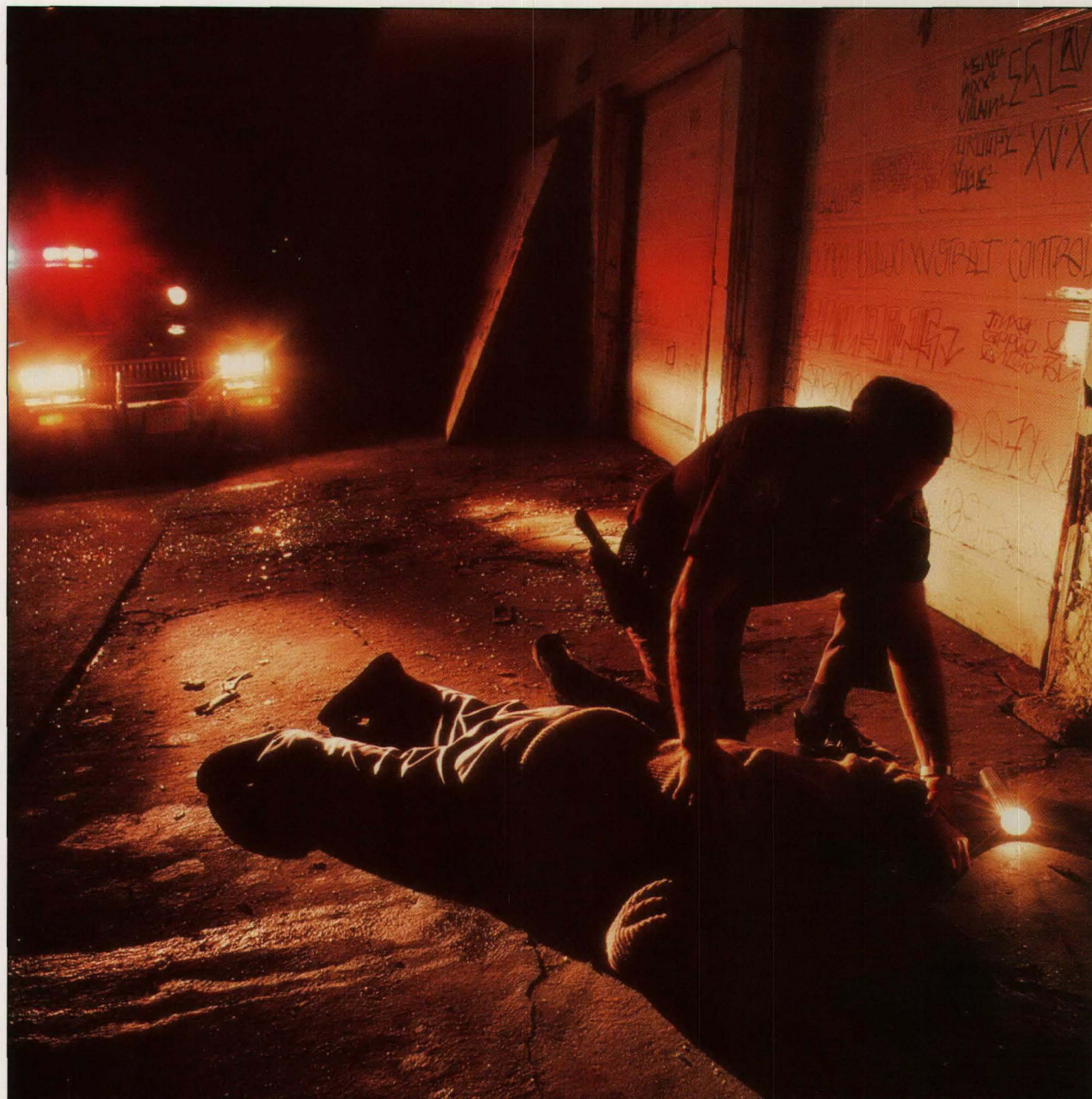




August 1997

FBI Law Enforcement

B • U • L • L • E • T • I • N



Solving Cold Cases

August 1997
Volume 66
Number 8

United States
Department of Justice
Federal Bureau of
Investigation
Washington, DC
20535-0001

Louis J. Freeh
Director

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

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, 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535-0001. Periodical 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.

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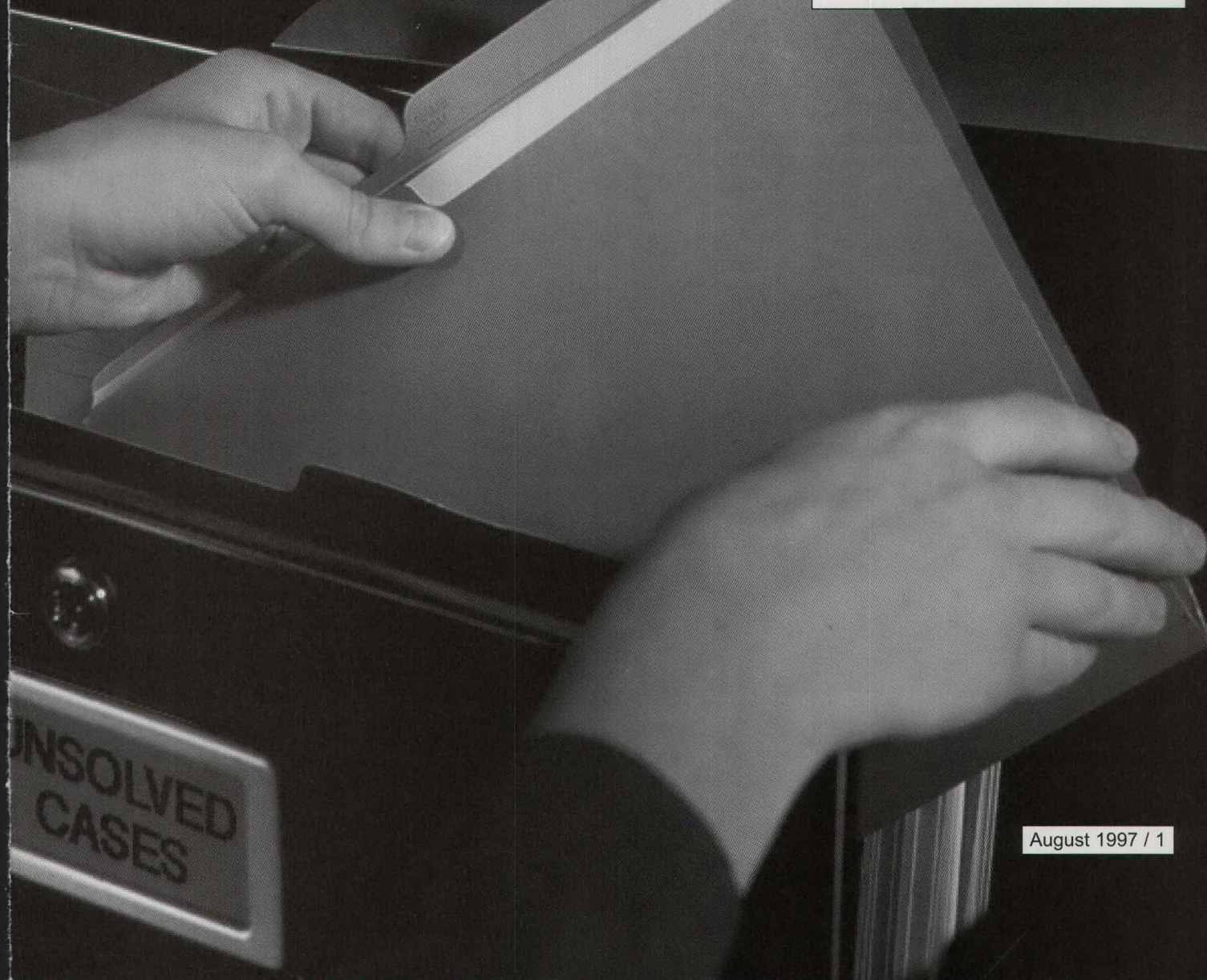
Creative Solutions to

Traditional Problems

The Cold Case Concept

By CHARLES L. REGINI

Today, murders in our country's major urban areas are more vicious, senseless, and random than ever before. Staggering murder rates in recent decades have overwhelmed law enforcement efforts to investigate these heinous acts, leaving many homicides unsolved for years. In Washington, DC, the Metropolitan Police Department (MPD) and the FBI joined forces to clear the glut of unsolved homicides in the city by establishing a squad to work exclusively on unsolved murders.



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THE PROBLEM

Until 1995, the United States experienced a steady rise in homicides every year since 1960, when 9,110 homicides were recorded. The greatest increase occurred between the mid-1980s and early 1990s. In 1985, the Department of Justice recorded 18,980 homicides, a number that climbed to 24,530 in 1993. The corresponding homicide rates, which compare the total number of homicides to population figures, indicate that in 1960 there were 5.1 murders for every 100,000 U.S. citizens. By 1993, the rate had risen to 9.5.¹

Despite a recent decline in homicide numbers, the tremendous increase in violence over the last decade has been particularly overwhelming for Washington, DC, and several other major urban centers. In 1988, Washington became infamous as the murder capital of the United States when it posted

a record 369 homicides, which equated to a rate of 50.5 homicides per 100,000 residents. This dubious distinction continued as Washington recorded the highest homicide rates in the nation for the next 4 years. Three of the nation's 10 largest cities (Dallas, Phoenix, and San Diego), as well as cities as diverse as Milwaukee, New Haven, Chattanooga, and Colorado Springs, also experienced record numbers of homicides during this period.²

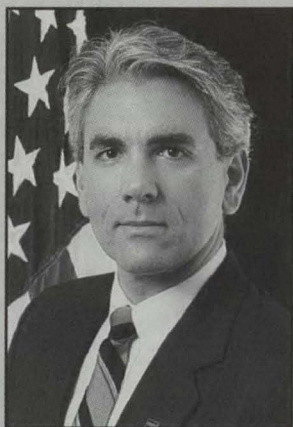
Due to the overwhelming increase in the murder rate, urban law enforcement agencies, such as the MPD, amassed unprecedented numbers of unsolved homicide cases. Fatigued homicide detectives, rushing from one new crime scene to another, could not conduct any meaningful follow-up investigations, and unsolved cases piled up. Beyond the sheer numbers, several other factors contributed to the rise in unsolved homicide cases.

CONTRIBUTING FACTORS

The growth in drug-related homicides, which are exceedingly more time-consuming and difficult to solve, added to the spiraling murder rate. In 1985, 21 percent of Washington's homicides were drug-related; by 1988, that amount had risen to 80 percent.³ Many of the remaining homicide cases either involved seemingly minor disputes in which participants chose to resolve their conflicts with violence or stemmed from unprovoked, random attacks in which the killer had no previous relationship with or knowledge of the victim.

The circumstances and relationships normally associated with homicide cases changed significantly by the 1990s. Historically, homicide victims and killers usually have had some type of relationship. However, murders committed by strangers accounted for 53 percent of the homicides in the United States in 1992.⁴ The traditional investigative approach of focusing on motive produces few leads in solving these types of homicides.

In addition, the practical difficulties of locating witnesses, overcoming their hostility, obtaining their confidence, ensuring their safety, securing their testimony, and ultimately bringing the case to trial consumed vast amounts of time. Links between victims and suspects were difficult to establish. Motives were thin. Killers often were murdered themselves before they could be identified. Most witnesses—usually drug addicts, gang members, and prostitutes—lacked credibility, and sometimes were killed as a result of their own



Special Agent Regini is assigned to the FBI/Metropolitan Police Department Cold Case Homicide Squad in Washington, DC.

“ Since 1992, the Cold Case Squad has closed 157 previously unsolved homicide cases.... ”

criminal activities before the case went to trial. At the MPD, these factors undermined the protracted investigations worked by homicide detectives and prosecutors, resulting in dismissed charges that allowed killers to be released and roam the streets again.

Therefore, as the number of murders in Washington continued to increase, homicide detectives solved fewer and fewer cases. The homicide clearance rate for the city and the nation plummeted. For example, in 1965, the U.S. murder clearance rate was 91 percent; by 1992, the rate had fallen to 65 percent.⁵ At the end of 1991, only 54 percent of the homicides that occurred in Washington that year had been solved. During the late 1980s and early 1990s, hundreds of murders remained unsolved in the city. Encouraged by their apparent ability to evade prosecution, more and more killers stayed on the street to prey upon other victims.

THE SOLUTION

In an attempt to address this growing problem, the MPD formed the Cold Case Homicide Squad, commonly known as the Cold Case Squad, or CCS. The squad began with six veteran homicide detectives and one veteran detective sergeant. The squad was not assigned to shift rotations and did not respond to fresh homicide scenes. In the summer of 1992, at MPD's request,⁶ the FBI assigned agents experienced in violent crime investigations to the CCS. Although other local law enforcement agencies had formed cold case homicide squads in the past, this marked the first time

that the FBI contributed case agents to such an effort.

Currently, the squad includes six homicide detectives, one detective sergeant, one detective lieutenant, eight FBI agents, and one FBI supervisor, all assigned full time to

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investigators should
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”**

the investigation of unsolved murders. The U.S. attorney for Washington, DC, recently assigned a full-time prosecutor to the squad. This assistant U.S. attorney (AUSA) handles only cases generated by the CCS.

THE CCS

Staffing

Selecting effective investigators and supervisors is a key component of the squad's success. Only the most experienced, innovative, and persistent investigators should work cold cases because these cases, by their very nature, represent some of the most perplexing and frustrating investigations that detectives face. These are the cases that other extremely competent investigators could not solve.

Homicide detectives assigned to the squad have extensive experi-

ence in investigating and prosecuting all types of homicide cases. The FBI agents assigned to the CCS also have a solid background in violent crime investigations and a thorough knowledge of FBI resources and capabilities. The squad frequently encounters drug- and gang-related homicides, so knowledge of these matters helps. Also, experience in operating confidential informants and cooperative witnesses gives squad members an advantage because many cold case investigations begin with information from these kinds of sources.

Case Origination

Detectives or their sergeants on squads working new homicides in the MPD homicide branch refer potential cases to CCS. All cases are at least 1 year old and could not be addressed by the original homicide squad because of workload, time constraints, or the lack of viable leads. Cases are assigned to CCS teams, which include at least one agent and one detective. Depending on the nature of the case and the type of work needed, the detective lieutenant and FBI supervisor might assign multiple detectives and/or agents to the case.

The CCS team investigates all remaining viable leads and, in most situations, identifies new leads and additional witnesses. If a suspect is identified, the AUSA working with the CCS prosecutes the case.

Spin-off cases often result. Frequently, a witness in one cold case will have information about a second case involving the same subject or has witnessed a different homicide in the same neighborhood.

Investigators also develop cases from information provided by informants. Paid government informants often provide vague information concerning old homicides. Agents and detectives working other investigations forward all homicide information of this type to the CCS.

The squad thoroughly researches and corroborates the information in an attempt to identify the particular case mentioned by the informant. Researching informant intelligence consumes a lot of time but has proven to be a reliable source of cases for the CCS and provides a way to match new information with stale cases. In many situations, the informant's statements concern a deceased homicide subject. If the information can be verified, the CCS closes the case administratively.

An equivocal death investigation involving a female prostitute illustrates the squad's effective use of informant information. The young woman was beaten to death by a drug dealer in a Southwest Washington public housing complex in January of 1991. The medical examiner initially ruled the manner of death as undetermined due to the lack of corroborating witness information about the nature of the woman's injuries. Then, in October 1995, a drug dealer was shot and killed in the same area of the city as a result of a drug turf dispute.

The drug dealer's death prompted many neighborhood conversations regarding his past deeds, including the 1991 murder of the prostitute. An informant began providing details of the circumstances

surrounding the prostitute's death and identified individuals who had information about her beating at the hands of the drug dealer. CCS members located and interviewed these individuals. As a result, the Cold Case Squad convinced the medical examiner to change the manner of death in the case to homicide and closed the case administratively due to the killer's death.

“

*...the squad
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asset.*

”

Investigative Assets

Most investigators agree that the first 48 to 72 hours are critical to solving a homicide case. Witnesses are easier to locate, and their recollections generally prove more accurate soon after the incident. Research has shown that in 66 percent of solved murder cases, police take a suspect into custody within 24 hours. If the case is not solved within 48 hours, the chances of it ever being solved fall markedly.⁷

Nevertheless, the CCS has found that time also can be a favorable commodity. With time, relationships change. Former friends of the subject might become adversaries. Initial fear shown by witnesses might subside enough to allow them to consider some type of witness protection or relocation in exchange for testimony. Or, a particular witness now might need some sort of

help within the criminal justice system and be willing to provide information to get it. For others, the initial emotional trauma of the homicide might subside, and witnesses might become more approachable, especially as a case becomes less high profile and loses the interest of the news media.

In addition, time provides killers with the opportunity to brag and talk about their actions with others. These people then become new witnesses in an old case. Using these factors, the squad turns the liability of time into an asset.

Although forensic science and technology have improved dramatically over the past decade and many new techniques now can be applied to old unsolved cases, resolution of nearly all CCS cases still comes from eyewitness identification. An element of the squad's success has been the consistent ability to identify, locate, and secure valuable testimony from previously unknown or hostile witnesses.

The CCS makes maximum use of the resources of the MPD, FBI, and the U.S. attorney's office to obtain the cooperation of material witnesses in unsolved homicide cases. The CCS is particularly well organized to handle high-profile cases, serial killer investigations, sexual homicides, burial cases, dumped-body cases, equivocal deaths, and all other particularly egregious, protracted death investigations or violent crime cases.

SUCCESSSES

The success of the CCS concept in Washington, DC, cannot be disputed. Since 1992, the Cold Case Squad has closed 157 previously

A Typical Case

The August 1992 murder of a 14-year-old boy exemplifies the type of cold case investigations handled by the squad. The boy was found shot to death behind a public housing complex in Southeast Washington. He had been walking home from a neighborhood party with a second victim, who was also shot but survived.

The two victims had argued with a local drug dealer and another individual. The drug dealer subsequently produced a semiautomatic weapon and shot the two victims as they ran away. The first victim was shot in the back and died at the scene. The second victim was shot in the foot, but he managed to escape with the assistance of a witness.

The surviving victim had a previous arrest record for drug violations and was extremely hostile to law enforcement. His mother shielded him from police questioning and eventually went into hiding to prevent her son from having to provide information in the case. Thus, homicide detectives were unable to locate and interview him.

The CCS received the case more than a year later. Squad members eventually located the victim and his mother, but he initially refused to identify the shooter or the individual who had accompanied the shooter. After several interviews, and with the

assistance of the decedent's family, the victim ultimately identified the shooter and provided enough information for the CCS to identify the shooter's companion.

The CCS and the U.S. attorney's office conducted an extensive grand jury investigation, identifying and thoroughly interviewing the shooter's friends and associates. Over the course of time, many of these individuals had developed strained relationships with the shooter because of his volatile personality. The shooter had bragged extensively to his now former friends about the shooting. Most of these people ultimately testified against the shooter.

In addition, the CCS identified and located the shooter's companion in custody in another jurisdiction. Although initially hostile and uncooperative, this individual eventually cooperated based on a plea agreement. However, once the shooter learned of his companion's cooperation, the companion's family began receiving threatening telephone calls, and the witness refused to testify. The CCS was able to relocate the witness' family and regain the cooperation of the witness. Based on the witness' testimony, the shooter was arrested and subsequently convicted of first-degree murder in May 1997.

unsolved homicide cases, as well as several particularly high-profile attempted murder cases. These investigations have brought about prosecution of some of the most violent and notorious repeat offenders in the city.

Although it works in a relatively low-profile atmosphere, the squad has handled numerous cases that have garnered local and national media attention, including the unsolved murder of a senator's aide, the gang-related shooting of

several young children at a local swimming pool, the murder and attempted murders of several local police officers by a stalker, and the murder of armored car personnel during the commission of a series of robberies in the Washington area.

The squad also has assisted the United Nations Bosnian War Crimes Tribunal and the independent counsel who investigated Deputy White House Counsel Vincent W. Foster's death.

CONCLUSION

The cold case concept provided a solid, effective way to address the overwhelming numbers of unsolved homicides in the nation's capital during the 1980s and early 1990s. A cold case squad could provide a viable option for jurisdictions similarly plagued by significant unsolved murder rates.

Through their expertise and persistence, members of the Cold

Case Squad in Washington, DC, have solved some of the most frustrating and difficult violent crime cases in the city. The CCS brought to justice killers who might have committed additional homicides, thus preventing new cases in addition to solving old ones. The partnership between municipal and federal investigators and the local U.S. attorney's office has brought closure to some atrocious crimes that otherwise would have gone unaddressed. ♦

Endnotes

¹ K. Maguire and A. Pastore, eds., *Sourcebook of Criminal Justice Statistics 1994* (Washington, DC: U.S. Department of Justice

(DOJ), Bureau of Justice Statistics (BJS), 1995).

² C. Johnson, *Homicide Report for the District of Columbia* (Washington, DC: U.S. DOJ, National Institute of Justice, Office of Criminal Justice Plans and Analysis, 1992).

³ S. Dillingham, *Violent Crime in the United States* (Washington, DC: U.S. DOJ, BJS, 1991), 17.

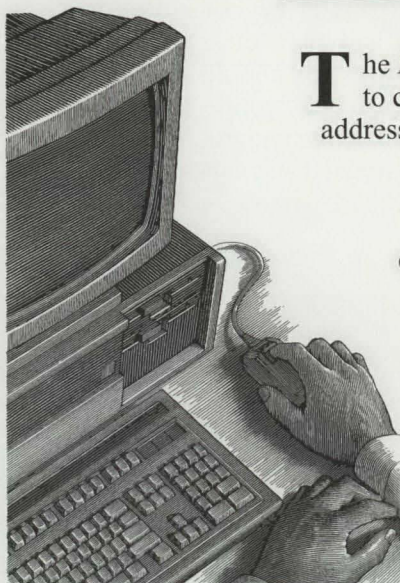
⁴ *Crime in the United States 1993* (Washington, DC: U.S. DOJ, FBI, Uniform Crime Reports, 1994).

⁵ Ibid.

⁶ The MPD made the request under the umbrella of the FBI's Safe Streets Initiative.

⁷ R. Keppel and J. Weis, "Time and Distance as Solvability Factors in Murder Cases," *Journal of Forensic Sciences*, vol. 39, no. 2, 1994, 386-400.

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Also, the *Bulletin* is available for viewing or downloading on a number of computer services, as well as on the FBI's home page. The home page address is:

<http://www.fbi.gov>

Use of Force in Phoenix

A National Institute of Justice Research in Brief presents the results of a study on the use of force by and against officers of the Phoenix, Arizona, Police Department.

"Understanding the Use of Force By and Against the Police," by Joel Garner, John Buchanan, Tom Schade, and John Hepburn, examines 1,585 adult custody arrests initiated by the department over a 2-week period in June 1994. Among the findings: Police used some physical force in about 1 out of every 5 arrests; officers used weapons in 2 percent of the arrests, with the flashlight most often being their weapon of choice; suspects used some physical force in about 1 of every 6 arrests; and the single best predictor of police use of force was suspect use of force.

For a copy of the Research in Brief or the complete report (NCJ 158614), contact the National Criminal Justice Reference Service at 800-851-3420.

Money-Saving Program

State and local governments can support their counterdrug efforts by purchasing equipment at reduced rates from the General Services Administration. Under the authority of the 1994 National Defense Authorization Act, 23 states can take advantage of the discounts available to the federal government. Eligible states are Alabama, Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Rhode Island, Texas, Vermont, Washington, and West Virginia.

The Law Enforcement Equipment and Supplies Catalog, which can be obtained through each state's point of contact, details the equipment available for purchase. For a list of state points of contact, call 800-421-6770. For more information on this program, contact Lowell Stockdale at 703-305-5602.

Child Abuse Guides

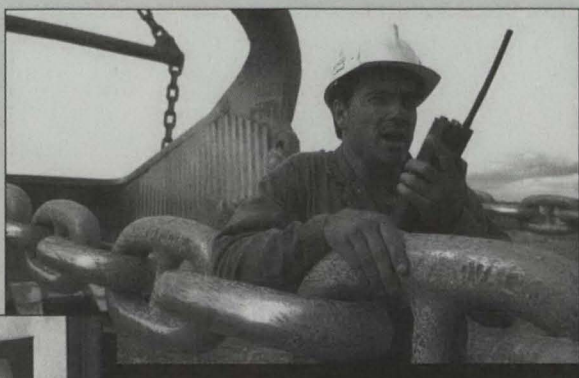
The Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) has released the first 4 of 11 *Portable Guides to Investigating Child Abuse*. *Recognizing When a Child's Injury or Illness Is Caused by Abuse* discusses the investigator's role and responsibility in suspected child abuse cases and provides information on injuries and conditions that could signal abuse. *Sexually Transmitted Diseases and Child Sexual Abuse* covers the common symptoms of sexually transmitted diseases, which, when found in young children, often indicate sexual abuse. *Photo-documentation in the Investigation of Child Abuse* serves as a primer for choosing the proper camera equipment and film and applying photographic techniques in child abuse cases. *Diagnostic Imaging of Child Abuse* describes devices that can detect evidence of skeletal, intracranial, and other types of trauma often associated with child abuse.

Copies of these guides can be obtained from the OJJDP's Juvenile Justice Clearing House, Box 6000, Rockville, Maryland 20857. The toll-free number is 800-638-8736.

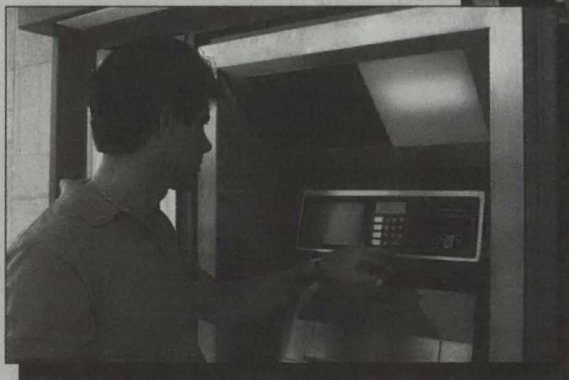
Focus on Crime Prevention

Creative Solutions to Traditional Problems

By Kim Waggoner



Photos © PhotoDisc



As the 21st century approaches, law enforcement agencies rush to adopt cutting-edge solutions to their communities' crime problems. Yet, creative crime prevention techniques need not be high-tech. Indeed, many police departments have found innovative solutions using technology considered almost antiquated by today's standards. This article highlights some of the creative crime prevention approaches currently in use in police agencies across the country.

FAST FAX

A decade ago, the facsimile (fax) machine changed the way businesses communicated. Furthermore, while once only a free-standing fax machine could be used, today, computer users can fax to multiple recipients from their own desk-top machines.

Police departments have discovered the benefits of the fax. With its Fast Fax program, the Fairfax County, Virginia, Police Department can send important information to hundreds of local businesses in a matter of minutes.

Crime analysts who administer the program in each of the department's seven stations prepare faxes

when appropriate. A fax might detail a recent robbery and describe the suspect or notify business owners of the next scheduled crime prevention meeting. The officer preparing the fax transmits it to a local firm with the technological capabilities to fax numerous locations quickly. An automated system allows the officer to give instructions on the number of recipients and the time the fax should be transmitted. The company sends the fax for no charge.

Since the program's inception in July 1994, seven cases have been solved as a direct result of Fast Fax. What cannot be counted, however, are the number of crimes that never were committed because business owners had advanced warning of suspicious activity.

Moreover, when programs work, other departments use them. The Virginia State Police recently adopted the program's prescription fraud component, which warns pharmacies of individuals' attempting to fill fraudulent prescriptions.

BEEP-A-BEAT

Pagers, or beepers, helped business people stay in touch with their clients before the advent of cellular phones. Today, pagers have gained widespread use,

ranging from parents wanting to keep in contact with their children to illegal drug users trying to connect with their neighborhood dealer.

In some Chicago neighborhoods, community policing officers carry beepers to help them respond to the concerns of local business owners. To divert nonemergency calls from an overburdened 911 system, shopkeepers report such incidents as loitering, shoplifting, panhandling, parking problems, and suspicious activity.

Unlike pagers of the past that merely displayed phone numbers, these can deliver detailed messages. Business owners can dial the officer's pager directly or call a toll-free number and give a detailed message to the operator, who relays the message to the officer's pager. A local firm donates the airtime and pagers to equip four foot patrol officers.

Area business owners have enthusiastically endorsed the 3-year-old program. They appreciate the fast response they get from police whether they are in trouble or merely need help with a problem, such as loitering, illegal parking, or a person acting suspiciously. One business owner who beeped the beat officer about a suspicious person thwarted a potential purse-snatching and carjacking.

FLEET WATCH

A solid relationship with local businesses also forms the foundation for a program in Prince William County, Virginia. Modeled after a Springfield, Illinois, initiative, Fleet Watch enlists the aid of business people who spend the majority of their workdays on the road. Equipped with nothing more technical than a mobile phone or access to a radio dispatcher, Fleet Watchers remain alert for suspicious or illegal activity while conducting their usual business as utility operators, taxi drivers, couriers, tow truck operators, and the like.

Vehicles sport a red, white, and blue Fleet Watch bumper sticker with a Prince William County Police badge, to serve as both a beacon to citizens who may

need help and a deterrent to would-be criminals. After obtaining detailed descriptions of suspects and incidents, participants phone the police department to relay the information. They do not make contact with the suspects themselves.

As commuters make their daily treks into Washington, DC, and surrounding counties, their automobiles—left unattended in commuter lots—become easy targets for vandals and thieves. With over 10,000 participants, the Fleet Watch program has proved particularly effective in curbing these types of crimes. In addition, because burglars in the county average in age from 13 to 19, Fleet Watchers help prevent burglaries by turning in truant teens.

“
...creative crime
prevention
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CITIZENS CRIME WATCH

Citizens still reap most of the benefits of community policing. Two programs use the telephone to keep citizens in contact with their local police.

The Dade County Neighborhood Cellular Watch Project

In many jurisdictions, cellular phone providers have formed partnerships with the police and equipped officers with cellular phones. In a new twist, a provider in Florida joined forces with the Metro-Dade Police Department, the Metro-Dade County Manager's Office, and Florida International University (FIU) in a project to put cellular phones in the hands of citizens.

With 50 cellular phones and free airtime, residents in 11 Dade County neighborhoods formed the basis for the Dade County Neighborhood Cellular Watch Project. Residents who observed crimes in progress or other suspicious activity used the phones to call police. Graduate students from FIU evaluated the program after 9 months and discovered that, in the participating neighborhoods, the number of major crimes had dropped dramatically. In one neighborhood, burglaries had fallen 35 percent.

Additional benefits included a decrease in fear among residents, the belief that they could make a difference, an increased willingness to report suspicious activity, and faster response times by police. Finally, residents believed the program produced a deterrent effect among would-be criminals, who feared being turned in by a cellular phone-wielding citizen.

Based on the success of the pilot project, the Cellular Watch Project continues today. Citizens' Crime Watch of Dade County, an all-volunteer citizens group, now runs the program, giving residents an even larger stake in their neighborhood's crime prevention efforts.

The Community Beat Information Mailbox System

Citizens in Berkeley, California, also can attest to the benefits of working closely with their local police department. With its telephone voice-mail system, the Berkeley Police Department exchanges crime and incident information with community residents.

Four coordinators divide 18 beats among them and record information on recently committed crimes, prevention measures, and the like. When citizens access the system, they receive instructions for retrieving and recording messages, as well as the date a new message will be recorded. The area coordinators update messages at least once a week, and many citizens call weekly to hear the latest news. In fact, if the new message gets delayed, some citizens quickly voice their disappointment.

Although the phone company cannot track the number of calls the system receives, contacts with citizens indicate that they like the program. Residents who once felt at odds with police due to a lack of communication now feel satisfied with the level of interaction that exists. Most residents have developed a greater awareness of crime prevention strategies and pay more attention to safety issues. Moreover, they

feel more secure, especially because they can obtain the latest facts on crimes that have occurred in their neighborhoods. Beat officers express their enthusiasm for the voice-mail system by calling to check messages on their days off.

And, in a part of the program they have dubbed "Operation Guest Star," the system coordinators periodically allow beat officers to record messages themselves. Residents like the personal contact with their community officers.

DEVELOPING EVIDENCE INSTANTLY

Computers are changing the way police departments document and store evidence. Digital imaging, for example, allows officers to take video at the scene of a crime, then store the images in the computer. Still, many jurisdictions find the 50-year-old technology of

Polaroid instant photography beats more advanced methods. The Randolph, Massachusetts, Police Department takes Polaroids of injuries to domestic violence victims. In conjunction with other evidence, the photos convict offenders without subjecting victims to the trauma of a court appearance.

The Quincy, Massachusetts, District Court uses instant photos to publicize its "Most Wanted Probation Absconder List." As a condition of their probation,

offenders convicted of domestic violence who violate probation get their photographs and descriptions published in the local paper, along with the details of their crimes. After their photographs appear in the paper, many of these offenders are turned in by others; sometimes they surrender to avoid further disgrace.

As gang activity threatens an increasing number of communities, police officers look for new ways to fight back. Instant photography can help. Because gang members use graffiti to communicate, their writings can alert the police to potential problems. But graffiti can be fleeting—a rival gang may write over it; concerned community residents may clean it

"...the solution to some problems may lie in using a tried-and-true tool in a new and different way."

Creative Crime Prevention Programs

For more information on the programs featured in this article, contact the person named below.

Police Station ATMs

Anne Arundel County Police Department
Captain Michael P. Fitzgibbons
410-222-8512

Beep-A-Beat

Chicago Police Department
Officer Jeff Alcantar
312-747-6208, ext. 121

Berkeley Community Beat Information Mailbox System

Berkeley Police Department
Officer Rob Westerhoff
510-644-6215

Dade County Neighborhood Cellular Watch Project

Metro-Dade Police Department
Lt. Gerald A. Rudoff
305-471-1746

Fast Fax

Fairfax County Police Department
Officer Curtis Stafford
703-644-7377

Fleet Watch

Prince William County Police Department
Sr. Officer Mark A. Williams
703-792-7232

Most Wanted Probation Absconder List

Quincy, Massachusetts, District Court
Assistant Chief Probation Officer
Bruce Carr
617-847-8963, extension 114

Domestic Violence Victims

Randolph, Massachusetts,
Police Department
Det. Sgt. Paul Porter
617-963-1212

up. The immediate nature of Polaroid photographs makes them an effective tool for documenting graffiti before it changes or disappears. The California State Police and many other departments use Polaroids in this manner.

BANKING ON COMMUNITY SAFETY

Automatic teller machines (ATMs) offer customers convenient access to their money 24 hours a day. At the same time, customers occupied at the ATM often become easy targets for robbers, who can steal their cash and also force them to withdraw more funds. After a rash of ATM robberies from December 1994 to January 1995, the Anne Arundel County, Maryland, Police Department instituted a program

that seemed to be the most logical answer to ATM crime. The department installed a cash machine in each of its four county stations. In doing so, Anne Arundel became one of only a few other jurisdictions—including Los Angeles County, Chicago, and Philadelphia—with ATMs in police stations.

ATM robberies dropped from 8 in 1995 to 1 in 1996 and 1 in 1997. And, despite the increasing boldness of many criminals, none has been so brazen as to attempt to rob ATM customers at the police station.

The most noticeable benefits have come in the form of increased contact between the police and the citizens who do their banking at the station ATM. An unanticipated benefit has been an increased use of

ATMs by senior citizens, most likely motivated by the security these new cash machines offer.

CONCLUSION

New technology can enhance the effectiveness of law enforcement, and police departments should not fear putting these ideas into practice. Yet, the solution to some problems may lie in using a tried-and-true tool in a new and different way. "Thinking outside the box" is the phrase often applied to such experimentation.

From equipping neighborhood watch groups with cellular phones to faxing businesses important crime information, police departments are discovering creative approaches to traditional problems. And, because many of these methods involve members of the community, a sort of synergy develops, making the police more effective and residents more willing to become involved. When that happens, the level of

technology used matters less than the spirit of cooperation that develops. In the end, it's the people who make the difference. ♦

Mrs. Waggoner serves as an associate editor for the FBI Law Enforcement Bulletin at the FBI Academy in Quantico, Virginia.

The Bulletin will continue to spotlight the creative crime prevention programs of different agencies in future issues. Submissions from readers are welcome and should be identified as crime prevention material. They should follow the format and style of specialized articles published as Police Practice or Focus departments. Submissions should be 2,000 words or less and typed double-spaced on 8 1/2- by 11-inch white paper. The author guidelines on page 32 offer additional editorial requirements.

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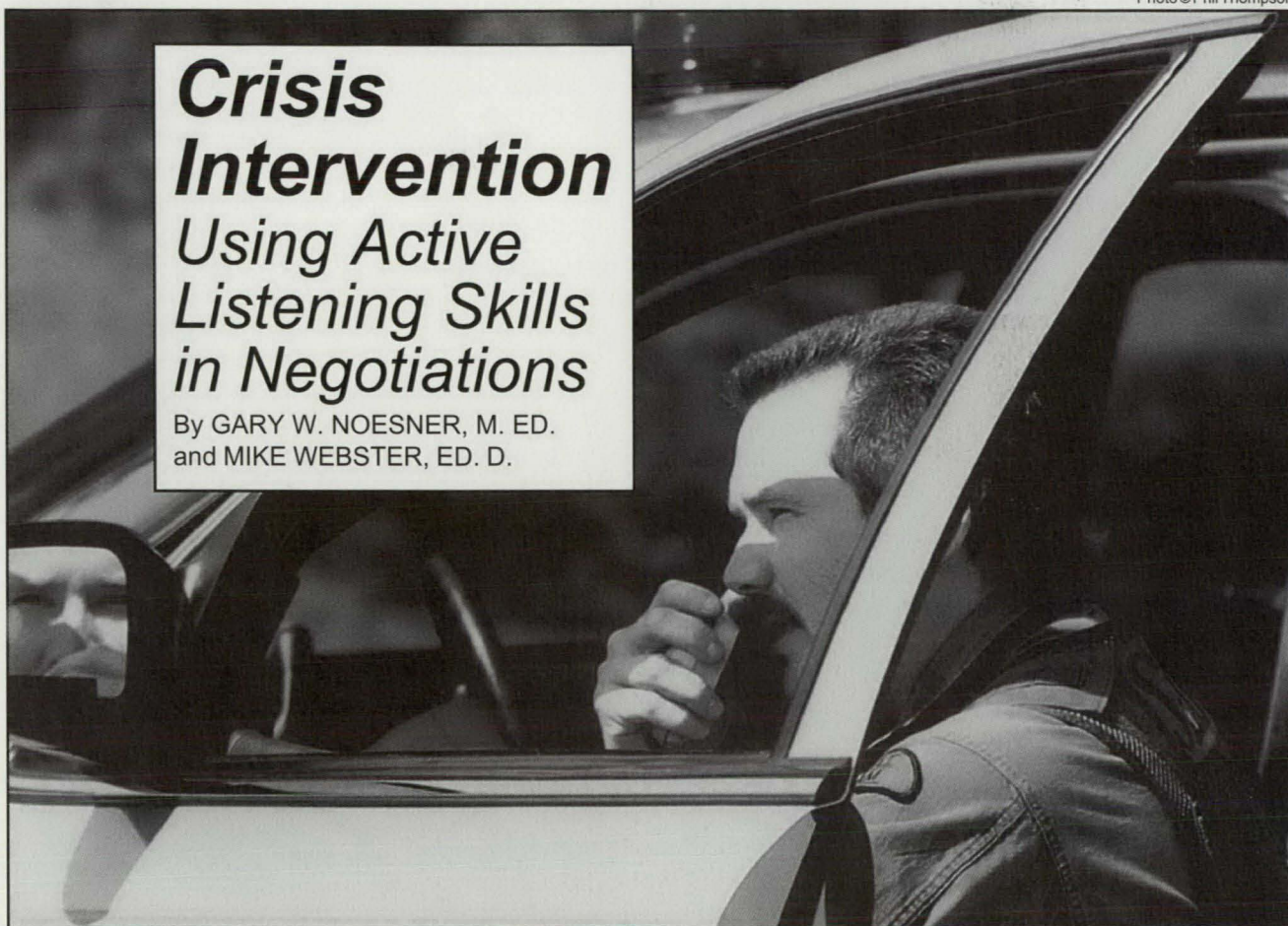
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Crisis Intervention

Using Active Listening Skills in Negotiations

By GARY W. NOESNER, M. ED.
and MIKE WEBSTER, ED. D.



When responding to a critical incident involving a hostage taker or barricaded subject, crisis negotiators generally confront one of two types of behavior—instrumental or expressive. Instrumental behavior is characterized by substantive demands and clearly recognizable objectives that, if attained, will benefit the subject. Negotiators can best address this goal-directed behavior through the strategies of bargaining or problem solving.

Expressive behavior, on the other hand, is designed to communicate the subject's frustration, outrage, passion, despair, anger, or

other feelings. The actions of a subject who is in an expressive mode often appear illogical and highly emotional, given the lack of substantive or goal-oriented demands. Moreover, the critical incident itself may be of a self-destructive nature. Expressive behavior stems from the subject's need to ventilate and is best addressed through a strategy of active listening.

Although these two very different modes of behavior represent opposite ends of a continuum, subjects often exhibit elements of both types during an incident. In other words, a subject's behavior, while predominantly one type or another,

may slide along the continuum between instrumental and expressive, making it difficult for responding law enforcement personnel to develop a negotiation strategy.

Still, the majority of critical incidents to which law enforcement responds involve subjects who are motivated primarily by emotional needs and exhibit mainly expressive behaviors.¹ These incidents may involve jilted lovers, disgruntled employees or students, mood-disordered or psychotic subjects, suicidal individuals, or individuals who, for whatever reason, believe that they or their beliefs have been threatened or demeaned by society.

Although they may make limited instrumental demands, these subjects are more concerned with expressing their anger, hurt, despair, or beliefs of being treated unfairly than they are in bargaining in a rational manner. They have lost their equilibrium and are experiencing heightened levels of arousal that interfere with their ability to function normally.²

While all critical incidents pose distinct problems, negotiators often find it particularly difficult to accommodate subjects who act out of emotional rage and appear to lack a clear sense of purpose. Although expressive subjects might do a good deal of talking during negotiations, they generally have difficulty articulating their true needs in an understandable way.

Therefore, negotiators must be able to guide expressive subjects into clearly stating the nature of

their dilemmas and articulating their demands so that law enforcement can address them. In recent years, the FBI's Critical Incident Response Group (CIRG) has adopted a negotiation technique designed to elicit such information by providing negotiators with the skills to help expressive subjects sort out their often-scattered thoughts and feelings. By using active listening skills, negotiators control the tone of negotiations while they build the empathy necessary to win subjects' confidence and to resolve tense situations.

In order to employ these listening skills successfully, negotiators first must understand the nature of crises. Indeed, when negotiators arrive at the scene of a critical incident to begin negotiations, they must remember that the subject is already in the midst of considerable internal turmoil. To lead the subject

out of crisis, negotiators must appreciate the factors that created the situation in the first place.

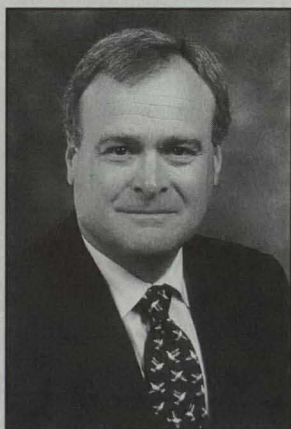
THE NATURE OF CRISES

A crisis overrides an individual's normal psychological and biological coping mechanisms.³ Several features of critical incidents account for the overwhelming and bewildering nature of a crisis.

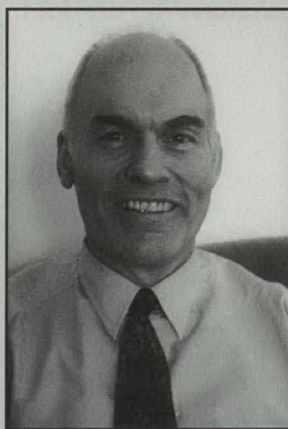
As people grow and develop, they continually meet new demands. These demands could be intellectual, employment-related, economic, or rooted in relationships with other people. Individuals meet these demands and practice resolving them so often that they form coping mechanisms, or "cognitive maps," to deal with them. These maps assist people who face a potential problem to categorize it, determine the resources needed to overcome it, choose a solution, and set a goal for the problem's resolution.

Occasionally, however, individuals confront situations they have seldom or never encountered in the past. As a result, they have not developed adequate coping mechanisms to deal with them. These crises leave individuals feeling overwhelmed and powerless. For many people, these crises cause their heightened emotions to impair their ability to think rationally.

As a consequence of feeling powerless and helpless, individuals may experience extreme levels of physiological arousal in the form of anxiety—the natural human response to threat and danger. This anxiety serves to disrupt further their ability to think clearly.



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Dr. Webster, a former member of the Royal Canadian Mounted Police, heads a private law enforcement consulting firm in Vancouver, British Columbia, Canada.

Consequently, when individuals face a crisis, their increased levels of arousal interfere with attempts to cope with an already incomprehensible circumstance.

During situations of crisis, people spontaneously turn to others for comfort, support, understanding, and protection. Some research suggests that people possess a biological need for attachment.⁴ Crises, however, have the potential to disconnect individuals from necessary sources of support.⁵ When the cry for attachment and support is not answered due to others' misunderstanding of, fear of, anger with, disappointment in, or disagreement with the individual in crisis, that person feels utterly abandoned.

The absence of support during a crisis represents the loss of the primary human coping resource. Without the sense of security provided by others, the troubled individual's already extreme state of physiological arousal is exacerbated further. As a growing feeling of despair sets in, the person feels unable to escape the crisis. When all roads back to equilibrium seem blocked, the individual's ability to cope becomes overwhelmed.

As every attempt to deal with the perceived threat seemingly meets with failure, the individual learns to do nothing.⁶ This state of "learned helplessness" is characterized by constricted thinking and an inability to see even the most obvious solutions. Instead, the individual focuses on moment-to-moment survival. This shift in thinking only complicates the individual's situation, serving to undermine the sense of personal competence and

effectiveness while increasing anxiety even more.

BREAKING DOWN DEFENSES

Individuals whose heightened state of anxiety and reduced self-esteem cause them to react recklessly to crisis situations usually come in contact with law enforcement. For responding negotiators,

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Expressive behavior stems from the subject's need to ventilate and is best addressed through a strategy of active listening.

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crisis intervention generally involves an intense effort, within a relatively short period of time, to lower physiological arousal and return subjects to equilibrium, or at least to a more normal functional level. Negotiators can help subjects in crisis return to a more rational state by providing them with support during a time of confusion. Active listening represents a powerful tool to stimulate positive change in others.

Despite the popular notion that listening is a passive behavior, abundant clinical evidence and research suggest that active listening is an effective way to induce behavioral change in others.⁷ When listened to by others, individuals tend to listen to themselves more care-

fully and to evaluate and clarify their own thoughts and feelings. In addition, they tend to become better problem solvers, growing less defensive and oppositional and more accepting of other points of view. Subjects who are met with an empathetic ear also become less fearful of being criticized and grow more inclined to adopt a realistic appraisal of their own position.

Through the course of their development, people construct a set of beliefs. In a very general sense, the interaction between beliefs related to self and those related to the world determine an individual's behavior in any situation.⁸ However, viewpoints related to self—that is, a person's self-image—represent the most cherished and vital components in the belief system.

Accordingly, people feel threatened by any direct attempt by others to challenge or change their self-images. These perceived threats cause subjects in crisis to defend even more strongly their image of themselves and deny any challenges to it. Objective observers might view these efforts as constricted thinking and rigid behavior. To subjects in crisis, however, they represent the only avenues open to preserve a sense of themselves amidst the chaos in their lives.

Because active listening poses no threat to an individual's self-image, it can help a subject become less defensive. Thus, active listening creates fertile ground for negotiation and, eventually, change.

If negotiators hope to change a subject's behavior—that is, restore the individual's equilibrium and increase the subject's ability to think

more clearly and act less violently—they must remove themselves as threats. As long as the subject perceives the atmosphere as threatening, no meaningful communication can take place. Without communication, negotiators cannot build the rapport necessary to bring about behavioral change in the subject.

Accordingly, negotiators must avoid intimidating, demeaning, lecturing, criticizing, and evaluating subjects. They must create an atmosphere of empathy and respect. Only in this climate will subjects feel safe enough to consider alternate perspectives and become receptive to positive suggestions from negotiators. By employing active listening skills, negotiators help create an environment for positive change.

ACTIVE LISTENING SKILLS

In recent years, the FBI and a growing number of law enforcement agencies have used active listening to resolve volatile confrontations successfully. These positive results have led the FBI to incorporate and emphasize active listening skills in its crisis negotiation training.

The following seven techniques constitute the core elements of the active listening approach the FBI teaches. Together, these techniques provide a framework for negotiators to respond to the immediate emotional needs of expressive subjects, clearing the way for behavioral changes that must occur before negotiators can resolve critical incidents.

Minimal Encouragements

During negotiations with a subject, negotiators must demonstrate

that they are listening attentively and are focused on the subject's words. Negotiators can convey these qualities either through body language or brief verbal replies that relate interest and concern.

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The responses need not be lengthy. By giving occasional, brief, and well-timed vocal replies, negotiators demonstrate that they are following what the subject says. Even relatively simple phrases, such as “yes,” “O.K.,” or “I see,” effectively convey that a negotiator is paying attention to the subject. These responses will encourage the subject to continue talking and gradually relinquish more control of the situation to the negotiator.

Paraphrasing

Paraphrasing consists of negotiators' repeating in their own words the meaning of subjects' messages back to them. This shows that negotiators are not only listening but also understanding what the subject is conveying.

For example, the subject might say, “What's the use in trying to go

on anymore. I've lost my job of 18 years, my wife has left me for good, I have no money and no friends. I'd be better off dead.” In response, the negotiator might express understanding by paraphrasing the subject's words, “You've lost your job and your wife, there is no one to turn to, and you're not sure if you want to go on living.”

Emotion Labeling

Because expressive subjects operate from an almost purely emotional framework, negotiators must address the emotional dimensions of a crisis as the subject sees them. Emotion labeling allows negotiators to attach a tentative label to the feelings expressed or implied by the subject's words and actions. Such labeling shows that negotiators are paying attention to the emotional aspects of what the subject is conveying. When used effectively, emotion labeling becomes one of the most powerful skills available to negotiators because it helps them identify the issues and feelings that drive the subject's behavior.

A negotiator might say, “You sound as though you are so angry over being fired from your job that you want to make your supervisor suffer for what happened.” In response, a subject might agree with the negotiator's statement and thereby validate the assessment. Or, the subject could modify or correct the assessment: “Yes, I'm angry, but I don't want to hurt anyone. I just want my job back.” Either way, negotiators have learned something important about the subject's emotions, needs, and contemplated plans.

Mirroring

By mirroring, negotiators repeat only the last words or main idea of the subject's message. It serves as both an attending and listening technique, as it indicates both interest and understanding. For example, a subject may declare, "I'm sick and tired of being pushed around," to which the negotiator can respond, "Feel pushed, huh?"

Mirroring can be especially helpful in the early stages of a crisis, as negotiators attempt to establish a nonconfrontational presence, gain initial intelligence, and begin to build rapport. This technique allows negotiators to follow verbally wherever the subject leads the conversation. Consequently, negotiators learn valuable information about the circumstances surrounding the incident, while they provide the subject an opportunity to vent.

This technique also frees negotiators from the pressure of constantly directing the conversation. Under stress, negotiators may find they are unsure of how to respond to the subject. Mirroring enables a negotiator to be a full partner in the conversational dance without having to lead. Using this skill also helps negotiators avoid asking questions interrogation-style, which blocks rapport building.

Open-ended Questions

By using open-ended questions, negotiators stimulate the subject to talk. Negotiators should avoid asking "why" questions, which could imply interrogation. When the subject speaks,

negotiators gain greater insight into the subject's intent.

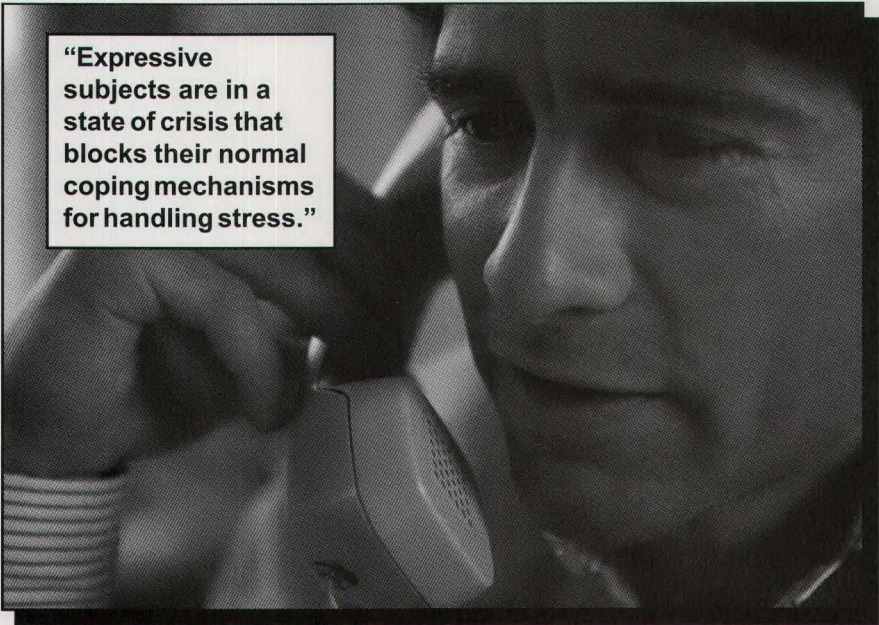
Effective negotiations focus on learning what the subject thinks and feels. If negotiators do most of the talking, they decrease the opportunities to learn about the subject. Additional examples of effective open-ended questions include, "Can you tell me more about that?" "I didn't understand what you just said; could you help me better understand by explaining that further?" and "Could you tell me more about what happened to you today?"

"I" Messages

By using "I" messages, a negotiator ostensibly sheds the negotiator role and acts as any other person might in response to the subject's actions. In an unprovocative way, negotiators express how they feel when the subject does or says certain things.

For instance, a negotiator might say, "We have been talking for several hours, and I feel frustrated that we haven't been able to come to an agreement." This technique also serves as an effective response when the subject verbally attacks the negotiator, who can respond, "I feel frustrated when you scream at me because I am trying to help you."

While employing this skill—and all active listening techniques—negotiators must avoid being pulled into an argument or trading personal attacks with a subject. An argumentative, sarcastic, or hostile tone could reinforce the subject's already negative view of law enforcement and cause the subject to rationalize increased resistance due to a lack of perceived concern on the part of the police. Use of "I" messages serves to personalize the negotiator. This helps to move the negotiator



"Expressive subjects are in a state of crisis that blocks their normal coping mechanisms for handling stress."

Photo © PhotoDisc

beyond the role of a police officer trying to manipulate the subject into surrendering.

Effective Pauses

By deliberately using pauses, negotiators can harness the power of silence for effect at appropriate times. People tend to speak to fill spaces in a conversation. Therefore, negotiators should, on occasion, consciously create a space or void that will encourage the subject to speak and, in the process, provide additional information that may help negotiators resolve the situation.

Silence also is an effective response when subjects engage in highly charged emotional outbursts. When they fail to elicit a verbal response, subjects often calm down to verify that negotiators are still listening. Eventually, even the most emotionally overwrought subjects will find it difficult to sustain a one-sided argument, and they again will return to meaningful dialogue with negotiators. Thus, by remaining silent at the right times, negotiators actually can move the overall negotiation process forward.

NEGOTIATION TOOLS

In combination, active listening skills can help negotiators demonstrate that the negotiation team sincerely wants to help the subject out of a difficult situation. No set formula exists for using these skills, however. The application of some or all of the skills should depend upon the specifics of the situation confronting negotiators.

Negotiators should look at these skills as tools to be applied as deemed appropriate during a crisis situation. Like all tools, they should

be used only to perform the jobs for which they are intended.

THE CHANGE PROCESS

The application of active listening skills helps to create an empathic relationship between negotiators and the subject. Demonstrating this empathy tends to build rapport and, in time, change the subject's behavior. This approach to crisis intervention represents an effort over a relatively short period of time to stabilize emotions and restore the subject's ability to think more rationally.

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...by demonstrating support and empathy, negotiators often can talk an expressive subject into surrendering largely by listening.

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However, when dealing with expressive subjects, negotiators should avoid the standard law enforcement inclination to resolve the problem as rapidly as possible. Even the most well-orchestrated negotiations take time.

People tend to listen to and follow the advice of individuals who have influence over them. Negotiators generally achieve peaceful resolutions only after they demonstrate their desire to be nonjudgmental, nonthreatening, and understanding of the subject's

feelings. By projecting that understanding, negotiators show empathy and lead the subject to perceive them, not as the enemy, but as concerned individuals who want to help.

Applying active listening skills and showing empathy establish a degree of rapport between negotiators and subjects that can lead to the discussion of nonviolent alternatives to resolve incidents. The rapport creates an environment where negotiators can suggest various alternatives that the subject previously could not see or would not consider.

Subjects who turn to negotiators and say, "I'm so confused and scared. What should I do to get out of this situation?" have reached a point where, due to the rapport-building efforts of negotiators, they are ready to accept advice on the best way to resolve the situation. Such a query provides an opening that negotiators can use to influence the actions of the subject by suggesting alternatives and offering solutions.

CONCLUSION

Crisis negotiators must respond to critical incidents involving individuals who display a variety of behavioral traits. However, during the majority of critical incidents, negotiators confront subjects who manifest predominantly expressive behavior.

Expressive subjects are in a state of crisis that blocks their normal coping mechanisms for handling stress. Their thinking becomes highly constricted and disorganized, making it difficult for them to deal logically with their problems and exercise good judgment. Skilled

and patient negotiators can significantly influence such a subject's behavior by being supportive and nonconfrontational.

By applying active listening skills, negotiators demonstrate that they are not a threat to the subject and that their goal is to help rather than harm. When negotiators demonstrate empathy and understanding, they build rapport, which, in turn, enables them to influence the subject's actions by providing nonviolent problem-solving alternatives. In short, by demonstrating support and empathy, negotiators often can talk an expressive subject into surrendering largely by listening. ♦

Endnotes

¹ This information is based on the authors' experiences and consultations with crisis negotiators around the world.

² R.M. Yerkes and J.D. Dodson, "The Relation of Strength of Stimulus to Rapidity of Habit Formation," *Journal of Comparative and Neurological Psychology*, 18, 1908, 459-482; E.R. Hilgard et al., *Introduction to Psychology*, 6th ed. (New York: Harcourt, Brace, Jovanovich, 1975).

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⁷ C.R. Rogers and R. Dymond, *Psychotherapy and Personality Change* (Chicago: University of Chicago Press, 1954).

⁸ A.T. Beck et al., *Cognitive Therapy of Depression* (New York: Guilford Press, 1979).

The Technology-Assisted Search Program

The FBI's Engineering Research Facility has developed a technology-assisted search capability to support the law enforcement community in recovering forensic evidence in particularly difficult or challenging search scenarios. This specialized capability uses geophysical methodology and remote sensing equipment, such as ground-penetrating radar, sophisticated metal detectors, and thermal imaging devices, to search for locations where forensic evidence may be buried or clandestinely concealed in buildings.

Technology-assisted searches are available as a service to all of law enforcement but are conducted only in those circumstances having current investigative merit, well-defined search parameters, an absence of exploratory excavation, and legal search authorization.

Requests for technology-assisted searches require careful planning and must be coordinated through the Evidence Response Team Coordinator of the local FBI office. Additional questions regarding these searches should be directed to Special Agent Thomas E. Parmelee, Special Technology Group Manager, FBI Academy, Quantico, Virginia, 703-630-6717, or Vivian K. Clifton, Program Manager, 703-630-6697, at the same address.

Reducing Stress

An Organization-Centered Approach

By PETER FINN, M.A.

People in all walks of life experience, and must find ways to cope with, some degree of stress. However, in the past 25 years, researchers and criminal justice officials have identified stress factors unique to, or more pronounced among, law enforcement officers. Today, law enforcement is widely considered to be among the most stressful occupations, associated with high rates of divorce, alcoholism, suicide, and other emotional and health problems.¹

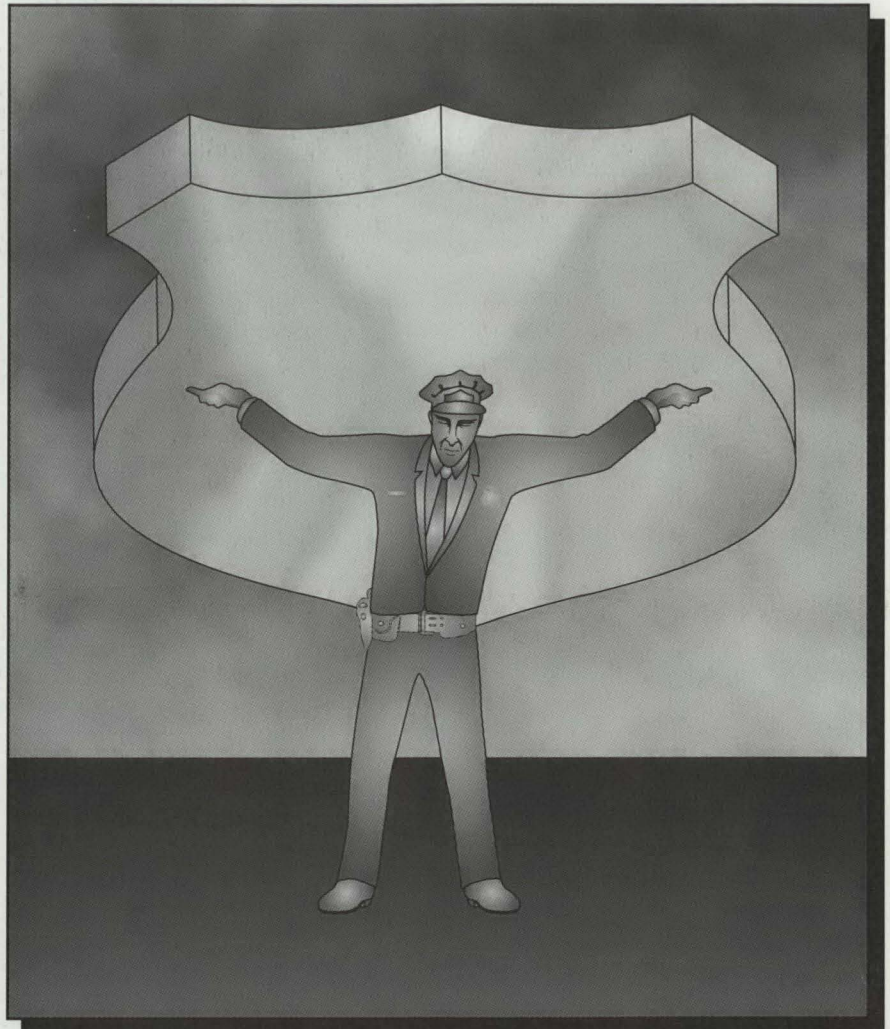
Despite the growing understanding of stress factors within the law enforcement profession and enhanced treatment for stress-related problems, many officers feel that law enforcement is more stressful now than ever before. This sentiment can be traced to several factors, including the rise in violent crime during the 1980s and early 1990s; perceived increases in negative publicity, public scrutiny, and lawsuits; fiscal uncertainty; fear of airborne and bloodborne diseases, such as AIDS and tuberculosis; rising racial tensions; and the transition from reactive to problem-oriented policing.

Sources of stress for individual law enforcement officers can be placed into five general categories: issues in the officer's personal life, the pressures of law enforcement work, the attitude of the general public toward police work and

officers, the operation of the criminal justice system, and the law enforcement organization itself. Many people perceive the danger and tension of law enforcement work—as dramatized in books, movies, and television shows—to be the most serious sources of stress for officers. In fact, the most

common sources of police officer stress involve the policies and procedures of law enforcement agencies themselves.²

This article examines the often-neglected effects that organizational stress has on agencies and officers. It then discusses why managers should change



stress-inducing policies. Finally, it presents steps that several agencies have taken to reduce organizational stress and thus enhance the productivity and job satisfaction of officers.

TREATING THE SYMPTOM, NOT THE CAUSE

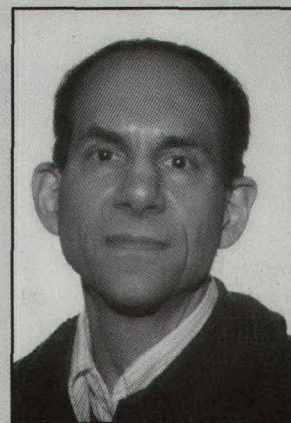
As part of a large-scale study conducted by the National Institute of Justice (NIJ) of programs devoted to reducing police officer stress, researchers interviewed nearly 100 stress-management program directors, law enforcement administrators, mental health providers, union and association officials, officers and their families, and civilians.³ The respondents agreed that the negative effects of stress on individual officers typically harm agencies as well as officers. As observed by the respondents, the cumulative effects of stress among officers in a department can lead to:

- Impaired officer performance and reduced productivity
- Reduced morale
- Public relations problems
- Labor-management friction
- Civil suits stemming from stress-related shortcomings in personnel performance
- Tardiness and absenteeism
- Increased turnover due to leaves of absence and early retirements because of stress-related problems and disabilities, and
- The added expenses of training and hiring new recruits, as well as paying overtime, when the agency is left short-staffed as a result of turnover.

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...the most common sources of police officer stress involve the policies and procedures of law enforcement agencies themselves.

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Mr. Finn is a senior research assistant at Abt Associates Inc. in Cambridge, Massachusetts, and a special officer with the Belmont, Massachusetts, Police Department.

Most police stress programs and consulting mental health practitioners focus primarily, if not exclusively, on preventing and treating stress among individual officers. However, the “person-centered” approach currently employed by most departments fails to address the underlying organizational problems that form the basis of much of the stress experienced by officers.

It stands to reason, then, as one expert in the field suggested, that “...an organization-centered approach ... identifying the problems the officers have with their work, supervisors, and pay, and making appropriate changes—may well have a greater influence on improving morale.”⁴ According to the head of the Michigan State Police Behavioral Science Section, the emphasis placed by psychologists and police administrators on person-centered programs has overshadowed the importance of addressing organizational sources of stress.⁵

Unfortunately, stress program staffs and independent practitioners often lack the time to work with management to eliminate the sources of organizational stress. Moreover, few clinicians feel qualified to suggest organizational changes to law enforcement administrators.

At the same time, police administrators might not accept what they perceive to be the intrusion of a mental health professional into department operations. Administrators also may believe that they do not have the time or resources to make the desired changes, or they simply might not agree that organizational changes will reduce officer stress.

Yet, a growing number of agencies have found that even modest modifications in organizational structure can lead to enhanced morale and productivity among line officers. Although some administrators might institute organizational changes simply because

they believe it is the right thing to do, there are a host of reasons that should compel reluctant administrators to consider such changes.

ORGANIZATIONAL CHANGE BENEFITS

Enhance the Department's Image

Bad press, public criticism, and legislative scrutiny can be sources of stress for both law enforcement administrators and line officers. Organizational changes that reduce officer stress can improve the department's image simultaneously. Negative publicity resulting from 8 officer suicides in 5 years—3 of them in 1994—prompted the Philadelphia, Pennsylvania, Police Department to create the agency's first stress manager position in 1995. Among other duties, the stress manager examines departmental policies and procedures and recommends ways to make them less stressful.⁶

A newly appointed police chief in a West Coast law enforcement agency decided to remedy years of bad press caused by what many community members considered to be the department's overly paramilitary image. The chief hired an organizational consultant and eventually won new community support by implementing several recommended changes designed to make the department less autocratic.

Save Money

Some departments have documented substantial cost savings resulting from organizational changes. The Mercedes, Texas,

Police Department fields 25 sworn officers and serves a city of 14,000 residents. In 1986, the department reorganized to provide an employee development program that included establishing high professional standards, a reward system to promote superior performance, foot patrol assignments, and an increase in the annual in-service training requirement. In the 24 months following these changes, the department's turnover rate fell from 38 percent to 7 percent. Administrators estimate that the reduced turnover has saved the department at least \$53,000.⁷

“...even modest modifications in organizational structure can lead to enhanced morale and productivity among line officers.”

Police administrators understand all too well the costs associated with replacing officers who take early retirement or go on disability. The department not only must pay benefits to departing officers, but it also must pay to recruit, test, hire, train, and equip new officers. In smaller agencies, sudden turnover can result in serious staff shortages that require paying other officers overtime.

Improve Department Morale and Efficiency

Reducing organizational sources of stress should lead naturally to

better morale, improved productivity, and, therefore, enhanced overall department efficiency. Even a well-publicized statement from the department's administration recognizing the stress officers experience and expressing support for measures to reduce sources of stress demonstrates management concern about officer well-being. Such pronouncements also help promote the good will necessary to implement change.

IMPLEMENTED CHANGES

Administrators in agencies across the country have implemented significant organizational changes as a way of reducing officer stress. The changes generally affect supervisory style, field training officer programs, critical incident counseling, command support after critical incidents, shift work, and job assignments.

Supervisory Style

One police department has undertaken a comprehensive effort to reduce organizationally generated stress among its 100 sworn officers.⁸ A series of stress-related disability retirements prompted the Palo Alto, California, Police Department to commission a study in 1979 to identify sources of stress and suggest options for reducing or eliminating them. The report concluded that the formal and informal organizational structures in the department inhibited effective communication and created strained relationships among ranks, divisions, and individuals.

As a result, the department hired a management consultant and a mental health clinician to design

and implement an 18-month trial program to alleviate organizational stress. Through team building and other methods, the consultant taught department members how to communicate, listen, and solve problems in an orderly, effective manner.

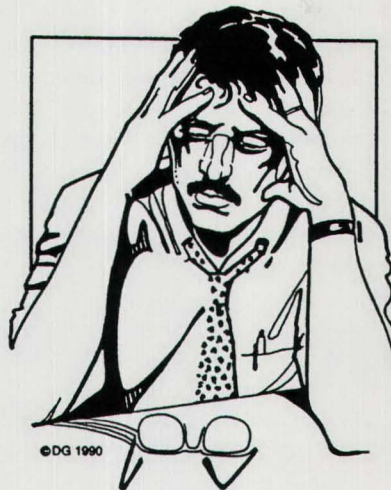
The program proved so successful that it has been continued ever since. It follows a 14-point written plan that serves as a basis for administrators to reduce organizational stress.

First, administrators must identify sources of organizational stress and consult with work units and individual managers to resolve them. For example, the management consultant for the Palo Alto Police Department trained all sergeants in how to prepare for and conduct a performance appraisal and discussed the importance of providing employees with behavior-based feedback in a constructive manner.

In addition, administrators should monitor management decisions with regard to their stress impact, search for implementation methods that minimize the stressful impact, and advise management staff. For example, when the Palo Alto Police Department began to use computer-aided crime analysis to direct patrol and investigative resources toward apprehending career criminals, the consultant designed ways for the department's sworn and civilian personnel to influence and shape the change process.

It is also important to instruct field training officers, supervisors, and managers in communication, problem solving, conflict resolution, and supervisory skills that can

minimize stress for employees. At the chief's request, the consultant hired by Palo Alto surveyed each manager on how the chief may have been creating undue stress for them, reported the results to the chief, and recommended changes based on the findings.



Another important step in reducing organizational stress involves training individual managers on stress-inducing practices and events within their units. This training typically results from a manager's request for specific training in problem solving. On occasion, it can be delivered in response to a large number of complaints from line officers, which suggests a management problem.

FTO Programs

A number of departments in California have used a private counselor to train their field training officers (FTOs) in the most productive ways to interact with trainees.

The counselor explains to the FTOs how people react when they are criticized and presents the best approaches for offering constructive criticism to recruits who perform poorly. The counselor also tests the FTOs on their supervisory style and presents them with the results so they can see which areas they need to improve. Field training officers who have received the instruction gain a new awareness of the tremendous impact that an FTO program has on the organizational health of a law enforcement agency.

The counselor also advises police executives that they can enhance their departments' FTO programs by designating only officers who volunteer for the program to become training officers. Officers selected to serve as FTOs who have no interest in the assignment often feel that they are being punished. By accepting only volunteers and providing them with supervisory training, departments recognize the tremendous role field training officers play in acculturating new officers. For better or worse, many rookies emulate their FTOs and later use the same helpful or harmful training techniques when they train new officers.

Critical Incident Counseling

The Michigan State Police Behavioral Science Section trains both experienced and new sergeants every year in techniques to manage critical incident stress among officers. The section director designed the training to help sergeants respond in a manner that avoids creating additional stress for officers and reduces the inevitable

stress that officers experience from the actual incidents.

During the training, the section director brings in a trooper who has experienced a critical incident and has received counseling through the program. The trooper gives a personal account of what first-line supervisors should—and should not—do when addressing the needs of troopers who require post-incident counseling. The sergeants learn what to expect from an officer who has experienced a critical incident, and the section director explains the warning signs that should alert sergeants that counseling is necessary.

The director of the Behavioral Science Section and another counselor also conduct 2-hour seminars for the agency's executive and command staffs. During this training, the counselors focus on helping managers recognize how their own work styles can impact subordinates. The counselors then suggest ways that managers can motivate their personnel to be more productive.

Command Support After Critical Incidents

The chief executive officer and other commanders of a law enforcement agency should make it a matter of policy to pay hospital visits to every officer shot or involved in a serious accident. This easily implemented policy can have a profound effect not only on the injured officers but also on the department as a whole. According to a veteran police counselor, "The impact of a shooting on the officers involved depends more on the attitude of the department toward the officers than on the incident itself."

The commissioner of the Buffalo, New York, Police Department, personally visits every police officer shot while on duty. If he cannot do so, he makes sure that his deputy or another command-level officer goes to provide support.

Command-level staff also can offer assurance and support to family members—including helping with paperwork, finding babysitters, providing telephone numbers for follow-up assistance, and simply spending time with them. Word of the command staff's concern typically spreads through the department grapevine to every officer on the force, instantly improving morale and alleviating stress.

“

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”

Shift Schedules

Like many law enforcement agencies, the Michigan State Police used to rotate shifts every 7 days, causing considerable stress for many troopers and their families. As a result, the troopers association received a constant flow of grievances from members complaining of fatigue, eating disorders, and other problems. In an effort to encourage the department to change to a less stressful work schedule,

the association asked the department's Behavioral Science Section for any available research that documented the harmful effects of rotating shifts on employee productivity.

The department allowed troopers to determine the frequency of their shift rotation and gave them the option of changing their rotation schedule at least annually. When additional research suggested that all rotating shift work might pose health and safety risks, the command staff included permanent shifts as an option. Today, staff members at each work site choose shifts by majority vote. Many have adopted fixed-shift schedules.

The troopers association succeeded in negotiating the changes, in part, due to the compelling evidence showing the negative effects of shift work on officer productivity. But the department's Behavioral Science Section also helped convince commanders by providing research findings. The president of the troopers association credits the successful resolution of this potentially divisive issue with the fact that the association did not enter into negotiations with the goal of simply winning concessions from the administration. Instead, the association demonstrated to commanders that the department would benefit from healthier, more productive employees. In other words, by changing the work schedule, the department, as well as the troopers, won.

Job Assignments

The psychologist for the San Antonio, California, Police Department worked with administrators to

improve the agency's ability to match officers' capabilities to the needs of their jobs. In convincing administrators of the importance of such an effort, the psychologist argued that stress management should go beyond counseling, that careful selection of job candidates can reduce the stress that arises from a mismatch between the candidate and the job requirements.

The psychologist argued that by performing a "person-job fit analysis" before hiring and placing officers, the department could reduce the need for subsequent mental health treatment for officers ill-equipped to handle the job for which they were hired. Likewise, this preventive approach to mental

health would help prospective officers avoid the deep feelings of frustration, disappointment, and self-blame that occur when individuals attempt to perform a job for which they are unsuited.

To determine which skills are necessary for a patrol officer, the psychologist conducted a functional job analysis of the position. He asked a number of officers to identify the skills required to perform their jobs effectively. The department now uses the skills outlined in the job analysis to select officers for patrol.

The psychologist eventually conducted a functional job analysis of every position in the agency. The department now bases hiring and

promotions not only on civil service exams but also on matching individuals' current skill levels with the job requirements for which they are applying. The psychologist also revised the training academy's curriculum to include more blocks on problem solving, critical thinking, and other skills related to preventing and managing stress. The changes in the curriculum involve identifying areas where recruits need expanded training to improve their future on-the-job performance and thereby reduce their levels of stress.

CONCLUSION

Everyone experiences stress. As any stress counselor would

Suggestions for Implementing Organizational Change

Consultants provide the following suggestions for implementing any major effort to change organizational policies and procedures in law enforcement agencies.

- The administration should involve a sizable cross-section of the agency's personnel in identifying organizational issues that require attention, designing a prototype program, and hiring program staff
- The chief should endorse and provide support to any initiative
- Commanders should plan for an 18-month or longer trial period

- Commanders should rely on the core start-up group for support and feedback during the initial stages of the program
- Administrators should guarantee program success to all agency levels and work units
- Counselors or outside consultants should expect and encourage the agency and its personnel to take risks and accept some discomfort in the service of growth and positive change.

Adapted from S.E. Walima and E.F. Kirschman, "Health Resource Coordinators: Organizational Consultation Services," The Police Chief, October 1988, 78-81.

explain, a certain degree of stress is essential to a healthy, productive life. However, when stress impairs an individual's ability to function properly, the sources of that stress must be eliminated or reduced.

Likewise, organizations work with a certain degree of naturally occurring stress, generated by the pressures of performing the tasks for which the people in the organization are responsible. However, when an organization's policies and procedures themselves become overwhelming sources of stress, those policies and procedures should be reviewed and changed.

With pressures on law enforcement agencies to perform increasingly complex functions with minimized funding levels, police administrators must examine ways to enable officers to perform their responsibilities as efficiently as possible. The steps that a number of law enforcement agencies have taken to reduce organizational sources of stress illustrate that departments can change their policies and procedures in ways that enhance—and certainly do not compromise—their public safety missions. Given the pressures experienced by today's police officers, law enforcement administrators should address the problem of organizational stress by identifying recurring grievances among officers and working to change the policies that cause them. ♦

Endnotes

¹ R.M. Ayres, *Preventing Law Enforcement Stress: The Organization's Role* (Washington, DC: Bureau of Justice Statistics, 1990), 1; C.A. Gruber, "The Relationship of Stress to the Practice of Police Work," *The Police Chief*, February 1980, 16-17; "A Comparative Look at

Stress and Strain in Policemen," in *Job Stress and the Police Officer*, ed. W.H. Kroes and J.J. Hurrell (Washington, DC: U.S. Department of Health, Education, and Welfare, 1975), 60; C.D. Spielberger, *The Police Stress Survey: Sources of Stress in Law Enforcement*, Monograph Series Three (Tampa, Florida: Human Resources Institute, 1981), 43.

² Ibid., Ayres; Ibid., W.H. Kroes and J.J. Hurrell; see also J.J. Hurrell, Jr., "Some Organizational Stressors in Police Work and Means for Their Amelioration," in *Psychological Services for Law Enforcement*, ed. J.T. Reese and H.A. Goldstein (Washington, DC: U.S. Department of Justice, Federal Bureau of Investigation, 1986).

³ The principal interviews took place in San Bernardino, California; Erie County, New York; Washington, DC; and throughout the state of Michigan (June-August 1995). Additional telephone interviews were conducted with similar individuals from San Antonio, Texas; Tulsa, Oklahoma; Metro-Dade, Florida; Rochester, New York; and Coventry, Rhode Island (June-August 1995). This research project was supported by the U.S. Department of Justice, National Institute of Justice, Contract OJP-94-C-007. See Peter Finn and Julie Esselman Tomz, *Developing a Law Enforcement Stress Program for Officers and Their Families* (Washington, DC: U.S. Government Printing Office, 1997).

⁴ Supra note 1, Ayres, 9.

⁵ G. Kaufman, "Law Enforcement Organizational Health Consultation," (paper presented at the Consultation with Police: Problems and Consideration Symposium, American Psychological Association 93rd Annual Convention, Los Angeles, California, August 23-27, 1985).

⁶ "Tired? Stressed? Burned Out? Panel Seeks Answers for Philadelphia Police Officers," *Law Enforcement News* 22, 1995, 1, 10.

⁷ J.L. Pape, "Employee Development Programs," *FBI Law Enforcement Bulletin*, September 1990, 20-25.

⁸ E.F. Kirschman, "Organizational Development," in *Police Managerial Use of Psychology and Psychologists*, ed. H.W. More and P.C. Unsinger (Springfield, Illinois: Charles C. Thomas, 1987), 85-106; S.E. Walima, "Organizational Health in Law Enforcement," in *Psychological Services for Law Enforcement*, ed. J.T. Reese and H.A. Goldstein, (Washington, DC: U.S. Department of Justice, Federal Bureau of Investigation, 1986), 205-214.

Wanted: Photographs



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

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

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Intentional Violations of Miranda

A Strategy for Liability

By KIMBERLY A. CRAWFORD, J.D.

Over three decades ago, in *Miranda v. Arizona*,¹ the United States Supreme Court held that custodial interrogations create a psychologically compelling atmosphere that countermands the Fifth Amendment protection against compelled self-incrimination.² Accordingly, the Court developed the now-familiar *Miranda* warnings as a means of reducing the compulsion attendant in custodial interrogations.

In the years that followed, the Court handed down numerous rulings purported to clarify and refine the *Miranda* decision.³ The

practical result of these rulings is that there now exists a complex legal maze that investigators must negotiate when attempting to interrogate custodial subjects. Occasionally, investigators fail, either accidentally or intentionally, to negotiate the maze properly.

Accidental failures to negotiate the *Miranda* maze have resulted in the suppression of evidence in subsequent criminal cases,⁴ but generally have not resulted in any successful civil suits against law enforcement officers or agencies.⁵ However, civil suits alleging intentional failures may have

considerably greater potential for success in the courts.⁶

This article reviews the cases that, by limiting the legal consequences of *Miranda* violations, may have encouraged some law enforcement officers to develop interrogation strategies that incorporate intentional violations of the *Miranda* rule. The article also examines the potential civil liability for following such strategies.

Limitations on the Effects of *Miranda* Violations

The Supreme Court has recognized that *Miranda* warnings are

not constitutionally mandated.⁷ Rather, the warnings are a protective measure designed to safeguard the Fifth Amendment right against compelled self-incrimination. Consequently, violations of the *Miranda* rule do not carry with them the same force and effect as a constitutional violation. Statements obtained in violation of *Miranda* have a variety of lawful uses.

For example, in *Michigan v. Tucker*,⁸ the Supreme Court held that a *Miranda* violation that resulted in the identification of a witness did not preclude the government from calling that witness to testify at trial. The witness in question was named in an alibi provided by the defendant during an interrogation session that followed an incomplete advice of rights.⁹ When contacted by the police, the witness not only failed to corroborate the defendant's alibi but also provided additional damaging information. The defendant subsequently sought

to have the witness' testimony excluded at trial on the grounds that the identity of the witness was discovered as a result of the violation of *Miranda*. The Supreme Court, however, concluded that although statements taken without benefit of full *Miranda* warnings generally could not be admitted at trial, some acceptable uses of those statements exist.¹⁰ Identification of witnesses is one such acceptable use.

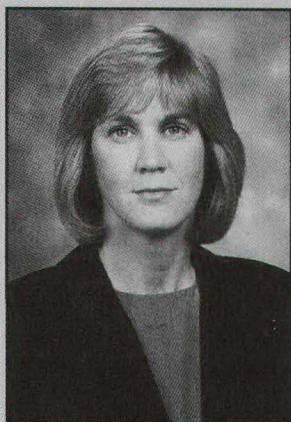
In *Oregon v. Elstad*,¹¹ the Supreme Court similarly held that a second statement obtained from a custodial suspect following one taken in violation of *Miranda* is not necessarily a fruit of the poisonous tree and may be used at trial. In *Elstad*, the defendant made incriminating statements during an interrogation that was later determined to contravene *Miranda*. The defendant repeated those statements and gave a detailed confession during a later interrogation session

conducted in full compliance with *Miranda*. The defense subsequently argued that because the "cat was let out of the bag" during the initial unlawful interrogation, the statement provided during the later interrogation was tainted by the original illegality and, therefore, inadmissible. In rejecting this argument, the Supreme Court found that the goals of *Miranda* were satisfied by the suppression of the unwarned statement and that "no further purpose is served by imputing 'taint' to subsequent statements"¹² lawfully obtained.

Finally, in *Harris v. New York*¹³ and *Oregon v. Hass*,¹⁴ the Supreme Court concluded that statements taken in violation of *Miranda* may be used for impeachment purposes. In both cases, defendants had given statements that could not be used in the government's case in chief because of technical violations of *Miranda*. In order to preclude defendants from falsifying testimony with impunity, however, the Court held that the tainted statements could be used to impeach the defendants when they testified inconsistently at trial.

A Strategy of Intentional Violations

These limitations on the effects of *Miranda* have encouraged some law enforcement officers to conclude that they have "little to lose and perhaps something to gain"¹⁵ by disregarding the *Miranda* rule. When custodial suspects invoke their *Miranda* right to counsel, officers know they cannot lawfully continue to interrogate those suspects until defense attorneys are



“ Since Rochin, the measure for determining violations of the Fifth Amendment guarantee of due process has been whether government action ‘shocks the conscience of the court.’ ”

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

present.¹⁶ Recognizing that the chances of obtaining incriminating information from counseled suspects are relatively remote, some law enforcement officers may choose to ignore invocations of the right to counsel and continue to interrogate suspects with the intention of gaining witness information or impeachment material. At the very least, officers may continue questioning in an effort to "let the cat out of the bag" with the hope of gaining admissible statements at a later date.

The Potential for Civil Liability

Although interrogation strategies that ignore invocations of *Miranda* rights clearly defy the mandates of the Supreme Court, until recently, courts had not presented any compelling legal reasons to avoid the technique. The variety of uses for statements taken in violation of *Miranda* made the technique advantageous in criminal prosecutions, and there was no precedent for holding law enforcement officers or departments civilly liable for the intentional violation of *Miranda* rights.

In the past, officers sued in federal court pursuant to Title 42 United States Code (U.S.C.) §1983, or the cause of action created in *Bivens v. Six Unknown Federal Narcotics Agents*,¹⁷ could easily defend claims of liability based on alleged violations of *Miranda*. Both Section 1983 and *Bivens* actions require that plaintiffs prove that law enforcement officers deprived claimants of their federal constitutional or statutory rights. Because the Supreme Court has characterized the *Miranda* protections as

prophylactic and not prescribed by either the Constitution or federal statute, virtually every court of appeals that has confronted the issue has held that no actionable civil liability claim results from a violation of those protections.¹⁸

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”**

The unanimous fashion with which the appellate courts have handled civil suits against law enforcement officers alleging failures to comply with *Miranda* has one notable exception. In *Cooper v. Dupnik*,¹⁹ the United States Court of Appeals for the Ninth Circuit held that intentional violations of *Miranda* may result in law enforcement officers' being held personally liable for depriving individuals of either their Fifth Amendment protection against compelled self-incrimination or the constitutional guarantee of due process.

Liability Under Self-Incrimination Clause

In *Cooper*, local law enforcement officers in the Tucson, Arizona, area formed a task force to investigate a series of rapes, robberies, and kidnappings. Officers

suspected that one person was responsible for the vast majority of the offenses under investigation and dubbed the unknown suspect the "Prime Time Rapist." Even before a suspect was identified, the task force formed an interrogation strategy and selected the officer who would carry it out.

The planned interrogation strategy called for a full advice of rights prior to interrogation, but in the event of a *Miranda* invocation, interrogation would continue until a confession was obtained. Although the framers of the strategy knew any confession generated by this approach would be inadmissible in the government's case in chief, they hoped to get impeachment material that would inhibit the defendant from taking the stand and claiming his innocence or pursuing an insanity defense.

When Michael Cooper was mistakenly identified as a suspect in the case, he was arrested, advised of his rights, and, in accordance with the preplanned strategy, questioned at length, despite numerous invocations of the rights to silence and counsel. When the interrogation yielded no significant results and the mistakes leading to his identification as a suspect surfaced, Cooper was released from custody and never prosecuted.

Cooper subsequently filed a Section 1983 action against several of the law enforcement officers involved in his arrest and interrogation, alleging numerous violations of his constitutional rights.²⁰ After a hearing on the motions for summary judgment filed by the defendants, the district court dismissed a majority of Cooper's claims. The claims

that survived centered around the in-tentional violation of Cooper's *Miranda* rights.

On appeal, the defense advanced the time-tested argument that the *Miranda* safeguards are not constitutionally mandated and, therefore, cannot support a claim under Section 1983. The court of appeals initially agreed with this argument and dismissed Cooper's remaining claims.²¹ However, after securing a rehearing by the entire panel of the appellate court, Cooper was successful in having his *Miranda* claims reinstated.

The court's reinstatement of Cooper's *Miranda* claims was based largely on the intentional nature of the violations and the coerciveness of the interrogation that followed. The court found that the blatant refusal to honor Cooper's asserted rights generated a feeling of helplessness in Cooper that was exacerbated by the hours of "harsh and unrelenting"²² questioning that followed. According to the court, the result of this psychological gamesmanship was that Cooper was compelled to make statements to the interrogators.²³ Although these statements were never used against Cooper, the court found that the Fifth Amendment protection against self-incrimination that underlies *Miranda* had been infringed by the mere fact that Cooper was coerced into making involuntary statements during the custodial interrogation.

The court in *Cooper* made clear that it was not creating a cause of action for technical violations of *Miranda*.²⁴ "Where police officers continue to talk to a suspect after he asserts his rights and where they do

so in a benign way, without coercion or tactics that compel him to speak,"²⁵ no successful Section 1983 action should result. However, the court made it equally clear that intentional violations of *Miranda* would be viewed as a factor in determining whether "coercion or tactics" compelled custodial subjects to speak.

Under this analysis, an officer might conclude that only those intentional violations that contribute to the procuring of involuntary statements are actionable under Section 1983. However, such a reading of the court's decision in *Cooper* is misleading since the court also offered an alternative basis for liability.

"Accidental failures to negotiate the *Miranda* maze...generally have not resulted in any successful civil suits against law enforcement officers or agencies."

Liability Under Due Process Clause

The door that was left open under the Fifth Amendment self-incrimination analysis in *Cooper* was thereafter closed when the court considered the due process implications of intentional violations of *Miranda*. Although never raised by Cooper, the court gratuitously

addressed the issue of whether the intentional disregard for the Supreme Court rule in *Miranda* shocked the conscience of the court and, thus, constituted a violation of the due process protection.

In *Rochin v. California*,²⁶ the Supreme Court considered the lawfulness of a highly intrusive, warrantless search of an individual. In condemning the action, the Court held that the search "offended those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses"²⁷ and "shocked the conscience of the court."²⁸ Since *Rochin*, the measure for determining violations of the Fifth Amendment guarantee of due process has been whether government action "shocks the conscience of the court."

Applying this standard of review to the facts in *Cooper*, the court concluded that the intentional nature of the *Miranda* violation contributed greatly to its finding that the government conduct was shocking to the conscience. Particularly offensive to the court was the government's stated purpose of obtaining a statement that would keep Cooper from testifying on his own behalf or asserting the insanity defense. According to the court, "It is proper to anticipate defenses and to work vigorously to meet them. But when the methods chosen to gather such evidence and information are deliberately unlawful and flout the Constitution, the legitimacy is lost."²⁹

The court's finding that the intentional violation of *Miranda* violated Cooper's right to due process

may have a far greater impact on law enforcement interrogation practices than its holding that the protection against compelled self-incrimination was infringed. As previously noted, the court's finding of a self-incrimination infraction resulted from the intentional violation being combined with coercive interrogation to produce a compelled statement. Under the court's due process analysis, however, Section 1983 liability for government conduct deemed shocking to the conscience could be based solely on a preplanned strategy to violate *Miranda* intentionally even though no coercive interrogation took place.

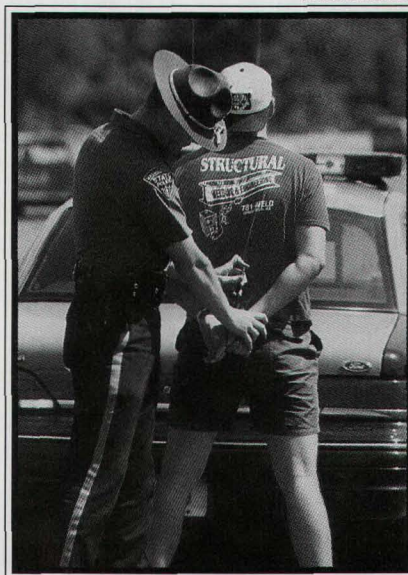
Conclusion

Although *Cooper* is the only federal court of appeals decision thus far to hold that intentional violations of *Miranda* give rise to a civil claim under Section 1983, law enforcement officers should be aware that the precedent has been set. This precedent was subsequently followed in *California Attorneys for Criminal Justice v. Butts*,³⁰ when the district court relied on the decision in *Cooper* to hold that an alleged policy to disregard invocations of *Miranda* rights could support a claim under Section 1983.

Because the argument that intentional violations of *Miranda* contravene the protections of the Constitution has met with success in these cases, it is likely that plaintiffs will raise the same argument in other courts. Although other appellate courts may refuse to adopt the rationale advanced in *Cooper*, law enforcement officers should

weigh carefully the possibility of civil suit and consult with a departmental legal advisor prior to implementing any interrogation strategies that call for intentional *Miranda* violations. ♦

Photo © Mark Ide



Endnotes

- ¹ 384 U.S. 436 (1966).
- ² The Fifth Amendment to the U.S. Constitution provides in pertinent part that "no person...shall be compelled in any criminal case to be a witness against himself..."
- ³ See, e.g., *Michigan v. Mosley*, 423 U.S. 96 (1975) (interpreting the invocation of the right to silence); *Edwards v. Arizona*, 451 U.S. 477 (1981) (interpreting the invocation of the right to counsel); *Minnick v. Mississippi*, 111 S. Ct. 486 (1990) (further interpreting the invocation of the right to counsel); *Davis v. United States*, 114 S. Ct. 2350 (1994) (determining the clarity necessary for an invocation of the right to counsel).
- ⁴ *Miranda*, 384 U.S. at 479 (evidence obtained in violation of *Miranda* is generally inadmissible).
- ⁵ See *Mahan v. Plymouth County House of Corrections*, 64 F.3d 14 (1st Cir. 1995) "Every court of appeals which has spoken to this matter in similar circumstances has held that no Section 1983 claim lay." *Id.* at 17.
- ⁶ See *Cooper v. Dupnik*, 963 F.2d 1229 (9th Cir. 1992) (en banc), and *California Attorneys for Criminal Justice, et al., v. Butts*, 922 F. Supp. 327 (C.D. Calif. 1990).
- ⁷ *Michigan v. Tucker*, 417 U.S. 433 (1974).
- ⁸ *Ibid.*
- ⁹ The interrogation in *Tucker* preceded the Court's decision in *Miranda*. The defendant was advised of his right to silence and counsel but was not told of the availability of appointed counsel.
- ¹⁰ The Court stated that although *Tucker* was able to block the admission of his own statement, it did not "believe that it requires the prosecution to refrain from all use of those statements. 417 U.S. at 452.
- ¹¹ 105 S. Ct. 1285 (1985).
- ¹² *Id.* at 1298.
- ¹³ 401 U.S. 222 (1971).
- ¹⁴ 420 U.S. 714 (1975).
- ¹⁵ *Id.* at 723.
- ¹⁶ See *Minnick v. Mississippi*, 111 S. Ct. 486 (1990).
- ¹⁷ 102 S.Ct. 2727 (1982).
- ¹⁸ See, e.g., *Mahan v. Plymouth County House of Corrections*, 64 F.3d 14 (1st Cir. 1995) and cases cited therein.
- ¹⁹ 963 F.2d 1220 (9th Cir. 1992) (en banc).
- ²⁰ *Cooper* claimed a denial of his right to counsel and silence, false arrest, false imprisonment, improper training and procedures, injury to reputation and property interest, invasion of privacy, illegal search and seizure, and conspiracy.
- ²¹ 924 F.2d 1520 (9th Cir. 1991).
- ²² 963 F.2d at 1243.
- ²³ *Cooper* never retreated from his claims of innocence but did make some statements that may have been slightly damaging had the criminal case gone to trial.
- ²⁴ 963 F.2d at 1243-44.
- ²⁵ *Id.*
- ²⁶ 342 U.S. 165 (1952).
- ²⁷ *Id.* at 169.
- ²⁸ *Ibid.*
- ²⁹ 963 F.2d at 1250.
- ³⁰ 922 F. Supp. 327 (C.D. Calif. 1996).

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

FBI Law Enforcement Bulletin

Author Guidelines

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The *FBI Law Enforcement Bulletin* is an official publication of the Federal Bureau of Investigation and the U.S. Department of Justice.

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Audience: Criminal justice professionals, primarily law enforcement managers.

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Length: Feature article submissions should be 2,000 to 3,500 words (8 to 14 pages, double-spaced). Submissions for specialized departments, such as Police Practice, Case Study, and Sound Off, should be 1,200 to 2,000 words (5 to 8 pages, double-spaced).

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

References should be used when quoting a source exactly, when citing or paraphrasing another person's work or ideas, or when referring to information that generally is not well known. Authors should refer to *A Manual for Writers of Term Papers, Theses, and Dissertations*, 6th ed., by Kate L. Turabian, for proper footnote citation format.

Research papers, reports, and studies should be revised to reflect the editorial needs of the *Bulletin*. Subheadings and lists should be used to break up the text and provide direction to readers.

Writing Style and Grammar: Articles generally should be written in the third person. (Point of View and Sound Off submissions are exceptions.) The *Bulletin* follows the *The*

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Basis for Judging Manuscripts: Material that has been published previously or that is under consideration by other magazines will be returned to the author. Submissions will be judged on the following points: Relevance to audience, factual accuracy, analysis of information, structure and logical flow, style and ease of reading, and length. Generally, articles on similar topics are not published within a 12-month period. Because the *Bulletin* is a government publication, favorable consideration cannot be given to articles that advertise a product or service.

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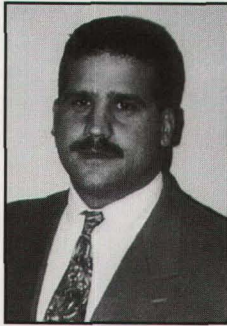
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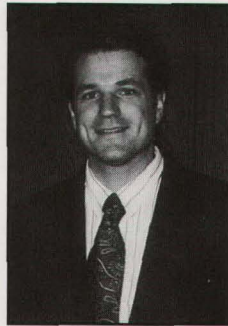
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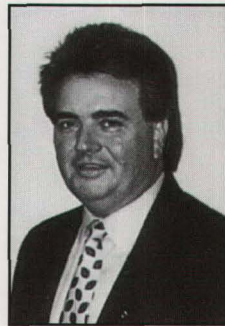
Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize their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



Detective Cuozzo



Detective Donlon



Lieutenant Noonan

Just hours after officers from the Maplewood Township, New Jersey, Police Department responded to the report of an armed and violent carjacking, members of the department's detective bureau—who had initiated a surveillance of likely hideaway locations—spotted two men entering the stolen vehicle and driving away. Detectives followed the suspects from the heavily traveled area to a more

remote location where they could more safely apprehend the pair. When the suspects' vehicle came to a momentary stop, Detective Vince Cuozzo approached in his cruiser and blocked the car from the rear as Detective John Noonan blocked it from the front. Immediately sensing a trap, the driver rammed the police vehicles several times and sped away, leading the detectives on a high-speed pursuit. The suspects' vehicle came to a halt after colliding with another vehicle. However, when Detective Franke M. Donlon approached the vehicle on foot to apprehend the suspects, the driver attempted to run over him. As Detective Donlon dove out of the vehicle's path, it collided with Lieutenant Noonan's cruiser, and the suspects ran from the vehicle. After a lengthy foot pursuit, Detective Donlon knocked the suspects to the ground and struggled to control them. Detective Cuozzo assisted him in controlling and handcuffing the suspects. The two suspects subsequently were convicted of numerous crimes, including the murder of a retired chief of police from a nearby community.



Officer Tyree

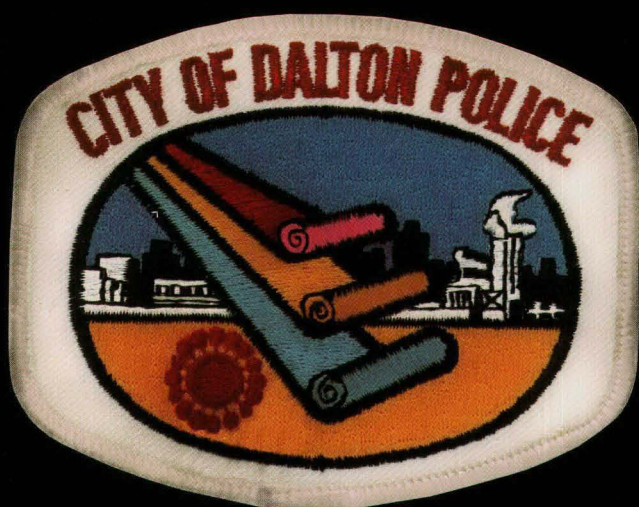
While on patrol, Officer Sherri Leigh Tyree of the Portsmouth, Ohio, Police Department detected a thin stream of black smoke rising from the top of a boat docked at the river bank. When Officer Tyree stopped to investigate, she heard faint cries for help. After notifying her dispatcher, Officer Tyree descended the bank and approached the burning craft. As she prepared to climb on board, an explosion blew out the windows and sent flames shooting into the air. She then heard more calls for help and located a man lying face down in shrubbery a few feet from the burning boat. The man suffered from a gash on his forehead and was unable to move. As Officer Tyree attempted to carry the victim away from the flames, he lost consciousness. She continued her efforts and succeeded in pulling the man up the river bank just as several explosions destroyed the craft and consumed the accident scene in intense heat and smoke. She cared for the seriously injured victim until an ambulance arrived and transported him to a local hospital for treatment. Officer Tyree currently works for the Ohio University Police Department in Athens.

U.S. Department of Justice
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535-0001

Periodical
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Federal Bureau of Investigation
ISSN 0014-5688

Official Business
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Patch Call



The City of Dalton, Georgia, Police Department patch features three colorful carpets unrolling across a background of the city's many carpet factories. The City of Dalton is nicknamed the Carpet Capital of the World because nearly 85 percent of the world's carpets reportedly are produced there.



The patch of the Fort Wright, Kentucky, Police Department features the Fort Wright City Building, built in 1990. The city was established in 1941 and named after Major General Horatio Gouverneur Wright, a commander in the Union Army during the Civil War.