

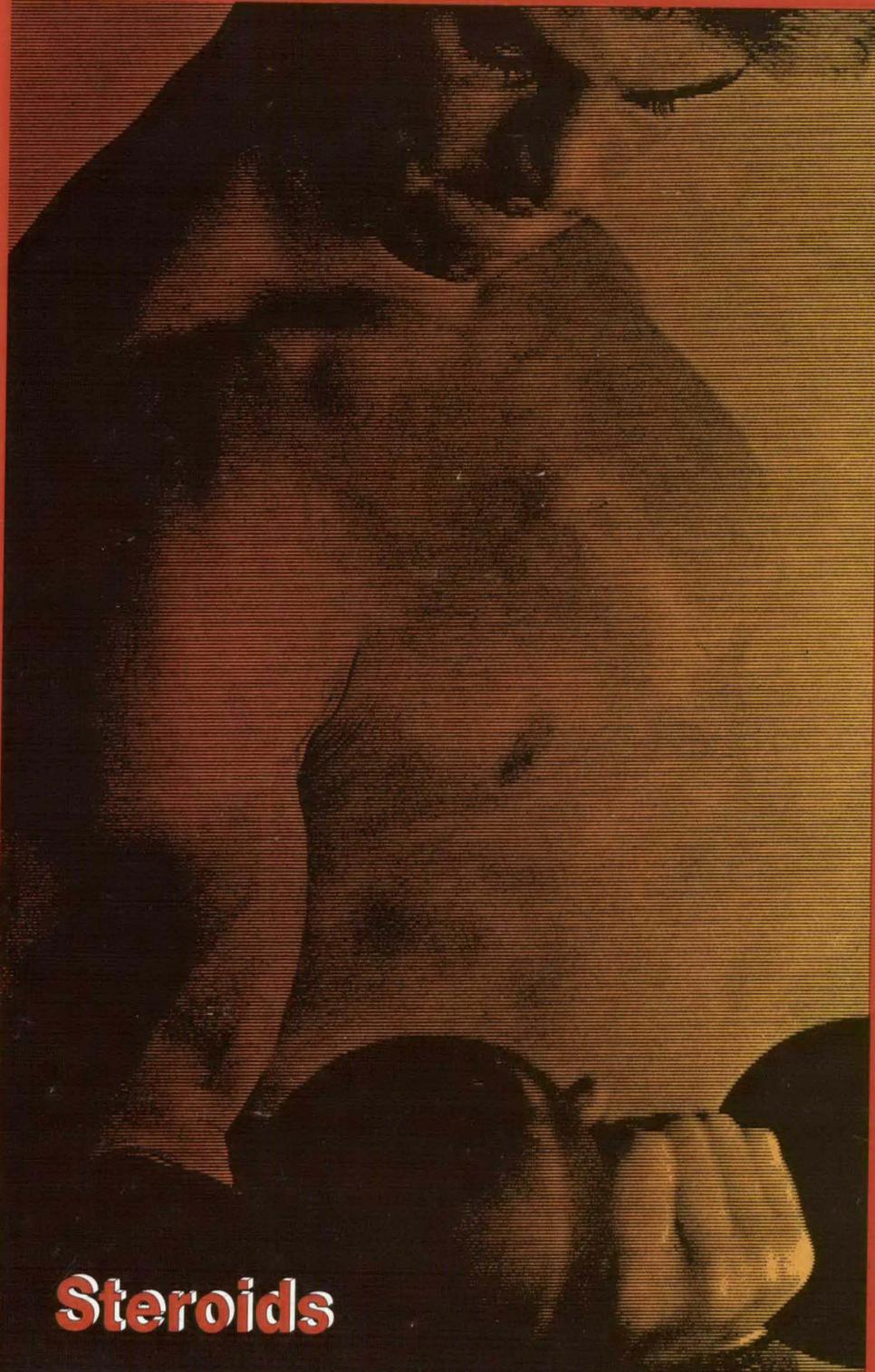
U.S. Department of Justice  
Federal Bureau of Investigation



AUGUST 1994

# FBI Law Enforcement

B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N



**Steroids**

August 1994  
Volume 63  
Number 8

United States  
Department of Justice  
Federal Bureau of  
Investigation  
Washington, DC 20535

Louis J. Freeh  
Director

Contributors' opinions and statements should not be considered as an endorsement for any policy, program, or service by the FBI.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget.

The *FBI Law Enforcement Bulletin* (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535. Second-Class postage paid at Washington, D.C., and additional mailing offices. Postmaster: Send address changes to *FBI Law Enforcement Bulletin*, Federal Bureau of Investigation, FBI Academy, Quantico, VA 22135

**Editor**

Dr. Stephen D. Gladis

**Managing Editor**

Kathryn E. Sulewski

**Art Director**

John E. Ott

**Associate Editors**

Andrew DiRosa

Julie R. Linkins

Kimberly J. Waggoner

**Assistant Art Director**

T.L. Wilson

**Staff Assistant**

Stephanie Plucker

# FBI Law Enforcement

B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N



## Features

### They Shoot Horses, Don't They?

By Gregory Stejskal

1

*Athletic pursuit of physical perfection through the use of anabolic steroids presents new challenges to law enforcement.*

### The Russians Are Coming

By Larry Welch

8

*Russian and American police officers train side-by-side at the Kansas Law Enforcement Training Center.*

### Drug Laboratory Efficiency

By Shiv K. Soni

15

*Developing a new set of paradigms can enhance a lab's efficiency and productivity in spite of increasing budgetary constraints.*

### Reflections on Leadership

By Paul J. Mendofik

24

*Effective leadership in law enforcement is based on several practical factors.*

### News Media Participation in Law Enforcement Activities

By Kimberly A. Crawford

28

*Constitutional issues arise when the news media participate in law enforcement activities.*

## Departments

### 7 Bulletin Reports

Correctional Standards  
Drug Use Forecasting

### 19 Crime Data

Officers Killed—1993

### 12 Focus

Community Policing

### 20 Case Study

School Violence

---

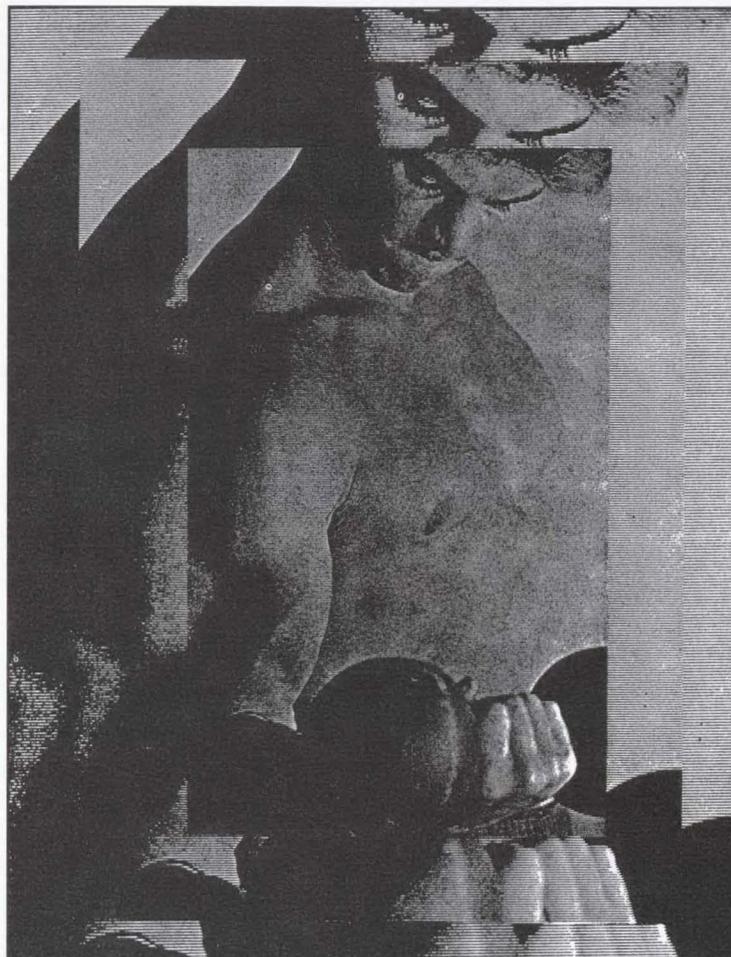
# ***They Shoot Horses, Don't They?*** ***Anabolic Steroids and Their Challenge to*** ***Law Enforcement***

By  
GREGORY STEJSKAL, J.D.

**I**n August 1992, a player on the Quebec Nordiques hockey team died of heart failure following a disturbance in his hotel room in Canada. The autopsy revealed he had both anabolic steroids and cocaine in his system.

On the following day, by coincidence, Federal grand jury indictments of over 40 people from Canada, Mexico, and the United States were unsealed, charging the defendants with steroid distribution. These indictments culminated a 2 1/2-year, joint FBI-Food and Drug Administration (FDA) undercover operation targeting anabolic steroid dealers. The FDA estimated that the operation, codenamed Equine,<sup>1</sup> resulted in the purchase or seizure of 8-10 million dosage units of both real and counterfeit steroids. In 1993, additional indictments were returned, charging individuals with steroid distribution, and investigations continue in other cases generated from the undercover operation.

These events dramatically demonstrate the seriousness and the breadth of the steroid problem facing law enforcement today. This article reviews the history of steroid use and abuse, examines the black market operations targeted by Equine, and provides guidance to



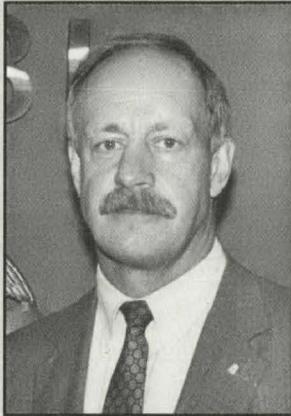
law enforcement agencies for prosecution of distributors of both real and counterfeit steroids.

## **HISTORY**

Steroids are a synthetic version of the male hormone testosterone. Anabolic refers to a substance that promotes growth. (Although all

steroids are not necessarily anabolic, for simplicity, the terms will be interchanged.) When taken internally, steroids will, in conjunction with weight training, promote extraordinary weight gain and muscular development.

The idea of using male hormones to enhance performance and



Special Agent Stejskal serves in the Ann Arbor, Michigan, Resident Agency of the FBI's Detroit Division.

“  
**...veterinarians  
prescribe significantly  
lower dosages for  
horses than the  
amounts used by  
bodybuilders, even  
though horses weigh  
about 1,500 pounds.**  
”

virility originated in the 1890s, when experiments linked testosterone with certain masculine traits. Initially, some individuals used natural testosterone, with mixed results. One of the limiting factors in the use of natural testosterone was its availability—it had to be obtained from the testicles of animals—a rather unsavory process, especially for the animal.

In 1935, researchers developed the first synthetic testosterone, thereby making it readily available in large amounts. Following World War II, Eastern European weightlifters began using steroids and, as a result, dominated international competitions. It did not take long for other competitors to realize why. Steroid use spread from weightlifting to other athletic endeavors, and today, they are used in virtually any sport whose athletes perceive a benefit.

Steroids have become especially prevalent in football, professional wrestling, track and field, swimming, and bodybuilding,

where abuse is perhaps most widespread.<sup>2</sup> One bodybuilder indicted in Equine admitted, “to appear in the Nationals [the National Bodybuilding Championships] without using steroids would be like competing in the Miss America Contest without makeup.”

Unfortunately, by taking steroids, this bodybuilder destroyed his dream of competing in the Nationals. Due to joint pain and overall weakness, he can no longer lift weights. Like many steroid abusers, he also developed permanent liver damage.

#### STEROID SIDE EFFECTS

Taken over a period of time, steroids can have detrimental effects on the body. Men may suffer from hypertension, sterility, female breast development, premature hair loss, infections, cysts or other problems resulting from multiple injections, and irreversible heart and/or liver damage. Studies also indicate that steroid use increases the propensity of developing cancer.

Because women, by nature, have little testosterone in their bodies, steroids pose an even greater threat to them. In addition to most of the problems noted above, women develop many masculine traits, such as increased body and facial hair and a deepened voice.<sup>3</sup>

Beyond the physical effects, steroids also tend to increase aggressive tendencies, resulting in the so-called “roid rage.” Though athletes may benefit from some aggression, aggressive behavior brought on by steroid use can be difficult to control and can manifest itself in situations where such behavior is socially unacceptable or even dangerous. In fact, a recent study indicates that steroid use may lead to criminal or violent behavior, especially in 12- to 17-year-olds.<sup>4</sup> And in some instances, police officers taking steroids have used excessive force in subduing subjects.<sup>5</sup>

Steroids also are psychologically habit-forming. Sometimes individuals become so enamored with the extraordinary strength and weight gains that steroids bring that they never seem satisfied with their size, which is referred to as “reverse anorexia.” Furthermore, individuals who stop using steroids may become extremely depressed, to the point of committing suicide.<sup>6</sup>

Despite steroids’ negative effects, the pursuit of physical strength and perfection continues to draw many young men and women to the world of black market anabolic steroid use. A 1988 Penn State University study concluded that about 262,000 U.S. teens were experimenting with steroids. Today, studies estimate more than a

---

million users nationwide, including 500,000 teens.<sup>7</sup>

### CURRENT USE

Individuals either inject steroids directly into the muscle tissue or take them orally in tablet form. They also usually cycle them. That is, they take them for a period of time, quit for a period of time, and then repeat the cycle. Dosages might gradually increase to a peak, and then decrease, a process known as pyramiding. Often, users time their cycles so that the steroid-free period coincides with bodybuilding competitions, which may be drug-tested. However, because some steroids remain in the body for long periods of time, users might take other substances to mask their steroid use.

The use of other drugs frequently accompanies steroid use. For example, steroid users often use Percodan and other prescription pain killers to diminish the various aches and pains associated with their strenuous workouts. Further, because the steroids and the physical activity make sleep difficult, many users take Valium or other depressants. Some also use cocaine to counteract the depression associated with steroid-free cycles. Cocaine also acts as an appetite suppressant, helping individuals decrease their body fat levels. Thus, some competitive bodybuilders become walking drug stores.

The different types of testosterone derivatives contained in the various steroid products yield different results, either real or perceived. Some build muscle, others increase definition. Bodybuilders call this definition being "cut" or

"shredded." Because creating large, but highly defined, muscles is the object in bodybuilding, bodybuilders often use more than one type of steroid at a time, a practice known as "stacking."

Stacking makes the marketing of fake steroids feasible on a continuing basis. When a distributor sells both fake and real steroids to a user who stacks, the user will probably experience gains from the real steroids and possibly enjoy some placebo effect from the fake steroids. Thus, the user, in most circumstances, will assume all of the

“

***...studies estimate more than a million [steroid] users nationwide, including 500,000 teens.***

”

steroids are real. This faith obviously benefits the distributor, who can increase sales or help their business even further by acting as "consultants," advising the users which combination of steroids to take.

### STEROID SOURCES

#### United States

At one time, American physicians readily prescribed anabolic steroids to their patients. However, when Congress made steroids a Schedule III controlled substance, it limited the accepted medical uses of steroids to the "treatment of disease pursuant to the order of a

physician."<sup>8</sup> Clearly, enhancing athletic performance does not fit into this category. For this reason, many physicians who previously had been willing to prescribe steroids to athletes have ceased doing so.

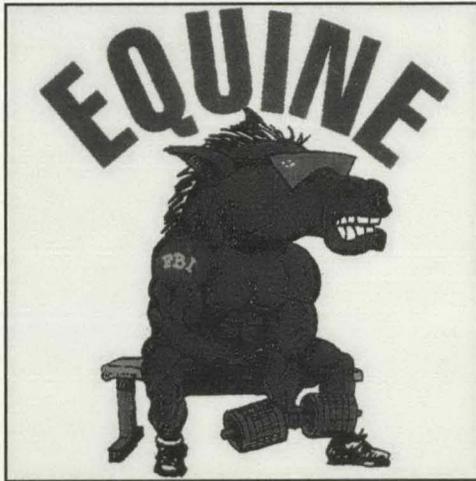
Unfortunately, some veterinarians have filled the void created by these physicians. Veterinarians use anabolic steroids extensively, principally in the treatment of horses. The steroids are administered for the treatment of injury, but are primarily used to enhance the performance of the horse, causing considerable controversy in the horse racing world. Some States have severely restricted the use of steroids in this area.

Due to the use of steroids in veterinary medicine, veterinarians have become—both directly and indirectly—sources for individuals seeking anabolic steroids for their personal use. In fact, agents codenamed the undercover operation Equine because of the large amounts of veterinary steroids being diverted for human consumption. Incredibly, veterinarians prescribe significantly lower dosages for horses than the amounts used by bodybuilders, even though horses weigh about 1,500 pounds.

#### Canada

Although the Ben Johnson Olympic scandal and subsequent public hearings heightened public awareness of the consequences of using steroids, at the time, Canada surpassed the United States in steroid availability. To counteract this, Canada revised its statutes in 1991 to encompass all anabolic steroids, including those marked

## A Tale From Operation Equine



**O**peration Equine led to the indictment of several Canadian suppliers. One of the suppliers agreed to sell an undercover special agent a large amount of steroids, but only if the agent would take delivery in Ottawa. The undercover agent agreed and advised the Royal Canadian Mounted Police (RCMP) of this arrangement.

The RCMP provided security and surveillance when the subject delivered a carload of steroids to the undercover agent. When the RCMP confronted the subject, he fled on foot through the streets of downtown Ottawa. Although the subject was anabolic, he was not very aerobic, and the Mounties got their man when he collapsed from exhaustion after running about 2 blocks.

The subject turned out to be the son of a judge on the Canadian Federal Court of Appeals. The RCMP surveillance identified the subject's supplier and two other associates. The car contained an estimated \$100,000 to \$150,000 worth of steroids. However, because at that time Canada's statute excluded veterinary steroids, the subjects could only be charged with selling approximately \$6,000 worth of steroids.

for veterinary use, which had previously been excluded. As a result of the new law and energetic enforcement by Canadian authorities, the supply of steroids arriving in the United States from Canada has diminished significantly.

### Mexico

The other major source of steroids for the U.S. market is Mexico. In Mexico, steroids, like many drugs that require a prescription in the United States, can be purchased over the counter. This probably explains the abundance of pharmacies in Mexican border towns. Individuals purchase steroids over the counter in Mexico, then illegally transport them across the border into the United States.

Some Mexican pharmacies have taken this one step further and, in effect, act as mail-order houses for customers in the United States. Customers contact Mexican pharmacies, which fill orders and pay couriers to carry the drugs across the border. Then, the courier mails or ships the order to the customers. By smuggling orders across the border before mailing them, the pharmacy reduces the risk of interception by U.S. Customs.

One Michigan dealer arrested during Equine received Percodan, Valium, and almost all of his real steroids from a Mexican pharmacy. He had the orders sent to "mail drops"—associates who would store the steroids. This dealer kept a running inventory and distributed the steroids to his various customers, who also sold to others.

### Europe

Europe—including Eastern Europe and the former Soviet Union—

also serves as a source for steroids, albeit less significant than the other sources. Some of the steroids coming from Canada originate in Europe. However, because of logistical problems and expense, the volume of steroids from Europe has not matched that of the other sources.

### **PROFILE OF A STEROID DISTRIBUTER**

During Equine, the FBI instituted a court-authorized telephone wiretap on the Michigan distributor. The wiretap, coupled with other investigative techniques, provided a unique view of this high-volume steroid distribution organization, which sold real steroids and manufactured and sold fake steroids.

This dealer ran a relatively sophisticated operation. He obtained the bottles, caps, and stoppers from a company that also supplied many legitimate pharmaceutical companies. Consequently, the bottles, caps, and stoppers matched almost exactly those supplies that a legal manufacturer would have used.

In addition, the dealer had the labels, boxes, and package inserts professionally printed. One difficulty he did face was imprinting the lot number and expiration date on the box and bottle label. Because drug manufacturers usually imprint these numbers, they use a different ink and format than the label manufacturers. Initially, the Michigan dealer used a handstamp (agents seized several during the search of his home), but he soon devised a more efficient method. Developing a computer program with variations to facilitate the formats of different manufacturers, he printed

lot numbers and expiration dates on the labels using his computer's dot-matrix printer.

Records obtained from the company that provided bottling supplies to the Michigan dealer show the volume of his counterfeit steroid operation. In 1990 and 1991, the Michigan organization obtained over 55,000 2-cc vials and 18,500 10-cc bottles. This distributor and other counterfeiters indicted in Equine needed bottle-filling devices in order to meet their customers' demand.

“

***Under Federal law, the illegal sale of anabolic steroids has been a felony since 1988.***

”

### **COUNTERFEIT STEROIDS**

Counterfeiters duplicate the carton and the container of legitimate steroids, but not the contents. Counterfeit steroids contain no or only trace amounts of testosterone.

Generally, the counterfeiters mix vegetable oil with alcohol in about a 10 to 1 ratio. They add alcohol to destroy bacteria—a genuine threat because the counterfeiters usually take few, if any, precautions to sterilize the facilities or containers.

### **THE LAW**

The illegal sale of anabolic steroids has been a felony under

Federal law since 1988.<sup>9</sup> On November 28, 1990, President Bush signed into law the Anabolic Steroids Control Act of 1990. Effective February 27, 1991, this law placed 27 anabolic steroids and their derivatives into Schedule III of the Controlled Substances Act.<sup>10</sup> Schedule III drugs, by definition, have the potential for abuse, but less than those substances in Schedules I and II, which have a “high potential for abuse.”<sup>11</sup> Abuse of a Schedule III drug may lead to “moderate or low physical dependence or high psychological dependence.”<sup>12</sup>

By making steroids a scheduled drug, Congress recognized the seriousness of the steroid problem and enhanced the ability of law enforcement to address the problem. Both the FBI and the DEA are tasked with enforcement.

Classifying steroids as controlled substances also allows for the forfeiture of any property used to facilitate the distribution of steroids and any profit traceable to the sale of steroids. Further, many States have made the mere possession of anabolic steroids a violation, although penalties vary.<sup>13</sup>

Unfortunately, classifying steroids as Schedule III drugs has resulted in unrealistic sentencing guidelines being applied to offenders. The guidelines define a “dosage unit” as 10 cc/ml or 50 tablets of any size, an excessive amount considering a typical dose is only 1 tablet or 1 cc/ml. As a result, only a dealer selling massive quantities of steroids would receive a penalty beyond nominal incarceration.

The manufacture and distribution of fake steroids are prosecuted federally under two statutes. First,

because the counterfeit steroids are mislabeled as real, dealers can be prosecuted under the Sale of Misbranded Drugs.<sup>14</sup> Part of the Food and Drug Act, this law is enforced by the FDA and, collaterally, by the FBI. Second, the seller of fake steroids using registered trademarks or any other counterfeit mark belonging to legitimate drug manufacturers can be prosecuted for Trafficking in Counterfeit Goods.<sup>15</sup>

One confusing aspect of a steroid investigation is the myriad of steroid products containing different testosterone derivatives. Under Federal law, there are 27 testosterone derivatives. However, the various steroid products may or may not incorporate the derivative into their names. Because the derivative, not the product itself, must be tested for and charged in a complaint or indictment, investigators should learn to distinguish between steroid

products and their accompanying testosterone derivatives.

## CONCLUSION

Despite the efforts of law enforcement, the media, and others to educate the public on the dangers of steroid use, there will always be individuals willing to risk long-term, potentially severe health problems for short-term athletic enhancement. Aspiring athletes should not have to use steroids to reach the pinnacle of their sport. Steroid use perverts the goals of sports and athletic competition. A victory achieved through steroid use is hollow, at best. At worst, the athlete may face prosecution or even death. ♦

## Steroid Products and Their Testosterone Derivatives

This table represents only the most widely used steroid products; it is not all-inclusive.

PRODUCT	DERIVATIVE
Anadiol	Testosterone
Anadrol 50	Oxymetholone
Anavar	Oxandrolone
Cheque Drops	Mibolerone
Deca-Durabolin	Nandrolone
Depo-Testosterone	Testosterone
Dianabol	Methandrostenolone
Equipoise	Boldenone
Finaject	Trenbolone
Lyphomed	Nandrolone
Malogen	Testosterone
Nandrabolin	Nandrolone
Parabolan	Trenbolone
Primobolan	Methenolone
Primoteston Depot	Testosterone
Sostenon 250	Testosterone (Esters)
Sten	Testosterone
Stenox	Fluoxymesterone
Winstrol V	Stanozolol

## Endnotes

<sup>1</sup> Undercover FBI Agents William G. Randall and John M. Wills, by virtue of their participation in Operation Equine, also contributed to this article.

<sup>2</sup> Bob Goldman and Ronald Klatz, *Death in the Locker Room II* (Chicago, Illinois: Elite Medicine Publications, 1992), 28-39.

<sup>3</sup> *Ibid.*, 4, 107-125.

<sup>4</sup> Study conducted by the National Institute on Drug Abuse, as reported in *Vitality*, December 1993, 7.

<sup>5</sup> Charles Swanson, Larry Gaines, and Barbara Gore, "Abuse of Anabolic Steroids," *FBI Law Enforcement Bulletin*, August 1991, 21.

<sup>6</sup> Study conducted by Dr. Charles Yesalis, as reported by Joannie M. Schrof in "Pumped Up," *U.S. News & World Report*, 1 June 1992, 59.

<sup>7</sup> *Ibid.*, 55.

<sup>8</sup> Title 21, USC, Section 802(41); 21 CFR, Section 1306.04(a).

<sup>9</sup> Title 21, USC, Section 333(e).

<sup>10</sup> Title 21, USC, Sections 802(41)(a), 812, and 841.

<sup>11</sup> Title 21, USC, Sections 812(b)(1)(A) and 812(b)(2)(A).

<sup>12</sup> Title 21, USC, Section 812(b)(3)(C).

<sup>13</sup> See, for example, Michigan Compiled Laws Annotated, Section 333.17766(a).

<sup>14</sup> Title 21, USC, Sections 331(a) and 333(a)(2).

<sup>15</sup> Title 18, USC, Section 2320.

## *Correctional Standards*

The American Correctional Association (ACA) recently published three books of correctional standards. "Standards for the Administration of Correctional Agencies" updates the original standards published in 1979. It contains 139 standards covering 12 vital areas for the effective operation of central offices or headquarters of correctional systems. The book includes new standards on AIDS, sexual harassment, and training.

"Standards for Correctional Training Academies" offers 103 operational standards for correctional staff training facilities. The manual covers the administration and management of

training facilities, physical plant requirements, and training and staff development.

"Standards for Juvenile Day Treatment Programs" establishes guidelines for the operation of community-based day treatment programs. The manual contains 205 standards covering such issues as building and safety codes, sanitation and hygiene, emergency procedures, food service, health care, and supervision.

*To order any or all three manuals, call the ACA's book order department at 1-800-825-2665. For those calling outside the continental United States and Canada, the number is 301-206-5059. Prices for the manuals vary.*

## *Drug Use Forecasting*

The Drug Use Forecasting (DUF) Program established by the National Institute of Justice (NIJ) is a measurement system to test for illicit drug use among arrestees brought to the booking facility at 24 DUF sites. The data gathered play a key role in helping policymakers, law enforcement professionals, and citizens to understand better the Nation's drug problem.

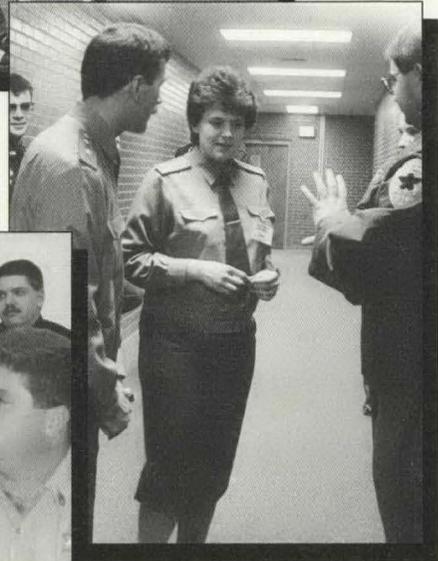
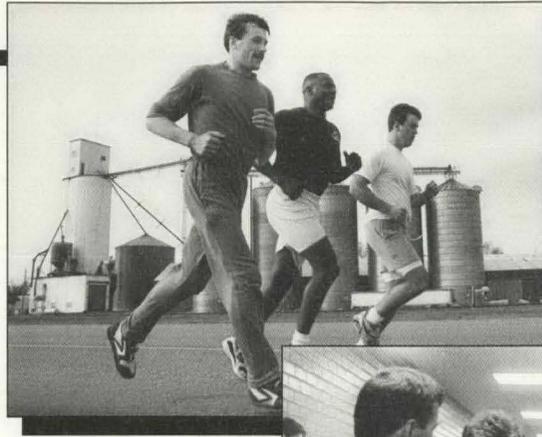
A report, "The Drug Use Forecasting Program: Measuring Drug Use in a 'Hidden' Population," explains the rationale for drug testing among people charged with serious

crime. It presents the DUF method, focusing on sampling strategy, specific procedures, and quality control measures. The report also explains the ways in which the findings can be used to track changing patterns of drug use and how particular sites have used these findings to address the drug problem in their communities.

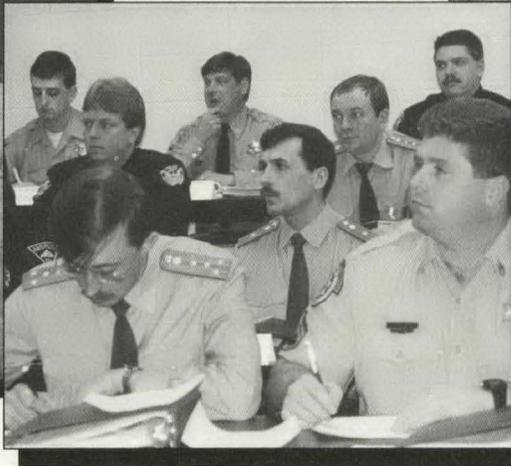
*To receive this and other DUF publications, call NIJ's National Criminal Justice Reference Service at 1-800-851-3420. Interested parties can also write to the DUF Program, National Institute of Justice, 633 Indiana Ave., N.W., Washington, DC 20531.*

# *The Russians Are Coming The Kansas Training Experience*

By  
LARRY WELCH, J.D.



Photos © Wally  
Emerson and KLETC.



**I**n 1989, the world watched incredulously as the Berlin Wall crumbled. In 1991, it witnessed the breakup of the Soviet Union, as one by one, the republics declared their independence. Even the experts could only speculate what event might occur next.

For the Kansas Law Enforcement Training Center (KLETC), this event came when five police officers from the Leningrad Region of Russia attended the center to study the equipment and techniques of U.S. police officers. This occasion marked the first time Russian police officers had received law enforcement training in the United States.

## **Background**

During an official visit to Russia, the governor of Kansas laid the groundwork for this history-making exchange. Not only would Russian police officers train at KLETC, but a delegation from Kansas would also visit Russia. But first, extensive preparation would be required.

## **Coordination**

The Kansas Department of Commerce and Housing served as liaison with St. Petersburg, the U.S. Department of State, and KLETC, coordinating the exchange and handling any official preparation required, such as visas and background checks. KLETC's director

headed the academy's effort and formed a committee, dubbed "The Russian Committee," which was tasked with identifying and addressing every conceivable issue that might arise in connection with the Russian officers' visit. The committee's work contributed greatly to the success of the project.

Besides working to identify issues, KLETC's director placed two conditions on the program. First, the Russian officers must speak fluent English to eliminate the need for interpreters. And, second, they must attend an unmodified basic training class, so that they would receive the exact training as new Kansas law enforcement officers.

In November 1992, the Trade Division of the Kansas Department of Commerce and Housing selected five Russian officers to attend the training center: Major Sergei Vladimirovich Fedorov, age 38; Captain Vladimir Ivanovich Zharinov, age 33; Captain Gennadiy Victorovich Nadezhkin, age 30; Major-Lieutenant Helena Leonidovna Levanenko, age 28; and Major-Lieutenant Svetlana Nikolaevna Golubeva, age 25. They would become known at the academy and, in fact, across the Kansas law enforcement community simply as Sergei, Vladimir, Gennadiy, Elena, and Svetlana.

Sergei, the highest-ranking officer in the group, served on the Priozersk, Russia, Police Department, near the Finnish border. While at KLETC, he would be promoted to assistant chief of his department of more than 200 officers.

Elena worked as a criminal investigator in the Gatchina, Russia, Police Department. Vladimir served as chief of a department of less than 50 officers in Kirovck, Russia. Both Svetlana, a criminal investigator, and Gennadiy, a traffic and patrol officer, worked in the Tosno, Russia, Police Department. Gennadiy was the only officer with a military background, although police officers in Russia are all known as "militia."

### Planning

With the visitors confirmed, KLETC's director arranged for an expert from Kansas University's International Studies Department to conduct a cultural awareness seminar at the academy. For 8 hours, the entire academy staff—

ranging from assistant directors to maintenance personnel—studied Russian history, communication, and customs.

Next, the director contacted every cadet scheduled to attend this particular session of the academy, as well as their administrators, in order to advise them of the historical significance of the training class and to inform them that they could possibly have a Russian roommate. By surveying the class, the director discovered that one of the recruits spoke Russian. As a result, he was chosen to room with Sergei. The other four Russian officers would also have American roommates, as they requested.

Weekend accommodations for the Russian officers required extra planning. Because the training center closes each Friday at 6 p.m., the Russian officers would need a place to stay through Sunday evening. This problem was easily rectified, as more than 60 law enforcement

agencies volunteered to host the visitors on weekends. Host departments were eventually chosen solely on the basis of whether their locations afforded the officers the opportunity to tour the State and to observe as many different law enforcement agencies as possible.

In addition, local motels donated free rooms so that the officers could spend a few weekends alone. On these weekends, the Kansas Sheriffs' Association and Kansas Peace Officers' Association provided funds for the officers' meals.

### Showtime

On March 7, 1993, the Russian officers arrived at KLETC. Now, all eyes were on the academy, and everyone involved would soon discover if 6 months' planning had been enough.

The 1-day cultural awareness seminar proved invaluable to academy employees. They had learned that International Women's

“  
***The Russian officers were enthusiastic, dedicated, and cooperative.***  
”



*Mr. Welch, former Director of the Kansas Law Enforcement Training Center, now heads the Kansas Bureau of Investigation in Topeka.*

---

Day, March 8, is one of the three most important Russian holidays. By coincidence, the Russian officers would attend their first day of instruction on that very day. In honor of the occasion, KLETC's director presented each female officer, Russian and American, with a card and a red rose. The women were both surprised and pleased, and even the Russian men seemed impressed. Thus, the 126th session of KLETC's basic training class was off to an auspicious start.

### Training

The actual training proved to be the easiest part of the entire endeavor. The Russian officers were enthusiastic, dedicated, and cooperative. Although they had already received basic training in Russia, they showed genuine interest in all aspects of the academy's program, which included firearms training, felony vehicle stops, defensive tactics, crime scene investigation, and searches and seizures, to name a few. They studied Kansas Criminal Code and Procedure with Kansas officers and tackled U.S. Supreme Court decisions and the *Miranda* Rule.

Because only Gennadiy knew how to drive, the Russian officers could not complete the Emergency Vehicle Operation Course. However, they did go through the course as passengers/observers with Kansas officers.

### Difficulties

To be sure, a few minor problems occurred during the Russian officers' trip; however, they had been anticipated by the academy and were quickly resolved. First,

although the Russian government paid for the officers' airfare, and KLETC had arranged for tuition, training, and room and board, the officers arrived with little spending money. After the Federal Government denied the State's request for a grant, the director secured the money from the Kansas Sheriffs' Association, the Kansas Peace Officers' Association, the Derby, Kansas, Police Department's Fraternal Order of Police, and the Overland Park Police Department. These agencies generously donated "scholarships," which the Russian officers—after much encouragement by the academy's director—graciously, but reluctantly, accepted.

“

***...the Russian officers were appalled at the profusion of guns faced by American police....***

”

And, as expected, there were a few communication problems. Although all of the officers spoke English, some were more proficient than others. However, these difficulties decreased with time as the participants became acquainted with one another's language and customs.

### Lessons Learned

Both the American and the Russian officers developed a better understanding of their comrades.

The Kansas officers learned that organized crime, juvenile delinquency, drug violations, street gangs, and property crimes—especially burglary and auto theft—are on the increase in Russia.

In turn, the Russian officers were appalled at the profusion of guns faced by American police and thankful that violent crime in Russia has not yet reached U.S. levels. They were impressed with the quality of U.S. equipment and overwhelmed by the number of automobiles in American society and police agencies.

Despite these differences, American and Russian police officers do share many attitudes. Sergei confirmed this the first week of class when a reporter asked him to identify the major needs of Russian law enforcement. Without hesitation, he responded, "More officers, better equipment, and more logical laws." Few American officers would disagree with that statement.

### Media Attention

This historic event did not escape the attention of the media. Local, national, and international news organizations requested interviews from the Russian officers during their 10-week stay at the academy. The director consented only to the interviews that would not create an unnecessary disruption to the training class.

Sergei, who had studied in England and spoke English fluently, handled most of the interviews, doing so confidently and professionally. For example, during Sergei's very first interview, a reporter asked, "What misconceptions do American law enforcement offi-



# Focus on Community Policing

## Community Policing and Residential Traffic Control

By  
Mark Cutcliffe, M.S.

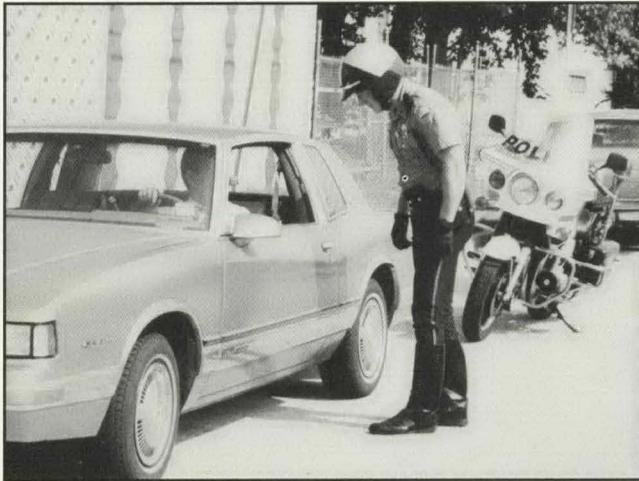


Photo by Al Tolley, Daytona Beach, Florida P.D.

**E**xcessive speed and reckless driving threaten both lives and property, reducing the quality of life within neighborhoods. To counteract this problem, law enforcement officials should ensure that effective traffic control remains an integral component of any residential community policing effort.

Officers sometimes underestimate the negative impact traffic violators have on neighborhoods and choose, instead, to concentrate their efforts on more serious offenders. They fail to recognize that traffic violations within neighborhoods promote disorder and a feeling of lawlessness. Over time, violators grow more bold, and the residents begin to develop a sense of helplessness.

Law enforcement agencies can change the complexion of neighborhoods and restore community spirit by working to resolve traffic problems. This requires careful analysis of key neighborhood

elements and the implementation of specific changes based on what this analysis reveals.

### ANALYSIS

To begin the analysis, law enforcement officials should examine the neighborhood's existing traffic control and crime prevention measures, as well as its social makeup. These components intertwine in the analysis process.

When gathering data, officials must not underestimate the importance of public input. Through public forums, residents can offer valuable information concerning the neighborhood, and in turn, officials can educate citizens about the policing effort. Efforts such as these emphasize cooperation between police and citizens—a critical tenet of community policing.

An effective analysis also requires specific details about the target neighborhood. Administrators should examine previous accident reports and traffic complaints; note the condition, placement, and visibility of road signs; conduct a 24-hour, 7-day traffic count and speed check; and request the observations of district or zone patrol officers concerning problems they encounter. It is also important to note existing traffic control devices, pavement markings, and road classifications (local, collector, and arterial).

Finally, administrators need to analyze the factors that impact citizens on a more personal level. These include the placement of public transportation stops; the availability of safe parking, school zones, and bus stops; pedestrian counts; and the condition of roads and sidewalks.

### Traffic

Part of the neighborhood analysis requires considering what traffic control methods currently exist and what changes or additions should be made. The goal is to control the flow of traffic effectively, while increasing the overall effectiveness of enforcement efforts.

Early liaison with the local traffic engineering department can save police officials many hours of frustrating effort in the area of traffic control, because this department approves any sign or roadway

---

change. And, in many jurisdictions, the engineering department has access to automated or computerized traffic counters, roadway volume data, construction schedules, past traffic flow, and design data.

No road design or traffic control changes should be made until the neighborhood analysis is complete and the citizens have been offered ample opportunity for public discussion on the matter. However, missing or defaced traffic control devices, street signs, and pavement markings require immediate corrective action.

### Crime Prevention

Any traffic analysis should be performed in conjunction with a crime prevention analysis of the target area. Both components are critical to gain a total neighborhood picture.

In some instances, an examination of motor, bicycle, and pedestrian traffic provides clues for effective crime prevention or solution strategies. In other instances, an area's social analysis, studied in combination with the traffic analysis, supplies answers that help to reduce or eliminate neighborhood problems.

For example, a row of houses or apartments occupied primarily by residents who depend on public transportation should have a bus stop nearby. If the neighborhood analysis reveals that this is not the case, officials can assist the residents by working with transportation officials to install a new bus stop close to the housing area. Reducing the distance citizens must travel to public transportation lessens the chances of their being victimized. This, in turn, lowers their feelings of frustration and builds further confidence in law enforcement's commitment to improve the quality of life within the neighborhood.

Once officials gather and analyze information on the target area, they should issue a written report of their findings. Such reports offer valuable insights into the nature of existing traffic problems, as well as possible solutions to these problems. Officials can

then decide what changes they should implement to restore safety and order to the neighborhoods.

### IMPLEMENTING CHANGE

After analyzing the data, it is critical to implement changes first in those areas experiencing the most serious traffic problems. Reducing the number of violations in problem areas will have an immediate positive affect on the neighborhood as a whole.

#### Traffic Control Initiatives

Frequently, significant problems are found in high-traffic areas plagued with speeding violators. Officials should initiate a sustained traffic enforcement program in any neighborhood experiencing regular speeding violations in excess of 8 miles per hour over the posted limit. Areas that have five or more accidents within a 12-month period should also be evaluated for increased law enforcement attention and possible traffic control initiatives.

Road design measures, such as one-way streets, turn restrictions, traffic circles, and cul-de-sacs, can be effective traffic control initiatives when used at the proper locations. Department officials, working cooperatively with the traffic engineering department, need to consider both the level of traffic and the social environment when deciding what traffic control measures should be implemented.

Police agencies also receive requests from citizens who believe that certain traffic control measures will help to alleviate neighborhood traffic problems. However, officials should enact these measures only after careful consideration.

For example, citizens often believe that stop signs will eliminate speeding and cut-through problems. In reality, stop signs are not as effective as most citizens believe. Past abuses in the installation of stop signs have led most jurisdictions to require that stop signs only be placed at locations where the total vehicle traffic volume entering the intersection from all

“

...traffic violations within neighborhoods promote disorder and a feeling of lawlessness.

”

---

approaches averages at least 500 vehicles per hour for an 8-hour day or where there is a history of five or more reported accidents during a 12-month period that may have been prevented had a multiway stop sign been installed.

After stop signs, speed bumps are most often requested by citizens as a speed-control device. However, before installing speed bumps, officials must consider their impact on public transportation and storm water drainage and whether there are intersecting streets within 100 feet of the bump. They also need to obtain approval from the residents, local fire department, emergency medical services unit, and school board. Officials should also ensure that speed bumps are installed on straight, level roads with a maximum of 300 feet between the bumps.

#### **Enforcement Initiatives**

The policing team assigned to the neighborhood coordinates traffic enforcement initiatives. These officers are closest to the problems and, ultimately, are held accountable for improving police services. However, the team should be able to cross the traditional lines of responsibility to get support from other divisions and agencies in order to formulate an effective response to traffic problems.

Officials can ensure effective use of personnel by basing enforcement tactics on the information collected in the traffic analysis phase. Peak enforcement hours can be determined from the traffic count and speed study. (Some departments consider road traffic excessive when the continual volume is greater than 10 percent of the average daily peak-hour traffic.)

In addition to traditional enforcement efforts, officials should also consider using safety programs.

This may include speed display signs, bike and pedestrian safety programs, reflective bracelets for children and joggers, driver training, parking enforcement, and other programs designed to promote safe neighborhoods.

Advance information to citizens on planned traffic enforcement efforts and tactics prevents misunderstandings and resentment. Officials should

notify all residents of the general enforcement plan, emphasizing that no violation will go unaddressed. However, the goal of the department should be voluntary compliance, a safe neighborhood, and a cooperative spirit between citizens and police, not an increased number of citations. Emphasizing the department's interest in preventing accidents and disorder while addressing the concerns of citizens builds a positive rapport between citizens and police.

“  
**Emphasizing the department's interest in preventing accidents and disorder while addressing the concerns of citizens builds a positive rapport between citizens and police.**  
”

#### **CONCLUSION**

Police departments active in community policing need to be

keenly aware of the impact of neighborhood traffic control on their overall efforts. Excessive traffic, speed, and noise affect both the social and crime patterns within neighborhoods.

Citizens who believe that law enforcement officials are actively attempting to improve the quality of life in their neighborhoods will join in the effort to resolve existing problems. Good residential traffic control programs accomplish a major goal of community policing: They bring communities together. ♦

---

*Special Agent Cutcliffe serves with the Florida Department of Law Enforcement in Fort Pierce, Florida.*

---

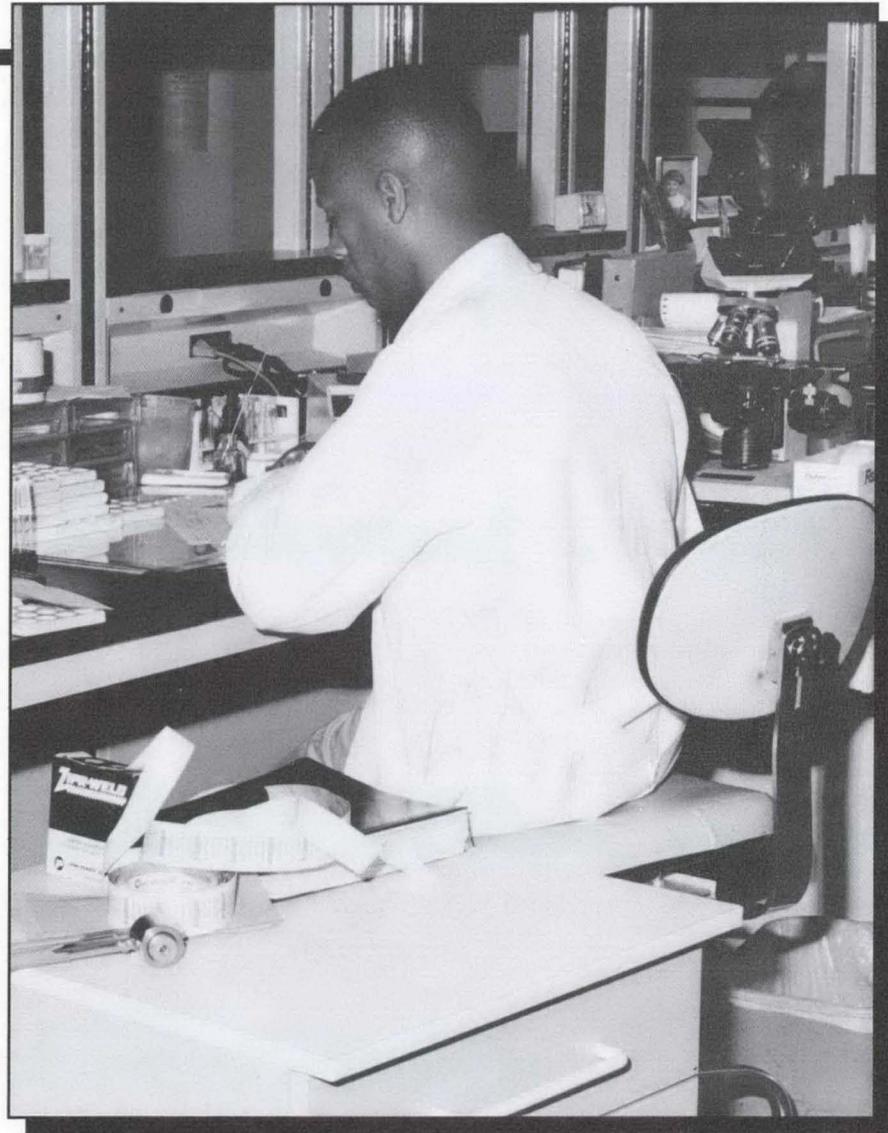
# Drug Laboratory Efficiency Shifting Paradigms

By  
SHIV K. SONI, Ph.D.

**L**ike many other large urban areas, Baltimore, Maryland, witnessed a record number of homicides (353) and drug arrests (17,687) in 1993, as the fatal combination of drugs and guns challenged already-strained law enforcement resources. With the increase in drug-related offenses, aggressive drug law enforcement remained a top priority within the city's police department. As a result, the department's Drug Analysis Unit (also referred to as the laboratory) confronted an enormous caseload, one that has doubled since 1982.

In 1993, the laboratory analyzed a record number of controlled dangerous substances (CDS) cases—18,010, containing 235,485 total drug units. CDS submissions increased nearly 40 percent over 1990 figures, while total drug units increased over 65 percent.

Numbers, however, do not tell the complete story. Drug analyses have become increasingly complex as drug abuse and distribution patterns evolve. For example,



laboratory analysis revealed that two distinct qualities of heroin were being distributed on the streets of Baltimore: A low quality taken by injection and a high quality ingested primarily by inhaling.

New designer drugs also continue to enter the illicit market. In spring 1992, the laboratory played a major role in the analysis of Fentanyl, a street drug distributed under the name "China White." Use of this drug resulted in 30 deaths

throughout Maryland, including 25 deaths in the City of Baltimore alone. In addition, analysis and identification of anabolic steroids—designated as controlled substances under separate Federal and State laws—involve a complex process, requiring the use of state-of-the-art analytical instruments.

To meet the challenge of increased caseloads and more complex drug analyses, while working within an environment of fiscal

restraints, the Drug Analysis Unit made a series of management decisions that ultimately led to greatly enhanced productivity and efficiency. This article describes the factors that led to the "paradigm shift" undertaken by the laboratory and the specific changes that produced positive results.

### THE CHALLENGE

To support investigations adequately, drug analysis must be rapid, precise, and cost-effective. However, during the last decade, budgetary constraints often precluded staffing levels commensurate with the ever-expanding influx of drug cases. Nationwide, increased caseloads and demands for prompt analytical information by the courts placed tremendous pressure on laboratory services. In Baltimore, this situation was exacerbated by a reliance on manually operated, labor-intensive analytical instruments, as well as a resistance to

standardization and to newly acquired automated procedures on the part of laboratory personnel.

The challenge to administrators, therefore, was to design a system that would eliminate the constant backlog, decrease turnaround time, increase individual productivity, and maintain high analytical standards for accuracy and precision. Any practical system must also effect a paradigm shift in the mindset of the personnel within the Drug Analysis Unit to make them more receptive to change and new ideas.

### SHIFTING PARADIGMS

To meet the challenge and to escape the limitations of the former paradigm (the "old way of doing things"), managers carefully developed a new set of paradigms. These standards include:

- Expanded training and education of personnel

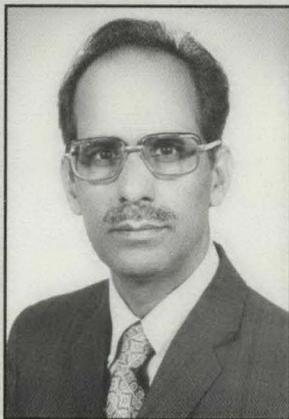
- Review and revision of the laboratory's standard operating analytical procedures
- Continuous quality improvement measures
- Acquisition and application of emerging technologies for analytical purposes
- Design of innovative laboratory forms
- Continued sensitivity to public interests.

Adapting to changes in the scientific and technological environment requires a constant acquisition of knowledge and skills. Eventually, the successful implementation of these concepts culminated in a more productive and efficient environment within the Drug Analysis Unit.

### Training and Education

When setting out to improve efficiency, administrators understood that training and education constitute a basic, but easily overlooked, component of productivity. Therefore, the training and education program was expanded and redesigned to promote independent thought and sound scientific judgment in the use of automated procedures.

The multifaceted program covers drug analysis techniques, as well as the principles, applications, and limitations of the methods and techniques currently in use. To reinforce the training, managers encouraged chemists to use automated equipment and procedures in daily routines. The integration of automated procedures into the working routine, though slow and



*Dr. Soni supervises the Drug Analysis Unit of the Baltimore City, Maryland, Police Department.*

**“  
...the Drug Analysis Unit made a series of management decisions that ultimately led to greatly enhanced productivity and efficiency.  
”**

cumbersome at first, gradually won widespread support among laboratory personnel.

### Standard Operating Procedures

Managers thoroughly reviewed and streamlined standard operating procedures (SOP) to maximize productivity and consistency in the use of laboratory methodology among chemists. In order to enhance productivity, a basic tenet of the paradigm shift required that all chemists use identical techniques. Initially, laboratory personnel viewed such standardization as unconventional at best. Traditional practice in the field held that as professionals, forensic examiners could choose among any accepted analytical techniques available.

As part of the new program, each chemist was required to analyze and record all pertinent information<sup>1</sup> with respect to a particular drug. This information was then compiled, discussed, and approved by all the chemists, as well as by the Maryland State Department of Health and Mental Hygiene, the approving body for the certification of drug chemists and analytical procedures. Once approved, these analyses became the manual of standard operating procedures for all drug testing performed in the State.

The manual incorporates a standard operating procedure for training, which was developed with the cooperation of other State laboratories. An SOP of analytical procedures was also developed for all situations, especially those in which certain instruments become temporarily unavailable due to breakdown.

### Quality Control, Assurance, and Improvement

Under the new paradigm, the Drug Analysis Unit's quality control system consists of quality control (QC) for operational techniques and activities and internal quality assurance (QA) to ensure that the laboratory achieves intended quality levels. To maintain high quality levels, the laboratory instituted several principles of quality control and

“  
...training and education constitute a basic, but easily overlooked, component of productivity.  
”

assurance recommended by the American Society of Crime Laboratory Directors. These provisions are designed to:

- Ensure the integrity of the chain of custody for evidence received by the laboratory
- Ensure the competence of the analysts through education, training, and proficiency testing
- Employ reliable equipment and methodology
- Ensure well-documented casework notes.

In addition, managers review laboratory reports for thoroughness and accuracy. Staff members also

are encouraged to acquire, upgrade, and demonstrate their professional and scientific skills and to employ a team approach to problem solving.

To further promote quality, the new paradigm also incorporates a focus on continuous quality improvement (CQI). The CQI standard includes a regular review of organizational structure, responsibilities, procedures, processes, and resources.

### Innovative Laboratory Forms

Another integral component of the paradigm shift entailed significantly revising the laboratory forms used by the Drug Analysis Unit. The formal, typed reports of the past were replaced with standardized, time-saving laboratory report/chain-of-custody forms. These fill-in-the-blank reports were designed to capture a broad spectrum of information, including:

- The submitting officer's description of drug evidence and the number of drug units in each item
- The chemist's verification of the officer's inventory
- An analytical laboratory report of the results and drug schedules for each item
- A chain-of-custody diagram containing the signature, date/time of each person who handles, opens, and reseals each package of drug evidence.

Under the new system, laboratory personnel hand write this information on a redesigned form, thus eliminating delays associated with typing and proofreading.

In addition to the redesigned forms, a worksheet was developed. One column of the preprinted worksheet contains all tests performed; a separate column lists each item analyzed for a particular drug submission. This assists laboratory personnel in keeping standardized, well-documented casework notes.

A statistical worksheet was also developed to track drug submission trends and to compute turnaround times for drug cases. This worksheet provided managers with an objective assessment of each chemist's efficiency and productivity.

#### **Application of Emerging Technology**

The technological backbone of the Drug Analysis Unit consists of two sets of fully automated instruments acquired in 1989 and 1990. Each instrument is equipped with an autosampler that includes auto-injection, sample tray, data system, and barcode reader to track sample identification. The data system prints the analysis data with the corresponding barcode number of the original item number for a case. The steps in the analytical scheme include well-documented representative sampling procedures, barcoding of samples for automated analysis, prescribed preliminary tests, quantitative analysis (if needed), and final confirmation by gas chromatograph/mass spectrometer or fourier transform infrared spectrometer.

The use of statistical sampling and automated procedures for testing drugs represents a dramatic shift from the labor-intensive methods of the past. While these ideas initially created some uncertainty, with

proper training and education, the procedures became a hallmark of the laboratory's productivity and efficiency.

#### **Public Interests**

Police crime laboratories often deny access to defense attorneys and experts having legitimate interests in evidence and the results of analyses. Under its new paradigm, the

“

***Upon fully implementing the paradigm shift, the Drug Analysis Unit completely eliminated its once-constant backlog of cases.***

”

Drug Analysis Unit maintains open communications with, and is responsive to, such agencies as the State's attorneys and public defender's offices, as well as to the public.

The laboratory conducts training and tours for attorneys to explain the instruments and testing procedures. As a result of open communication and consistently high work quality, laboratory results are generally accepted on face value as valid in the courts. Consequently, chemists infrequently are called to testify in person, resulting in considerable time savings. On the average, each chemist from the Drug Analysis Unit spends only

1 to 2 hours per month making court appearances.

#### **RESULTS**

Upon fully implementing the paradigm shift, the Drug Analysis Unit completely eliminated its once-constant backlog of cases. It accomplished this task without expending any overtime pay. Other results of the paradigm shift were equally impressive and resulted in considerable cost-savings to the police department.

For example, the cost of analyzing CDS samples in the Drug Analysis Unit fell far below the cost of sending these same samples to private laboratories. Moreover, private laboratories require additional compensation for services that the Drug Analysis Unit provides free, such as training officers, lecturing State's attorneys, testifying in court, and providing facility tours.

Under the new paradigm, the 1993 rate of productivity per chemist rose significantly higher than the rates of years past—1,441 cases versus an average of 1,234 in other years. The current 3-day turnaround time (from seizure to completion of analysis) is the shortest in the history of the unit.

This time savings resulted from increased automation and allows chemists to participate in work-related projects. Laboratory personnel produced several reports outlining the demographics of drug use in Baltimore. To enhance understanding of the nature and extent of illicit drug activity, the laboratory shared results of these projects with the Governor's Commission on Drug and Alcohol Abuse, the Maryland State Police Crime Intelligence

Unit, and various divisions of the Baltimore City Police Department. Also, the laboratory recently conducted a study on the pricing structure and purity of street drugs, focusing on changes in trafficking patterns and supply.

To further support investigative and intelligence efforts, the laboratory now analyzes and evaluates (on a monthly basis) trends in drug submissions for the current and previous year. And, in collaboration with other crime laboratories, the Drug Analysis Unit developed a training program that provides instruction concerning analysis procedures.

## CONCLUSION

The Baltimore City Police Department's Drug Analysis Unit worked with existing resources under considerable fiscal restraints to enhance its efficiency and productivity. An integral component of this transformation was to change the way laboratory personnel viewed innovation, technology, and their roles in the organization. In turn, the achievements of the unit add to the sense of esprit de corps among members of the laboratory. The positive results promote great pride in their resourcefulness, and fuel their desire to excel.

The positive outcomes also resulted from challenging old paradigms, and when needed, creating new and more effective ones. To remain efficient and productive in the 1990s and beyond, the process of change and innovation must continue. ♦

### Endnote

Substances are tested for name, structure, chemical formula, molecular weight, schedule, solubility, color tests, crystal tests, thin layer chromatography systems, UV spectra, Infrared spectra, gas chromatographic retention times, gas chromatographic/mass spectroscopic data, etc.

## Crime Data

### Law Enforcement Officers Killed—1993

**D**uring 1993, 69 law enforcement officers were killed in the line of duty, an increase of 6 officers from those slain in 1992. Preliminary national figures show that 65 State and local officers and 4 Federal officers were slain. Geographically, 31 officers were killed in the South, 11 in the West, 10 in the Midwest, 9 in the Northeast, and 8 in Puerto Rico.

Firearms were used in nearly all of the killings. Handguns were used in 50 of the murders, rifles in 14, and shotguns in 3. Two officers were slain with other types of weapons.

Arrest situations accounted for 29 officer killings—arrests of robbery suspects (10),

drug-related situations (3), attempts to apprehend a burglary suspect (1), and attempted arrests for other crimes (15). Fifteen officers were slain while investigating suspicious persons or circumstances; 10 while enforcing traffic laws; 9 while answering disturbance calls; 4 in ambush situations; 1 while handling a mentally deranged person; and 1 while handling a prisoner.

Thirty-six officers were wearing body armor when they were killed, and 5 officers were killed with their own weapons. Law enforcement agencies have cleared 64 of the killings. ♦

# Case Study

## Preventing School Violence

By Dana S. Libby

*"Fairfax Police have arrested 14 juveniles and eight adults on charges that include assault by mob, attempted malicious wounding, destruction of property and disorderly conduct. Most of those arrested are students at the school."*

In the past, when students got into trouble, they received detention or a suspension. Hardcore cases might be expelled, but school administrators handled the situation themselves—they rarely, if ever, called the police.

Today, the police routinely respond to educational institutions, as students commit serious acts of violence and even murder. This article examines recent incidents at a suburban Virginia public high school and demonstrates how law enforcement agencies can work with school administrators and the community to quell the violence that plagues American schools.

### JUST ANOTHER SUBURBAN HIGH SCHOOL

The school is 1 of 21 public secondary schools in Fairfax County, Virginia, a suburb of Washington, DC. During the 1992-93 school year, this high school enrolled 2,073 students in grades 9 through 12. As in many public schools, the students represent a variety of races and ethnicities. Fifty-two percent are white; 26 percent, Asian; 12 percent, Latino; and 10 percent, African-American. Over 40 percent of the students speak English as their second language.

In September 1992, as part of its community policing approach, the Fairfax County Police Department assigned individual officers to act as liaison at each high school and middle school in the district. Each officer would make regular, informal contacts with students and staff at each school to provide general law enforcement and crime prevention information, to investigate unreported criminal acts, and to gain awareness of any ongoing problem within the school community. Liaison officers generally devoted only 5 hours per week at their assigned schools.

In addition, due to the students' diverse backgrounds, the department made available to all school administrators the services of the Community Liaison Unit. The six ethnically diverse officers assigned to the unit had been specially trained in various problem-solving and mediation techniques, in order to approach community conflicts with nontraditional solutions. These skills would prove beneficial in the months to come.

### VIOLENT FACTIONS

In recent years, violence in the school had risen sharply. The school requested police service 72 times during the 1988-89 school year, 90 times during the 1991-92 school year, and 112 times during the 1992-93 year. By 1992, school administrators and police realized that two distinct ethnic factions had formed within the school population: One African-American and one Latino. The Latino students asserted that the African-American students, who had previously outnumbered the Latino students, had failed to respect them properly. Once Latino students outnumbered the African-Americans, several Latino students implied the school was now "theirs." In addition to these two groups, others, including Korean, Vietnamese, and white students, became involved in the conflict.

As the 1992-93 school year progressed, low-level, largely verbal disputes grew increasingly violent. In October, a minor altercation in the lunch room escalated into a fight involving 40 to 50 primarily Latino and Korean students. Later in the year, a white student was arrested for carrying an 8-inch knife in a concealed shoulder holster, and a Latino student was arrested for possessing a 24-inch machete. Both of these students claimed to have armed themselves out of fear of being assaulted by a group of African-American students.

### CLIMACTIC ENCOUNTER

Then, in January 1993, an off-campus incident illustrated just how serious the situation had grown. A late-night dispute arose among five students in the parking lot of a local fast-food restaurant. One hour later, the same students encountered one another on a public roadway, each group in separate automobiles. They stopped and exited their cars. After several moments of heated discussion, a Latino student

produced a 9-mm handgun and placed it against the head of an African-American student, who pushed the gun away and began to walk back to the passenger side of his vehicle. As he entered the car, he was struck in the knee by one of approximately four shots fired by the Latino student.

## THE MORNING AFTER

Investigators initially encountered difficulty identifying the suspect, who was known only by a nickname. However, when the suspect arrived at school the following Monday, officers were waiting. A group of African-American students also waited to

confront him. As officers reached the suspect, widespread fighting broke out between 40 to 50 Latino and African-American students. After controlling the students, the police arrested the suspect on felony charges. They also arrested other students for disorderly conduct and assault related to the fights.

Despite the principal's removal of 50 of the student aggressors, acts of vandalism and violence occurred throughout the rest of that day and week. Students spray-painted graffiti on the school building and on cars, assaulted teachers, and attacked other students. Both the police and school administrators realized that these actions required an immediate response.

## COMBINED RESPONSE

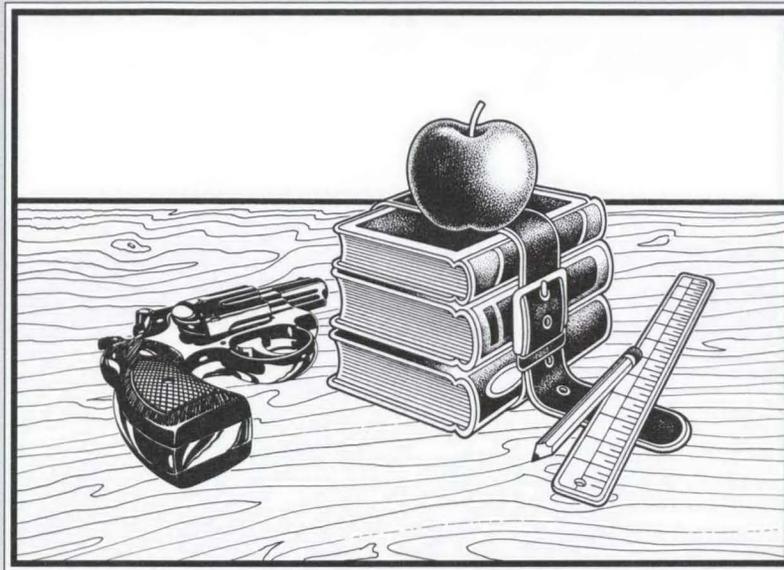
### By the Police

In addition to reactive measures taken in response to the law-breaking, the police instituted a number of initiatives to avert further violence and to resolve

some of the underlying problems. These initiatives included assigning a patrol officer to the high school full time and imposing a policy generally described as "zero tolerance for violence."

This policy allowed patrol officers to exercise the

maximum legal response to criminal acts occurring at the school, especially those that occurred in the officers' presence. As a result, instead of releasing offenders into their parents' custody as they might have done previously, officers now took the youths directly before the court. Based on the officers' testimonies, the accused's records, and the



high level of violence at the school, a number of these students were placed in the Juvenile Detention Center until their trial dates. Such actions by the courts served to remove sources of violent behavior from the school.

In addition, recognizing that continued arrests served only as a short-term solution to the violence, officers from the department's Community Liaison Unit began to work with the school administration and the students to mediate the underlying disputes. Professionally trained, the mediators followed a specific process to improve relations between the two groups of students and, later, between the students and the staff.

### By the Administration

The school administration also took decisive and effective action to solve the rapidly emerging problems. They moved quickly from administrative sanctions to criminal charges when the former proved ineffective. If the courts released students, the school

---

would suspend anyone arrested for violent acts. If these students attempted to return to school, the police arrested them for trespassing.

Furthermore, the administration provided facilities for mediation sessions and helped the police financially to offset the costs of providing personnel for the violent acts that had been occurring at the school. In this way, the school clearly contributed to the successful resolution of this situation.

### By the Community

The Fairfax County Police involved the community from the very beginning. Three days after the shooting, police department representatives, the high school principal, school board members, and the area school superintendent met with 350 to 450 parents, students, and residents of the surrounding community to discuss the problems. The audience was given a detailed presentation on each incident.

In this "town meeting," the principal and a police department representative explained the "zero tolerance for violence" philosophy, the aggressive use of criminal and administrative sanctions to suppress violent acts, and the use of mediation to resolve problems. Members of the panel then addressed issues of concern and answered questions raised by the audience.

### THE MEDIATION PROCESS

Without mediation, the police response would have been limited to reactive, punitive means, with no real, long-term solution to the conflicts that had erupted within the school. To begin, school staff members identified Latino and African-American student leaders to represent their peers. The staff chose two African-American males, one of whom had been the shooting victim, two African-American females, two Latino males, and two Latino females. These students were seen as positive, new leaders for their groups. After they expressed a willingness to

participate, their parents granted written permission, and the sessions began.

First, liaison officers met with each group separately. The officers explained the mediation process, outlined the ground rules, and addressed confidentiality regulations. The students also discussed their feelings on a variety of issues, which allowed them to "blow off steam."

Next, the Latino and African-American students met in a series of discussion sessions that emphasized multiculturalism, prejudice reduction, anger and stress management, and positive leadership and ethics skills. The students negotiated everything—including

which group would speak first. Until they agreed on one topic, they would not move on to the next. Students discussed what they perceived to be the reason for violence at the school; each group felt the other group did not treat them with respect.

Although mediators *suggested* options, they did not recommend solutions or coerce the students to come to terms. In three 2-hour sessions, the students came to a consensus. They completed and signed a memorandum of understanding in which they agreed:

- To go to specific teachers with problems
- To attempt to use verbal skills to resolve conflicts
- To try to understand the cultures of different people and to respect their values
- To use conduct to promote mutual respect between the administration and the students.

The students then broadcast the results of the sessions to their peers via the public address system and urged them to end the violence.

The students successfully mediated their differences through direct communication, which eliminated false perceptions of one another as individuals and as members of a particular ethnic group. The value of these sessions became even more apparent when the Latino and African-American students combined efforts to mediate with members of the school faculty

“

When the safety of their children is at stake, parents do not care who gets the credit; they demand effectiveness.

”

## Mediation Tips

### Mediation—Participant Ground Rules

- Do not interrupt
- No name-calling or put-downs
- Be as honest as you can
- Work hard to solve the problem

### Mediation—Mediator Guidelines

- Let the person vent
- Don't get defensive
- Paraphrase
- Solve the problem together
- Keep talking

Source: Community Mediation Center, Harrisonburg, VA.

over issues of respect between the administration and the student body.

### RESULTS

Although the police arrested an additional 13 students from the time of the town meeting in February to the end of the school year, there were no further incidents of large-scale disorder or fights. By April, the special mediation activities had concluded, and the patrol officer assigned to the school full time had returned to a normal level of liaison duties.

Successful resolution of this potentially deadly situation depended on two factors: Well-established, close cooperation with the school administration and full dissemination of all legally permissible information to the community and the media. The high level of cooperation that existed between the police department and the school administration allowed for a coordinated and effective response. Communication with the media and the community reduced the spread of inflammatory rumors, avoided allegations that the news was being covered up, and developed a high level of public support and confidence for the coordinated response of law enforcement and the school administration. Absent these two factors, the situation would not have been resolved as quickly.

One minor difficulty the department encountered was the lack of intelligence concerning these ethnically based groups and a hesitation to identify them clearly for what they are—emerging gangs. However, the violent events of the past taught the department the value of gathering data on these youth gangs.

### CONCLUSION

When the safety of their children is at stake, parents do not care who gets the credit; they demand effectiveness. Law enforcement officers and school administrators must work together to establish a strong foundation of mutual trust and cooperation. In this way, they react swiftly and surely to acts of violence by students.

Furthermore, they can prevent such situations from occurring. When this happens, school administrators can concentrate on their mission of providing a good education to their students. ♦

### Endnote

J. Comiteau, "Annandale High Sets Meeting to Explain Brawls," *Fairfax Journal*, February 8, 1993.

---

*Major Libby serves in the Criminal Investigation Division of the Fairfax County, Virginia, Police Department.*

---

---

# *Reflections on Leadership*

By  
PAUL J. MENDOFIK



**P**hilosophy of purpose does not come out of a book. Nor does it come instantly. Rather, it stems from observing admirable examples demonstrated by dedicated individuals who believe in their mission and the responsibility entrusted to them.

When I was in the Marine Corps, I had the good fortune to serve with an exceptional group of individuals. Two of these Marines possessed such strength of character that they became enduring role models of leadership to me. Their conduct and commitment shaped my views of leadership long after I

left the military and joined the law enforcement profession.

My senior drill instructor was a career Marine who constantly displayed a dedication to duty and to the honor of the Corps. He possessed a clear understanding of his mission and literally molded his troops into Marines. He gave his subordinates an example to follow and did not allow them to perform below that standard.

In the unit to which I was later assigned, a senior noncommissioned officer further impressed upon me the strong relationship between personal character and

effective leadership. Every day, this gunnery sergeant lived the spirit of the Marine Corps. He also understood the distinction between his troops' personal and professional lives and knew where to draw the line. He constantly strived to improve his own performance and often worked side-by-side with subordinates to improve theirs.

Because law enforcement falls somewhere between the military and a civilian profession, neither occupational doctrine of leadership solely applies. In fact, as I progressed to my current rank in the Pennsylvania State Police

Department, I came to understand that effective law enforcement requires a unique mixture of leadership skills. In developing these skills, I called upon my Marine background and also looked to the admirable superiors thus far encountered in my law enforcement career.

I have found that most of the truly pivotal elements affecting leadership ability come down to decidedly practical factors. To a large extent, the way in which supervisors meet the challenges of these elements will determine their ability to truly lead, rather than merely manage others.

### Appearance

It may be an adage as old as human sociality: First impressions are lasting. Psychological studies confirm that the visual presence of an individual has a dramatic effect on the perceptions of others.

Law enforcement personnel essentially must consider the impression that they make on two groups. The first group is made up of the public—both the criminal element and victims or witnesses of crime.

Members of the public perceive officers' appearance as an expression of their ability to perform the next step in their "relationship." If that step is an arrest, their perception may be the difference between resistance or compliance. During an investigation, an officer's appearance may make a difference in the level of cooperation received from a victim or witness.

The second group consists of others in the law enforcement

profession. During encounters with other officers, I often find the level of respect and confidence that I afford individuals at an initial meeting depends on the first visual perception of them. Do they look clean and orderly? Are they overweight? Do they stand erect and look alert?

Police supervisors should be conscious of these thoughts. Peers, citizens, subordinates, and superiors have them. To get off on the right foot with all of these groups, it is important to present the right package. For better or worse, another age-old adage may often prove true: Appearance is everything.

### Communication Skills

Communication is the key ingredient in accomplishing a task. Through such experiences as speaking to victims, testifying in court, and interviewing suspects, I have come to understand that effective communication simply is delivering

a well-formulated message in verbal terms.

Neither elaborate verbiage nor profanity are mandates of police communication. Such theatrics work great for television, crime books, and movies, but rarely in real life.

To be truly effective, supervisors should understand their subordinates and speak on their level, *without* such distractions as profanity or unnecessary volume. After giving a message, supervisors should ask a question to ensure comprehension. This tells subordinates that supervisors are concerned about the possibility of a misunderstanding. It also provides a chance for supervisors to determine if their message is being delivered in a comprehensible manner.

When dealing with all people, supervisors should avoid obscene language and bursts of rage. Effective leaders use language for one reason—to communicate.

“

***...true leadership is both a challenge and a responsibility.***

”



Sergeant Mendofik serves with the Pennsylvania State Police in Tunkhannock, Pennsylvania.

---

## Technical Skills

Supervisors should be proficient in any task required of their subordinates. Some agencies field a limited force of officers with broad-based skills. Other agencies field a large force of officers, each with a specialized skill. Yet, regardless of the type of subordinate population, supervisors should possess a thorough working knowledge of the skills of their employees. This allows supervisors to deal with subordinates from a perspective of experience, gives supervisors a basis from which to identify problem areas, and establishes supervisors' credibility during corrective counseling. In short, subordinates have greater confidence in the decision-making abilities of a supervisor who understands their jobs.

## Training

Every supervisor also should be a trainer. This requires that they apply effective techniques to instruct subordinates in new tasks. It doesn't mean that supervisors "do" while subordinates "watch." Rather, effective supervisors act as mentors when it comes to training.

Supervisors direct the efforts of subordinates, providing guidance, correction, and support. They then should follow up with queries to determine that the skill has been fully assimilated into the employees' "performance ability menu." Supervisors should remember that practice does not make perfect—it makes permanent. Only *proper* practice makes perfect.

However, for supervisors, training should not be a one-way experience. While they have an obligation

to remain proficient in the skills they are passing on, supervisors also must seek to elevate their own personal level of proficiency. Accordingly, supervisors should remain abreast of changes and improve themselves so that they may, in turn, improve the training level of their subordinates.

“

**Effective leadership in law enforcement is an ongoing process.**

”

## Demonstration

Few images speak louder than the one of George Washington crossing the Delaware River with his troops or the Marines raising the flag at Iwo Jima. These leaders believed in their mission, knew the importance of their presence to those around them, and took the initiative to be present when events required them.

A supervisor can lecture continuously about effectiveness, but when subordinates see that person side-by-side with them calmly and professionally facing a disorderly crowd or writing the paperwork for a child sex offense, they truly begin to understand. Yet another time-proven adage applies here: Actions really do speak louder than words.

Law enforcement officers traditionally possess abundant levels of skepticism. Therefore, supervisors

must command the confidence and respect that comes from experience if they hope to lead others.

## Equitable Treatment

The public expects police officers to be neutral in dealing with citizens. Yet, a complaint common to many law enforcement agencies is that a select few officers who know how to win favor receive preferential treatment from supervisors.

Effective supervisors must be fair to everyone. There is no room for preferential treatment for fishing buddies or academy classmates. Subordinates appropriately expect supervisors to treat all employees in the same way. Showing favoritism quickly results in deteriorating morale throughout an agency.

As a rule, supervisors should treat subordinates as the adults they are. Effective supervisors should not allow any employee to demean others—be they peers, subordinates, or superiors. Law enforcement is a highly responsible occupation, one of the very few that allows individuals to take a human life. With that authority comes a great responsibility. Such responsibility is given to adults, not children. Officers should be treated that way.

## Punishment and Praise

When necessary, punitive measures should be taken for corrective purposes only. Supervisors should not administer punishment without fully ensuring that such action is necessary. However, they also have a responsibility to address a subordinate's unacceptable behavior *before* punishment is warranted. When a subordinate's performance

---

requires it, nonpunitive, corrective action should be taken as quickly as possible.

Supervisors should sincerely praise positive performance as well. Those who honestly recognize the performance or accomplishments of individuals encourage desirable behavior. Employees know they are supposed to do a good job. They are also human and appreciate being recognized for the effort they put into their work. Supervisors who cannot reward behavior in any other way can verbally recognize it with a "good job" when warranted. Such recognition goes a long way.

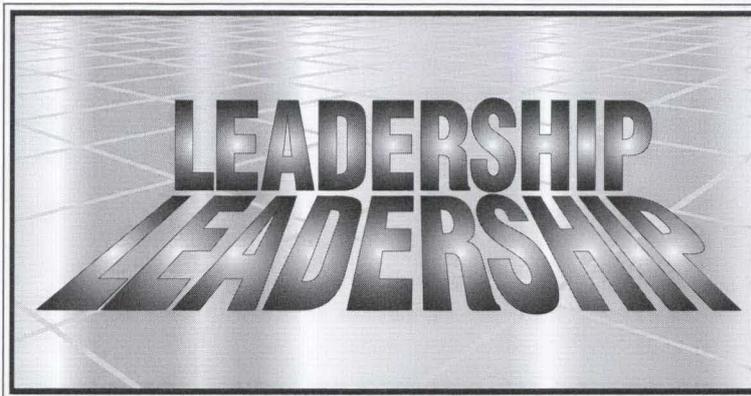
### Commitment

Being an effective supervisor can be very difficult. Some administrative policies are inherently unpopular. Supervisors must demonstrate a commitment to the agency that employs them. They must support the agency's mission statement, while at the same time supporting their personnel's efforts to fulfill personal and agency goals.

While personal goal attainment is satisfying, employees derive a higher level of satisfaction from playing a vital role in attaining organizational goals. Traditions of excellence and esprit de corps do not just happen. They result when dedicated individuals believe in what they are doing and for whom they are doing it. They give of themselves to benefit others.

### Goals

Knowing where we want to be allows us to prepare to be there. Organizational skills are important in career development, just as they are in personnel supervision and incident management.



One helpful exercise for supervisors is simply to write down goals. To enhance the probability for success, large goals should be divided into smaller ones. As subordinates see their supervisors accomplishing "the impossible," they will be more motivated to set and to accomplish their own goals.

### Examples

Most people admire certain individuals. Because police supervisors deal with such diverse populations, they should not limit themselves strictly to law enforcement examples of leadership. Rather, progressive supervisors should look for traits in individuals representing the many related fields with which they come into contact. Supervisors also should not overlook those whom they supervise when

identifying positive traits to emulate to achieve desired goals.

The individuals whom I hold in high esteem include a number of subordinates, one of my college professors, a priest, a game warden, my wife, and a select few superiors.

Each possesses some trait that I admire. Each of them can help me to become a better leader.

### Conclusion

Effective leadership in law enforcement is an ongoing process. It requires attention to appearance, technical proficiency, good communication skills, aptitude to

train and be trained, ability to treat others fairly, confidence to perform tasks, appropriate use of praise and punishment, and commitment. It also requires the ability to establish and achieve realistic goals and to identify desirable traits in others.

These various and complex skills underscore the fact that in the police profession, individuals do not become leaders solely by attaining credentials. Leadership in law enforcement is hard work, accomplished by dedicated people who work in an occupation where rewards are few and scrutiny is intense.

In the end, true leadership is both a challenge and a responsibility. Those who successfully accept the challenge are among the most admired individuals not only in the judicial system but also in their communities. ♦

---

# News Media Participation in Law Enforcement Activities

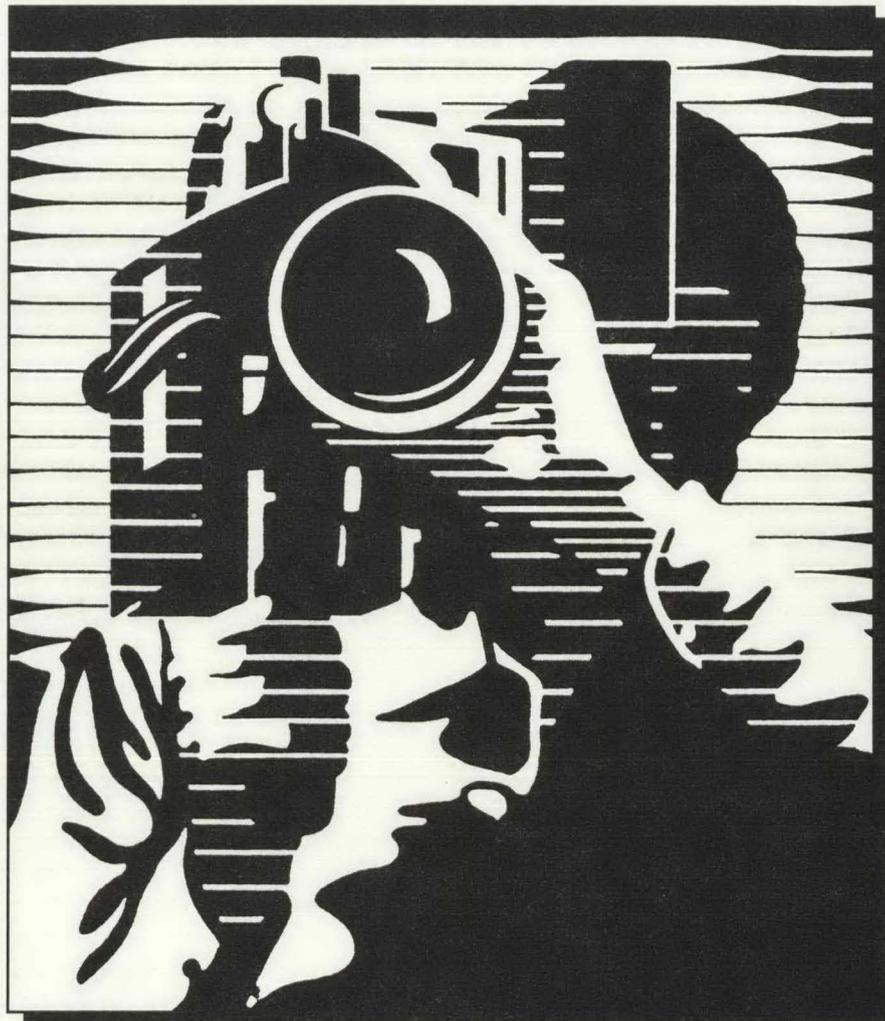
By  
KIMBERLY A. CRAWFORD, J.D.

*"Unbidden guests are often  
welcomest when they are  
gone."*

—William Shakespeare  
*Henry VI, Act 2, Scene 2*

**H**istorically, the relationship between law enforcement and the news media has been fraught with conflict. Law enforcement agencies, in their efforts to safely and effectively investigate and prosecute violations of criminal laws, often have sought to preclude the news media from interfering in their endeavors. On the other hand, the news media, performing the valuable function of keeping the public informed, has waived the first amendment banner, claiming a news-gathering privilege.

This conflict culminated in a series of three Supreme Court decisions that defined the parameters of the first amendment's newsgathering privilege.<sup>1</sup> Essentially, the Supreme Court held that the constitutional right of the media to access the news is no greater than that of the general public and that law enforcement can prevent the media from obtaining access to information or areas generally not available to the public.<sup>2</sup> However, once the



media acquires the information, the constitutional right to publish is virtually insurmountable,<sup>3</sup> and any attempt by law enforcement to prevent dissemination will be presumed invalid.<sup>4</sup>

The practical result of these Supreme Court decisions is that they have created a strong incentive

for law enforcement and the news media to resolve their conflicts and to work together in a spirit of cooperation. The media depend on law enforcement for access to news that is unavailable to the general public, and law enforcement relies on the media to responsibly report the news in a manner that

will not jeopardize law enforcement activities.

The new, cooperative relationship that has developed between law enforcement and the media is epitomized in the very popular "docudramas" that appear almost nightly on prime-time television. Camera crews accompanying law enforcement officers on assignments bring raids, searches, seizures, and arrests into viewers' homes. Although beneficial from a public relations standpoint, the cooperative effort required to produce this type of program is not without constitutional impediment.

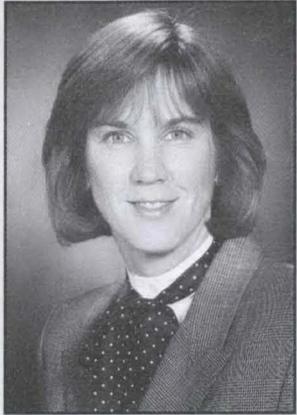
The constitutional issues that arise when the news media participate in law enforcement activities were the focus of a Federal district court's opinion in the case of *United States v. Sanusi*.<sup>5</sup> This article examines these issues as they relate to law enforcement and makes policy recommendations to accommodate the resulting constitutional concerns.

#### **UNITED STATES v. SANUSI**

In *Sanusi*, nine defendants, including Babatunde Ayeni, were charged with credit card fraud. In preparation of his defense, Ayeni subpoenaed a CBS News videotape taken during the search of his apartment. The search, which was conducted pursuant to a warrant, was filmed by a CBS crew on the scene at the invitation of the U.S. Secret Service.

Contending a newsgathering privilege, CBS refused to turn over the videotape and moved to quash the subpoena. After careful consideration, the court denied CBS's motion and held that an edited version of the tape, which obscured the

**“**  
**...the recording of law enforcement activities...may result in uninitiated juries scrutinizing the lawful actions of law enforcement....**  
**”**



*Special Agent Crawford is a legal instructor at the FBI Academy.*

identity of a confidential source, had to be turned over to the defense.

In reaching its conclusion, the court identified and analyzed both first and fourth amendment issues. While the fourth amendment issues are of primary concern to law enforcement, the practical impact of the first amendment issues are of sufficient importance to warrant discussion.

#### **FIRST AMENDMENT ISSUES**

CBS's motion to quash the subpoena was based on the argument that the first amendment newsgathering privilege protects the media from the type of compelled disclosure sought by the defense. When considering this argument, the court reviewed the previously mentioned Supreme Court decisions and recognized the existence of a qualified newsgathering privilege. However, because this privilege is not absolute, the court found that it can be overcome by a showing that the information sought is 1) highly material and relevant, 2) necessary or critical to the maintenance

of a claim, and 3) not obtainable from other sources. Furthermore, the court pointed out that the newsgathering privilege does not shield the media from ordinary legal constraints and that members of the media could be liable for criminal or tortious trespass committed while in pursuit of the news. Finding that the defense met the three-part test establishing its interest in acquiring the videotape as superior to that of CBS News, and that the camera crew trespassed on defendant's property, the court held that CBS was required to comply with the subpoena.

The first amendment analysis by the court in *Sanusi* is of obvious importance to the media. However, the practical result of that analysis is of particular importance to law enforcement.

Following its determination that the newsgathering privilege did not protect CBS from compelled disclosure, the court reviewed the videotape in question and determined nothing on that tape would support the defendant's motion for suppression. However, the court

ruled that the tape could be critical to the defendant's case at trial because it demonstrated that an exhaustive search of defendant's apartment failed to reveal any evidence of credit card fraud.

Although the defendant could easily make this point to a jury without the tape, the court reasoned that the video depicting defendant's wife and child cowering during the search was extraordinary evidence and that the defendant could not be denied the opportunity to use its impact on the jury to his benefit. Observing that the average citizen may find the government's conduct unacceptable, the court noted that "by inviting CBS to accompany it on its search, the Secret Service may well have provided a basis for a finding of not guilty."<sup>6</sup>

The court's prediction of a jury's reaction to the videotaped search of defendant's apartment is a clear example of the impact that the qualified newsgathering privilege will have on law enforcement. Because the privilege is not absolute, law enforcement must realize that the material acquired by the media while participating in enforcement activities may be turned over to the defense and ultimately viewed by a jury.

Typically, juries are comprised of average, law-abiding citizens who are unfamiliar with the sometimes harsh realities of law enforcement. Consequently, the recording of law enforcement activities by the media may result in uninitiated juries scrutinizing the lawful actions of law enforcement rather than the alleged unlawful actions of defendants.

#### FOURTH AMENDMENT ISSUES

Although defendant's motion to compel production of the videotape was resolved on first amendment grounds and did not require a review of the government's actions, the court in *Sanusi* took the opportunity to expose what it believed to be a clear violation of defendant's fourth amendment rights. In doing so, the court initially noted that the fourth amendment does not control the

“  
**...the constitutional right of the media to access the news is no greater than that of the general public....**  
”

conduct of private actors, such as CBS.<sup>7</sup> However, the Secret Service agents, executing the warrant that authorized the search of defendant's apartment, were unquestionably government actors and, therefore, bound by the proscriptions of the fourth amendment.<sup>8</sup>

#### Warrant Execution

Reviewing the historical development, the court recognized that preserving the sanctity of the home is an essential function of the fourth amendment.<sup>9</sup> Consequently, the court noted that there are a number of fourth amendment restrictions on the government's ability to enter a home.

Specifically, the fourth amendment requires that unless an exception exists,<sup>10</sup> the government must obtain a warrant based on probable cause before entering private premises, and that the warrant must particularly describe the place to be searched and any item to be seized.<sup>11</sup> These restrictions prompted the court to conclude that "only for limited and necessary purposes does the ordinary inviolability of the home temporarily give way"<sup>12</sup> when a search warrant is obtained.

Because the "execution of a search warrant is a serious matter,"<sup>13</sup> the court expressed its opinion that the government, when executing a warrant, has a fiduciary obligation to ensure that the principles embodied in the fourth amendment are followed and that the privacy of individuals is not invaded any more than what is reasonably necessary. Accordingly, the court made the following statement:

"Charged as they are with the delicate and sensitive responsibility of executing a judicially sanctioned violation of a person's privacy, government agents have a duty to see that as little harm is done as is necessary to the task. Wantonly exceeding the scope of the warrant would represent a failure to perform that duty. Inviting private citizens whose presence is not necessary to the execution of the warrant to join the search party is a failure of public trust—one that indicates a disregard of the important values at stake when the government enters a person's home."<sup>14</sup>

Assessing the government's behavior, the court held that inviting CBS to take part in the search of defendant's home contravened fourth amendment principles and was a clear violation of the government's fiduciary duty. Although finding that the government's actions did not rise to the level of misconduct requiring dismissal of defendant's indictment, the court strongly criticized the agents' behavior and ordered that its opinion be brought to the attention of the highest authority in the Secret Service.<sup>15</sup>

### Exceptions to the Warrant Requirement

The rationale advanced by the court in *Sanusi* to support the conclusion that law enforcement violates the fourth amendment when it invites the media to participate in searches authorized by warrants would apply with equal or greater force when the searches at issue are conducted pursuant to exceptions to the warrant requirement. When law enforcement officers search private premises under an exception to the warrant requirement, there is a legal presumption that the search is unlawful.<sup>16</sup> The government bears the burden of proving that a valid exception to the warrant requirement existed and that law enforcement officers stayed within the scope of that exception.<sup>17</sup> Because the scope of each exception is narrowly defined, it is inconceivable that the government could successfully meet its burden of proof when the media are invited to participate in warrantless searches of private premises.

If, for example, law enforcement officers make a warrantless

entry of premises pursuant to the emergency exception to the warrant requirement, the officers' ability to search is prescribed by the emergency itself. Officers are only permitted to do what is reasonably necessary to resolve the emergency.<sup>18</sup> It is unlikely that the presence of the media would be necessary to resolve the emergency.



Similarly, law enforcement officers entering premises under a valid consent to search are required to stay within the bounds established by the party giving consent.<sup>19</sup> Unless specifically authorized, extending an invitation to the media to participate in the search would exceed the scope of the consent and would result in a violation of the fourth amendment.

### Civil Liability

As demonstrated in *Sanusi*, fourth amendment violations do not necessarily result in suppression of evidence or dismissal of charges. However, civil liability for the officers involved or their employing governmental entities is a risk that must be considered prior to inviting the media to participate in law enforcement activities.

Not surprisingly, the wife and young son of Babatunde Ayeni filed a civil action against CBS, the camera crew, and the law enforcement officers who took part in the search of their home. The suit alleged that both mother and child suffered serious psychic harm as a result of the actions of the government and the broadcaster. A Federal district court resolved one aspect of this civil action that has critical implications for law enforcement decisionmaking regarding media participation.

Following the initiation of the civil suit, the government and CBS claimed that the actions of the individuals involved did not violate any clearly established law and moved for dismissal on the basis of qualified immunity.<sup>20</sup> Finding the defense of qualified immunity inapplicable to private parties, the court quickly denied the motion of CBS and concentrated on the claims of the government.

Recognizing that law enforcement officers are immune from suit unless at the time of their actions it is objectively clear that their conduct violates a statutory or constitutional right, the court looked at the state of the law as it existed at the time of the search in question. Although unable to find any case law specifically prohibiting officers from permitting the media to take part in the execution of search warrants,<sup>21</sup> the court found that the alleged actions were "so far from then well established acceptable constitutional behavior that no case law precedent was needed to alert [officers] to the fact that the execution of a warrant for the benefit of private persons violated the Constitution."<sup>22</sup> Accordingly, the court concluded that a "prima facie gross

violation of plaintiffs' clear constitutional rights ha[d] been pleaded"<sup>23</sup> and denied the government's motion to dismiss on the basis of qualified immunity.

## CONCLUSION

As a result of the *Sanusi* decision and the subsequently filed civil action, media participation in law enforcement activities can result in predictable and legally significant consequences. First, films obtained by the media are subject to discovery and may be used by the defense to cloud issues at trial. Second, if law enforcement activities take place in an area where an individual has a fourth amendment right of privacy, media participation at the invitation of law enforcement is a violation of that constitutional right. Finally, the individual law enforcement officers responsible for inviting the media into areas protected by the fourth amendment are subject to civil liability for having violated a clearly established law.

Accordingly, law enforcement agencies contemplating cooperative efforts with the media should carefully craft a policy that balances the benefits of good public and media relations against the possible disadvantages of having media information made available to the defense. More importantly, the policy should ensure compliance with fourth amendment principles by distinguishing between law enforcement activities that take place in public as opposed to private areas.

Media participation in enforcement activities that occur in private areas should be specifically prohibited, unless the media obtains consent from individuals occupying

those areas. A well-crafted policy, if followed, will serve the dual purposes of safeguarding fourth amendment rights and protecting individual law enforcement officers and employing entities from civil liability. Above all, a competent legal advisor should review and approve a department's media participation policy prior to its implementation. ♦

“

**...media participation  
in law enforcement  
activities can result  
in predictable and  
legally significant  
consequences.**

”

## Endnotes

<sup>1</sup> See *Branzburg v. Hayes*, 408 U.S. 665 (1972); *Houchins v. KQED*, 438 U.S. 1 (1977); and *Press-Enterprise Co. v. Superior Court of California*, 106 S.Ct. 2735 (1986).

<sup>2</sup> Some State laws may provide the media a greater right of access than that of the general public.

<sup>3</sup> In *New York Times Co. v. United States*, 403 U.S. 713 (1971) (The Pentagon Papers Case) Justice Douglas, in his concurring opinion, defined the standard for governmental prior restraint on the media's right to publish as follows:

“...only governmental allegation and proof that publication must inevitably, directly, and immediately cause the occurrence of an event kindred to imperiling the safety of a transport already at sea can support even the issuance of an interim restraining order.” *Id.* at 726-27.

<sup>4</sup> For a discussion of the conflict between law enforcement and media, see Higginbotham, “Legal Issues in Media Relations,” *FBI Law Enforcement Bulletin*, 59, No. 7, July 1989.

<sup>5</sup> 813 F. Supp. 149 (E.D.N.Y. 1992).

<sup>6</sup> *Id.* at 160.

<sup>7</sup> *United States v. Jacobsen*, 466 U.S. 109 (1984).

<sup>8</sup> *Katz v. United States*, 389 U.S. 347 (1967).

<sup>9</sup> The court quoted with approval the following words of Lord Chatham:

“The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail—its roof may shake—the wind may blow through it—the storm may enter—the rain may enter—but the King of England cannot enter!”

<sup>10</sup> 389 U.S. 347 (1967).

<sup>11</sup> U.S. Const. Amend. IV provides as follows:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the things to be seized.”

<sup>12</sup> 813 F. Supp. at 158.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 160-61.

<sup>15</sup> The court was particularly disturbed by the fact that the U.S. attorney had explicitly directed the Secret Service not to permit CBS to take part in the search but “agents disregarded him and, apparently at the direction of ‘higher authority’ within the Secret Service, invited CBS to come along.” *Id.* at 161.

<sup>16</sup> 389 U.S. 347 (1967).

<sup>17</sup> See, e.g., *Mincey v. Arizona*, 437 U.S. 385 (1978).

<sup>18</sup> *Id.*

<sup>19</sup> *Florida v. Jimeno*, 111 S.Ct. 1801 (1991).

<sup>20</sup> *Ayeni v. CBS*, 848 F.Supp. 362 (E.D.N.Y. 1994).

<sup>21</sup> The court noted, however, that a Federal statute addresses the issue. Specifically, the court quoted 18 U.S.C. §3105 as follows:

“A search warrant may in all cases be served by any of the officers mentioned in its direction or by an officer authorized by law to serve such warrant, but by no other person, except in aid of the officer of his requiring it, he being present and acting in its execution.”

<sup>22</sup> 848 F. Supp. 368.

<sup>23</sup> *Id.* at 364.

---

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

---

## The Bulletin Notes

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



*Officer McKenzie*

While on patrol during the early morning hours, Officer Steve McKenzie of the Jefferson County, Kentucky, Police Department observed a large amount of smoke billowing into the air some distance away. Believing that a building was on fire, Officer McKenzie quickly responded and found a vehicle burning in the parking lot of a local business. Through the smoke, he saw an unconscious man slumped behind the wheel of the car. Officer McKenzie ultimately was able to force open the stuck driver's side door after several attempts and pull the man to safety just as the vehicle went up in flames.



*Sergeant Parent*

As he took off from an area airport for a routine helicopter patrol, Sgt. Randy Parent of the East Bay, California, Regional Park District Department of Public Safety monitored a distress call from an inbound private airplane that had run out of fuel. At the request of the airport's tower, Sergeant Parent rendezvoused with the troubled craft, assessed the situation, and guided the pilot to an emergency landing site on the median strip of a nearby highway. As the airplane neared the ground, he used the helicopter's siren to warn motorists. Once Sergeant Parent saw that the pilot had landed safely and observed the arrival of emergency units, he resumed his routine patrol duties.



*Officer Gunning*

While on patrol, Officer Charles R. Gunning of the Lincoln, Illinois, Police Department responded to the report of a woman trapped in an overturned vehicle a short distance away. Officer Gunning located the vehicle resting upside down in several feet of water at the bottom of an embankment. The woman was unable to remove her seatbelt and was having great difficulty keeping her head above the water. Officer Gunning got into the freezing water and held the woman's head above the waterline until other rescue units arrived. He then assisted responding emergency units in freeing the woman from the vehicle.

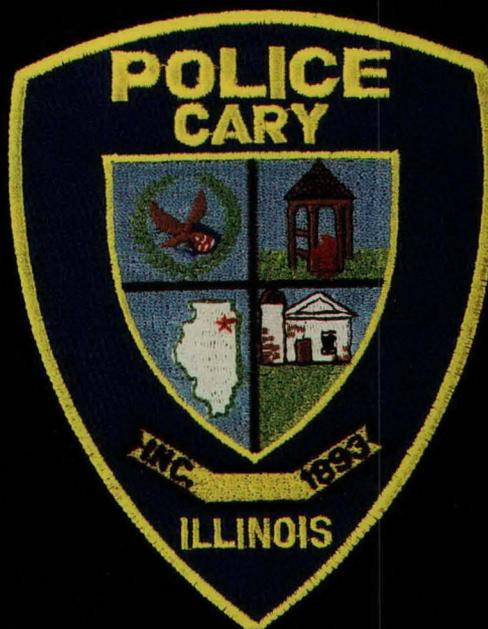
Washington, D.C. 20535

Official Business  
Penalty for Private Use \$300

## Patch Call



The New Orleans, Louisiana, Police Department's patch features the city's seal. The stars represent States admitted to the Union between 1787 and 1850; the Native-American man and woman signify the first inhabitants of the area; the alligator represents the marshes and swamps common to the area. In the center of the patch is Neptune, the god of the sea, who symbolizes the Mississippi River.



The Village of Cary, Illinois, patch features the village seal, the town pump built and used in the late 1800s, and a silo and barn that is now the village hall and public library. The red star represents the Village of Cary's approximate location in the State.