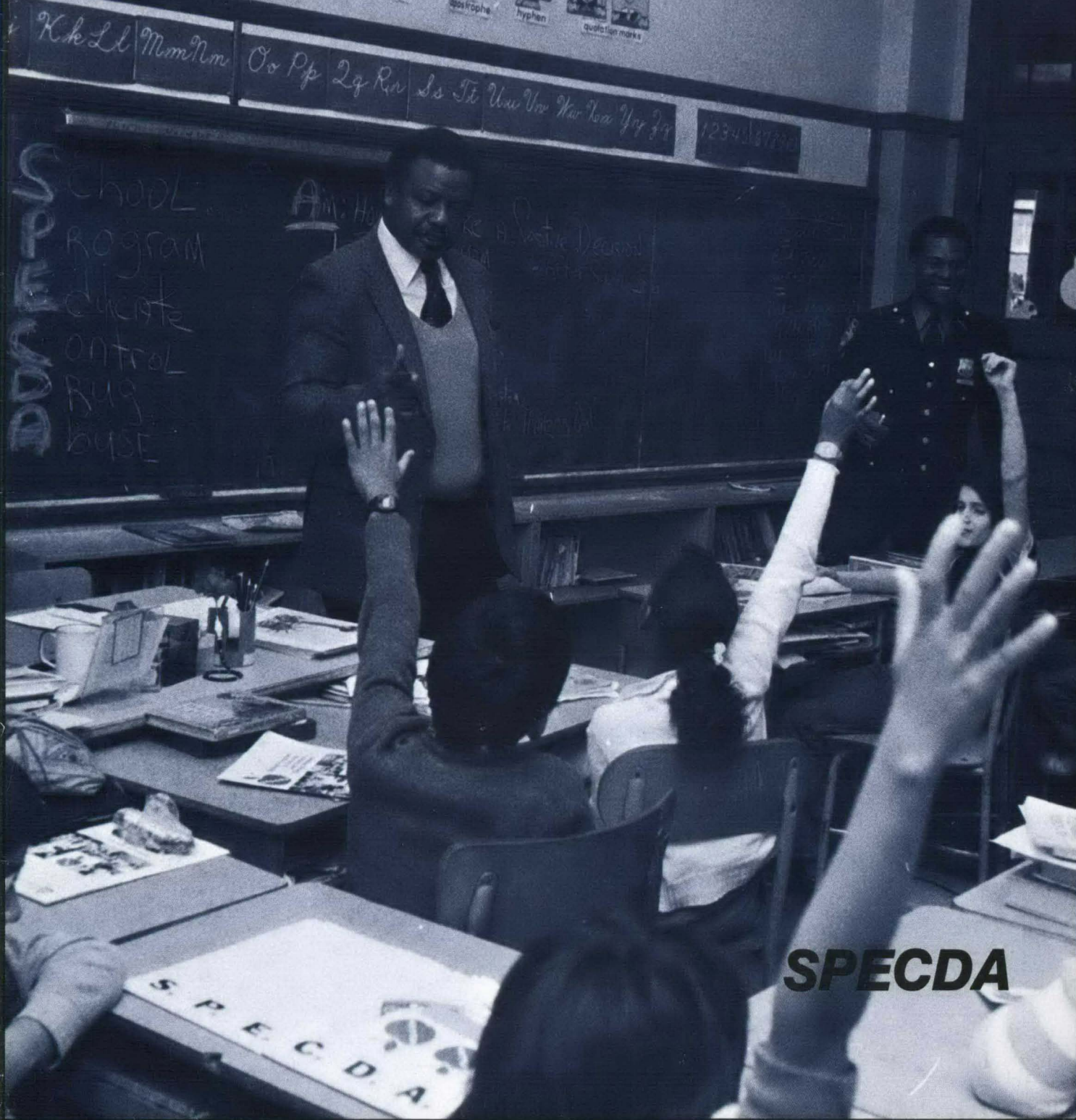




February 1986

FBI

Law Enforcement Bulletin



Contents

February 1986, Volume 55, Number 2

- Drugs** **1** **Operation SPECDA: School Program to Educate and Control Drug Abuse**
By Wilhelmina E. Holliday
- Management** **5** **Evaluation—A Tool for Management**
By Richard C. Sonnichsen and Gustave A. Schick
- Training** **11** **Training Doesn't Have To Be Expensive To Be Good**
By James M. Bradley
- Firearms** **15** **Reducing Airborne Lead Exposures in Indoor Firing Ranges**
By Steven A. Lee
- Operations** **19** **Use of Police Auxiliary Officers in Crowd Control Situations**
By Frank Woodward
- Legal Digest** **23** **Interrogation: Post *Miranda* Refinements (Part 1)**
By Jeffrey Higginbotham
- 31** **Wanted by the FBI**

The Cover:

Operation SPECDA is designed to assist young people in resisting the temptation to use drugs. See article p.1

FBI

Law Enforcement Bulletin

**United States Department of Justice
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William H. Webster, Director

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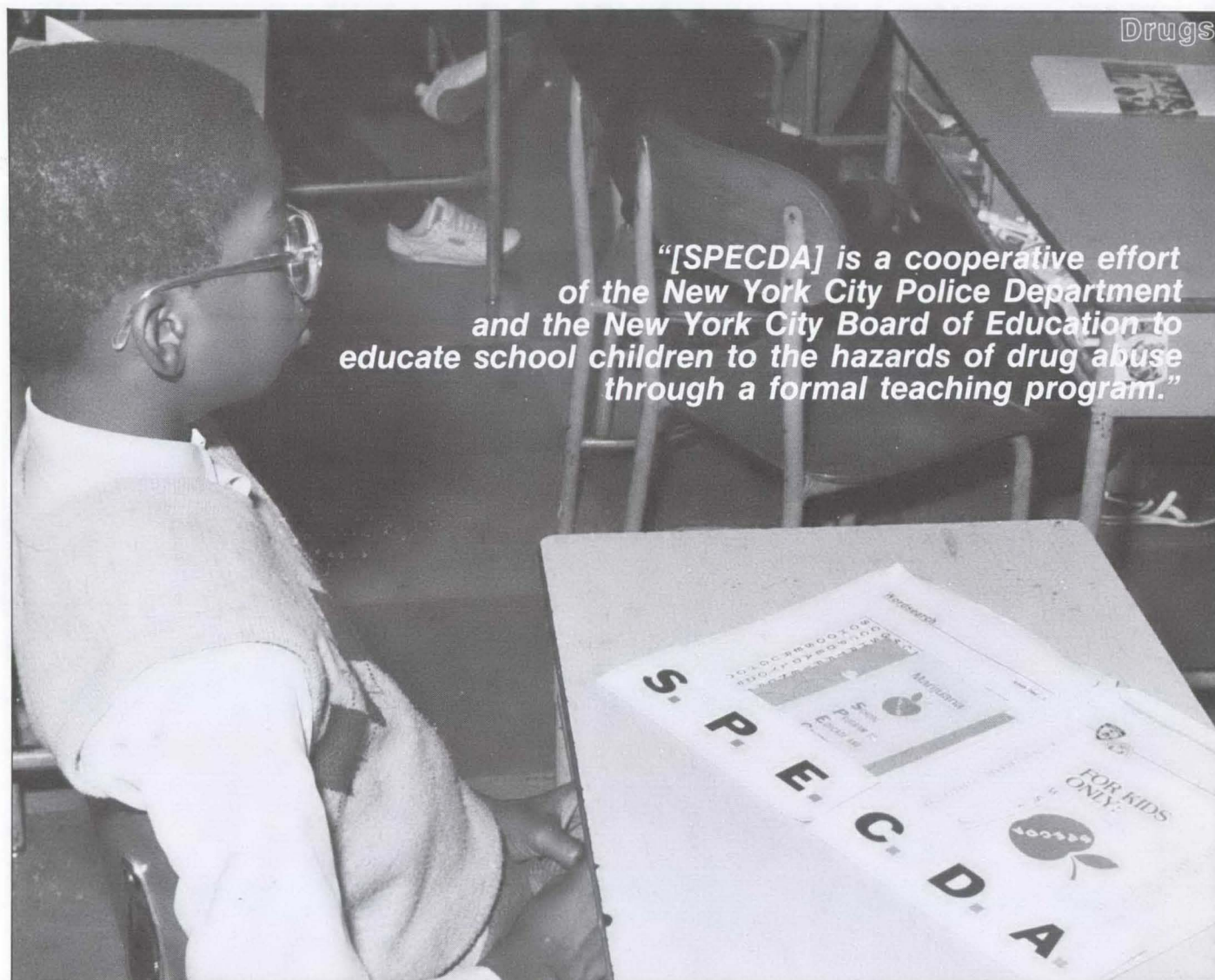
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"[SPECDA] is a cooperative effort of the New York City Police Department and the New York City Board of Education to educate school children to the hazards of drug abuse through a formal teaching program."

Operation SPECDA

School Program to Educate and Control Drug Abuse

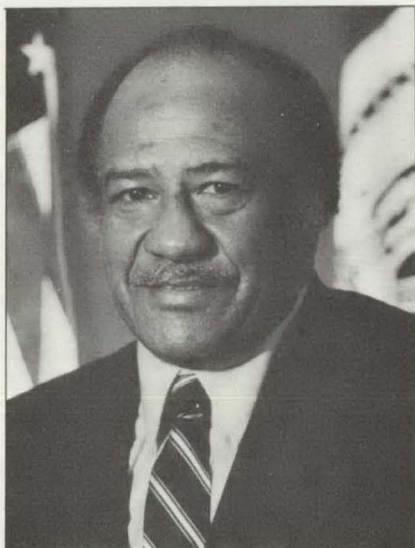
The New York City Police Department and Board of Education have jointly embarked on a program to reduce and/or eliminate the sale of drugs in the vicinity of New York City schools, while simultaneously providing school-age children with an awareness of the hazards of drug abuse. Code named Operation SPECDA (School Program to Educate

and Control Drug Abuse), this program began on September 20, 1984. To attain its goal, SPECDA has a two-track approach. Track I, enforcement, involves arrests by the department's Narcotics Division, Organized Crime Control Bureau, for the illegal sale of drugs and the closure of so-called "smoke shops"¹ operating within a 2-block radius of New York City

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schools. Track II, education, is a cooperative effort of the New York City Police Department and the New York City Board of Education to educate school children to the hazards of drug abuse through a formal teaching program.

The educational track of Operation SPECDA began on February 4, 1985. The police department, in order to obtain the best possible police officer participants for the SPECDA educational program, sought volunteers from the Patrol Services Bureau. Of the 300 candidates applying for the program, 50 were ultimately selected.

The screening and selection process included background review, educational achievement, experience in youth work, appearance, communication skills, attitude, motivation, and sincerity. A conscious effort was made to ensure that the officers selected would be representative of the ethnic composition of the school system and the school districts in which they were to be assigned. As a result, 32 of the 50 officers chosen were either black, Hispanic, or female. Most of the officers reside within the City of New York and represent of all five boroughs. The educational background of the officers participating in the program ranges from Ph.D. and Masters candidates to holders of Masters and Baccalaureate degrees, with all having had at least some college education. In addition, some of the officers selected were born and raised in the school districts in which they are now teaching, and in some cases, attended the very same schools.

As designed by the police department and the board of education, the goals of the educational component of SPECDA are as follows:

- 1) To alter constructively the attitudes and perceptions of young people pertaining to drug abuse;
- 2) To increase student awareness of the effects and consequences of drug and substance abuse;
- 3) To build a foundation for a constructive, ongoing dialogue between police officers and young people; and
- 4) To expand a cooperative, educationally constructive working relationship between the New York City Board of Education and the New York City Police Department.

The overall goal of SPECDA is to reduce the likelihood of drug usage among the student population by focusing on younger students who are assumed less likely to be current drug users. Students in grades 5 and 6 were selected as the target population for this concentrated effort because it is at that age that children form their attitudes toward drugs and first come in contact with the conflicting pressures regarding drug abuse. The Elementary School Education Program, SPECDA's major thrust, helps children learn to resist the temptation to participate in drug activity.

The Elementary School Education Program lasts 16 weeks. All fifth and sixth grade students receive 16, 45-minute sessions, 8 sessions in the fifth grade and 8 in the sixth grade. The 16 sessions, covering 2 academic years, are taught by the same team consisting of a uniformed police officer and a board of education drug counselor. The program encompasses 7 of New York City's 32 school districts,

using a total of 21 teams comprised of both males and females representing the city's ethnic diversity. While the actual instruction is given by the police/counselor team, the students' regular teacher is also present and is encouraged to participate actively.

Prior to entering the classroom, each team participated in 5 weeks of training. The training course presented by the police department and the board of education, specifically the Division of Curriculum and Development, strengthened the team-teaching concept and included such areas as classroom management and strategies, team leadership, lesson planning, and teaching techniques. The police department used the expertise of such units as the Narcotics Division, Organized Crime Control Bureau, Police Academy Instructional Development Unit, and the Advance Specialized Training Unit. Topics included narcotics identification, narcotics laws, methods of instruction, identifying child abuse, use of audio-visual equipment, and film presentations.

Although there are two separate curricula for fifth and sixth grades, the focus of each eight-session course remains the same. The areas covered during the course include an introduction of SPECDA (presents an overview of the SPECDA Program), self-awareness (develops in the students a sense of their identities and fosters a positive self-image), peer pressure (develops an understanding of peer pressure and its influence on their behavior), strategies for resisting peer pressure—developing positive decisionmaking strategies (helps students develop strategies for saying "NO"), drug use—pharmacology (pre-

sents information to students about drugs and the dangers of drug abuse), drug consequences (fosters a sense of individual and civic responsibility in students), leadership—positive alternatives (encourages students to develop behaviors and activities as alternatives to substance abuse), and culmination (a summary and evaluation of the program and presentation of awards).

After each lesson, a handout supporting that lesson is distributed to the students and classroom teacher (e.g., self-awareness booklet, peer pressure booklet, etc.). These handouts, developed by SPECDA personnel, were partially funded by the New York City Youth Board. At the conclusion of the 16 weeks, each student and classroom teacher will have a complete package of the SPECDA Educational Program. Moreover, a hard copy of the curriculum will be retained by school officials as a permanent library resource.

Teams make presentations 3 days a week in the fifth and sixth grades. On other days, a district assembly program is presented to grades kindergarten through four and in the junior high schools in each participating school district. In K-4, the 2-hour presentation provides an introduction to SPECDA, and on the junior high school level, the 2-hour presentation reinforces the SPECDA program.

The Elementary School Education Program also recognizes the importance of parental involvement. To this end, SPECDA conducts an evening workshop program for parents, led by the same instructors who are involved with the students. The aim of these discussions is to provide parents with information about drug abuse, to inform them about the educational program presented to their children, and to elicit their help in reinforcing the SPECDA message.

A total of 154 schools in the 7 selected school districts are now participating in the program. Within these 154 schools, a total of 744 classes are being reached—70 classes are on the lower east side of Manhattan, 70 in Harlem, 190 in the Bronx, 126 in Queens, 67 in Bedford Stuyvesant, Brooklyn, 114 in Bay Ridge, Brooklyn, and 107 classes in Staten Island. Pursuant to this schedule, approximately 19,500 students will be exposed to the program during the current school year.

An additional component of SPECDA is an assembly program on the dangers of drug abuse, which is presented to students in the 25 school districts *not* receiving the 16-week lesson plan. The program is grade-specific, i.e., elementary, junior high, and high school students. Each level receives separate scenarios taught by specialized SPECDA teams. The "assembly teams" reach large groups of students on the topic of drug abuse, the difficulties in resisting peer pressure, and positive alternatives, via a multimedia presentation. These topics are presented through a speaker, films, and other educational materials.

Following the large assembly presentation, students are divided into small groups in order to give them the opportunity to explore the topics covered in detail. Where appropriate, students experiencing personal problems with drugs are referred to counseling and other social services. The SPECDA planners anticipate that during a school month, approximately 16 operational days, 15,000 students will be reached by the three levels of the assembly program.

"... SPECDA will provide help and support to youngsters to assist them in resisting drug involvement."



A qualitative and quantitative evaluation of the SPECDA Program was conducted by the Criminal Justice Center at John Jay College, funded by a private foundation. The evaluation, which included both pre- and post-test interviews of comparison and control groups, as well as classroom observations, was designed to determine the effectiveness of the elementary school educational program and the assembly educational program. In a brief statement regarding the findings, the evaluators said, "SPECDA appears to be a program delivered at the right time, in the right place, to the right people."

Although the focus of this article has been track II of SPECDA, the enforcement track, as of this date, has targeted 357 schools, covering all grade levels. A total of 6,229 arrests have been made, of which 57 percent

were felonies, 38 percent misdemeanors, and 5 percent violations. Of the total number of arrests, 63 percent were made in the vicinity of elementary schools. The types of drugs most prevalent were marijuana and cocaine, respectively representing 40 percent and 33 percent of all arrests. Only 4 percent of those arrested were students, while 78 percent were over 20 years of age. An estimated \$1.1 million (street value) of narcotics has been seized, U.S. currency totaling over \$365,000 has been impounded, and over 80 firearms have been confiscated thus far. Furthermore, as of this writing, 91 arrests are being prosecuted under a new Federal statute (21 USC sec. 845A), mandating enhanced penalties for distributing controlled substances within 1,000 feet of elementary or secondary schools.

It is the hope of SPECDA's planners that the mix of law enforcement activity with innovative educational programs and the partnership between

the police department and the board of education can reduce the susceptibility of young people to the scourge of drugs. The temptations of drug abuse are strong. Pressures on youngsters are great. However, through the comprehensive and concentrated efforts of these two agencies, SPECDA will provide help and support to youngsters to assist them in resisting drug involvement.

FBI

Footnote

The phrase "smoke shops" alludes to outwardly legitimate storefront businesses, such as candy stores or novelty shops, which covertly deal in the sale of controlled substances.

Evaluation

A Tool for Management

"Meeting the informational needs of the decisionmaker is of paramount importance and should be the goal of the evaluator."

How many times have you made a major policy decision wishing you had more or better information? Have you often wanted more time to study an issue before deciding on a course of action? Have you ever, in exasperation, believed your decisionmaking process could best be described as "muddling through"?¹ Are you sometimes skeptical of claims made by your managers citing the success of programs under their direction? This article will describe a technique to increase the amount and quality of information you need to better manage your resources, improve your decisionmaking process, and reduce the level of uncertainty in the management process.

Law enforcement functions in a complex environment. Policy decisions by managers are often subject to intense review and scrutiny, not only by those immediately affected within the organization but also by the public and media. Difficult decisions made on complex issues within short time frames often preclude indepth research. Policy making is never a clear cut process, seldom presents clear choices, and usually results in compromises among many options. Many times we "muddle through" the decisionmaking process with insufficient information. Information may be available to assist the decisionmaker but is not used because it is unavailable at the time or in an unusable form.

The effectiveness and productivity of important programs may go undetermined because of a lack of suitable measurement criteria. Programs implemented for a legitimate cause may be left unattended and become stagnant and ineffective or drift away from their original intent. Programs with merit sometimes never become effective because of faulty design or improper implementation. "Ideas in good currency" fail to even reach program status because they lie buried under layers of bureaucracy, unable to surface due to the lack of a suitable management mechanism for review.

Evaluation is the management technique that can help alleviate these problems and aid the decisionmaker. The thesis of this article is that the technique of program evaluation can assist managers and administrators in making better informed decisions and reduce uncertainty about programs by furnishing relevant, useful information in a timely fashion.

Program evaluation has been defined as the "application of systematic research methods to the assessment of program design, implementation and effectiveness."² Although this definition accurately describes the business of program evaluation, our view of evaluation is broader and places an evaluation staff in the role of an internal management consulting firm. In addition to evaluation activities, the skills and experience of an evaluation staff can be used in a variety of problem-

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solving situations and is a valuable resource for managers.³

The FBI Experience

Formal, structured evaluations in the FBI began in 1972 with the formation of the Office of Planning and Evaluation (OPE), with six Special Agents reporting to an Assistant Director. The purpose of the office at that time was to serve in an advisory capacity to the Director of the FBI, coordinate Bureauwide planning, promote research and development, evaluate plans and policy, and conduct surveys and studies.⁴ Since that time, the size of the staff has fluctuated between 6



Deputy Assistant Director Sonnichsen



Special Agent Schick

and 14, with evaluators selected from the ranks of Special Agent investigators who are potential candidates for executive positions in the Bureau.

In our opinion, the advantages of an in-house evaluation staff outweigh the use of outside consultants for the FBI. Using experienced Special Agents as evaluators brings instant credibility when conducting interviews with other Agents. The Agent evaluator also has knowledge of the structure and administration of the FBI, and due to his varied experience, has a working knowledge of most of the investigative programs to be evaluated.

Evaluators in the FBI are used primarily in three different ways: (1) In a classic evaluation sense: reviewing major investigative programs on a 5-year cycle; (2) as policy analysts, studying topics selected by top management with a short response time; and (3) as management consultants, reviewing specific management problems to determine the most effective and efficient means to manage. The majority of projects chosen for evaluation or study originate from an annual survey of field executives; however, some studies are self-initiated by the staff where a problem has surfaced during other evaluation activities.

Although the FBI evaluation staff is organizationally located in the Inspection Division reporting to the Director, evaluation is distinct from the inspection function and should not be confused with it. While the usual purpose of an inspection is to check compliance and determine responsibility where deficiencies are encountered, evaluation has as its purpose program improvement. Successful evaluations are conducted in a spirit of cooperation with the program manager contributing

input throughout the evaluation. Numerous studies have shown,⁵ and our experience validates, that use of evaluation findings by affected decision-makers is significantly dependent on cooperation during the evaluation process and the extent of involvement of the individual program manager.

Much of the available literature on evaluation refers to "evaluation research." The word "research," used in conjunction with evaluation, evokes a strong, negative reaction in the minds of many executives who fear they will be overwhelmed and intimidated by the material presented. Use of this terminology creates unnecessary impediments to the use of evaluation findings. Usefulness should be the major criteria for measuring evaluation findings. Meeting the informational needs of the decisionmaker is of paramount importance and should be the goal of the evaluator. The policy maker's questions should drive the evaluation process. It is the responsibility of the evaluator to produce information that is timely, relevant, and in a form easily understood by the user. Complex statistical analysis can be counterproductive and is seldom necessary.⁶ A noted evaluation author, Michael Quinn Patton, has said, "I would rather have 'soft data' on important questions than 'hard data' on unimportant questions."⁷

Evaluation can be used to effect organizational change. Our experience has been that program change usually begins when an evaluation starts and is not dependent on the completion or issuance of a report. The analysis of programs and objectives can redefine and sharpen policy procedures, thereby creating a more effective and efficient organization. Monitoring program output makes information available on resource usage that can affect future manpower distribution patterns.

"... program evaluation can assist managers and administrators in making better informed decisions and reduce uncertainty about programs by furnishing relevant, useful information in a timely fashion."

Quantitative data from information systems can be illuminated with qualitative data gathered by experienced evaluators through indepth interviews of program managers and participants.

Establishing An Evaluation Staff

Before committing to the concept of evaluation as a management tool, you, as a law enforcement executive, should conduct a mini-evaluation of your own. You need to reflect on your style of management and leadership and the environment of your department to determine if this technique might be of assistance. Contemplating your own situation is critical before establishing an evaluation staff. To assist in making this decision, we have developed a nine-point diagnostic test to determine if an evaluation group could be of assistance.

- 1) Am I comfortable with the quality and quantity of information I have available to make major decisions?
- 2) Am I sufficiently knowledgeable of all major aspects of my department to make informed decisions?
- 3) Do I know if my policies and programs are being practiced or given lip service?
- 4) Are my programs efficient and effective and do I have a system for feedback on program performance?
- 5) Am I comfortable with the productivity levels of units under my command?
- 6) Do I have sufficient information available to me to judge comprehensively the performance of my subordinates?
- 7) Do I have a selection method for identifying potential top executives?

8) Is any part of my department responsible for organizational change or program improvements?

9) Is my managerial style such that I would solicit and use information from an evaluation group if I had one?

Asking yourself these questions should assist in defining the current state of organizational development in your department and force you to examine not only the organizational climate but your own management style. The questions are designed to establish a mental, schematic diagram of the information availability, flow, and usage in your organization.

An evaluation staff will divert some resources from other areas. The critical question then is cost effectiveness. Although difficult to measure, criteria can be established to determine the effectiveness of evaluation activities.

A few examples from our experience may help demonstrate the value of evaluation. A major philosophical shift in the FBI's approach to investigative activities occurred in the mid-1970's and was made possible by a staff of evaluators responding to a mandate from newly appointed FBI Director Clarence M. Kelley to examine the FBI's management structure and traditional approach to investigations. This multi-year project in OPE resulted in a resource management and utilization concept. It was aided by an information system which redirected limited Agent resources to the most significant criminal investigations.

An evaluation of the FBI's foreign language program determined its administration was divided among four divisions at FBI Headquarters. Recom-

mendations to consolidate all functions under one division have increased the effectiveness and efficiency of the program. Evaluation of the methodology used to determine the training needs of our veteran investigators has improved that procedure. An evaluation of the management of FBI resident agencies (small offices outside of a headquarters city) recommended three options for managing these offices to maximize productivity and insure proper workload distribution. Recent evaluations of our property crimes, fugitive, and general government crimes investigative programs resulted in recommendations to increase the efficient use of available manpower. Automation of indices, Special Agent transfer policy, and procedures for conducting background investigations are examples of administrative evaluations we conduct.

The Evaluation Unit is structured to examine quickly policy issues of concern to top management, and a 30-day turnaround time on these studies is not uncommon. The evaluation staff was recently requested to analyze the staffing and organizational structure of one of the FBI's regional computer centers. Neither complex in design nor scientifically rigorous, these short studies nevertheless aid the decisionmaker by furnishing him timely, relevant data.

The value of the evaluation process does not rely solely on the conduct of the study and the issuance of a report. It has been our experience that the mere presence of the evaluators causes managers to re-evaluate their programs, and many times, issue their own recommendations for program improvement long before the completion of the evaluation.

"... use of evaluation findings by affected decisionmakers is significantly dependent on the amount of cooperation during the evaluation process and the extent of involvement of the individual program manager."

Organizing For Evaluation

Be clear on purpose—Before the first line is drawn on an organization chart and before the first personnel file is reviewed for candidates, the purpose of the staff you are about to form should be very clear in your mind. Evaluation staffs can be used effectively in a variety of ways—as personal emissaries of the chief, as independent auditors, as an internal consulting staff to aid in the development of programs, or in any of an endless number of variations on these themes. Additionally, some evaluation staffs complete their evaluation activities with a written and/or oral report of their findings and make no recommendations for improvement; others make recommendations based on their findings, while still others not only make recommendations but get actively involved in implementation. The correct mode is the one which fits best with your personal managerial style and philosophy. What is important is that the manner in which the evaluation staff will be used and the purpose to which it will be put are clear at the outset and made clear to the staff. While there may be legitimate political and bureaucratic reasons to use an evaluation staff to legitimize decisions which have already been made, such use will quickly become apparent to the staff and others and is not a sound way to attract and keep talented people.

Locate staff correctly—Once you have conceptualized the purpose of the evaluation staff, you must locate it correctly within the organizational structure. We have found that the fewer layers of bureaucracy between the evaluation unit and the chief executive officer, the better. The fewer information filters between the evaluators and the executive, the less

distortion you will hear. We have also found that obtaining information is generally facilitated when the evaluation staff is perceived as operating with a direct mandate from the top. If you should choose to locate the evaluation unit further down in the organizational ladder, you should take steps to communicate personally and directly with the staff periodically in order to be aware of what they are doing and let them know of your concerns and support. An evaluation unit can be your eyes and ears, stay in close touch with them.

Staff well—The success or failure of your evaluation staff will depend to a large extent on the caliber of the people you choose. A good evaluator should have a broad range of experience and skills. He should be innovative and creative, critical and analytical, with a strong bias against "we've always done it that way" reasoning. He must be able to express himself well orally and in writing. Ideally, he should have an educational and/or professional background in management with a facility for using statistical and other quantitative techniques. Finally, he should be a sworn officer with sufficient time on the street to give him a thorough understanding of police work and credibility with fellow officers with whom he will have to interact. The evaluation staff in the FBI is comprised exclusively of Special Agents. While we occasionally sacrifice some technical expertise, we believe this is more than offset by the Agents' understanding of the nature of our work and the credibility these Agents have in the organization.

How many individuals are appropriate to staff your evaluation unit depends, of course, on the size of your department and the resources you have available. We believe a critical mass for an effective evaluation unit is

probably three individuals; one or two people will not have the dynamic interaction which generates creative thought processes and innovative solutions to problems.

Choose appropriate subjects—Take care in choosing issues for your evaluation unit to review, particularly at the outset while the staff is still getting its legs. The primary criterion is that issues should be something you care about. Nothing will destroy the morale of an evaluation unit faster, and cost it more credibility, than being assigned meaningless tasks or assignments which everyone concerned knows have no solution. Avoid the temptation to duck a difficult issue by saying "we have that under study." You may wish eventually to have all functional areas of the department evaluated on a cyclical basis; however, at the outset, pick areas that are of primary concern and where you will feel comfortable implementing changes.

Tasking

Now that you have defined the evaluation unit's purpose, located it within the organization, staffed it, and chosen initial subjects for evaluation, you must inform the staff of what you expect and how you expect it to be accomplished.

Focus on utility—While the investigation of esoteric subjects and the pursuit of knowledge for knowledge's sake is attractive in an academic atmosphere, the focus of evaluation efforts should be on the usefulness of the information developed. You will find one of the primary complaints of the evaluator is "nobody uses our product." Minimize this frustration and capitalize on your valuable evaluation resources by encouraging your staff to bear in mind constantly the importance

of developing information that is useful to you as a decisionmaker, not elegant research models and sophisticated analytic techniques.

Insist that your evaluation staff be objective, rigorous, and complete in their review of any set of activities, but do not demand that they always be "scientifically rigorous." While questions of causality and "replicability" are important to scientists, you are primarily interested in gaining objective information to improve your decision-making in an imperfect world. An exception to this would be in a situation where the basis for your decision may be challenged in court and you may be required to demonstrate the validity of the data. The development of hiring standards is an example of an area where you may wish to take pains to ensure the research is done in a scientifically supportable fashion.

Insist on time limits and clarity—Information is a perishable commodity, and the most accurate data analyzed in the most elegant fashion is useless if it arrives after a decision has already been made. We have found that without a sense of urgency from top management, evaluation projects can take an ever-increasing amount of time as new issues develop demanding further and further study. Set deadlines and insist they be met.

By the same token, evaluation results that lack clarity are not usable to you as a decisionmaker, and in the worst case, can add to the confusion they are meant to reduce. Whether you choose oral briefings, written reports, or what we have found to be most effective, a combination of the two, demand that evaluation results be presented to you in a clear, jargon-free, and concise fashion.

Make recommendations—Some evaluators take the position that their responsibility stops with the presentation of findings. We have found that taking the extra step and making recommendations for action is worthwhile. The evaluator is usually more familiar with the details of a particular issue and is in a better position to craft a recommendation than the executive. Once approved by the executive, the recommendations take on the character of directives.

Keep in mind also that over the period of the evaluation, much information comes to the attention of the evaluator that never reaches the final report and opinions are formed that cannot always be documented in a rigorous way. Although many evaluators are reluctant to comment outside the scope of the report, don't hesitate to solicit their opinions for they may be of value to you.⁸ An advocacy role supporting the recommendations in an evaluation does not compromise the evaluator, if the evaluation was conducted in an objective and unbiased manner.⁹

Follow up—Like other directives, some approved recommendations are implemented and some seem to fall through a crack. In the FBI, we contact the entity to whom the recommendations are directed 6 months following approval. We do sufficient review at that time to assure ourselves that the recommendation either has been implemented or over-riding circumstances have made it either impossible or counter-productive. Our studies are not closed until all approved recommendations have been brought to closure.

Evaluation Process

Certain features are common to most, if not all, evaluations, and you should have an idea what to expect

from the process.¹⁰

Literature Review

The evaluation staff will familiarize itself with the subject matter under review and determine what research has already been done in the area. Typically, the review of available literature will include manuals, policy files, internal memoranda, a review of data from internal management information systems, and if applicable, academic research done in the area. The literature review will help define the scope and objectives of the evaluation and should assist the staff greatly in choosing an evaluation strategy.

Evaluation Plan

Following the literature review, the evaluator in charge of the study should develop an evaluation plan. We have found this to be a critical document, because it forces the evaluator to focus his thinking and reduce to paper exactly what he intends to accomplish and how he intends to accomplish it. The plan should contain, at a minimum, the purpose of the study, the scope, specific objectives that will be accomplished, a detailed statement of the methods by which various questions will be addressed, and a proposed time table with specific due dates for various phases of the project. This plan should be reviewed by the official requesting the study to ensure that his concerns are being addressed adequately.

Data Gathering

Once the study plan has been approved, the next phase is generally data gathering. In the FBI, this often includes field visits to a representative number of our 59 field divisions. Data gathering can take many forms, such

as reviews of incident reports and case files, observation, interview, and questionnaires. If your staff is skilled, you should not have to be overly concerned with this phase of the project. You should, however, caution your staff that all data gathering, particularly interviews, should be conducted in an unbiased manner so as to convey the impression that the evaluation team has no ax to grind nor has made up its mind as to the outcome before the evaluation is complete.

Analysis and Report Writing

At the conclusion of the data gathering phase, you can expect the evaluation staff to consume about as much time as it took them to gather the data to analyze and report their findings. You should require a written report, supplemented if you wish by an oral briefing. If you have given your evaluation staff the mandate to make recommendations, we suggest the recommendations be set forth in a memorandum separate from the evaluation report. This will give you the flexibility to approve or not approve various recommendations without affecting the findings of the evaluation which are reflected in the report.

Conflict

One byproduct of many evaluations which you should expect is conflict. New ways of doing things, new ways of looking at information, and new ways of defining success can threaten people. A natural resistance to change may manifest itself in the rejection of the evaluation's findings by those whose area of responsibility has been evaluated. You will occasionally hear a host of counter arguments as to why proposed changes are not feasible. Kept within professional bounds, such conflict is healthy for it forces managers to articulate the reasons things are done the way they are and it can point out fallacies in the evaluation staff's reasoning and conclusions. Don't be afraid of conflict, manage it.

How To Tell If Its Working

The efficacy of an evaluation staff is, to a large degree, in the eye of the beholder. If you as chief executive and user of the product think the staff is producing the desired results, they probably are. Although this is a subjective criterion for success, it can be supplemented with quantifiable data. Recommendations approved and implemented and program improvements are two additional criteria that can be used in determining the success of an evaluation staff.

It can sometimes be difficult to demonstrate a cause-and-effect relationship between the work done by an evaluation staff and changes in operations. Very often, the change process begins as soon as the evaluators appear on the scene and begin asking questions. By the time the study is completed and the report written, a great many changes may have taken place, none of which will be attributed to the evaluators. It simply does not seem to be human nature for a manager to run into his chief's office and announce, "My narcotics operation was floundering, but those guys doing that evaluation really had some good ideas and things are a lot better now!" More likely you'll hear, "Well we had some problems but we knew all about them and were going ahead with our own solutions when that evaluation began." Does it matter who's right? Probably not. The important thing is that problems were uncovered and corrected. Who gets the public credit is really immaterial, frustrating to the evaluators, but immaterial.

What is material is that the product being produced, the findings and recommendations, is useful to your department. Utility is the primary criterion you should apply in evaluating the evaluation process. Look for work that is on point, recommendations that are feasible, and an attitude that fosters cooperative action.

Conclusion

The technique of evaluation can be a powerful tool for aiding managers in the decisionmaking process and determining organizational performance. In creating an evaluation staff, if you have done your work well and have brought together the right people, tasked them clearly and correctly, held them to high standards, and supported them, you will have given your department an added dimension for development, that of self-examination and critical review.

FBI

Footnotes

¹Charles E. Lindblom, "The Science of 'Muddling Through,'" *Classics of Public Administration*, eds. Jay M. Shafritz and Albert C. Hyde (Oak Park, IL: Moore Publishing Co., Inc., 1978), pp. 202-213. Lindblom claims administrators are incapable of analyzing the vast amount of information relevant to a given situation.

²Elinor Chelmsky, ed., *Program Evaluation: Patterns and Directions* (Washington, DC: ASPA PAR Classics VI, 1985).

³For an examination of the role of the internal consultant, as well as the external consulting process, see Gordon Lippitt and Ronald Lippitt, *The Consulting Process in Action* (San Diego, CA: University Associates, Inc., 1978).

⁴From policy files maintained by the FBI's Office of Program Evaluations and Audits.

⁵Michael Quinn Patton, *Utilization-Focused Evaluations* (Beverly Hills, CA: Sage Publications, 1978) (Patton calls this the "personal factor"); Ray C. Oman and Stephan R. Chitwood, "Management Evaluation Studies, Factors Affecting the Acceptance of Recommendations," *Evaluation Review*, vol. 8, No. 3, June 1984, pp. 283-305; Judith A. Dawson and Joseph J. D'Amico, "Involving Program Staff in Evaluation Studies, A Strategy for Increasing Information Use and Enriching the Data Base," *Evaluation Review*, vol. 9, No. 2, April 1985, pp. 173-188; Karolynn Siegel and Peter Tuckel, "The Utilization of Evaluation Research," *Evaluation Review*, vol. 9, No. 3, June 1985, pp. 307-328.

⁶Martin Kotler, "Conducting Short-term Policy Evaluation Studies in the Real World," a paper presented at the Evaluation Research Society Conference in San Francisco, CA, October 1984.

⁷Michael Quinn Patton at an evaluation workshop conducted at the FBI Academy, Quantico, VA, 4/17-18/85.

⁸From an address by Hale Champion, Executive Dean, John F. Kennedy School of Government, Harvard University, to a joint meeting of The Evaluation Research Society and The Evaluation Network, October 11, 1984, San Francisco, CA.

⁹We frequently become involved in the policy-making process, upon completion of an evaluation, attending meeting, writing memoranda, preparing briefings, and advising line managers all in support of the findings and recommendations.

¹⁰Many of these features are more fully described in *Evaluation Basics, A Practitioner's Manual*, Jacqueline Kosecoff and Arlene Fink (Beverly Hills, CA: Sage Publications, 1982).

Training Doesn't Have To Be Expensive To Be Good

"Training ... especially in the law enforcement environment, is successful only when there is commitment, support, and imagination."

By
LT. JAMES M. BRADLEY

*Police Department
White Plains, NY*

Training, in any setting, but especially in the law enforcement environment, is successful only when there is commitment, support, and imagination. Department commitment, which says "how it will be done," not "can it be done," is necessary to ensure success. It eliminates doubts by its statement that training is an essential element of the department's management, not a luxury. With commitment will come support from operational and management personnel. There will be many trade-offs in the day-to-day operation of the department in order to facilitate training schedules, and support is needed to prevent the use of ready-made excuses for inefficient work.

Imagination is critical to a good training program in that it will aid in developing the type of environment that fosters communication and learning. It will also help with the problems and mistakes that will inevitably appear. Imaginative trainers and managers can create something positive out of any experience or incident that develops.

One component of training in the White Plains Police Department is a 40-hour inservice training program that is mandatory for all officers below the rank of captain. It is designed not only to provide information and increase proficiency but to enhance self-image and motivation. It is a signal to all officers of the department's perception of itself and its members. During the

week that an officer is assigned to the classroom, he or she receives very clear indications of the type of performance that the department expects and rewards.

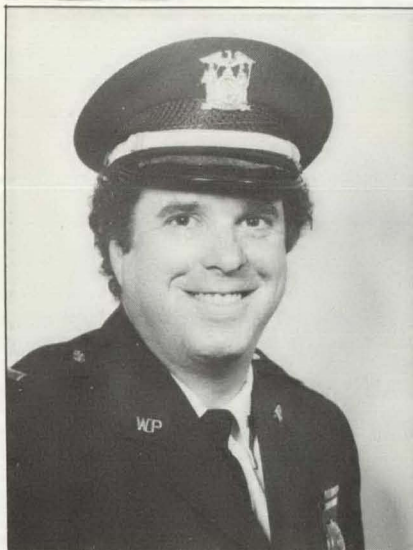
The inservice program that was recently completed in May 1985, was achieved without the use of overtime for participants and with only minimal accrued compensatory time for department instructors. This is an important issue for any department that desires an extensive program, but is limited by budgetary constraints. For a department such as White Plains, with 200 sworn personnel, overtime for this program would have been in excess of \$111,000 for straight time and \$167,000 plus if the rate was at time and a half. For most medium-sized police departments, this is a sufficiently serious constraint to cause the reduction or elimination of even the best training efforts.

How then is 8,000 manhours removed from the duty chart without the loss of efficiency or completely exhausting the overtime budget? It is possible, due in part to the department's commitment to training, as well as timely work analysis and creative scheduling. During the planning meetings where objectives, goals, and restraints are discussed and agreed to, it

is understood that the commissioner of public safety and his top executive officers have established training as a priority item. At these sessions, the chief of police, administrative officer, and training officer develop options and alternatives that facilitate and protect the scheduling requirements of the program. Best case and worse case scenarios are outlined, and solutions developed in advance.

The input of the various division commanders is essential. They funnel through the administrative officer the results of ongoing analysis of divisional functioning, so that he may schedule officers from those assignments that are seasonal in activity levels, have off-peak hours, or can function temporarily with staff reduction. Although this may result in a minor temporary work backlog, this negative effect is easily outdistanced by the departmentwide gain that results from this program.

Each week, approximately 15 officers are scheduled to attend inservice training. The administrative officer is careful not to draw an excessive amount from any one division, and each unit is contacted on a weekly basis to determine if there is any upcoming activity such as a major trial, special event, or large-scale investigation that might preclude scheduling unit members.



Lieutenant Bradley



John M. Dolce
Commissioner

All divisional and unit commanders are aware well in advance of the dates of the program and the fact that their staffs will be slightly reduced during that period. It is incumbent upon them to plan strategies for maintaining the productivity levels of their particular command. Since each area receives essentially the same relative percentage of staff reduction, and this figure remains constant, plans can be integrated in order to share staff when possible or dovetail certain responsibilities. The class that shows up each Monday contains a cross-section of every division and unit within those divisions. Therefore, no one area of the department is drastically affected. This minimizes the harmful effect that staff reductions might incur. It is also understood that the reductions are temporary and that the training each officer receives increases productivity. Most supervisory personnel realize that this small investment reaps great rewards.

The most difficult division to draw chart days for is patrol. Scrupulous care must be taken so as not to deplete this division to the point that an emergency could not be handled safely. This necessitates good planning and analysis to determine the minimum number of officers that must remain available. Flexibility in scheduling this division is assisted by the dichotomous nature of White Plains. There is a residential population of 50,000 and a daytime population which exceeds 250,000. Obviously, the staffing needs of the midnight tour vary drastically from the day tour and allow more flexibility in temporary transfers than other departments may enjoy.

Most patrol officers are taken off the late night tour in order to attend training programs, as analysis of the calls-for-service patterns indicates that fewer calls are received during this tour. Also, most fixed assignments, such as traffic enforcement duty or specialized posts which necessitate an absolute minimum staffing number, do not exist on the midnight tour, so there is more leeway on the amount of personnel needed. Scheduling officers assigned to the midnight tour for a daytime training program may also boost morale.

After clearing all logistic pitfalls associated with an inservice program, it would be a great disservice not to maximize this opportunity. The courses chosen must be stimulating, fresh, topical, and well-paced. It is a fair assumption that a majority of the participants have not had recent classroom experience, so courses should last no longer than 1 hour, whenever possible, to ensure consistent concentration levels for participant and instructor.

Several factors should be considered when selecting topics for instruction, such as participant interest, instructor capability, and the ability to schedule the class 15 weeks in succession. Officers enjoy these programs because they believe they are receiving some well-deserved attention, and choosing topics that are varied and imaginative supports that claim. Evaluations of past training programs have shown that members desire topics that help them to perform better and assist them in dealing with the problems that are ancillary to a police career.

Once topics are chosen, careful thought should be given to scheduling. Generally, the first part of the week is better for classes on issues dealing with work-related stress, changes in

Typical Class Composition

	DIVISION	ASSIGNMENT
Lieutenant	Patrol	Midnight-8 AM
Sergeant	Patrol	8 AM-4 PM
Detective	Detective	General Investigations
Detective	Detective	Street Crime Unit
Detective	Detective	Burglary Unit
Police Officer	Traffic	Mounted
Police Officer	Traffic	Motorcycle
Police Officer	Administration	Data Processing
Police Officer	Administration	Bureau of Criminal Ident.
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	8 AM-4 PM
Police Officer	Patrol	8 AM-4 PM
Police Officer	Patrol	4 PM-Midnight

the law, department policy, and information. This sets the tone by illustrating to the participants that this training program was developed with them in mind. It captures their attention and creates the proper learning environment. Mid-week instruction is well-served with topics on law, tactics, philosophy, concepts, and discussions. The final portion of the week is reserved for categories which are analytical, thought-provoking, or suggestive—in other words subjects which allow the participants to draw upon knowledge and information acquired earlier. Controversial topics should be addressed on the last day so as not to disturb the whole week if they are not resolved. Developing a manual consisting of a class schedule, course outline, and a list of reference and resource material is recommended, so that each class participant will be able to follow the instructors and will have a reference source once the program is completed.

An extremely critical element of this program is the instructors. Many large departments have full-time instructors on staff who have developed specific skills, as well as general teaching ability; however, this situation very rarely occurs in medium or small departments. Instructors selected from within the department, as well as outside sources, should submit outlines prior to the training and be interviewed so that there is agreement on course objectives and material. The training officer can assist with resources and research, as well as acquire any supplies or visual aids that are needed.

Experience has shown that use of professionals from outside the agency is worthwhile for all concerned. Most of the people contacted have welcomed the opportunity to address police officers, especially on an important subject of particular interest to them. In the past, members of the district attorney's office, local judges, attorneys, professors, and agency heads have been extremely helpful and informative. They are usually well-received by the officers as their presence signals community support for the enforcement task. The police officers appreciate a forum that allows face-to-face discussion with the developer of a program or a person who holds a critical position in the criminal justice system. Even when agreement does not exist, both parties appreciate the opportunity to meet and talk.

Scheduling outside speakers is sometimes difficult, considering a busy professional must be available for 15 consecutive weeks. For this reason, the program is usually better served if

the outside speakers are given preference in choice of times. Normally, Monday and Friday are avoided as these are usually consumed by several 3-day weekends during the program's duration. As an insurance measure, outside instructors are requested to designate someone on their staff as an alternate if they are unavailable.

Department members chosen to make a class presentation are more enthusiastic if they are able to select a subject that is of interest to them. Unless the topic is a specialty in which no one else is well-versed, superior officers only are used as instructors. This provides a chance for the superiors to interact with the officers in a more informal setting and also prevents any unruliness that might possibly develop. Several months prior to the start of the program, inquiries are made of superior officers to determine which subject each has a particular desire to teach. In order to prevent the use of overtime for instructors, the schedule of classes was developed so as to allow superior officers working rotating shifts to switch tours. In order to facilitate these changes and minimize any loss of efficiency, only one officer from a squad was chosen as an instructor, whenever possible.

Although superior officers realize that training is a responsibility of rank, fatigue and boredom may still set in, especially in a 15-week program. Therefore, alternates were designated to provide relief or in the event assigned instructors were unavailable. Like any good management program, training must be able to function even in the manager's absence.

The review and evaluation phase is the time for the department to reap its first tangible benefit of the program. A forum should be constructed that elicits workable ideas and returns realistic appraisals. Ideas should be devel-

"An inservice training component, as part of a comprehensive training program, is a functional use of resources by management...."

oped in a businesslike fashion, but the instructor should be ready to probe suggestions and encourage discussion when necessary.

At the conclusion of each week of the program, the participants were asked to complete a questionnaire that included several issues of interest to the members. They were asked to comment on equipment, uniforms, policy, and training, after receiving assurances that the results would be presented at a staff meeting for review. Realizing the opportunity to impact on their work environment, many officers delivered cogent, sincere recommendations that, when implemented, will undoubtedly increase efficiency and work comfort. In some cases, these

recommendations centered around basic needs that are important to those at the level of execution but can be overlooked by others. These types of requests are usually very easily granted when brought to the department's attention, and we realized that all that was needed was an avenue to bring them forward.

The review and evaluation component is the appropriate place to inform members of the department's attitude on certain matters, as well as future plans, thereby preventing rumors and giving participants a sense of belonging. For example, during the past program, the department was in the designing phase of a new facility. Each Friday, the updated floor plans were

shown to the various classes for their information and comments. This usually generated a great deal of excitement and spirited discussion about the future of the department, and several of these sessions provided ideas that were incorporated into the design of the building.

An inservice training component, as part of a comprehensive training program, is a functional use of resources by management that can ensure efficient service to the public. It can set the tone for the entire department and reinforce the symbiotic relationship between a police agency and its members.

FBI

Association Recognizes Exemplary Law Enforcement Effort

The Association of Former Agents of the U.S. Secret Service, Inc. (AFAUSSS) will again present an annual cash award (or donation to a charity of the honoree's choice) to a deserving law enforcement officer, alive or deceased, for exemplary performance in any aspect of law enforcement work.

Any sworn full-time officer below the rank of chief who is serving in a city, county, State, or Federal law enforcement agency in the United States is eligible for nomination. Exceptional achievement in any law enforcement endeavor, including but not limited to extraordinary valor, crime prevention, drug control and prevention, investigative work, traffic safety, juvenile programs, community relations, training programs, and innovative approaches to law enforcement, qualifies an individual for nomination. The act or incident for which the nomination is made must have occurred since July 1, 1985.

Law enforcement personnel may be nominated by any source, but must have the endorsement of the chief of police or agency head. Each nomination must also be accompanied by a brief statement of specific circumstances involving the distinguished law enforcement performance, supplemented by supporting documentation such as departmental citations, letters of commendation, newspaper clippings, or copies of reports.

The review and final selection of the winner will be announced at the annual conference in the fall of 1986. Letters of nomination should be mailed to:

Association of Former Agents
of the U.S. Secret Service, Inc.
P.O. Box 31073
Temple Hills, MD 20748

Nominations must be received no later than June 30, 1986.

Reducing Airborne Lead Exposures in Indoor Firing Ranges

By

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“The problem of excessive human exposure to airborne lead, over and above the legal limit, persists to this day.”

Health risks from lead exposures in indoor firing ranges are well-documented, particularly among range masters or instructors.¹ Major sources of lead exposure are lead bullets (from which airborne particles are released during firing) and primers containing lead styphnate (a highly explosive compound used to initiate the combustion of gunpowder in the cartridge).

Recent studies by researchers from the National Institute for Occupational Safety and Health (NIOSH) measured air lead levels in the breathing zones of 90 persons firing .38-caliber revolvers. When shooters were firing lead bullets, their mean lead exposure was 110 ug/m³, calculated as an 8-hour time-weighted average (TWA). Forty-two (89 percent) of 47 exposures exceeded the Occupational Safety and Health Administration (OSHA) standard of 50 ug/m³ (calculated as an 8-hour TWA) for occupational exposure to lead.²

Absorbed lead can damage the kidneys, peripheral and central nervous systems, and the blood-forming organs (bone marrow). Those affected may experience weakness, tiredness, irritability, digestive disturbances, high blood pressure, kidney damage, mental deficiency, or slowed reaction times. Chronic lead exposure is associated with infertility and with fetal damage in pregnant women. Because of the seriousness of these health effects, it is important to seek methods to control exposures. Such methods would include limiting the time a shooter or other person spends in the range, improving the range's ventilation, and using modified bullets.

Limiting the time a person spends in the range as an administrative control would be one of the most easily

implemented measures to minimize exposure. When considering this type of control, it would be important to take into consideration that the range master or instructor is likely to have higher exposures because of the greater amount of time spent in the range. Administrative controls are best implemented when management provides written guidelines and procedures to be followed and enforces them. These may include periodic checks of the blood lead levels of the range master or instructor. Blood lead levels greater than 30 ug/deciliter would be reason for concern about exposures in the range and would indicate the need for more extensive monitoring and possible control measures.

Using ventilation design as a control measure is necessary, but somewhat more complex. In 1975, NIOSH developed criteria for the design and ventilation of indoor firing ranges.³ However, they are difficult to implement, particularly as "retrofits" of existing ranges, and high-efficiency venti-

lation is costly to install and operate. Also, while the criteria, when implemented, were sufficient to result in lead exposures below the then-current standard of 200 ug/m³, their ability to produce levels meeting the current standard (50 ug/m³) is less certain.

Bullet modifications are another type of control. Substitution of a less toxic substance for a hazardous one has been found to be an efficient and effective primary preventive measure in occupational safety and health. Several laboratory studies have demonstrated reduced lead emissions when modified primers and bullets were used,⁴ but the NIOSH researchers are the first to document the effectiveness of this substitution under actual firing range conditions.

The studies were conducted in municipal, State, and Federal Government firing ranges in Alabama, Georgia, Missouri, Nebraska, Ohio, Vermont, and Washington, DC,⁵ and included air sampling conducted during actual qualification tests with

Figure 1

Comparison of the Concentrations of Airborne Lead in Personal Breathing Zones of Shooters Firing Various Types of Bullets—United States

Bullet Type	Number of Firing Ranges	Number of Air Samples	Mean Sampling Time (min)	Air Lead Levels (ug/m ³) Mean Range	Mean 8-Hour Time-Weighted Average Exposure (ug/m ³)
Lead	6	47	25	3,000 ND*—33,000	110
Nylon-clad	2	10	29	794 400—1200	41
Zinc	4	22	36	150 ND—580	22
Copper-jacketed	3	11	20	300 ND—580	10

*None detected (below sampling and analytical limit of detection).



"The potential for exposure to airborne lead in indoor firing ranges needs to be addressed."

.38-caliber revolvers. One of the variables under study was the use of ammunition with such bullet types as standard lead bullets, lead bullets completely encased in a nylon cladding, zinc bullets, and copper-jacketed lead bullets.

The personal (breathing-zone) air sample results from the NIOSH studies are summarized in figure 1. These samples were collected and analyzed by conventional methods.⁶

When nylon-clad, zinc, and copper-jacketed bullets were being fired, the mean exposures to airborne lead were 41, 22, and 10 ug/m³, respectively, calculated as 8-hour TWAs. While these alternate types of ammunition were being fired, three (7 percent) of the 43 samples exceeded the OSHA lead standard. Thus, by using alternative types of bullets, personal exposures were decreased from over twice the OSHA standard (when using lead bullets) to 20 percent of the standard (when using the copper-jacketed bullets).

There are disadvantages to using alternate bullets that must be considered; they include the increased cost of clad or jacketed bullets (although this cost in the long run may be less than that of operating a high-efficiency ventilation system) and possible safety hazards caused by the propensity of zinc bullets to "bounce back" from the bullet traps in some ranges.

The potential for exposure to airborne lead in indoor firing ranges needs to be addressed. The following facts are important to keep in mind.

1) Lead poisoning, resulting from overexposure, is one of the oldest known occupational diseases.⁷

2) Lead poisoning can cause permanent damage to the kidneys and central nervous system.⁸

3) The OSHA regulation places a limit on allowable exposure to airborne lead.

4) There are an estimated 16,000–18,000 indoor firing ranges in the United States⁹ and approximately 725,000, Federal, State, and local law enforcement officers.¹⁰

5) The problem of excessive human exposure to airborne lead, over and above the legal limit, persists to this day.

6) Through limiting the time a person spends in a firing range, improving ventilation, and making use of available bullet modifications, it is possible to greatly reduce airborne lead levels.

FBI

Footnotes

¹J.B. Lucas and T.L. Anania, *Technical Assistance Report*—Orlando, FL, Report no. TA 73-22, NIOSH, Cincinnati, OH, 1973; P.J. Landrigan, et. al., "Chronic Lead Absorption—Result of Poor Ventilation in an Indoor Pistol Range," *Journal of the American Medical Association*, vol. 234, 1975, pp. 394–397.

²OSHA Safety and Health Standards, 29 CFR 1910.1000, Occupational Safety and Health Administration, 1983 (revised).

³*Lead Exposure and Design for Indoor Firing Ranges*, DHEW (NIOSH) publication no. 76-130, National Institute for Occupational Safety and Health, Cincinnati, OH, 1975.

⁴*The Reduction of Airborne Lead in Indoor Firing Ranges by Using Modified Ammunition*, publication no. 480-26, National Bureau of Standards, Washington, DC, 1977; A. Fischbein, W.J. Nicholson, and I. Weisman, "Comparative Lead Emissions from Conventional and Jacketed Ammunition," *American Industrial Hygiene Association Journal*, vol. 41, 1980, pp. 525–527.

⁵*Health Hazard Evaluation and Technical Assistance Reports*, HETA 80-000-0011, HETA 80-079-0753, HETA 80-072-0755, HETA 81-010-0890, HETA 81-019-0846, HETA 81-470-1040, HETA 81-303-0947, HETA 82-380-1219, HETA 82-195-1200, National Institute for Occupational Safety and Health, Cincinnati, OH.

⁶*NIOSH Manual of Analytical Methods*, (2d ed.), DHEW (NIOSH) publication no. 77-157 A, National Institute for Occupational Safety and Health, Cincinnati, OH, 1977.

⁷*Part of the Human Condition: Health and Safety Hazards in the Workplace*, DHEW (NIOSH) publication no. 78-137, National Institute for Occupational Safety and Health, Cincinnati, OH, 1978.

⁸*NIOSH/OSHA Pocket Guide to Chemical Hazards*, DHHS (NIOSH) publication no. 78-210, National Institute for Occupational Safety and Health, Cincinnati, OH, 1981.

⁹National Institute for Occupational Safety and Health, unpublished data.

¹⁰"Justice Expenditure and Employment 1982," *Bureau of Justice Statistics Bulletin*, August 1985, p. 2.



Use of Police Auxiliary Officers in Crowd Control Situations

For many years, volunteer law enforcement officers have provided valuable assistance to paid organizations through the donation of time, abilities, and on some occasions, through the ultimate contribution—death in the line of duty. Reserve organizations provide an important supplement to agency manpower in times of natural and manmade disasters, civil disorder, and activities which attract large numbers of people, such as concerts and sporting events. Most agencies would be hard-pressed to provide adequate cov-

erage during these times and maintain the necessary field personnel to service a normal workload without an auxiliary force. While auxiliary forces composed of 1 or 2 citizens are the norm in small towns, major metropolitan areas may have units of 2,000 to 3,000 citizens.

A report by the National Advisory Commission on Criminal Justice and Goals states:

"Every State and every police agency should consider employment of police reserve officers im-

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Lieutenant Woodward



William M. Mingus
Chief of Police

mediately to supplement the regular force of sworn personnel and increase community involvement in local police service."¹

Further, the report continues:

"Every police agency that has identified a specific need to augment its regular force of sworn personnel to alleviate manpower shortages or to cope with unique deployment problems should immediately establish a police reserve program."²

The Mobile Police Department has a total authorized sworn strength of 323 officers and a police reserve unit which presently consists of 90 members, including 10 female reserve officers. The police reserve was created by the Board of Commissioners of the City of Mobile in February 1962, through enabling ordinances which provide the following:

- 1) Appointment of resident citizens over 21 years of age to the police reserve with the rank of reserve police officer. The appointment is made by the chief of police after an applicant undergoes a background check equal to that conducted on a prospective paid police officer.
- 2) Reserve police officers serve without compensation in any of the department's divisions and have full police powers when on duty as a reserve officer; and
- 3) The duties of reserve police officer include general patrol as well as service in time of civil disorder.

The Mobile Police Reserve provided 3,466 patrol hours and 2,644 hours of special duty in the first 5 months of 1985. This total of 6,110 hours of volunteer service represented a monetary saving to the city of approximately \$91,650, with a 12-month projected savings of approximately \$220,000. The fiscal savings alone justify the existence of a reserve force in departments of all sizes.

Beyond fiscal considerations, however, are the intangible benefits of community awareness and participation which aid in providing a more broadly based level of support for the law enforcement function. Within the community, every citizen who takes part in a police organization understands the risks and frustrations faced by paid officers in their daily activities. These citizens, in their regular occupations, provide a means to bolster the image and importance of local law enforcement.

The reserve program has also proven to be a valuable resource for hiring sworn officers. Approximately 18 percent of the department's total officer complement and 27 percent of the female officers entered into the regular ranks after serving in the reserves, creating an unusually strong bond between regular and reserve officers. For many, the reserve program offered an opportunity to determine whether law enforcement was a viable career choice for them.

Selection

Reserve officer applicants are required to meet the same personal qualifications as candidates for regular positions. Each must pass a criminal history screening, background check, and oral interview with the director and assistant director of the reserve program. Any applicant not qualified for

"[A reserve organization contributes] the intangible benefits of community awareness and participation which aid in providing a more broadly based level of support for the law enforcement function."

regular status is not accepted in a reserve capacity. Also, any felony conviction, misdemeanor involving force, crime of moral turpitude, or drug and DUI violation results in automatic disapproval of the application.

Training

The Mobile Police Reserve is under the administrative control of the captain of the training division, with the director of the reserve program being appointed by the chief of police from the academy staff. Police reserves receive a minimum of 92 hours of formal training at the Mobile Police Academy, one of seven State-certified training academies. The reserve curriculum includes State and municipal criminal codes, officer survival, search, seizure and laws of arrest, crowd control training, defensive tactics, accident investigation, report writing, civil liability, firearms training, patrol procedure, traffic direction and control, officer dress codes, homicide, robbery and sex crimes investigations, crime scene protection, juvenile offenses, cardiopulmonary resuscitation, and reserve organization.

All reserve officer candidates must pass a comprehensive written examination and qualify on the State-approved pistol course prior to being certified as eligible for full-duty status. Upon receiving all academic and firearms certifications, newly sworn reserve officers are permitted to work as the second officer in a uniform services division patrol car. The unit is not designated as a two-officer unit until a certified field training officer (FTO) has an opportunity to evaluate the new reserve officer under field conditions. Following a favorable FTO report, the new reserve officer is given full status and that unit becomes a two-officer unit.

Evaluation

Mobile police reserve officers must provide 24 hours of patrol time in a 3-month quarter, must not miss three consecutive meetings, unless excused, and must attend all special functions, unless excused. The director of reserves conducts a quarterly personnel performance review and may take disciplinary action ranging from probation to dismissal for unsatisfactory performance. Additionally, similar sanctions may be imposed for any violation of policies or procedures.

Crowd Control

The use of police reserves in crowd control situations requires careful consideration on the part of police administrators. Special attention must be given to the types of situations in which reserve officers are used. Homogeneous crowd situations which present a minimal possibility of conflict provide the ideal situation for reserve participation. Labor disputes, racial or religious confrontations, and activities which present a substantial likelihood of violence are situations where reserve officers would be subjected to unnecessary risks. Other important considerations relative to using reserve forces include:

- The reserve selection and evaluation process;
- The level of training provided reserves;
- The potential civil and vicarious liabilities;
- The importance of clearly defined lines of authority and adequate supervision; and
- The provision for proper equipment for each reserve officer.

The selection process should not stop with the initial appointment to reserve status. Careful consideration should be given when selecting reserve officers to participate in crowd control activities. Only those reserve officers who possess maturity, sound judgment, and the ability to remain calm under intense stress should be selected for crowd control functions, particularly in those situations where direct officer-citizen contact is probable.

An ongoing evaluation process focuses on the reserve officer's performance under stress conditions. Agencies which make use of reserve officers should give consideration to evaluating the new reserve within the guidelines of a program having established performance-based criteria, such as are found in a field training officer (FTO) program. Under these standardized evaluations, an agency has a better opportunity to discover those reserves who present potential problems and to deal with such individuals before the problem escalates.

Each reserve officer who is selected for crowd control duty should receive the maximum level of training. The training process should encompass the same curriculum as is provided to regular officers and should include psychological as well as tactical training. Particular emphasis must be given to the discipline and restraint required of crowd control units and to the absolute requirement of coordinated, appropriate actions. The State and local laws dealing with crowds, both lawful and unlawful, must be discussed at length, with special consideration given to the constitutional rights of participants.

Proficiency in crowd control tactics can be acquired only through repeated drill and practice. Cross-order drill and situational exercises provide excellent

"A disciplined, professional reserve force can provide any agency with a component whose value cannot be measured in monetary terms alone."

opportunities to develop the coordinated response which is expected of personnel assigned crowd control duties and to instill the discipline necessary for a successful operation.

Agencies which decide to employ reserve officers in crowd control functions must establish clear procedural and policy guidelines which apply to all personnel involved. Complaints concerning tactics used in crowd control situations should receive the same impartial internal investigation as daily procedural violations, regardless of whether the complaint involves regular or reserve officers. If violations of policy or procedure are discovered, appropriate disciplinary action and/or criminal prosecutions must be undertaken.

An agency's potential *civil liability* can be minimized through appropriate policies, procedures, selection, training, and supervision of reserve officers. All personnel, regular and reserve, must clearly understand his or her duties and responsibilities in crowd control activities and must respond in an appropriate manner when faced with extraordinary situations. Administrators must use care when selecting individuals for crowd control assignments.

The assignment of reserve officers to a crowd control function requires an increased effort on the part of *supervisors* and places unique demands on those assigned supervisory duties. Many reserve officers lack the practical experience in day-to-day public contact which regular officers acquire. Thus, when a reserve officer is confronted with a situation which might

be considered routine by an experienced regular officer, there is a tendency for the reserve officer to over or under react. This possibility can be anticipated, and with proper preplanning, be lessened in effect. Whenever reserve officers participate in crowd control activities, there is a necessarily smaller span of control for supervisors. The smaller span of control does not imply the need for additional personnel and supervisory rank, however. Many agencies have developed an intermediate position, such as corporal or deputy sheriff II, and have established this position between entry-level personnel and line supervisors, such as sergeants. Using intermediate-level personnel in a supervisory capacity maintains an appropriate span of control, and as a secondary benefit, provides the agency with the opportunity to identify and develop those personnel who would be suitable for line supervisory positions.

Reserve officers who are permitted to participate in crowd control activities should be provided with the same *equipment* as is available to regular officers. The psychology of crowd control demands that all officers be immediately identifiable and similar in uniform. Each officer should be issued, if possible, the following basic equipment:

- Departmental jacket with appropriate insignia;
- Boots, preferably plain-toe, lace-up, 10-inch leather or nylon, to provide proper ankle support;
- Ballistic helmet which meets all applicable government standards (use of military steel helmets or helmet liners should be avoided);
- Ballistic vest with a rating of at threat level II-A; and
- Gas mask, such as the military M-12 or M-17A, as necessary.

When equipping a crowd control unit which has both regular and reserve officers, care should be taken to insure uniformity. An overly military or "SWAT" look is to be avoided. Careful planning must be employed to avert the creation of a negative perception by members of the community. The appearance which is most desirable is one which projects an air of competent professionalism.

Conclusion

Many advantages can be identified in connection with the use of reserve officers in controlling crowds. Most agencies operate with too few personnel to meet routine needs. The presence of auxiliary forces allows regular personnel to be deployed in a main-line crowd control function, while the auxiliaries provide support services such as traffic control. Further, reserve officers can be assigned to supplement regular officers in a line capacity, provided the considerations previously discussed are met. A disciplined, professional reserve force can provide any agency with a component whose value cannot be measured in monetary terms alone. The reserve law enforcement officer is to his or her community what the military reservist is to our Nation.

FBI

Footnotes

¹The National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police*, Standard 10.2, p. 263.

²*Ibid.*

Interrogation

Post Miranda Refinements

(Part I)

The Supreme Court's 1966 landmark decision in *Miranda v. Arizona*¹ dramatically changed the manner in which most interrogations of suspects are conducted and may have even contributed to a broader change in law enforcement by forcing an increased respect for a suspect's constitutional protections.² In *Miranda v. Arizona*, the Supreme Court created a set of safeguards designed to protect a suspect's fifth amendment privilege against self-incrimination.³ The now familiar warnings that an accused has the right to remain silent, that anything said can be used against an accused in court, that the accused has the right to the presence of an attorney, and that if the accused cannot afford an attorney one will be appointed for him prior to any questioning if the accused so desires⁴ are prerequisites in any custodial interrogation. In fact, *Miranda* warnings are so well-entrenched in law enforcement practice and in the eyes of the courts that one court has remarked that "[it] is nigh onto superfluous to remind that *Miranda* forbids interrogation unless prefaced by a list of cautions."⁵

Yet, it is important to remember that the protections outlined in the *Miranda* decision apply only to custodial interrogations.⁶ If custody and in-

terrogation do not both exist simultaneously, no warnings need legally be given to a person who is the subject of police questioning. The *Miranda* decision defined the term "custodial interrogation" as follows:

"By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in a significant way."⁷

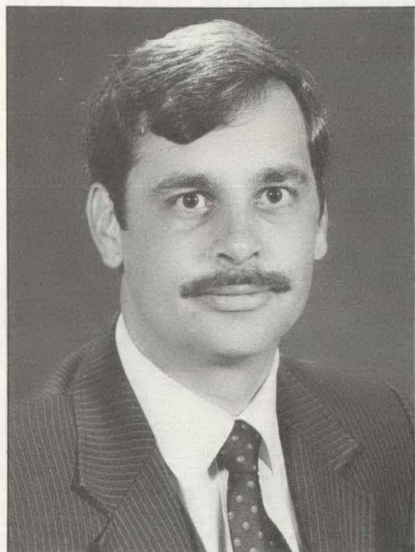
Many cases since *Miranda*, both in the Supreme Court and in the lower courts, have further refined the meaning of custodial interrogation and established a framework for its use. It is the purpose of this article to examine a number of those cases in an attempt to provide some measure of guidance concerning the second prong of the *Miranda* trigger—interrogation.⁸

Interrogation Constrained

There are two circumstances in which it is crucial to understand the legal implications of interrogating an accused. The first is the more obvious and the one raised by the facts of *Miranda* itself. Ernesto Miranda was arrested at his home on March 13, 1963, and taken to the Phoenix, AZ, police station where he was identified by the complaining witness at a lineup. Thereafter, he was taken to an interrogation room in the detective bureau and questioned by two police officers.

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



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Two hours later, Miranda had provided a voluntary written confession. Though Miranda was never told by the officers that he could consult with an attorney before and during questioning if he desired, neither did he request to do so.⁹ Nonetheless, the Supreme Court ruled Miranda's confession inadmissible and ordered his conviction overturned because Miranda, while in custody, had been interrogated before he was fully warned of his fifth amendment protections and waived those rights. In doing so, the Supreme Court established the rule that interrogation of a person in custody cannot begin until the fifth amendment warnings have been given and a valid waiver of those rights obtained.¹⁰

The second circumstance in which it is important to understand the legal ramifications of interrogation was alluded to in *Miranda*:

"If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him."¹¹

Thus, the Court established a second rule that interrogation was not permitted once an individual had invoked his right to silence or right to counsel.

In prohibiting interrogation after an invocation of rights, the Supreme Court in *Miranda*, however, did not address whether interrogation could resume, and if so, at what point. Those issues were resolved, however, in two subsequent cases. In 1975, the Supreme Court decided the case of *Michigan v. Mosley*.¹² There, Richard

Mosley was arrested in the early afternoon of April 8, 1971, in connection with two recent robberies. Following his arrest, Mosley was taken to a Detroit Police Department station-house and advised of his *Miranda* rights. When Mosley said he did not want to answer any questions about the robberies, all interrogation was properly ceased, and Mosley was lodged in jail. At approximately 6:00 p.m. that same evening, a second detective sought to talk with Mosley, not about the robberies, but about a murder in which Mosley was a suspect. Mosley, prior to any questioning regarding the murder, was advised of his *Miranda* rights by the detective, waived those rights, and agreed to answer the detective's questions. During the course of an interrogation, which lasted only about 15 minutes, Mosley gave a statement implicating himself in the murder. At no time during the second interrogation did Mosley request to remain silent or indicate that he desired to consult with an attorney.

In the appeal of his first-degree murder conviction, Mosley argued that his initial invocation of his right to remain silent absolutely forbid any subsequent interrogation by police. The Supreme Court rejected the argument, refusing to establish a "*per se* proscription" on a subsequent interrogation.¹³ However, the Court did establish the rules to be followed before a subsequent interrogation, after an initial invocation of the right to remain silent.¹⁴ The Court refined the rule prohibiting interrogation after an invocation of the right to silence holding that when an accused invokes his right to remain silent, all interrogation must cease and may not begin again until the passage of a significant period of time and until fresh warnings have been given and a valid waiver obtained.

"... when an accused invokes his right to remain silent, all interrogation must cease and may not begin again until the passage of a significant period of time and until fresh warnings have been given and a valid waiver obtained."

A case of similar import was decided by the Supreme Court in 1981. In *Edwards v. Arizona*,¹⁵ the defendant was arrested pursuant to a warrant charging him with robbery, burglary, and first-degree murder. During an interrogation, following a legally sufficient warning and waiver of *Miranda* rights, Edwards gave only an exculpatory statement, presenting an alibi. He then sought to "make a deal."¹⁶ After being told by the interrogating officer that he did not have the authority to make a deal, Edwards was provided with the prosecutor's telephone number and allowed to place a call. He made the call, but hung up after a few moments and said, "I want an attorney before making a deal."¹⁷ At that point, all attempts to interrogate Edwards stopped, and Edwards was housed in the county jail.

The next morning two different officers had Edwards brought from his cell to an interrogation room. After they advised him of his *Miranda* rights, Edwards stated he was willing to talk but desired first to listen to the taped statement of an alleged accomplice who had earlier implicated Edwards in the crime. After listening for several minutes, Edwards provided a statement implicating himself in the crime. Following his conviction at trial, during which his confession was received in evidence, Edwards appealed. He claimed that his request to consult with a lawyer during his initial interrogation made inadmissible the confession which he had voluntarily provided during his second interrogation.

The issue before the Supreme Court in *Edwards v. Arizona* was similar to that in *Michigan v. Mosley*. Both concerned a subsequent interrogation following an invocation of rights. However, the Court did not follow the same rules they had established in *Mosley*. Rather, the Court ruled that an invocation of the right to counsel necessitates more restrictive rules than for invocation of the right to remain silent. The Court stated:

"We further hold that an accused, such as Edwards, having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges or conversations with the police."¹⁸

In *Edwards*, the Court imposed a "rigid rule that an accused's request for an attorney is *per se* an invocation of his Fifth Amendment rights, requiring that all interrogation cease."¹⁹ It prohibits the resumption of interrogation until such time as either counsel has been made available to the defendant or the defendant himself has sought to talk with investigators.²⁰

Commencing with *Miranda*, and following in *Mosley* and *Edwards*, the Supreme Court has made clear that custodial interrogation is prohibited in essentially two instances. First, custodial interrogation of an accused may not begin before *Miranda* rights are given and a valid waiver obtained; and second, after a person has invoked his right to remain silent or to consult with an attorney, interrogation must cease and may be resumed only under certain conditions. What then is interrogation?

Interrogation Defined

Though the *Miranda* rule was announced in 1966, it was not until 1980 in *Rhode Island v. Innis* that the Supreme Court agreed to "address for the first time the meaning of 'interrogation' under *Miranda v. Arizona*."²¹

On January 12, 1975, a Providence, RI, taxi driver was reported missing after being dispatched to pick up a customer. His body was discovered 4 days later in a shallow grave. He had died from a shotgun blast to the back of the head. On January 17, 1975, shortly after midnight, the Providence Police Department received a telephone call from another taxicab driver who reported that he had just been robbed by a man wielding a sawed-off shotgun. The taxi driver came to the police station to provide the police a statement. While there, he noticed a picture of his assailant on a bulletin board and notified the officers. An officer prepared a photo spread, and when the taxi driver again identified his assailant, police began a search of the area in which the driver said he left the assailant after the robbery.

At approximately 4:30 a.m., a patrolman cruising the area spotted Innis standing in the street, and upon recognizing him as the wanted robber, arrested him and immediately advised him of his *Miranda* rights. The arresting officer did not attempt to interrogate or converse with Innis except to respond to Innis' request for a cigarette. Several minutes later, a Providence police sergeant arrived at the scene and also advised Innis of his *Miranda* rights. Shortly thereafter, a

"... procedural safeguards of Miranda are not only mandated by direct custodial questioning but are also required to protect against various police practices which are tantamount to interrogation."

police captain who had also responded to the arrest scene approached and he, too, gave Innis his *Miranda* warnings. At that point, Innis said he understood his rights and wanted to speak with a lawyer.

Three officers were then directed to take Innis from the site of the arrest to the central police station. They were instructed not to question, intimidate, or coerce Innis in any way, and then departed. After driving less than a mile from the scene of the arrest, one officer began a conversation with another and commented that Innis had been arrested near a school for handicapped children and that one of those children might come across the sawed-off shotgun, which had not been located, and accidentally injure or kill themselves. Innis, who overheard that conversation, interrupted and told the officers he would lead them to the weapon.

The police car carrying Innis returned to the scene of the arrest where the captain advised Innis of his *Miranda* rights for a fourth time. Innis replied that he understood those rights but "wanted to get the gun out of the way because of the kids in the area in the school."²² He then led the police to a nearby field where he pointed out the shotgun under some rocks by the side of the road. Innis was subsequently indicted and convicted of kidnapping, robbery, and murder. He unsuccessfully appealed his conviction through the State courts, and the Supreme Court agreed to hear the case to decide whether the dialogue between the officers transporting Innis to the police station constituted interrogation, and if so, whether it was impermissible after Innis had requested to talk with a lawyer.

In answering the question, the Court focused on the breadth and meaning of the passage from the *Miranda* decision which states, "By custodial interrogation, we mean *questioning* initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."²³ The Court rejected a narrow reading of that passage, however, declining to find that "questioning" applies only "to those police practices that involve express questioning of a defendant while in custody."²⁴

The Court explained that the procedural safeguards of *Miranda* are not only mandated by direct custodial questioning but are also required to protect against various police practices which are tantamount to interrogation. Though they do not take the form of direct questioning, those practices are equally or perhaps more effective in compelling an accused to talk or subjugating him to the will of the interrogator, "thereby undermin[ing] the privilege against compulsory self-incrimination."²⁵ Pointing to several police interrogation techniques discussed in *Miranda*, the Court in *Rhode Island v. Innis* said:

"It is clear that these techniques of persuasion [staged lineups, reverse lineups, positing guilt, minimizing the moral seriousness of crime, and casting blame on the victim or society], no less than express questioning, were thought, in a custodial setting, to amount to interrogation."²⁶

Accordingly, the *Innis* Court ruled:

"... the *Miranda* safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term 'interrogation' under *Miranda* refers not only to express questioning, but also

to any words or action on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect."²⁷

This encompassing definition of interrogation might appear to cover nearly all police techniques and practices which precede an incriminating statement from a defendant. However, it is not so broad that it imposes a "but-for" test requiring the suppression of confessions merely because the police did or said something prior to the confession. *Innis* itself rejects such a broad reading. Clearly, but for the officers' conversation in the patrol car, Innis would not have made his statement nor led the officers to the gun. Yet in *Innis*, the Supreme Court found that the officers' conversation was "nothing more than a dialogue between the two officers to which no response from [Innis] was invited ... [T]he entire conversation appear[ed] to have consisted of no more than a few offhand remarks" and was neither a lengthy harangue nor a particularly evocative statement,²⁸ and did not, therefore, constitute interrogation.

Only a "practice that the police should know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation. But since the police surely cannot be held accountable for the unforeseeable results of their words or actions, the definition of interrogation can extend only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response."²⁹

Many cases in the lower courts since *Innis* have focused on whether particular police words or conduct meet the test of direct questioning or its functional equivalent. An analysis of those cases reveals that they can be divided into four categories: 1) On-the-scene questioning, 2) questioning normally attendant to arrest and custody, 3) spoken words which are not express questioning but prompt inculpatory statement from a defendant, and 4) nonverbal interrogation, i.e., police action which precedes an incriminating response. This article will now explore those areas and provide guidance to police interrogators as to when their actions might be considered interrogation or its functional equivalent, impermissible either before *Miranda* warnings are given and a waiver obtained or after there has been an invocation of rights but the requirements of *Mosley*³⁰ and *Edwards*³¹ have not been met to permit a subsequent interrogation.

The remainder of this part of the article will discuss on-the-scene questioning and questioning normally attendant to arrest and custody. The concluding part will discuss the remaining categories, as well as the Supreme Court's recently announced public safety exception to the *Miranda* rule.

On-the-Scene Questioning

Perhaps out of a recognition of police practicalities, the Supreme Court in *Miranda v. Arizona* stated that police officers who respond to a reported crime or incident and ask questions to determine basic facts about what has happened are not engaging in custodial interrogation. The Court held:

"General on-the scene questioning as to the facts surrounding a crime or other general questioning of citi-

zens in the fact-finding process is not affected by our holding."³²

Other courts have applied that rule to a variety of factual situations. For example, in *United States v. Scalf*,³³ a prison inmate, Scalf, attacked and stabbed another inmate, then fled back into his cell. A prison guard approached Scalf's cell and asked him what had happened and where the weapon was. The prisoner responded by admitting that he had stabbed his fellow inmate and claiming that he had thrown the knives out a window. At a subsequent criminal trial, Scalf objected to the admission of those statements into evidence. He argued that he had been subjected to custodial interrogation without benefit of warnings or a waiver of his *Miranda* rights. The trial court overruled his objection, and the appellate court sustained the use of Scalf's statements against him. The court concluded that the questions had merely been an on-the-scene inquiry to ascertain the facts, identify the injured, and locate the weapons. The questions were general, regarding the facts of the crime in the course of the investigatory, fact-finding process, not ones which would reasonably elicit an incriminating response. They were not interrogation for purposes of *Miranda*.

Similarly, in *Rock v. Zimmerman*,³⁴ the court permitted use of the defendant's incriminating statements obtained shortly before his arrest near the crime scene. In this case, the defendant set fire to his own house and shot and killed a neighbor. When fire officials responded to extinguish the blaze at the defendant's house, he began shooting at them and killed the fire chief. The defendant fled the police, and when located nearby, still had his

weapon. As police approached and attempted to persuade him to release his gun, the defendant said, "How many people did I kill, how many people are dead?"³⁵ In ruling that the defendant's incriminating statements were admissible, the court found *Miranda* inapplicable, since it "does not reach a situation such as the present one, where the statements were unsolicited, spontaneous and freely made prior to any attempted questioning."³⁶

In contrast, a Federal trial court refused to admit an incriminating statement obtained at an arrest scene. In *United States v. Corbin*,³⁷ the defendant was arrested during a drug raid, and at her feet, was a .22-caliber revolver. The arresting agent asked her about the gun. The defendant replied that the gun was hers and had come from her purse. In suppressing that admission by the defendant, the court reasoned that the agent's question constituted custodial interrogation, since it was not a general inquiry regarding the crime but rather was one which sought a guilty response and should have been preceded by *Miranda* warnings and a waiver.

General on-the-scene inquiries are made many times each day by law enforcement officers throughout the Nation. So long as they are reasonably related to the facts surrounding a crime and are asked to provide the officer with basic and necessary information concerning the crime, but not one's guilt, they need not be preceded by *Miranda* warnings.

Questions Normally Attendant to Arrest and Custody

When the Supreme Court in *Rhode Island v. Innis*³⁸ provided the definition of interrogation, it recognized

"... routine booking questions which cause an arrestee to offer incriminating responses may be termed impermissible interrogation if asked with the intent to produce such an incriminating statement."

that certain types of administrative questions are a necessary part of police work, the answers to which are also necessary simply because a person has been arrested or incarcerated. The Supreme Court described such questions as "those normally attendant to arrest and custody."³⁹ The cases which have interpreted that phrase fall into three categories.

The first category is basic to law enforcement. As a matter of good police practices, certain general questions concerning an arrestee's personal history and background are asked whenever a person is arrested or incarcerated. The practice of "taking basic personal information (name, age, place of birth) [is] merely ... a ministerial duty incident to arrest and custody"⁴⁰ and does not constitute interrogation within the meaning of *Miranda's* custodial interrogation rule.

Even when this practice results in the acquisition of incriminating information, suppression is not mandated, since a guilty response was neither invited nor expected.⁴¹ If an accused makes damaging statements in response to routine biographical questions, he is a victim of his own blunder. As one court stated, "To the extent that [an arrested person] gave incriminating responses, his answer merely exceeded the scope of the questions."⁴²

A note of caution is in order, however. Even routine booking questions which cause an arrestee to offer incriminating responses may be termed impermissible interrogation if asked with the intent to produce such an incriminating statement. An example of this is *United States v. Webb*.⁴³ In *Webb*, a man had been arrested by military police and the FBI for murder.

When advised of his *Miranda* rights, the defendant requested to speak with a lawyer. All questioning ceased, and the defendant was taken to the local jail to be lodged pending an appearance in court. At the jail, before relinquishing custody of the defendant, the FBI prepared paperwork necessary for the local jail to accept custody of the Federal prisoner. The paperwork, which clearly indicated that the defendant had been arrested for murder, was then given to the jailer. As the jailer began completion of his own paperwork, which included listing the charges for which the arrest was made, he turned to the defendant and asked him in what kind of trouble he was involved. In response, the defendant admitted to the murder.

In finding that the jailer's question was not "normally attendant to custody," the fifth circuit court of appeals was persuaded that the jailer already knew the charge underlying the defendant's arrest and in fact had the FBI's paperwork listing the crime in his possession at the time he asked the question. The court found that the jailer's question was interrogation, since the jailer knew or reasonably should have known that it would prompt an incriminating response.

The *Webb* case illustrates the limits of the "normally attendant to arrest and custody" line of cases. General background data and personal history are necessary to allow police to identify accurately or to apprehend the arrested person should he escape or fail to appear in court as scheduled. But should the questions extend beyond those purposes, they too become "interrogation" which may be proscribed by *Miranda*, *Mosley*, or *Edwards*.

Decisions in a second category of cases which find police questioning "normally attendant to arrest and cus-

tody" seem to hinge on the nature of the offense for which the person is arrested. One such case is *South Dakota v. Neville*.⁴⁴ Neville was stopped by police for a routine traffic violation—running a stop sign. However, when he got out of his car, he stumbled and staggered. Based on their observations of Neville, the police concluded he was driving while intoxicated and placed him under arrest. The police then informed him that he had a choice of submitting to a blood alcohol content (BAC) test or face automatic revocation of his driver's license. When told of the choice, Neville responded, "I'm too drunk, I won't pass the test."⁴⁵ Neville's response was viewed as a refusal to submit to a BAC test, and his license was revoked. Neville contested the revocation, claiming that the inquiry about whether he would submit to a BAC test was interrogation which should have been preceded by *Miranda* warnings. The Supreme Court disagreed, instead finding there was no interrogation for purposes of *Miranda*. The Court stated:

"... police words or actions 'normally attendant to arrest and custody' do not constitute interrogation. The police inquiry here is highly regulated by state law, and is presented in virtually the same words to all suspects. It is similar to fingerprinting or photography."⁴⁶

A similar result was reached in *Edwards v. Bray*,⁴⁷ but for a different reason. There, the defendant was stopped based on the suspicion that he was driving under the influence of

alcohol. The officer asked a series of questions—whether the driver was injured or taking medication (to explain his erratic driving) and how much education the driver had (to determine what type of field sobriety test to administer). Finally, the officer asked the driver to recite the alphabet. When the driver failed to complete the test successfully, he was arrested. He appealed his conviction, claiming he was interrogated without benefit of *Miranda* warnings. The court refused to accept that argument and held that no interrogation took place, since the questions were not asked to elicit a testimonial response. The questions asked were intended only to evidence the driver's physical characteristics of intoxication, which are not protected under the fifth amendment at all.

A final case which illustrates "normally attendant to arrest" questions based on the type of crime is *United States v. Bennett*.⁴⁸ There, police responded to a call that the defendant had threatened persons at a bar with a rifle and had fired shots into a house. When the police located the defendant he was using a pay telephone at a convenience store. While police waited for the defendant to finish his phone call so that he could be questioned, the chief of police arrived on the scene and approached the defendant. In doing so he observed a rifle inside the defendant's car and announced, "There is a gun in the car."⁴⁹ The defendant, having hung up the telephone, admitted possessing the gun and was subsequently charged and convicted of being a felon unlawfully in possession of a firearm. His conviction was sustained on appeal over his ob-

jection that the police chief's statement was the equivalent of interrogation which took place before a *Miranda* warning was given and a waiver obtained. The appellate court said:

"... we believe it clear that those words and actions, which are necessary and appropriate to inform fellow officers of a potential threat to their own safety and that of others during the course of an arrest or custody, are 'normally attendant.'"⁵⁰

The *Neville*, *Bray*, and *Bennett* cases are representative of cases in which the offense for which an arrest is made controls whether the question asked is "normally attendant to arrest and custody." Clearly, in cases involving intoxicated drivers, standard questions relating to the testing for intoxication meet the test of "normally attendant." Similarly, in cases where weapons are involved in the offense, a warning concerning a safety threat posed by those weapons to arresting officers or others falls within the same classification.

The last category of cases in which questions fall under the "normally attendant to arrest and custody" banner are those where the police do no more than respond to the defendants' own questions. For example, in *United States v. Crisco*,⁵¹ the defendant, upon his arrest, claimed he did not understand why he was being arrested because he had not done anything wrong. In response, one of the arresting officers, who had dealt with the defendant in an undercover role, said, "Hey, you met with me for the purpose of seeing \$60,000.00 that I was going to use to buy a kilo of cocaine."⁵² The defendant replied, "Well, I admit that."⁵³ In holding the officer's comment was not the equivalent of interrogation, the court ruled the officer was

only providing the defendant information concerning the charge for which he was being arrested so that he could exercise his judgment as to what course of action to take. The court said:

"... when an officer informs a defendant of circumstances which contribute to an intelligent exercise of his judgment, this information may be considered normally attendant to arrest and custody."⁵⁴

The *Crisco* case also focused on that portion of the *Rhode Island v. Innis*,⁵⁵ which stated that interrogation must be judged primarily by the defendant's perceptions of the police conduct and concluded that where a defendant himself shows that he does not believe he should be arrested, it strongly suggests that he does not perceive himself to be the subject of interrogation.

Similarly, in *Kirkpatrick v. Blackburn*,⁵⁶ the defendant asked an officer what his co-defendant had been saying to police and was told that the co-defendant had been implicating the defendant. The officer also told the defendant he would be well-advised to protect himself. The defendant then implicated himself in the crime by making damaging admissions. The court found the officer's response was neither direct questioning nor its functional equivalent, since [s]uch a comment is no more likely to invoke a response on the part of a defendant than the conversation between the police officers in *Rhode Island v. Innis*.⁵⁷ In fact, in the eyes of this par-

“... where it is the defendant himself who asks questions of the officer prior to making an inculpatory response, comments or answers to the defendant’s questions are not interrogation for purposes of Miranda.”

ticular court, “[t]he standard for what is likely to elicit an involuntary response is rigorous.”⁵⁸

In sum, where it is the defendant himself who asks questions of the officer prior to making an inculpatory response, comments or answers to the defendant’s questions are not interrogation for purposes of *Miranda*. “*Miranda* does not bar police from answering a suspect’s question about a crime alleged, even after he has requested counsel.”⁵⁹

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Footnotes

- ¹384 U.S. 436 (1966).
- ²*Miranda* has often been cited as the catalyst toward a more professional law enforcement community. See, e.g., *United States v. Segura*, 104 S. Ct. 3380, 3404 (1984) (J. Stevens, dissenting).
- ³U.S. Constitution, Amend. V provides in part: “No person shall be . . . compelled in any criminal case to be a witness against himself.”
- ⁴384 U.S. 436, 479 (1966).
- ⁵*Henry v. Dees*, 658 F.2d 406, 410 (5th Cir. 1981).
- ⁶384 U.S. 436, 444 (1966).
- ⁷*Id.*
- ⁸The courts have been equally active in refining the meaning of custody for purposes of *Miranda*. For a comprehensive discussion of those cases, see, Charles E. Riley, III, “Finetuning *Miranda* Policies,” *FBI Law Enforcement Bulletin*, vol. 54, No. 1, January 1985, pp. 23–31.
- ⁹384 U.S. 436, 491–92 (1966).

¹⁰The standard announced by the Supreme Court in *Miranda v. Arizona* requires the government to prove an accused made a knowing, intelligent, and voluntary waiver of his privilege against self-incrimination and his right to retained or appointed counsel. 384 U.S. 436, 475–6 (1966).

¹¹384 U.S. 436, 444–45 (1966).

¹²423 U.S. 96 (1975).

¹³*Id.* at 102–03.

¹⁴In sum, *Mosley* held that a subsequent interrogation was permissible if the initial invocation had been “scrupulously honored,” a significant period of time had elapsed between the interrogations, and prior to the subsequent interrogation, fresh *Miranda* rights are given and a waiver obtained. 423 U.S. at 106. For a more complete discussion of the issue of subsequent interrogations following an invocation of rights, see, Charles E. Riley, III, “Interrogation Following Assertion of Rights,” *FBI Law Enforcement Bulletin*, vol. 53, Nos. 5 & 6, May–June 1984, pp. 24–31, pp. 26–31.

¹⁵451 U.S. 477 (1981).

¹⁶*Id.* at 479.

¹⁷*Id.*

¹⁸451 U.S. at 484–5.

¹⁹*Id.* at 485, quoting *Fare v. Michael C.*, 442 U.S. 707, 719 (1979).

²⁰For a discussion of conduct which constitutes an initiation of an interrogation by a defendant, see, Charles E. Riley, III, “Interrogation Following Assertion of Rights,” *FBI Law Enforcement Bulletin*, vol. 53, Nos. 5 & 6, May–June 1984, pp. 24–31, pp. 26–31.

²¹*Rhode Island v. Innis*, 446 U.S. 291, 297 (1980).

²²*Id.* at 295.

²³*Supra* note 7, quoted in *Rhode Island v. Innis*, 446 U.S. at 298. (Emphasis from *Innis*).

²⁴446 U.S. at 298.

²⁵446 U.S. at 299.

²⁶*Id.*

²⁷446 U.S. at 300–01.

²⁸446 U.S. at 302–03.

²⁹446 U.S. at 301–02.

³⁰*Supra* note 12.

³¹*Supra* note 15.

³²384 U.S. 436, 477–78 (1966).

³³725 F.2d 1272 (10th Cir. 1984).

³⁴543 F.Supp. 179 (M.D. Penn. 1982).

³⁵*Id.* at 190.

³⁶*Id.* at 192.

³⁷494 F.Supp. 244 (M.D. N. Carolina 1980).

³⁸*Supra* note 21.

³⁹446 U.S. at 301.

⁴⁰*United States v. Morrow*, 731 F.2d 233, 237 (4th Cir.), cert. denied, 104 S.Ct. 2689 (1984).

⁴¹*United States v. Glen-Archila*, 677 F.2d 809 (11th Cir.), cert. denied, 459 U.S. 874 (1982); *United States v. Abell*, 586 F. Supp. 1414 (D. Maine 1984). But see, *United States v. Hinckley*, 525 F. Supp. 1342 (D.C. D.C. 1981), aff’d 672 F.2d 115 (D.C. Cir. 1982).

⁴²*Robinson v. Percy*, 738 F.2d 214, 219 (7th Cir. 1984).

⁴³755 F.2d 382 (5th Cir. 1985).

⁴⁴103 S.Ct. 916 (1983).

⁴⁵*Id.* at 918.

⁴⁶103 S.Ct. 923, n. 15.

⁴⁷688 F.2d 91 (10th Cir. 1982).

⁴⁸626 F.2d 1309 (5th Cir. 1980), cert. denied, 449 U.S. 1092 (1981).

⁴⁹*Id.* at 1310.

⁵⁰626 F.2d at 1313.

⁵¹725 F.2d 1228 (9th Cir.), cert. denied, 104 S. Ct. 2360 (1984).

⁵²*Id.* at 1230.

⁵³*Id.*

⁵⁴725 F.2d at 1232.

⁵⁵*Supra* note 21.

⁵⁶597 F.Supp. 1562 (E.D. Louisiana 1984), rev’d on other grounds, 777 F.2d 272 (5th Cir. 1985).

⁵⁷*Id.* at 1577.

⁵⁸*Id.*

⁵⁹*United States v. Guido*, 704 F.2d 675 (2d Cir. 1983).

Pen Knife

The pen knife, which resembles a pen when closed, opens to disclose a stainless steel knife blade. Law enforcement personnel should be alert for this device, which is being sold on the open market at least in the Tampa Bay area of Florida.

(Submitted by the Sheriff, Pasco County, FL)



WANTED BY THE FBI



Photographs taken 1984



Left index fingerprint

Brian Patrick Malverty,

also known as Brian Malverty, Brian P. Malverty, Bruce Malverty, Bryan Malverty, Bryan Patrick Malverty, "Oscar." W; born 6-3-59, New York, NY; 5'10"; 170-190 lbs; med bld; brn hair; brn eyes; med comp; occ-cook, student, waiter; remarks: known to wear an earring. Wanted by the FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
17081221041PI132005

I.O. 4999
Social Security
Number Used 056-60-5131
FBI No. 394 376 P8

Fingerprint Classification:
 $\frac{17 \text{ L } 1 \text{ U } \text{IOO } 4}{\text{M } 3 \text{ W } \text{IOO}}$ Ref: $\frac{9}{3}$

Caution

Malverty, a reported drug dealer, is being sought in connection with multiple murders in which the victims were bound, shot in the head, chest and back with a .25-caliber revolver. Subsequently, their bodies had been doused with gasoline and set afire. Malverty reportedly carries a semi-automatic pistol in the small of his back or in his coat pocket. Consider armed and extremely dangerous.



Photographs taken 1982 and retouched



Right thumbprint

David Jay Sterling,

also known as David Sterling, David J. Sterling. W; born 1-5-45, Vancouver, WA; 5'10"; 180 lbs; med bld; blk (graying) hair; brn eyes; fair comp; occ-building maintenance man, computer service engineer, electronic repairman, electrician, equipment repairman, fireman, legal assistant, pilot, former U.S. Marine; scars and marks: 3-inch scar on right thigh, 2-inch scar on lower left leg; remarks: may be wearing a beard and mustache. Diagnosed in the past as having a skin condition known as Tinea Versicolor and Dyshidrosis. Wanted by FBI for INTERSTATE FLIGHT—ESCAPE, RAPE, ASSAULT.

NCIC Classification:
PO1818POCO23PM17CI18

Fingerprint Classification:
 $\frac{18 \text{ O } 9 \text{ U } \text{OOO}}{\text{L } 24 \text{ W } \text{MOI } 18}$

I.O. 4992
Social Security
Number Used 517-52-8709
FBI No. 246 301 H

Caution

Sterling is being sought as an escapee from a mental institution, where he was undergoing treatment as a sexual psychopath. Has been armed with a handgun and knife in the past. Should be considered armed and extremely dangerous.
FBI TOP TEN FUGITIVE



Photographs taken unknown, 1981 and 1984



Right little fingerprint

Donald Keith Williams,

also known as Anson Blake Judd, Thomas Slaughter, D.K. Williams, Don K. Williams, Donald Williams, Donald Deigh Keith Williams, Donald K. Williams. W; born 12-12-28, Lincoln, NE; 6'0"; 200 lbs; med bld; grey (balding) hair; blue eyes; med comp; occ-salesman; remarks: known to wear disguises; may wear beard and mustache, right eye has muscular inflection and may cause squinting; may be accompanied by his wife, Cheri A. Williams, who has a deformed right leg which causes a limp. CHERI WILLIAMS IS NOT WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY.

NCIC Classification:
PIC13PM18PMPOPOPM13

Fingerprint Classification:
 $\frac{13 \text{ I } 31 \text{ W } \text{IOM } 18}{\text{M } 20 \text{ W } \text{OOM}}$ Ref: $\frac{31}{24}$

I.O. 4990
Social Security
Number Used 492-26-8513
FBI No. 4 816 307

Caution

Williams has been armed with a .38-caliber revolver and has worn protective body armor and radio earpieces. Should be considered armed and dangerous.

WANTED BY THE FBI



Photograph taken 1985



Right thumbprint

Edward Lee Howard,

also known as Patrick Brian, Patrick M. Brian, Patrick M. Bryan, Edward L. Houston, Ed Howard, James Rogers, Roger H. Shannon, Roger K. Shannon. W; born 10-27-51, Alamogordo, NM; 5'11" 165-180 lbs; med bld; brn hair; brn eyes; med comp; occ-economic analyst, former U.S. Government employee; scars and marks: 2-inch scar over right eye, scar on upper lip; remarks: knowledgeable in the use of firearms, reportedly speaks and understands Russian and Spanish fluently, trained in disguise and surveillance techniques. Wanted by the FBI for ESPIONAGE, INTERSTATE FLIGHT—PROBATION VIOLATION.

NCIC Classification:

DO540719191108101419

Fingerprint Classification:

4 O 1 R IIO 19
S 17 U IIO

I.O. 4998

Social Security

Number Used 457-92-0226

FBI No. 720 744 CA2

Caution

Howard should be considered armed and dangerous and should be approached with caution inasmuch as he has been convicted of assault with a deadly weapon and is presently on supervised probation.



Photographs taken 1982, 1983, and 1984



Right thumbprint

Terry Lee Conner,

also known as Robert Ballentine, Terry Conner, Terry Connor, Terry L. Connor, Richard Freeman, Ronald Richard Gilbert, Robert Williams. W; born 11-22-43 (true date of birth), 11-23-43; Evansville, IL; 6'1"; 190 lbs; med bld; brn(balding)hair; blue eyes; med comp; occ-laborer, restaurant owner, salesman; scars and marks: tattoo of "Terry" under devil on right upper arm; tattoo of a flower on right bicep; remarks: may wear glasses. Conner may be accompanied by Joseph William Dougherty, FBI Identification Order 4996, WHO IS ALSO WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY; ASSAULT ON A FEDERAL OFFICER; THEFT OF GOVERNMENT PROPERTY; ESCAPED FEDERAL PRISONER.

NCIC Classification:

08AAAA0202AAAAAAATT

Fingerprint Classification:

8 1 Aa 2
1aA2at

I.O. 4997

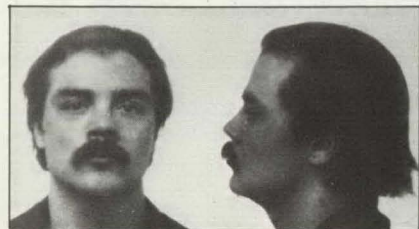
Social Security

Number Used 307-44-2358

FBI No. 451 169E

Caution

Conner, an escape from custody, is being sought for a series of bank robberies in which hostages were taken. He is reportedly armed with both handguns and automatic shoulder weapons. Should be considered armed and dangerous.



Photographs taken 1973



Right middle fingerprint

Jon Steven Heidinger,

also known as John Doyle, Jon Doyle, John S. Hechinger, John S. Heidinger, Jon S. Heidinger, Jon Stephen Heidinger, "Kraut." W; born 3-30-51, Vallejo, CA; 5'9"; 200 lbs; mus bld; brn hair; brn eyes; fair comp; occ-brickmason, carpenter, electrician; scars and marks: scar on abdomen, scar on left wrist; tattoos: "Harley Davidson" on left forearm; letters "LPDP" on inside of left forearm; star on left wrist; "1%" in diamond shaped form on web of left hand; hooded skull with flame and the letters "PFFP" and "LPDP"; "PFFP" on the inside of right forearm, letters "Kpfp" and "LPDPK" on abdomen; spider and web on right thigh; spider webs on both knee caps; 3 missing upper front teeth; remarks: is reportedly a heavy whiskey drinker. Wanted by the FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

17PI1721131515172010

I.O. 5000

Social Security

Number Used 265-94-4515; 455-55-9603

FBI No. 666 635 H

Fingerprint Classification:

17 L 17 W IIO 13
M 1 U OOO

Caution

Heidinger is being sought as an escapee from a Virginia State prison where he was serving a lengthy sentence for the aggravated murder of a woman who was maliciously stabbed 17 times in the chest. Heidinger has vowed not to be taken alive and should be considered armed and dangerous.

Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

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Investigation
Washington, DC 20535

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Title

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State

Zip

Questionable Pattern

This impression represents an obstruction-type, central pocket loop whorl. To be classified as such, it is necessary that the obstruction be at a right angle to the line of flow. The line of flow is determined by an imaginary line between the inner delta and the center of the innermost recurving ridge. The pattern presented has an inner tracing. The obstruction-type, central pocket loop whorl appears infrequently, and the Identification Division automatically references this type pattern to a loop.



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The Bulletin Notes

Det. Sgt. Joseph A. San Juan of the Waterford, CT, Police Department was having lunch in October 1984, at a restaurant in New London when he saw another customer choking on some food. Sergeant San Juan applied the Heimlich maneuver and was able to dislodge the food. The customer, herself an ambulance emergency medical technician, credited Sergeant San Juan with saving her life. The Bulletin is pleased to join this officer's superiors in commending his lifesaving action.



Sergeant San Juan
