this contention, the appellate court wrote:

Assuming internal police guidelines are relevant...they are relevant only when one of their purposes is to protect the individual against whom force is used....Both the guidelines at

issue here and the context in which they appear in the police manual show they were meant to safeguard the police and other innocent parties, not the suspect....A violation of these guidelines might be deserving of discipline, but it's irrelevant to [plaintiff's] case.¹⁶

It is important to note here that the appellate court did not decide that internal police guidelines are relevant in some instances; they only *assumed* that



they might be relevant in the narrow instance described—i.e., when the policy was intended to safeguard the plaintiff.

Although the purpose of some policies may be self-evident from their contents, this may not be a

simple matter to ascertain in other cases. The court in *Henrich*, for example, distinguished between a policy that limits the use of choke holds to protect suspects from being fatally injured and a policy that bans high-speed chases in order to protect bystanders. In the latter instance, the court reasoned "...a suspect arrested after an unauthorized chase can't complain about the violation of a rule not intended for his benefit."¹⁷

Disclaimers

To further reduce the risk that a policy violation will be viewed as relevant, law enforcement agencies should exercise care when drafting their policies. Obviously, such policies must be carefully crafted to avoid encouraging or condoning actions that cause constitutional violations. But to avoid the mistaken view that the creation of a legal duty was intended, care also should be taken to clearly express the intent or purpose of a department policy. Agencies may even consider including a specific disclaimer. For example, when the United States Department of Justice adopted a new deadly force policy in October 1995, it included the following statement:

Nothing in this policy and the attached commentary is intended to create or does create an enforceable legal right or private right of action.

Such a disclaimer may not be dispositive of the relevance question, but it should at least provide evidence of the department's intent in adopting the policy.

Conclusion

It seems critical that law enforcement agencies be capable of developing and implementing policies that are deemed necessary to fulfil their missions without being overly concerned that doing so will create increased risks of liability. When lawsuits are brought against police officers and their agencies under Title 42 U.S.C., Section 1983, alleging violations of federal constitutional rights, the cases suggest it is unlikely that violations of departmental policy will be considered relevant, although they may be deemed relevant in some negligence actions under state law. Accordingly, those

who must assess the defensibility of such suits should not assume that violations of policy render the case indefensible. ♦

Endnotes

¹ See, e.g., *Griglione v. Martin*, 525 N.W. 2d 810 (Iowa, 1994); *Haynes v. Hamilton County*, 883 S.W. 2d 606 (Tenn. 1994); and *Carl v. Overland Park*, 65 F.3d 871 (10th Cir. 1995).

² 474 U.S. 327 (1986). See, also, *Davidson v. Cannon*, 474 U.S. 344 (1986).

³ 474 U.S. at 332.

⁴ *Id.* at 333.

⁵ See, *Monell v. Dept of Social Services*, 436 U.S. 658 (1978).

⁶ 471 U.S. 1 (1985).

⁷ *Id.* at 19.

⁸ 954 F.2d 343 (6th Cir. 1992).

⁹ *Id.* at 347.

¹⁰ *Id.* at 348.

¹¹ See, e.g., *Drewitt v. Pratt*, 999 F.2d 744 (4th Cir. 1993); *Fraire v. City of Arlington*, 957 F.2d 1268 (5th, cert. denied, 113 S. Ct. 412 (1992); *Carter v. Buscher*, 973 F.2d 1328 (7th Cir. 1992); and *Wilson v. Meeks*, 52 F. 3d 1547 (10th Cir. 1995).

¹² 93 F.3d 86 (2nd Cir. 1996).

¹³ *Id.* at 92.

¹⁴ *Id.*

¹⁵ 39 F. 3d 912 (9th Cir. 1994).

¹⁶ *Id.* at 915-916.

¹⁷ *Id.* at 916.

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.

Clarification

It has come to the attention of the *Bulletin* staff that the article, "Computer Crime: An Emerging Challenge for Law Enforcement," which appeared in the December 1996 issue, contained erroneous information on computer viruses. This information has been deleted from the article that appears on the FBI's Home Page. The authors of the article, Dr. David L. Carter, and Dr. Andra J. Katz, apologize for the inaccuracy and have provided the following explanation:

We originally read about the viruses in a computer trade publication, where they were reported as legitimate. As we were writing the article, we checked with three different reputable sources, who confirmed their legitimacy. Subsequently, the viruses were revealed to be hoaxes, although we did not learn of this until after the article had been published. We take full responsibility for this error and regret any problems that this inaccuracy may have caused *Bulletin* readers.

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.



Officer Paulette

In the early evening, a man entered a drug store in Claremont, New Hampshire, and killed his wife, an employee of the store, with a gunshot to the head. He then exited the store and walked to his vehicle parked by the front door. Several police units arrived within minutes and found the man standing next to his car. The subject began waving two handguns at the officers, demanding that they "do something" before he killed his 3-year-old granddaughter, who was in the vehicle. A tense standoff ensued, with the man pointing the firearms at the vehicle containing his granddaughter. When the man turned and fired at an unmarked police car, Officer James R. Paulette of the Claremont Police Department, who was shielded behind the passenger's side door, returned fire, mortally wounding the subject. Officer Paulette then removed the uninjured girl from the vehicle and placed her in the safety of a police car.

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*, Law Enforcement Communication Unit, Quantico, VA 22135.



Officer Hyrmer

Police Officer Michael G. Hyrmer of the Fort Shafter Military Police Battalion, Department of Defense Police Company, Fort Shafter, Hawaii, responded to the report of a downed military aircraft near Schofield Barracks, Hawaii. Officer Hyrmer and other responding emergency personnel located the helicopter, which had crashed in a 150-foot gulch covered by dense vegetation. Officer Hyrmer assisted medical personnel in removing the body of the crew chief, who had died upon impact. He then helped carry the two surviving crew members via stretcher through the darkness and thick foliage to evacuation helicopters waiting a mile away. Because the terrain made communication difficult, Officer Hyrmer acted as a communication link, relaying information between medical personnel at the remote crash site and personnel at a nearby medical facility. After spending an additional 4 hours assisting with exhausting evacuation procedures, Officer Hyrmer returned with two other military police officers to secure the inner perimeter of the crash site until relief arrived.

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