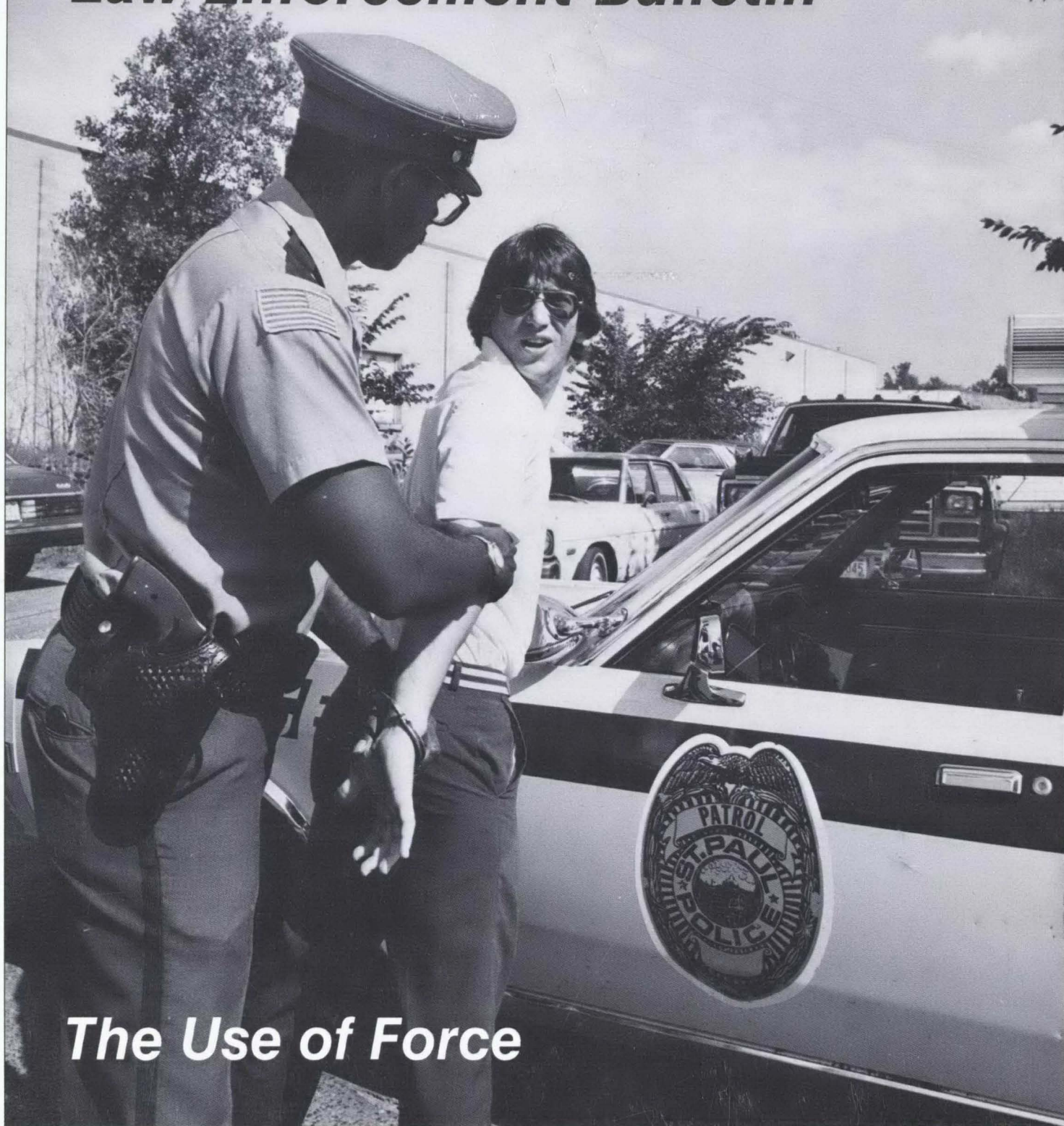




FBI

January 1987

Law Enforcement Bulletin



The Use of Force

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January 1987, Volume 56, Number 1

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FBI **Law Enforcement Bulletin**

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

William H. Webster, Director

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The Cover:

The St. Paul, MN, Police Department developed a pure research project designed to measure the resistance encountered by police officers and the force used to overcome that resistance. See article p. 6.

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Sports Drug Awareness Program

"The FBI and DEA have become partners in a concentrated effort to reduce drug abuse among our school-aged youths."

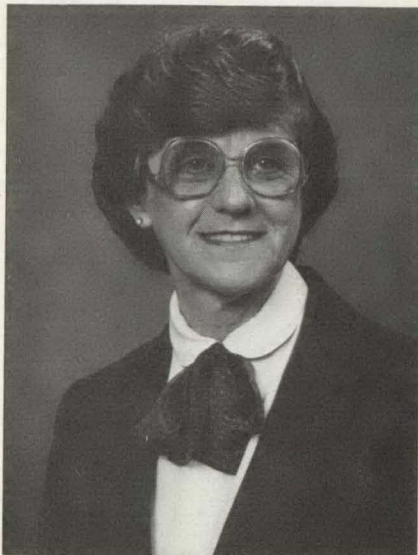
"SAP" spelled with the addition of a "D" is one way to remember the acronym for the Sports Drug Awareness Program, and to go a step farther, only a "sap" athlete would indulge in drugs with sports.

The FBI/DEA Sports Drug Awareness Program was officially launched by former Attorney General William French Smith in Lexington, KY, on June 27, 1984. Present at the inaugural announcement, among others, were the Director of the FBI, William H. Webster, and then Administrator of DEA, Bud Mullen. The FBI and DEA have become partners in a concentrated effort to reduce drug abuse among our school-aged youths.

In addition to being a joint undertaking in cooperation between these two agencies, the Sports Drug Awareness Program also has represented on its steering committee a member of other concerned organizations, among them the National High School Athletic Coaches Association, the International Association of Chiefs of Police (IACP), and the National Association of Broadcasters (NAB).

The National High School Coaches Association has facilitated the outreach to youth in the high schools throughout the Nation. The National Association of Broadcasters has provided significant support through the production of public

By
ROSE ANNE FEDORKO, Ph. D.
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Washington, DC



Dr. Fedorko

service announcements, which have been made available to radio and TV stations throughout the Nation. In November 1985, the Director of the FBI, William H. Webster, made two public service announcements which the National Association of Broadcasters has distributed nationwide.

Phase I—Student Athletes

The emphasis of the SDAP program is on the role of the coach and the student athlete to prevent drug abuse among youths in kindergarten through college. The goal is to initially reach 48,000 men and women coaches in 20,000 high schools across the country, who can in turn help reach the 5.5 million student athletes. For the most part, the coaches are leaders and key teachers in the schools, who have earned respect and loyalty from their student bodies. With the help and involvement of the coaches, student athletes can be influenced and trained to act as role models, using positive peer pressure to dissuade other students from using drugs.

Shocking Statistics

According to Dr. Lloyd D. Johnston, Program Director of a study at the University of Michigan on youth drug use:

"We do not want to understate the substantial improvement which has been made. Daily marijuana use now is less than half of what it was in 1978 (5 percent versus 11 percent) and the statistics for a number of other drugs are appreciably lower now than they were at their peak levels—including tranquilizers, barbiturates, LSD, PCP, and heroin.

"However, the rates of illicit drug use which exist among American young people today are still troublesomely high and certainly remain higher than in any other industrialized nation in the world. Add to that the fact that the use of one of the most dependence-producing substances known to man—cocaine—is once again increasing and you have grounds for real concern."

Cocaine has been tried by 17 percent of this year's seniors—the highest rate observed so far in the continuing study. "Cocaine use was up in 1985 among virtually all of the subgroups we examined, among both males and females, college-bound and noncollege-bound, rural and urban areas, and all regions of the country except the South," Johnson said. "While this year's increase is not dramatic, it breaks a pattern of stability which has held for the preceding five years."

"Fight—Team—Fight" Game Plan

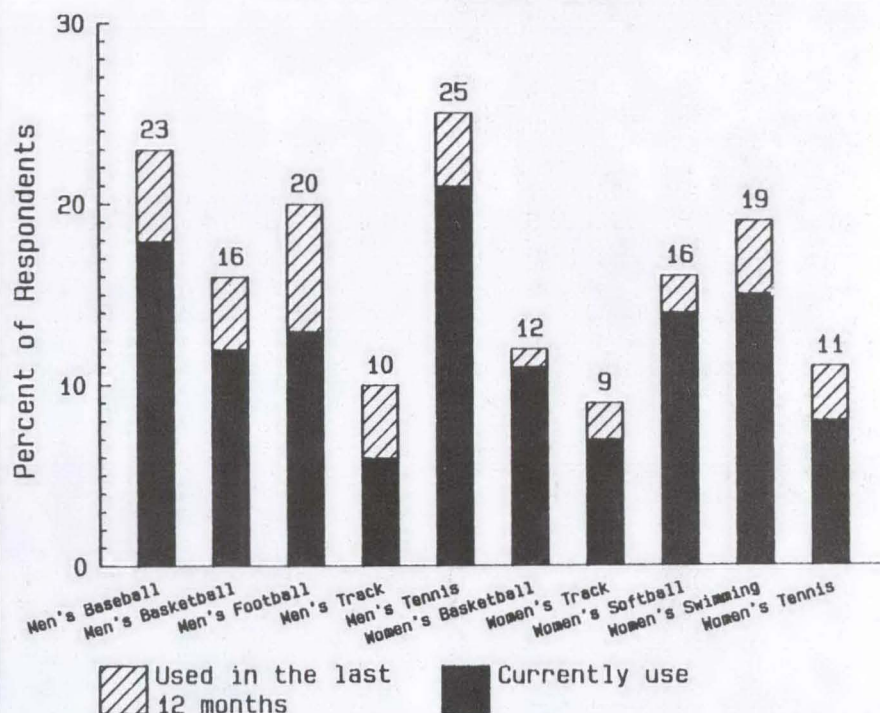
"For Coaches Only: How to Start a Drug Prevention Program"² is one of the brochures which is being distributed to every coach in the United States. It is a key element in carrying out the program and provides information to coaches on the need for high school prevention programs involving student athletes. This is intended to provide awareness and get the attention of the coaches to the problem. There is also a second booklet of materials containing an action plan and guidelines of how to start a drug abuse prevention program for student athletes. This booklet, "Team Up For Drug Prevention,"³ contains a description of a model high school program in Cincinnati, OH. Finally, 1-hour, 1-day, and 3-day seminars and clinics are offered for coaches in order to assist them in understanding the nature of the youth drug problem and how to take the necessary

steps to develop and implement a program in their high schools. These seminars are staffed by a DEA/FBI team, key players and officials from professional and amateur sports, high school coaches who have successfully put this program into operation, and other representatives from organizations who are participating in the program.

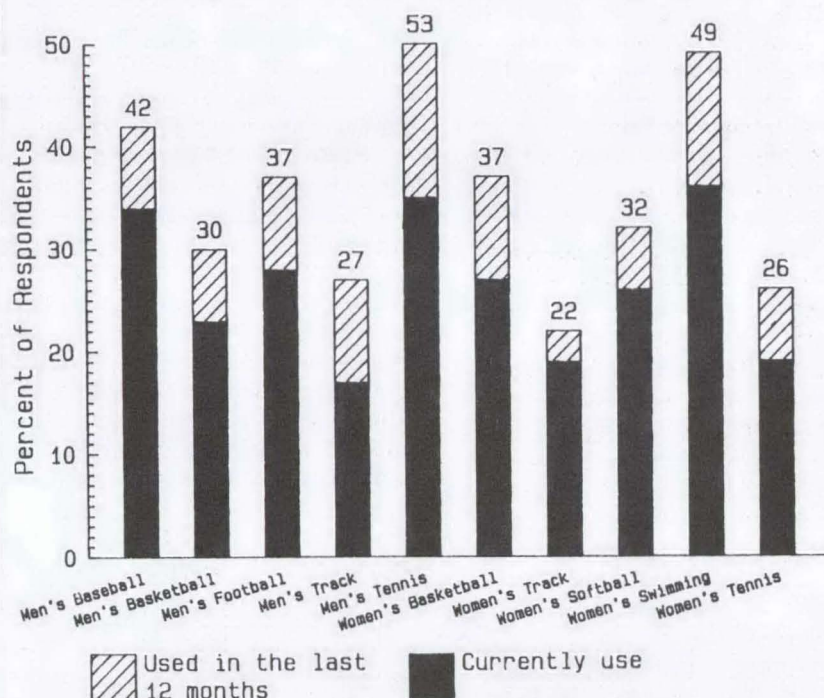
Encouraging Success

The Sport Drug Awareness Program works. School surveys indicate that in the past 2 years, the demand for drugs, as a result of the FBI/DEA Sports Drug Awareness Program, has dramatically decreased among students in schools where programs have been in effect. In one high school in Washington, DC, for example, drug abuse has de-

Cocaine use by sport



Marijuana and hashish use by sport



creased 75 percent among students in the athletic program.

In another, in Cincinnati, drug and alcohol use by senior athletes went from 66 percent to 37 percent. Drug and alcohol use by 8th-grade athletes went down 68 percent.

The Sports Drug Awareness Program began with two pilot programs, one at Spingarn High School in Washington, DC, and the other at the Forest Hills Schools District in Cincinnati, OH. These programs achieved significant accomplishments over the past 2 years. The Spingarn High School program, initiated in 1984, provided training in prevention and peer counseling for 91 student athletes. They became an integral part of the school's Super Team program which stresses achievement in sports and academics as an alternative to drugs.

The Spingarn High School survey indicates:

- 1) Drug abuse decreased 75 percent among the students in the Spingarn High School Athletic Program;



Shep Messing (New York Express)



Left to right: Dave Winfield, (New York Yankees),
DEA Administrator Jack Lawn, Julius Erving
(Philadelphia 76ers), FBI Director William Webster

- 2) One-third of the students on the athletic team made the honor roll this year;
- 3) A 10th-grade cheerleader, who joined the program last fall, is a 4.0 student. She has also been invited to Cornell University to study this summer with a group of accelerated students; and
- 4) One graduate involved in the program has been accepted at West Point.⁴

At the Forest Hills School District in Cincinnati, surveys of the student athletes showed similar accomplishments:

- 1) Drug and alcohol use by senior athletes during the sport season has been reduced from 66 percent to 37 percent.
- 2) Drug and alcohol use by 8th-grade athletes during the sport season has been reduced from 38 percent to 12 percent.⁵

In these and in other schools, there are numerous other positive signs that athletes' attitudes about alcohol and drugs are changing as a result of these programs. Students—athletes and non-athletes alike—are talking about the program and the problem. Some athletes are stating publicly that they are no longer going to use drugs or alcohol. More athletes pride themselves on being absolutely clean in regard to training rules. Most importantly, athletes are telling their coaches that they changed their attitude because of the focus that the coaches are putting on chemical abuse.

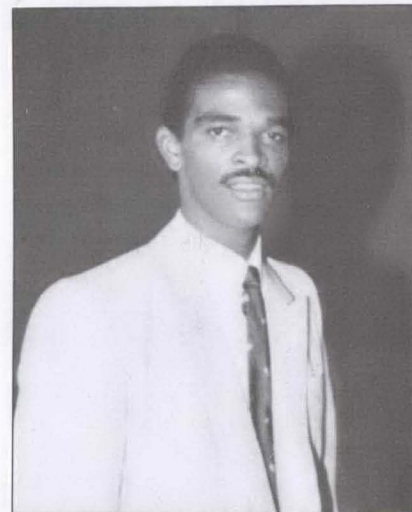
Phase II—The Professionals Want To Help

Ralph Sampson, the former University of Virginia star now with the Houston Rockets, showed his willingness to help by participating in the National Law Enforcement Explorers Convention at the University of Washington in Seattle on July 14-19, 1986. The top athlete believes the way to curb drug abuse among school children is through education at an early age. According to FBI Assistant

Director William M. Baker, who spoke with Sampson, "I can't think of a more appropriate manner to reach a drug-vulnerable, school-aged population to alert them to the dangers of drug abuse than through outstanding athlete-heroes such as Sampson."⁶

These meetings were particularly significant as the Law Enforcement Exploring Program of the Boy Scouts of America coordinates the activities of some 2,000 Explorer posts with more than 42,000 of the Nation's best young people as members.

Sampson and approximately 30 leading men and women athletes from nearly every sport were involved in a special Drug Awareness award ceremony sponsored by the FBI and DEA at the FBI Building in Washington, DC, on August 14, 1986. Awards were presented to individuals and organizations who had already given their time and service to SDAP. These athletes taped public service announcements for national TV and radio distribution in a con-



Ralph Sampson (Houston Rockets)

Basketball star Nancy Lieberman with a fan

centrated effort to influence America's youth against drugs. In his address at the ceremony, Director William H. Webster said of them, "Professional athletes from the entire spectrum of sports are coming forward to declare that they are on the Winning Team. And their message is clear, "It's okay to be straight, and it's okay to say no to drugs."

During the ceremony to recognize those who helped make the Sports Drug Awareness Program a reality, one of those who received an award was Mr. Eddie Fritts, President of National Association of Broadcasters. The NAB is represented on the steering committee of the FBI/DEA Sports Drug Awareness Program. They have produced a 1-hour special satellite feed on the program which was sent to virtually every station in the country on September 25, 1986. Included in the feed is the film, "Say No to Drugs—It's Your Decision," featuring New York Yankee Dave Winfield as narrator. The film, produced by DEA and the Winfield Foundation, was presented by Dave Winfield who stated his concern about drug usage among children and

warned the audience that if steps are not taken, we will lose an entire generation.

Let's Take It From There

The FBI has added a "drug awareness" exhibit to its daily tours at FBI Headquarters which conveys messages from First Lady Nancy Reagan, "Trip on Life, not on Drugs," and screen star Brooke Shields in an appeal to parents. Over one-half million people, many of them adolescents, view the exhibit annually and become alerted to facts and figures regarding the four basic types of drugs and the FBI's twofold approach of enforcement and prevention.

But FBI Director William Webster cautions, "For until we rid ourselves of this scourge, we will not be truly free." The Director further urges the country's athletic leadership "to keep up the good work" in fostering healthy minds and healthy bodies—helping our young people see that "doing drugs is dumb" and

giving them strength and the opportunity to choose healthy alternatives—to learn about team work and fair play and indeed about freedom which, in the final analysis, is the greatest legacy.

FBI

Footnotes

¹Dr. Lloyd D. Johnston, Program Director of Study, "Youth Drug Use Little Improved in Class of '85," University of Michigan, Ann Arbor, MI.

²U.S. Department of Justice, Drug Enforcement Administration, Washington, DC.

³U.S. Department of Justice, Drug Enforcement Administration, Washington, DC.

⁴Clemmie H. Strayhorn, principal of Spingarn High School; Frank Parks, former vice-principal and athletic director of Spingarn and currently peer counselor coordinator for the DC school system.

⁵Michael Hall, former coach and athletic coordinator for the Forest Hills School District and currently principal of Anderson High School in that district.

⁶Personal communication with FBI Assistant Director William M. Baker.

The Use of Force

One Department's Experience

By
LT. ROSS LUNDSTROM
Fraud, Forgery, and Arson Unit Commander
and
CYNTHIA MULLAN
Systems Unit Analyst
Police Department
St. Paul, MN

Lawsuits brought against criminal justice agencies have become common features on court dockets throughout the country. Agencies held responsible for the actions of their employees are forced to prove that their personnel have received adequate training and supervision. Motivated by the national increase in liability suits, the chief of the St. Paul Police Department decided to initiate a study on the use of force employed by the officers in his department. This study would not only track officers' actions but also measure the involved citizens' levels of resistance. As a sidelight, it was hoped that the results of such a study would also provide a useful tool for educating citizens and politicians on the scope of the problems faced by the officer on the street who must routinely take people into custody.

The police chief maintained a researcher's objectivity, stating that he was not sure what the results of an accurate assessment would show. It was possible that significant training or operational deficiencies would be identified. In early 1985, a pure research project was designed to measure the resistance encountered by St. Paul police officers, the force or weap-

ons used to overcome that resistance, and the effect of the encounter on the officer and citizen.

Methodology

A decision was made early in the design process not to track individual officers. Trying to implement a reporting system that could be used in performance appraisals would make quality control extremely difficult and almost certainly guarantee skewed data. Therefore, to aid in building acceptance of and compliance with the project, the use of force was studied on a department-wide basis only.

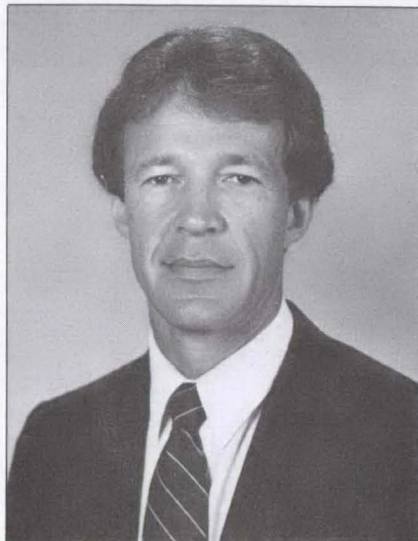
It was also decided that all cases where officers must take a citizen into custody would be examined. This would include not only arrests but also the frequent transports of intoxicated individuals to the county detoxification facility and the acutely mentally ill to hospitals. These nonarrest cases are becoming a larger part of the urban police function as the governing philosophy of the social welfare system shifts from institutionalizing to mainstreaming clients.

The only way to insure complete data on all desired cases was to require that a separate report be pre-

pared every time someone was taken into custody. Understanding that such a process would be unfavorably received by street officers, the goal was to create a checklist-like report that could be completed in 30 seconds, plus be in a format readily acceptable to police officers and researchers alike.

The "Use of Force" report, a one-sided form that takes approximately 45 seconds to complete, consists of three categories. (See figure 1.). The first section, "level of resistance," is intended to measure the degree of force encountered by the officer(s) while attempting to take an individual into custody. This resistance is measured on a 13-step continuum progressing from "no force, no hand-cuffs" to an "armed suspect firing at officers."

The second section of the report, "police weapons used," again is a progressive scale. Its 16 steps range from "none" to "Critical Incident Response Team special weapons." This section includes the use of a flashlight, canine, and NOVA XR-5000 stun gun (a concurrent experimental project in the department) in an effort to track items not always thought of as police weapons.



The third section of the form is "effect of force/resistance on suspect/police." This section contains two scales for measuring the results of custodial encounters on civilians and officers, with progression from "no visible injury, no complaint of pain" to "died." A subscale was included for tracking the effectiveness of the stun gun.

the department's computerized records system. The self-coding nature of the reports makes them immediately ready for data entry with no further manual manipulation. The information is then analyzed using the statistical package SPSS-X, with a variety of summary report formats available.

Quality Control

Quality control was a major concern throughout the project; data that could not be statistically validated would be of little value. The primary validation measurement was done through post-arrest interviews with 102 subjects. Their accounts of the manner in which they had been taken into custody were compared to the use of force reports completed by the arresting officer(s).¹ A weakness in this validation method was that it did not in-



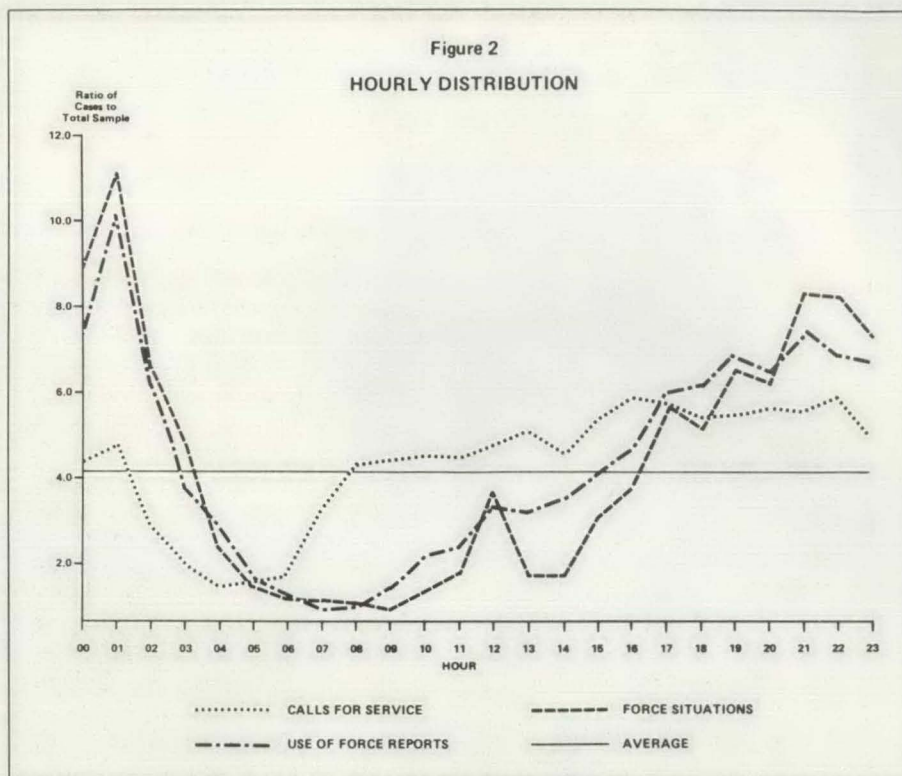
All data from the use of force reports, exclusive of the reporting officer's name, are entered directly into

[illegible]

clude intoxicated or mentally disturbed individuals. However, the nature of the condition causing their confinement was considered to generally preclude accurate post-custody interviews.

These quality checks did identify some problems with the study data that required minor modification of the final reporting to insure no unsupportable statements were made. The major difficulty occurred in the first two categories of level of resistance, which are "no force, no handcuffs" and "no force, suspect handcuffed." The post-custody interviews indicated that officers had significantly understated the number of persons handcuffed. This anomaly was corrected for final reporting by combining the first two levels of resistance into one broader category of "no force." This eliminated the potential for measuring what ratio of persons taken into custody were handcuffed, but little else in the way of inquiries was lost.

The only other significant discrepancy found between officers' and subjects' arrest accounts was in the category of "police weapons used." The interview group indicated under-reporting of the "service revolver pointed at suspect" category by the officers. Followup investigation of these cases revealed that the problem arose when there was more than one officer at the arrest scene, and an officer other than the reporting squad pointed a service revolver at the subject. From a pure research perspective, this could be corrected by requiring every officer at the scene of a custody incident to file a use of force report. This option, however, was rejected on the basis of being overly burdensome on patrol officers and that element of data was assumed to be invalid for this study.



Results

The study data covered a 12-month period from March 1, 1985, to February 28, 1986. A full-year cycle was used to determine if there were any significant differences in the use of force by citizens or officers during the widely varied seasons in Minnesota's climate. Nearly 12,000 cases were included in the sample, a number large enough to be considered universal for statistical purposes.

Evaluation of results required that some threshold level of resistance be chosen as the point where the use of force becomes significant. These "force situations" were defined as all cases where the reported level of resistance encountered was minimal "unharmful suspect resisted control, had to be physically handled with minimum force..." This level of escalation was selected because it is at this point that the officer, department, and city become exposed to considerably greater risk. In these cases, the officer's immediate safety is threatened, with training and conditioning being key elements in insuring that he/she remains in control. This reliance on



William McCutcheon
Chief of Police

training and physical condition also exposes the city and department to potential lawsuits for any injuries caused by overzealous use of force or weapons.

Figure 2 represents the hourly distribution and relationship of calls for service, use of force reports (all per-

Figure 3

**No Force/Force Comparison
for Selected Custody Incidents**

Custody Incident	Number of Cases in Sample	Percentage of Cases	
		No Force	Force
TOTAL SAMPLE	11,989	85.4	14.6
Part I Crimes Against Persons	718	82.6	17.4
Aggravated Assault	479	78.5	21.5
Part I Crimes Against Property	1,745	90.5	9.5
Burglary	470	83.0	17.0
Theft	1,079	94.3	5.7
Total Part I	2,463	88.2	11.8
Detox Run	2,144	79.3	20.7
Warrant	1,232	93.8	6.2
Driver's License Violation	1,196	97.3	2.7
Driving While Intoxicated	830	89.8	10.2
Other Assault	711	69.5	30.5
Traffic Accident	436	94.0	6.0
Disorderly Conduct	227	45.8	54.2

sons taken into custody), and force situations as defined above. Custody situations and force situations are a much smaller portion of the work load during the early morning and day hours. During the evening and late night, this is dramatically reversed, with custody and force situations involved in a much larger ratio of cases. These ratios were found to be consistent for each day of the week and throughout the year, with calls for service being the independent variable.

Figure 3 shows the no force/force percentages for selected offenses, as well as for the total sample. Of interest from a risk management perspective is the number of force situations involved with transporting intoxicated persons to detoxification facilities. While this is usually considered a service rather than an enforcement function, the level of resistance encountered is significantly higher than for most arrests, and therefore, exposes the department to relatively greater risks of liability. Any city with a similar pattern may want to consider this as an additional cost of campaigns against public drinking or intoxication.

The numbers in figure 3 also have general training applications. As reinforcement in officer survival courses, it is noteworthy that even in the most mundane arrests for driver's license violations, significant resistance is encountered in 2.7 percent of the cases.

Applications

The internal applications resulting from this type of study are interesting and of some use, but the greatest potential for the data is with outside interest groups that may have occasion to question the quality of training or supervision in the department. To meet this need for quantitative data, one of the hypotheses tested by the project was that the use of force is a common occurrence for police officers in St. Paul and that force is used professionally with minimal injury to citizens or police. That hypothesis proved to be true. In the 11,989 custody situations, officers encountered significant resistance 1,750 times during the year, or nearly 5 times per day. Of all those cases, only 1 percent resulted in injuries to suspects that required outpatient medical treatment; five individuals were hospitalized overnight; two died.

This type of validated statistical information should be admissible and defensible in any civil suit where the quality of overall department training is questioned. It can also be presented to community groups as part of any package describing department performance.

The Future

The department has discontinued the use of the report because this initial sample size is valid for answering any obvious questions. To continue the study indefinitely would be an un-

necessary drain on resources. The department does plan, however, to conduct a second study in 1988 using these initial results as a baseline.

Few changes are planned for the next edition of the study. A series of three check boxes will be added to indicate if the individual taken into custody was arrested, transported to a detoxification facility, or taken to a hospital. The instructions for the "police weapons used" section will also be clarified so that any weapon used at the scene, whether by the reporting or an assisting squad, is recorded.

This method of periodic study should make it possible to track changes in the risk attached to the officers' and department's functions. It will also test the hypothesis of many veteran officers that people in general are becoming more likely to physically challenge the custody process.

Conclusion

As the resources available to local government become critically scarce, funding requests by all departments are more closely scrutinized. If law enforcement executives want to support claims of increasing work loads and ongoing dangers to street officers, properly validated local studies such as this should become a common management information supplement for agencies of all sizes. National or State statistics can readily be dismissed by local legislative bodies that may prefer to assume that their city is safe; that any problems noted in broader studies belong to their more poorly managed neighbors.

FBI

Footnote

Chi-square testing to the .05 level of significance was used to determine if there was any difference between arrestees' and officers' accounts of the incidents. Chi-square testing was also used to validate the sample data, indicating no significant difference between sample and population statistics.

Testing Technology for Law Enforcement Agencies

By

LESTER SHUBIN

Program Manager

Technology Assessment Program

National Institute of Justice

and

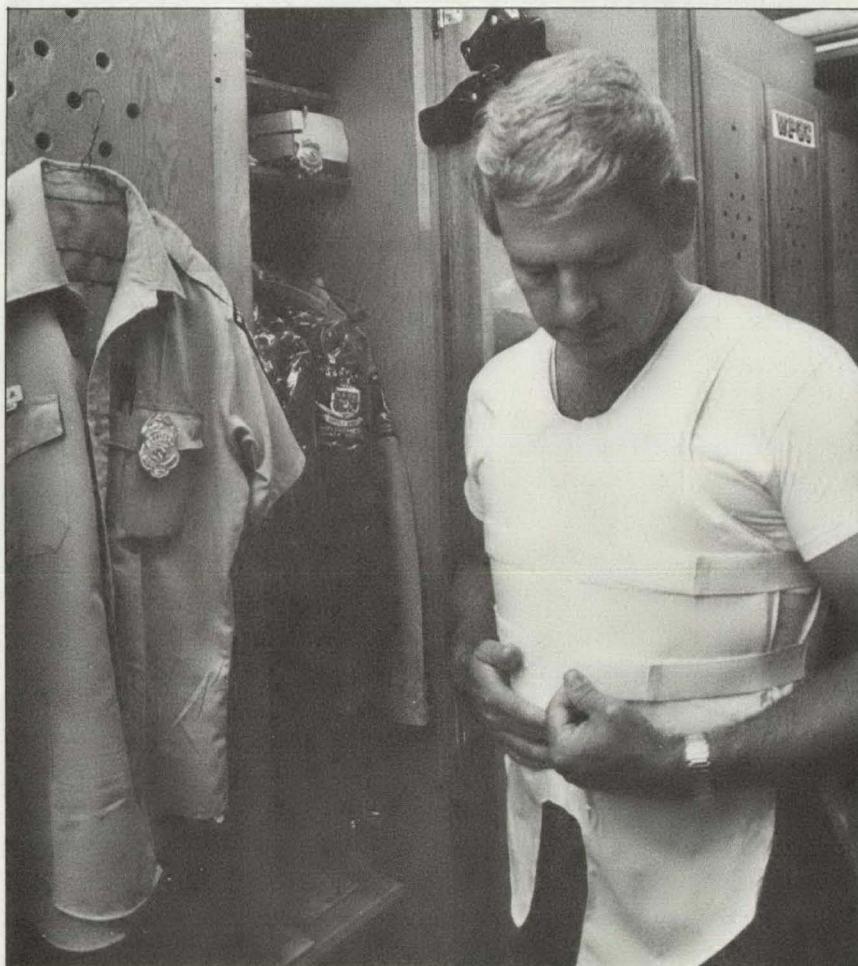
JOLENE HERNON

Senior Writer-Editor

Technology Assessment Program

Information Center

Rockville, MD



TAP tested old armor and found that the ballistic resistance of vests remains high, even in vests more than 10 years old. Bullet resistant vests remain a high priority for TAP.

"To help agencies choose the best products and to encourage manufacturers to develop better equipment, the National Institute of Justice ... has developed standards for equipment and tested products used in law enforcement work."



Mr. Shubin



Ms. Hernon

Like all consumers, law enforcement professionals want to get the most for their purchasing dollar. But unlike most consumers, they place a higher premium on safety and performance because inferior products cost not only dollars—they can cost lives.

To help agencies choose the best products and to encourage manufacturers to develop better equipment, the National Institute of Justice (NIJ) of the U.S. Department of Justice has developed standards for equipment and tested products used in law enforcement work. Through NIJ's Technology Assessment Program (TAP), scientists and engineers at the National Bureau of Standards and specialists at the TAP Information Center (TAPIC) develop standards, test equipment, analyze test data, prepare test reports, and disseminate the results.

This year, law enforcement professionals will spend millions of dollars on equipment. In an era of tight budgets, the director of NIJ has noted that such expenses are being scrutinized as never before. TAP can help make those purchases go further by ensuring that equipment meets the minimum performance standards established by NIJ.

TAP is composed of three complementary components:

- The National Institute of Justice, which provides overall guidance and direction for the programs;
- The Law Enforcement Standards Laboratory (LESL) of the National Bureau of Standards, which develops standards and assists in the testing; and

- The TAP Information Center (TAPIC), which assists NIJ in selecting laboratories to test equipment, overseeing the testing and analyzing the results, and which also disseminates the findings to as wide an audience as possible.

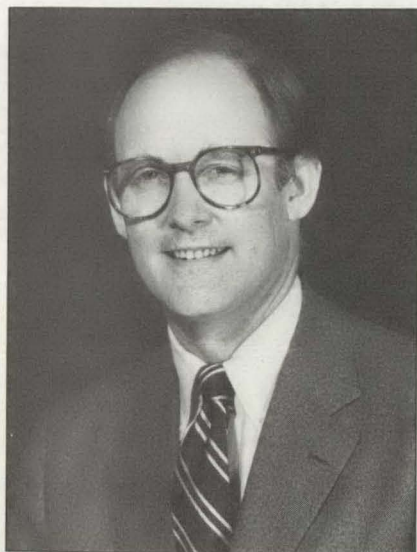
Setting Priorities

The marketplace now offers an almost unlimited number of law enforcement products. TAP cannot, of course, examine all of these, so the program relies on a panel of experts, the TAP Advisory Council, to help define issues and set priorities.

The TAP Advisory Council consists of Federal, State, and local law enforcement professionals who maintain close contact with NIJ and LESL. The chair of the council is the current chief of police in Huntington Beach, CA.

The council consists of three committees—Weapons and Protective Equipment, Communications, and Systems. An FBI Special Agent assigned to the Firearms Training Unit at the FBI Academy in Quantico, VA, is the chair of the Weapons and Protective Equipment Committee. The deputy commissioner of the New York Division of Criminal Justice Services heads the Communications Committee, and the executive director of the Northern Illinois Police Crime Laboratory chairs the Systems Committee.

Each year, the advisory council assesses key technological needs and recommends equipment priorities for the coming year. The council met in April 1986, and suggested more than two dozen products for TAP to evaluate. Among these priorities were a continued evaluation of body armor and examination of less-than-lethal weapons and communications equipment.



James K. Stewart
Director
National Institute of Justice

In cooperation with the Law Enforcement Standards Laboratory of the National Bureau of Standards, TAP has developed performance standards for mobile digital equipment and personal mobile FM transceivers.



Based on the council's recommendations, NIJ selects which equipment items to test and evaluate. In 1986, TAP tested handguns (9mm and .45-caliber autoloading pistols and .38- and .357-caliber revolvers), used body armor (to determine if age has an effect on ballistic performance), and expects to issue a report on electronic monitoring devices. Additional priorities for 1987 will be selected throughout the coming months.

Developing Standards

Once NIJ has selected an item as a TAP priority, a standard is developed if one does not already exist. The first step in developing a standard is to determine what the performance requirements are and how they correspond to the attributes of the product. The NIJ and LESL staff consult practitioners to understand how the equipment should operate in the field. Minimum requirements are then set for each essential attribute of the equipment. For example, performance requirements for a police riot helmet would include its ability

to withstand impact while attenuating cranial acceleration due to the impact, resist penetration, and provide for adequate visibility on the part of the officer wearing it. In addition to specifying what the item of equipment should do, the standards define the methods for testing the equipment so that any competent testing laboratory can determine if the product meets NIJ requirements.

Once the performance requirements are identified and laboratory evaluation is conducted, a draft standard is developed and circulated to Federal agencies, manufacturers of the equipment, universities, and other experts. After all the review comments and suggestions are returned, the draft standard is revised and finalized. The final standard is a technical document designed to help procurement officials determine if a particular product meets their needs. The overall process—from initial evaluation until the standards are published—usually takes 3 years. Criminal justice agencies who use the standards have found they can simplify the bid process and eliminate from competition equipment that does not comply with laboratory-based performance levels.

Since NIJ established the Technology Assessment Program 10 years ago, 45 standards have been developed for items ranging from chemical spot test kits for identifying drugs to weapons detectors used by corrections agencies to screen visitors. Courts have used NIJ standards to select video as well as audio recording equipment for courtrooms. Standards for organic vapor detectors are helping investigators in the battle against arson.

Testing Equipment

Few law enforcement agencies who purchase equipment have the facilities or finances to test their equip-

"The final standard is a technical document designed to help procurement officials determine if a particular product meets their needs."

ment against NIJ standards. So TAP certifies independent laboratories to conduct all the testing for the program. To select laboratories, the TAP Information Center first announces its plans to test equipment and issues a request for proposals. Then with the assistance of the National Bureau of Standards Law Enforcement Standards Laboratory and National Voluntary Laboratory Accreditation Program, TAP reviews the proposals from laboratories and selects the lab that offers the best technical and financial plan for testing equipment.

NIJ, LESL, and TAP staffs then oversee the actual testing, analyze the results, and determine the appropriate medium for presenting the findings to the criminal justice community. The TAP Information Center disseminates the results in a number of ways, including equipment performance reports, articles in widely read criminal justice periodicals, and presentations at conferences.

Publicizing Test Results

One of TAP's most important functions is the dissemination of the testing program results. Naturally, the program is only useful if the findings are widely available to those who need them. TAP uses several vehicles to disseminate testing information.

Equipment performance reports contain the full results of equipment testing. Most recently, TAP published an equipment performance report on the results of the Michigan State Police Vehicle Test and a revised edition of transceiver battery testing. These reports do not recommend individual products or endorse particular manufacturers, but they do discuss trade-offs to consider before purchasing equipment.

Sometimes a manufacturer introduces a new model of a particular product *after* the main testing for that product is complete. If the manufacturer submits the product for testing, TAPIC publishes the results in an equipment performance supplement. These brief reports keep law enforcement personnel up to date on the testing of the most recently developed equipment. The most recent supplements have been on the results of additional testing on handcuffs and on transceiver batteries.

TAP also keeps law enforcement agencies informed of developments through a periodic newsletter called the *TAP Alert*, which informs subscribers about the program's activities and contains brief articles about the uses of new technology. A recent issue of the *Alert* presented the results of testing on used body armor. TAP has received many questions about the ballistic resistance of used armor, and in response, has tested 48 panels of 10-year-old armor. The results showed that age alone does not contribute to the deterioration of the ballistic resistance of armor. There was no significant degradation in vests that had been used for 10 years.

One issue of the *Alert* described the various methods now available to test blood and urine for the presence of illegal drugs. Another issue described how the Metropolitan Council of Governments in Washington, DC, coordinated the use of an emergency communications network among the 38 law enforcement agencies that operate within a 100-mile radius of the city.

Simple, easy-to-use guides on how to purchase equipment also are available. These guides describe the various factors to consider when deciding which equipment to purchase. TAP guides cover body armor, communications systems, and electronic facsimile equipment to mention a few.

Occasionally, TAP publishes special reports on technology that is still evolving. The program is developing a report on electronic monitoring devices—the bracelets and necklaces that can transmit a signal to probation offices. The devices are used in a few jurisdictions as alternatives to incarcerating less serious offenders.

Improving Products

Involving manufacturers and others in the standard-setting and testing processes enhance the program's benefits. Sharing information with private industry gives manufacturers the opportunity to design equipment that more closely meets the demands of criminal justice job requirements. After publication of a report on handcuffs, for example, two manufacturers introduced completely new designs of improved handcuffs that complied with the standard. The process thus improves the product and can prevent unnecessary, even wasted, expense in production.

TAP is not just for law-related agencies. Other agencies have used the program as a prototype for developing accurate technical information. Recently, the National Highway Traffic Safety Administration used the TAP assessment process, drawing upon LESL, to test radar speed-measuring units to their model performance specifications.

Where to Find More Information

Most publications of NIJ's Technology Assessment Program are available through the TAP Information Center. Readers who would like more information about these publications or about the Technology Assessment Program, may call 1-800-24-TAPIC (in Maryland and Metropolitan Washington, DC, call 251-5060.)

FBI

Book Reviews

by SA Thomas J. Deakin
Editor, *FBI Law Enforcement Bulletin*

Police Leadership in America: Crisis and Opportunity, Edited by William A. Geller, American Bar Foundation, Praeger, NY, 1985, 520 pp.

This is not a book for junior college-level criminal justice students; it is a thought-provoking dialogue of, and for, law enforcement today. My copy is dog-eared and worn, companion to many subway and lunch forays, because it is so thought-provoking and honest in examination of the state of policing today. Not enough credit is given to the editor of such a publication, especially when he summarizes the whole volume with humor and rationality in the introductory essays to each component. In this work, the section introductions are a labor of love—for law, law enforcement, and justice.

Contributors to this work include: Lee Brown, Richard Brzeczek, George Kelling, Wayne Kerstetter, Joseph McNamara, Norval Morris, Pat Murphy, Albert Reiss, Fred Rice, Jerome Skolnick, Carl Stern, James K. Stewart, Samuel Walker, and Hubert Williams, to name a few of the practitioners, academics, and critics whose works made up this volume. Editor William A. Geller has divided the book into eight parts, beginning with five essays on the police chief as a major municipal policymaker. Lee Brown and Albert Reiss contribute to the next section on the chief and the community. Part 3, "The Chief and the

Media," has responses by newsmen to Jerome Skolnick's and Candace McCoy's critique of media reporting on crime and the police.

"Who Disciplines the Police," the next section, also provokes debate as does the part on the police and the law. Police unions, the issue of crime control, and an assessment of professionalism's course complete the work. Samuel Walker's overview of recent commissions on police and accreditation and James K. Stewart's admonition to "work smarter, not harder," plus George L. Kelling's case study (the Kansas City Patrol Experiment) on the moral propriety of experimentation, all address the direction police professionalism is taking today.

Police Leadership in America represents today's policing style: interest in research, the role of the police in crime control, discipline, the law, relations with the media, and the realities of politics and police executives. Future historians will use this work to help understand the revolution that policing has gone through in just one generation.

The American Bar Association has performed another valuable service for policing the law enforcement by providing this forum; it will be discussed in future police executive seminars.

The American Law Enforcement Chief Executive: A Management Profile
Donald C. Witham, Police Executive Research Forum, Washington, DC, 1985, 130 pp.

Based on the author's doctoral dissertation, "This book is yet another example of the commitment of the ... FBI Academy to assisting and upgrading the American law enforcement

profession," wrote Assistant Director James McKenzie, then in charge of the FBI Training Division, in the foreword to this book. Published by the Police Executive Research Forum (PERF), which was founded to foster the professionalism of police executives, Special Agent Witham's work notes that "the law enforcement or order maintenance function is one of the most important duties that has been entrusted to government officials under virtually all forms of government since antiquity."

Working forward from this very basic premise, the author examines the state of professionalism of those entrusted with the leadership of law enforcement/order maintenance organizations. Detailed research, with methodology described and limits acknowledged, it is prefaced by a survey of the literature extant on police chief executives reaching all the way back to Raymond Fosdick's *American Police Systems* in 1921. As the inscription over the National Archives building notes, "The Past is Prologue." We must know the past to understand the future.

The future, as Don Witham sees it, includes specific recommendations of the Police Chief Executive Committee Report of the National Advisory Commission on Criminal Justice Standards, 1976 and the National Manpower Survey of the Criminal Justice System, 1978: Minimum standards for the chief executive position of law enforcement agencies with more than 75 employees. These standards would

be in the areas of law enforcement experience, management training, and education. The last would call for a 4-year college degree for chiefs of larger cities, which this author's survey reveals only a bare majority have in 1982.

The author sees the four primary roles of the law enforcement executive; the first as diplomat, when interacting with other government entities, other law enforcement agencies, the media, business, and the public. The second role is coordinator of the various specialized functions of the modern police departments and the resolution of conflicts between these specialist with the overall mission of the organization in view. The next role is that of "initiators of interactions" or, in the common definition of management, the ability to get things done through the efforts of other people. The fourth role is managers of change—unless "an executive aspires to be a mere caretaker ... he must become involved in implementing change."

The history of professionalism in law enforcement has had as a tenet the achievement of a non-political status, but Witham recognizes that "the police power, a state monopoly over the use of lawful force in civil society, is too important a governmental function ever to become an apolitical matter in America." The author emphasizes that formal education and executive development programs can show police administrators this reality: not apolitical, but non-partisan.

This work is an examination of the tasks of police management by an author involved in the FBI's training program in this area. His conclusions that more formal education is needed

for police executive echoes several nationwide and/or Presidential studies, as does his recommendation for more executive development training. Broader management experience, in different departments, or in another private public sector organization, is the third recommendation for police executives.

The day when the mayor can say that he appointed his tailor as chief of police because he was a good tailor, so he would be a good chief, is long gone. But, as this book shows, there is more yet to be done.

Cop World: Inside An American Police Force by James McClure, NY, Random House, 1984, \$16.95 (paperback, Laurel, NY, \$4.95).

The San Diego, CA, Police Department has a new look, described in this book as "anti-macho" or not intimidating. Patrol officers are hatless on routine patrol (their issued helmets are kept in the trunks of their patrol cars) and cannot wear black gloves or mirror, aviator-style sunglasses. This is part of the C.O.P., Community Oriented Policing program, begun in 1974, and now implemented by Chief of Police Bill Kolender, who rose from the ranks to take over the department in 1977.

James McClure, a South African newspaperman, previously wrote *Spike Island*, a study of the Liverpool England police after he emigrated to England. *Cop World* is another first-hand look at a police department; the author participated in San Diego's ride-along program and presents an honest picture of the San Diego police at work. Patrol work, as every police officer knows, often resembles military combat: hours of sheer boredom punc-

uated by moments of sheer terror.

Patrol police officers, after some experience, realize that the majority of their work is not law enforcement, but the order maintenance that our society expects' to various degrees depending on community values. And the need for order maintenance comes from abuse of alcohol (and drugs, today), altercations between human beings, and automobiles. These three "A's" are the day to day work of the police. Each affects the other: alcohol-related fights, driving under the influence, etc.

A work such as *Cop World* gives a more accurate picture of the realities of policing than hours of television or movies, with their dramatic necessities. Ride-along programs should be required of Hollywood writers—and of academics who pontificate on the ills of policing. The author understands the nature of today's policing, the improvements that have been made in recent years, but best of all, he can articulate the hopes and fears of all patrol officers, in their own words.

FBI

Urinalysis Drug Testing Programs for Law Enforcement

(Conclusion)

"A urinalysis drug testing policy should provide an officer ... the same avenues of grievance and redress to which the officer would be entitled if facing the same sanction for some other reason."

By
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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.

Parts I and II of this article focused primarily on the fourth amendment balancing test of reasonableness in developing a drug testing program and determining whether and when a urinalysis drug testing program could lawfully be instituted. There remains the discussion of additional constitutional issues raised once the program is implemented. Those issues include the constitutional requirement that a search must be reasonable in its execution; the testing procedure must be conducted fairly, with a respect for privacy and dignity; the drug testing must employ procedures designed to guarantee accuracy in the test results; and the test results must be properly used in an employment decision.

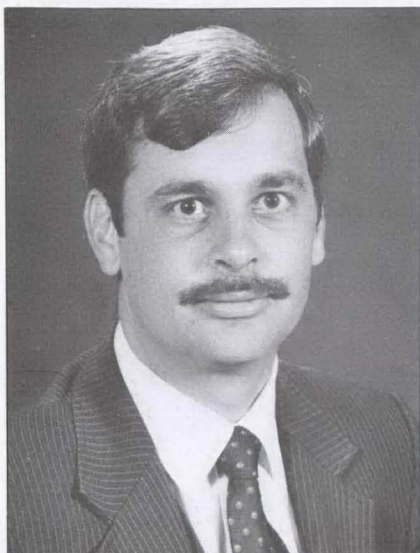
Implementing the Urinalysis Drug Testing Program—Administering the Urine Collection Process

Having concluded that urinalysis drug testing can be reasonable and lawful at its inception, a law enforcement agency must next concern itself with the steps which must be taken to insure that the drug testing program is reasonably executed. Four potential problem areas can readily be

identified. They are: 1) Obtaining a urine sample, 2) dealing with an officer's inability to provide a urine sample, 3) providing notice of the testing program, and 4) assuring anonymity to the subjects.

The first problem area, obtaining the sample, deals with the degree of intrusion which will be employed to insure an uncontaminated sample is obtained. This, of course, requires a law enforcement agency to concern itself with protecting against contamination or substitution of the urine sample by the officer providing it and against contamination by equipment and personnel who aid in the collection process. The latter concern can readily be dealt with by a policy which requires the same rigid standards used in the collection and handling of criminal evidence to be applied to urine collection. The former concern is more troublesome.

The greatest protection against urine sample contamination or substitution by the provider would be to physically observe the sample being produced. Yet, observed collection is somewhat intrusive and may be considered an affront to privacy and dignity. One court has noted that observed urine collection requires that an "officer would be required to perform before another person what is an oth-



Special Agent Higginbotham

erwise very private bodily function which necessarily includes exposing one's private parts, an experience which even if courteously supervised can be humiliating and degrading."⁶⁵

While observed collection may be a necessary safeguard against contamination or substitution of the urine sample, a department might also consider other measures which will lessen the intrusion into privacy, yet maintain the integrity of the collection process. One such method involves the use of "clean rooms" or "dry rooms." Under such a program, a certain area or room, free from equipment or sources which might be used in an attempt to contaminate the sample, is used. All items, such as soap which might be used to adulterate the urine sample and water which might be used to dilute the sample, are removed. Then by searching or "cleaning" that area before and after each sample is obtained, the chance of contamination or adulteration by some object or item within the room is eliminated.

The use of a "clean room" or "dry room" also requires that steps be taken to guard against a substituted sample or the addition of a foreign substance brought by the officer and added to the specimen at the time of urination. Those risks can also be minimized. For example, announcing the demand to submit to urinalysis upon short notice provides little opportunity to prepare a substitute urine sample. In addition, if an officer does not know exactly when he/she must provide the urine sample, the risk of carrying some item or substance which could be used

to adulterate the sample may be relatively small. Similarly, providing or requiring the officer to wear certain clothing in which a substituted urine sample or adulterating foreign substances could not be easily concealed would also minimize the intrusion into privacy but maintain integrity in the collection process.

There is no case law which rules for or against observed collection. It is an important issue, however, and must be considered from the legal, management, and morale viewpoints.

The second potential problem in the urine collection process is the treatment of an officer who is unable to immediately provide the demanded urine sample. While there is little doubt that an officer could lawfully be restricted to the stationhouse or other area during his/her tour of duty until the sample was provided,⁶⁶ situations will certainly arise which, for a variety of reasons, make it impossible for the officer to provide the urine sample immediately or upon demand.

There is no single solution to this problem. It is complicated by the nature of the drug abused and the human body's metabolism of that drug. Depending on the drug which was abused, the quantity of drug consumed, and the activity of the officer between the time of drug abuse and drug testing, evidence of drug abuse may be detected through urinalysis for only short periods of time up to several weeks.⁶⁷ Accordingly, some risk to the integrity of a urinalysis drug testing program is posed if an officer is allowed to leave and return later to provide the urine sample. Yet both legal and management problems arise when an officer is required to remain at the testing site, particularly beyond his/her tour of duty. One solution

"Drafting and implementing a sound urinalysis drug testing policy requires the consideration of an equal number of legal, managerial, medical, and scientific issues."

might be to request the urine sample at the beginning of the shift, knowing that in nearly all cases, a urine sample can be obtained sometime within the same workday. A department's recognition of this issue and its attempts to balance the competing interests of the officer and the department will aid in satisfying the fourth amendment requirement of reasonableness.

The third area of concern is the notice which is provided to tested employees. While the efficacy of a urinalysis drug testing program could be destroyed by advance notice of the exact date and time of each individual instance of urine collection, general notice of the drug testing program will not impede its efforts and should actually increase its deterrent effect.

If an officer receives notice that drug testing will routinely be performed and that drug abuse will be detected by a program of urinalysis drug testing, his expectation of privacy is somewhat diminished.⁶⁸ Accordingly, the balancing test required to make the collection and drug testing of urine reasonable under the fourth amendment tips, to some degree, toward the law enforcement agency. Therefore, it is suggested that education and publication of the policy within the department be made a part of a decision to implement a drug testing program.

Lastly, to minimize the impact on an individual officer's privacy, it is suggested that as much confidentiality as possible be provided to the names of individuals who are selected for urinalysis drug testing. It is important to protect the individual from any stigma which might attach to being required to submit to urinalysis. Even though urinalysis drug testing pro-

grams may not be borne out of distrust for officers, it may well be perceived by the officers as a situation where they are presumed guilty of drug abuse and must prove innocence. Although little can be done by law enforcement management to prevent officers from discussing it among themselves, attaching a shield of anonymity and privacy to the selection, the urine collection process, and to the laboratory testing phases as well helps keep this inquiry into private affairs to a minimum.⁶⁹

Due Process Requirements

Having addressed the fourth amendment issues in developing a urinalysis drug testing policy and the situations in which actual drug testing might take place, the next step in completing a comprehensive drug testing program is to insure that the proper due process procedures are followed to protect an officer's property interest in his/her job. For example, a urinalysis drug testing program must insure proper laboratory testing procedures are employed. If not, the urinalysis test results may be inaccurate and unreliable as a basis for making an employment decision. This could result in a due process violation.⁷⁰ The primary considerations in the due process analysis are: 1) Chain of custody, 2) reliable test results, and 3) use of the results in employment decisions.

Chain of Custody

Chain-of-custody requirements were mentioned earlier in the discussion of efforts which should be taken to minimize the intrusion into privacy during collection of the urine sample. The importance of strict chain-of-custody requirements is self-evident. If a law enforcement executive intends to make an employment decision on the basis of a positive urinalysis test result,

the executive must be certain that the urine sample which tested positive for illegal drugs can be shown to have been provided by the officer who is subject to that employment decision and that the urine sample was free from contamination. Thus, a comprehensive urinalysis drug testing policy must provide guidance on the handling of the urine sample from the time of its collection until the test results are obtained. Many agencies or departments may perform the testing in-house. In that case, control over chain of custody is easier. However, if a law enforcement department or agency decides to contract with an independent laboratory for the actual urine drug testing, the contract must include provisions for tight chain-of-custody procedures.

Another facet of chain of custody concerns the preservation of the urine sample if it tests positive for drugs. If that test result is the basis for an adverse employment decision, is preservation required to provide an opportunity to the officer to have his/her own independent testing performed? In *California v. Trombetta*,⁷¹ the Supreme Court appears to have answered in the negative.

In *Trombetta*, the defendants were convicted of driving while intoxicated based on the results of a breath test which measured the defendants' blood alcohol concentration. The defendants appealed their convictions claiming that the State's failure to preserve samples of their breath denied them due process. In rejecting that argument, the Supreme Court ruled that the duty of the State to preserve evidence for the defendant "must be limited to evidence that might be expected to play a significant role in the suspect's defense."⁷² In defining the boundaries of that requirement, the

Court adopted a two-prong analysis wherein the "evidence must possess an exculpatory value that was apparent before the evidence was destroyed, and also be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means."⁷³

The *Trombetta* Court then ruled that under the facts present in the intoxicated driving cases before it, the breath samples were more likely to be inculpatory than exculpatory and that the defendant had the ability to raise and cross-examine on the issues of faulty calibration, extraneous interference with machine measurements, and operator error. Accordingly, the two-part test of facially exculpatory evidence and unavailability of comparable evidence could not be met.

The preservation of positive testing urine samples seems to be controlled by *California v. Trombetta*. The requirement to preserve positive testing urine samples would be legally required only if the urine sample was obviously exculpatory—an unlikely possibility—and there was no chance to develop the defense of erroneous test results through cross-examination—also not likely.

However, this is not to say that urine samples should not be preserved. While preserving positive samples may not be required as a matter of Federal constitutional law, preservation may be a necessary requirement under State law or civil service regulation. In addition, preservation of the urine samples to provide an officer with the chance to contest the laboratory findings would promote a sense of fairness and enhanced reliability in the testing procedures. A department might find that preservation of positive-testing samples for at least the period of time allowed to contest any adverse employment decision

based on those test results is a reasonable measure which will be perceived by the officers as an attempt by management to adopt a fair drug testing program.

Reliability of Testing

The second due process issue is reliability. Again, the logic to support the requirement of reliable test results is self-evident. Clearly, terminating a tenured officer's employment based solely on a urinalysis drug test result that may not be accurate would be a deprivation of property (the job) without sufficient cause (due process).

The issue of reliability of urinalysis has been litigated in the courts and has centered on drug testing done by immunological assay. This is a testing methodology by which the chemical bonding reaction between the chemical metabolites found in urine and genetically engineered antibodies may indicate drug usage. A legal problem with such tests is that the results are based on an *indication* of drug use but not on the actual *presence* of drugs in the urine. In addition, there is the possibility of "false positives," a test result which falsely indicates that drugs are contained in the urine when in fact they are not. Though the degree of "false positives" is relatively low, about 5 percent, courts are divided over whether a 95-percent accuracy rate is sufficient to support a disciplinary decision.⁷⁴

Because of the division in the courts on this testing procedure, the better practice is to require that a confirmatory test be performed on the urine sample if the initial test proves positive. In choosing a methodology for a confirmatory test, it is best to choose one which will measure the actual *presence* of drugs in the urine. The best method is gas chroma-

tograph/mass spectrometer testing (GC/MS). "The GC/MS test is generally considered the most accurate test available in the scientific community."⁷⁵ The GC/MS test will definitively determine, through the analysis of the compound's molecular structure, whether a urine sample actually contains drug metabolites. If this, or another similar confirmatory test is performed, a sound basis exists upon which the employment decision can be made.

Employment Decisions Based on Positive Test Results

The next issue involved in due process is the actual employment decision. Regardless of the sanction imposed against an officer whose urine sample tested and was confirmed positive for the presence of illegal drugs, if it economically disadvantages an officer's property interest in his/her job, that officer is entitled to certain procedural due process guarantees as a matter of Federal constitutional law.⁷⁶ While it is beyond the scope of this article to delineate the exact requirements of procedural due process, the fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner."⁷⁷ A urinalysis drug testing policy should provide an officer, who will be subject to an employment sanction, the same avenues of grievance and redress to which the officer would be entitled if facing the same sanction for some other reason.

Due process also requires that the employment decision be made for a valid reason. This is sometimes referred to as substantive due process. In determining whether drug abuse detected through urinalysis is sufficient grounds for an employment decision in the context of public employment,

“... education and publication of the policy within the department should be made a part of a decision to implement a drug testing program.”

courts must be satisfied only that there is a rational nexus between the decision and a governmental interest which is advanced by that decision.⁷⁸ For the reasons discussed earlier in the analysis of governmental interests in determining fourth amendment reasonableness, it appears clear that an employment decision based upon a confirmed, positive urinalysis drug test would meet that standard and satisfy the requirements of Federal substantive due process.

One related issue bears mentioning. The Federal Rehabilitation Act,⁷⁹ applicable to States which receive Federal funds through revenue sharing,⁸⁰ prohibits discrimination in employment on the basis of handicap. It has been successfully argued that both alcoholism and drug addiction are handicaps, and therefore, any sanction imposed against the employee constitutes discrimination on the basis of a handicap.⁸¹ It is possible that an officer detected as a drug abuser could claim the protection of this statute to avoid any sanction imposed upon him.

However, the statute prohibits discrimination against a handicapped person only if, with or without the handicap, that person is otherwise qualified to perform the job. That definition of a qualified employee excludes any employee whose continued employment would endanger the health and safety of the individual or others.⁸² Although the courts have not totally resolved this issue, a convincing argument can be made that a law enforcement officer who abuses drugs, even more than an officer who is an alcoholic, is not qualified to perform the job because of the threat to public safety, harm to pub-

lic confidence, ineffective testimony as a witness, and harm to morale and officer safety caused by such drug abuse. Accordingly, whether the officer is or is not handicapped by reason of drug abuse, the Federal Rehabilitation Act should not shield him from disciplinary sanction.⁸³

The final issue in terms of employment decisions based on a urinalysis drug testing program is the refusal to submit to testing. A comprehensive policy should provide guidance on the consequences of an officer's refusal to provide a urine sample when ordered. If the policy is written to encompass and resolve the legal issues discussed in this article, then it may also provide for sanctions, including termination, for the failure to provide the sample on demand.⁸⁴

CONCLUSION

The problem of drug abuse by law enforcement officers and officials already exists. Although the exact scope of the problem may be unknown, it is unlikely to disappear or even diminish unless affirmative steps are taken to identify those officers and officials who are involved in drug abuse. In addition, many agencies have a need to act in advance of a known problem to prevent its occurrence at all. Both goals can be accomplished by adoption of a urinalysis drug testing program. If the program is carefully designed and implemented, it can withstand a legal challenge. For those law enforcement agencies or departments which believe such a program is necessary, the following steps are suggested as part of the design and implementation of a urinalysis drug testing program.

First, identify the conditions within the agency which dictate the need for a drug testing program. Second, design a program through the cooperative efforts of management, labor, legal advisers,

medical, and scientific personnel.⁸⁵ Third, decide why drug abuse is intolerable in the agency and clearly notify and educate each officer and official of that fact. Fourth, identify situations in which urinalysis drug testing will be required. These may include pre-employment testing, training and probationary periods, promotions or changes of assignment, during scheduled medical examinations, observed behavior which constitutes at least reasonable suspicion, serious incidents of on-duty conduct, or as part of a universal test-random selection model. Fifth, provide adequate safeguards for the protection of privacy and dignity consistent with the need for integrity within the testing process. Sixth, establish tight chain-of-custody requirements which apply from collection to preservation of the urine samples. Seventh, insist on reliable testing methods, with confirmatory tests mandated on positive-testing urine samples. Eighth, provide appropriate channels and procedures for the officers and officials to both explain and contest the results of a drug positive urinalysis. Finally, determine the sanction appropriate for detected drug abuse and apply it consistently.

Drafting and implementing a sound urinalysis drug testing policy requires the consideration of an equal number of legal, managerial, medical, and scientific issues. Using experts in these areas to carefully design a policy will improve the effectiveness of the department and provide individual officers with the type of work environment which permits them to best fulfill their sworn duties.

FBI

Footnotes

⁶⁵*Caruso v. Ward*, *supra* note 46, slip op. at 6.
⁶⁶*See I.N.S. v. Delgado*, 104 S.Ct. 1758, 1763 (1984) ("[o]rdinarily, when people are at work their freedom to move about has been restricted, not by the actions of law enforcement officials, but by the workers, voluntary obligations to their employers").

⁶⁷*Supra* note 23.

⁶⁸*See McDonnell v. Hunter*, 612 F.Supp. at 1131 (D. Iowa 1985).

⁶⁹*See Shoemaker v. Handel*, *supra* note 60, at 1107.

⁷⁰Both the 5th and 14th amendments to the U.S. Constitution prohibit the United States and State government, respectively, from depriving a person of his liberty or property without due process of law. *See also*, *Jones v. McKenzie*, *supra* note 42.

⁷¹104 S.Ct. 2528 (1984). *But see*, *Banks v. F.A.A.*, 687 F.2d 92 (5th Cir. 1982) (holding due process requires preservation of a urine sample).

⁷²104 S.Ct. at 2534 (1984).

⁷³*Id.*

⁷⁴For cases holding immunological assay tests reliable, *see Harmon v. Auger*, 768 F.2d 270 (8th Cir. 1985); *Jensen v. Lick*, 589 F.Supp. 35 (D. North Dakota); *Hampson v. Satran*, 319 N.W.2d 796 (North Dakota 1982); *Smith v. State*, 298 S.E.2d 482 (Georgia 1983). *Contra*, *Jones v. McKenzie*, *supra* note 42; *Higgs v. Wilson*, 616 F.Supp. 226 (W.D. Kentucky 1985); *Wykoff v. Resig*, 613 F.Supp. 1504 (N.D. Indiana 1985); *Storms v. Coughlin*, 600 F. Supp. 1214 (S.D.N.Y. 1984); *Wilson v. State*, 697 S.W.2d 83 (Tex. App. 8 Dist. 1985); *Isaacks v. State*, 646 S.W.2d 602 (Tex. App. 1 Dist. 1983).

⁷⁵*Williams v. Secretary of Navy*, 787 F.2d 552, 555 (Fed. Cir. 1986). *See also*, T. Schults, "Fundamentals of Employee Drug Testing," 3 *Inside Drug Law* 1, April 1986.

⁷⁶*Cleveland Board of Education v. Loudermill*, 105 S.Ct. 1487 (1985).

⁷⁷*Mathews v. Eldridge*, 424 U.S. 319, 333 (1975).

⁷⁸*Kelley v. Johnson*, 425 U.S. 238 (1976).

⁷⁹29 U.S.C. § 791.

⁸⁰31 U.S.C. § 6716.

⁸¹*Kulling v. Dept. of Transportation*, 24 M.S.P.R. 56 (1984).

⁸²*See* 29 C.F.R. § 1613.702(f).

⁸³*See McLeod v. City of Detroit*, 39 F.E.P. Cas. 225 (E.D. Michigan 1985).

⁸⁴*Everett v. Napper*, 632 F.Supp. 1481 (N.D. Georgia 1986); *Cp. Tucker v. Dickey*, 613 F.Supp. 1124 (W.D. Wisconsin 1985).

⁸⁵The issue of whether urinalysis drug testing must mandatorily be the subject of collective bargaining is beyond the scope of this article. One unreported decision from Florida has held that under the collective bargaining statutes of Florida, it is an issue which must be brought to the bargaining table. *See Fraternal Order of Police Lodge No. 20 v. City of Miami, Florida*, Fla. P.E.R.C. Case No. CA-85-041, December 11, 1985.

Preliminary Bombing Figures Show Decrease

According to preliminary figures of the FBI's Uniform Crime Reporting Program, bombing incidents decreased 10 percent during the first 6 months of 1986, as compared to the same period of 1985. Of the 377 incidents reported, 295 were explosive and 82 were incendiary; yet, actual detonation or ignition occurred in 297. Explosive bombings were down 14 percent, while incendiary incidents increased 9 percent in volume.

The 1986 bombings resulted in 6 deaths, 122 injuries, and an estimated property damage of over \$1.4 million. None of the bombing incidents were attributed to terrorist groups.

The 6 fatalities represented a decrease from the 10 deaths reported during January-June 1985. Among those killed were 4 perpetrators and 2 intended victims.

The number of persons injured as a result of bombings in 1986 was 122, up substantially from the semiannual 1985 total of 44. Of those injured, 86 were the intended victims, 22 percent innocent bystanders, 12 were the perpetrators, and 2 were law enforcement officers.

Residential property was the most frequent bombing target, accounting for 32 percent of the attacks. Eighteen percent of the incidents were directed at vehicles and 12 percent at commercial operations or office buildings. The remainder were distributed among various targets.

Geographically, 131 bombing incidents were recorded in the Western States, 114 in the Southern States, 74 in the Midwestern States, and 43 in the Northeastern States. Puerto Rico reported 14 incidents and the U.S. Virgin Islands had 1 incident.

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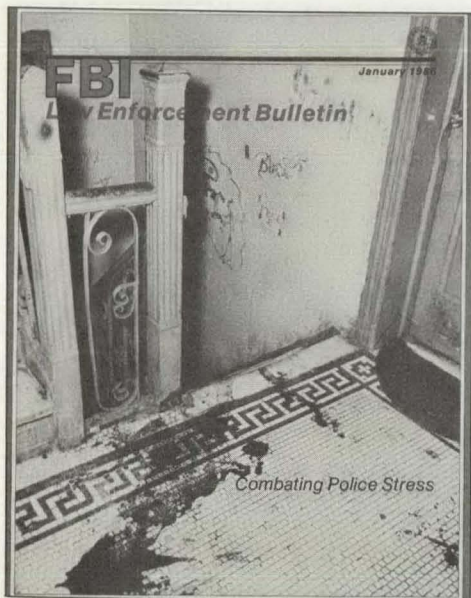
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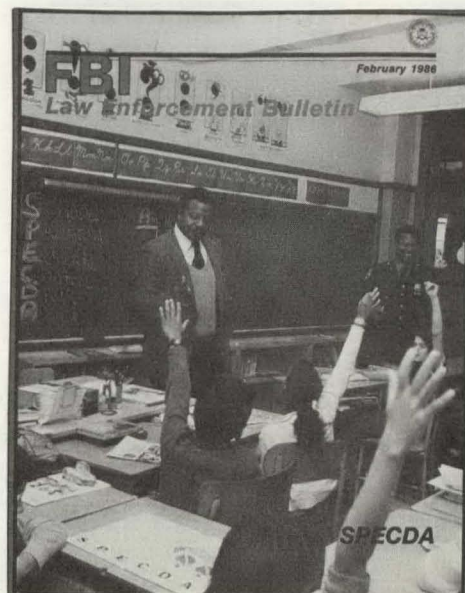
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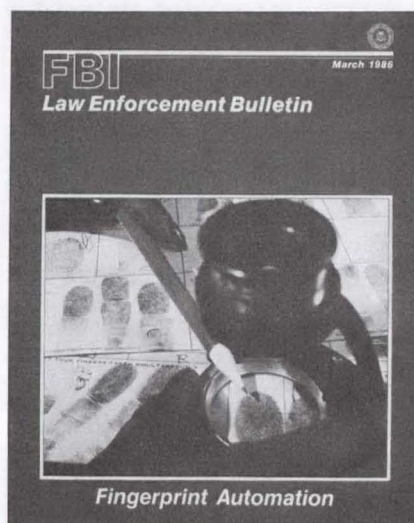
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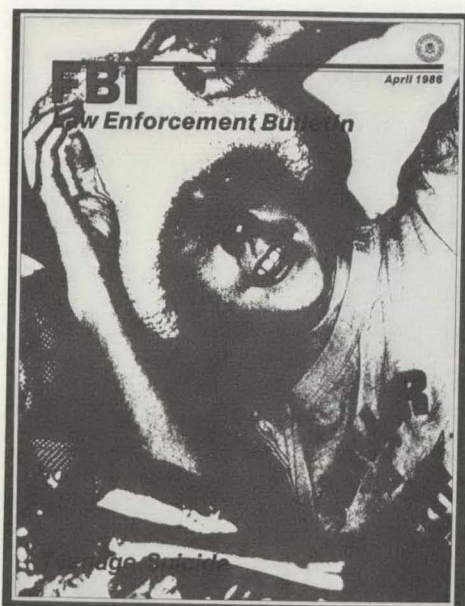
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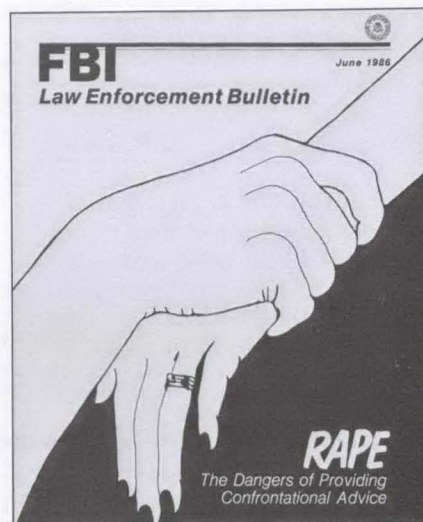
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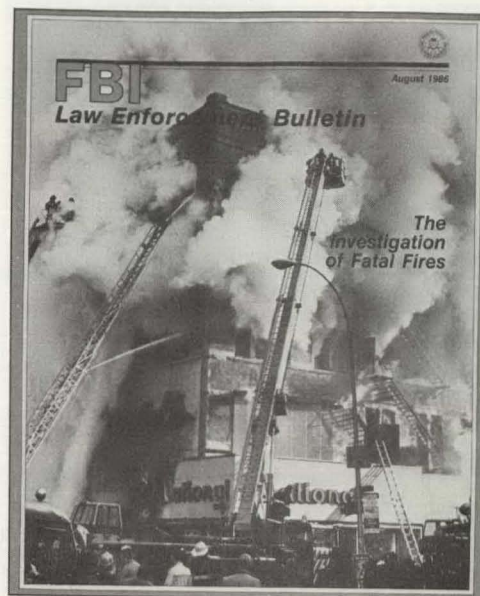
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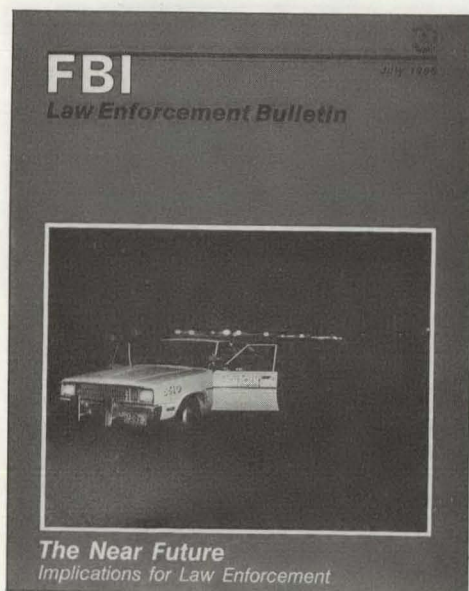
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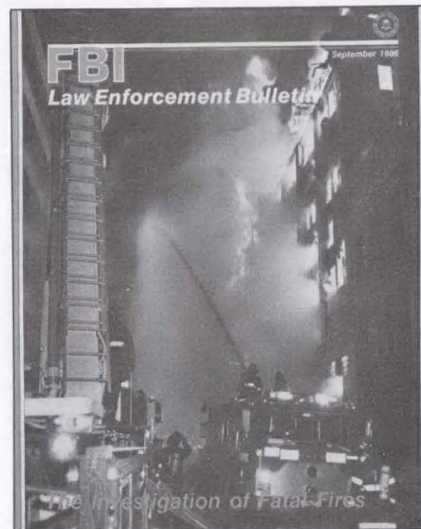
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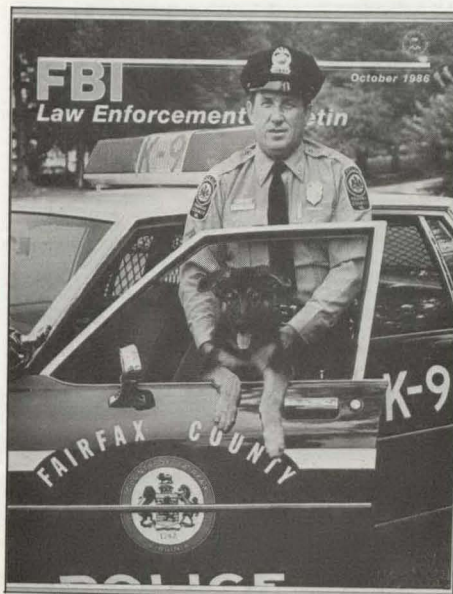
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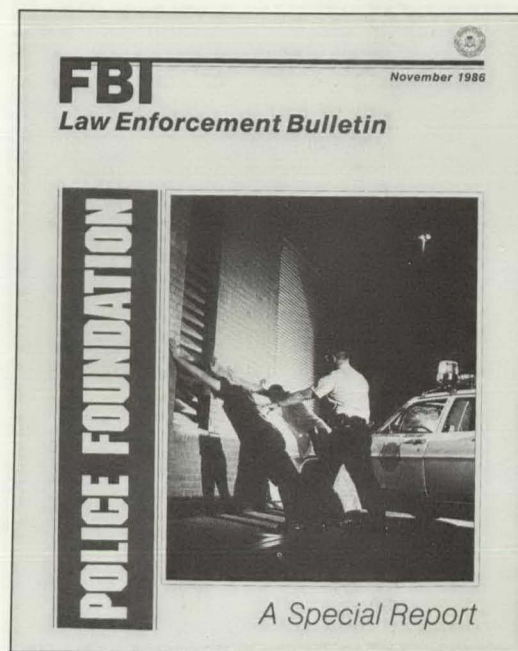
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WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photograph taken 1975

Michael Ray Pickett,

also known as Michael Bigett, Richard E. Elks, Michael R. Pickett.

W; born 9-28-53; Kinston, NC (not supported by birth records); 6'1"; 195 lbs; med bld; blk hair; brn eyes; fair comp; occ-scuba diving instructor;

remarks: wears an earring in one ear; enjoys scuba diving and flying; reportedly a vegetarian in the past.

Wanted by FBI for INTERSTATE TRANSPORTATION OF STOLEN PROPERTY; SALE OF STOLEN GOODS.

NCIC Classification:

06561314130854120714

Fingerprint Classification:

6 S 1 R IOO 13
S 1 R IOI

I.O. 4898

Social Security

Number Used: 246-88-2170

FBI No. 262 615 L8

Caution

Pickett is being sought in connection with the armed robbery of a jewelry store wherein a large amount of jewels were stolen. Pickett is also a suspect in an armed bank robbery in North Carolina. Consider Pickett armed and dangerous.



Left ring fingerprint



Photographs taken 1978

Frank Charles Anderson,

also known as Frank Anderson, Frank C. Anderson.

N; born 7-8-36; Colliers, WV (not supported by birth records); 5'11"; 200-220 lbs; med bld; blk hair; brn eyes; med comp; occ-boilermaker, steel worker, truck driver; scars and marks: scars on outer edge of upper right lip, back of right hand, back of left middle finger and left knee;

remarks: diagnosed in the past as having epilepsy and should take medication for the remainder of his life.

Wanted by FBI for INTERSTATE FLIGHT-SEXUAL ASSAULT.

NCIC Classification:

22131215121711121512

Fingerprint Classification:

22 M 1 U OOO 12
L 1 U OOO

I.O. 4912

Social Security

Number Used: 298-28-8781

FBI No. 90 264 F

Caution

Anderson, an escapee from custody, is being sought in connection with first-degree sexual assault. Consider Anderson armed, dangerous, and an escape risk.



Right middle fingerprint



Photographs taken 1979

Rubin Watkins, Jr.,

also known as Reubin Watkins, Jr., "Red." N; born 7-29-41; Lowndes County, AL; 5'8";

152-155 lbs; med bld; blk hair; brn eyes; med comp; occ-taxi driver;

scars and marks: scars on both forearms. Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

11530407071105TT0910

Fingerprint Classification:

11 S 1 R 7
S 1 Ut

I.O. 4900

Social Security

Number Used: 424-50-9074

FBI No. 68 266 F

Caution

Watkins is being sought in connection with the murder of a teenage girl who was found shot to death in a secluded wooded area. Consider Watkins armed and dangerous.



Right index fingerprint

WANTED BY THE FBI



Photographs taken 1978 and 1976

Hector Brito,

also known as Hector Victor Brito, Hector Maurice Brito, Hector Briton, Arcadio Checo, Hector Maurice Lopez, Hector Maurice Brito Lopez, Marice Lopez, Maurice Lopez, Julio Martinez, Juan Ortiz, Rolando Ruiz, "Cutchy," "Kutchy." W; born 1-2-59; Santo Domingo, Dominican Republic (not supported by birth records); 5'9"-5'10"; 145-150 lbs; med bld; blk hair; brn eyes; drk comp; occ-clerk, contractor, dishwasher, laborer, roofer; scars and marks: scar above left eye; pierced left ear; tattoo: "KUTCHY" on left forearm.

Wanted by FBI for INTERSTATE FLIGHT-MURDER, AGGRAVATED ROBBERY, ATTEMPTED AGGRAVATED BURGLARY.

NCIC Classification:

2108161713180912PI13

Fingerprint Classification:

21 M 1 U IOO 13
L 2 U IOI

I.O. 4906

Social Security

Numbers Used: 058-53-4703;
072-30-3977;
076-52-3977

FBI No. 826 998 P2

Caution

Brito is being sought in connection with the murder of a paraplegic who was shot with a .45 colt revolver during the robbery/burglary of his residence. Brito is known to wear body armor and has carried a 9-millimeter pistol in the past. Consider Brito armed and dangerous.



Right index fingerprint



Photographs taken 1981 and 1978

Luis Rosado,

also known as Luis Rosado-Ayala, Luis Ayala Rosado, Luis Ayala-Rosado, Felipe Guzman.

W; born 8-24-50; New York, NY; 5'8"-6'0"; 160-185 lbs; hvy bld; brn, slightly reddish hair; brn/grn eyes; med (pockmarked) comp; occ-cab driver, car salesman, consultant Spanish affairs; laboratory assistant, porter, social worker; scars and marks: scar on scalp, right side of head.

remarks: prominent nose.

Wanted by FBI for INTERSTATE FLIGHT-ARMED ROBBERY.

NCIC Classification:

PMICOCOC11PIOPMCI09

Fingerprint Classification:

M 31 W IOO 11
I 28 W OMI

I.O. 4896

Social Security

Number Used: 113-42-4152

FBI No. 630 331 W2

Caution

Rosado, a reported member of a terrorist group that has claimed credit for numerous bombings in which several deaths and injuries have occurred, is being sought in connection with the armed robbery of a car dealership. Rosado should be considered armed and extremely dangerous.



Right middle fingerprint

Unusual Pattern

This pattern possesses two separate loop formations with two separate and distinct sets of shoulders. The classification of double loop whorl is precluded, since only one delta is present, and it is classified as a loop. The ridge count is three.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name

Title

Address

City

State

Zip

U.S. Department of Justice
Federal Bureau of Investigation

Second Class Mail
Postage and Fees Paid
Federal Bureau of Investigation
ISSN 0014-5688

Washington, D.C. 20535

Official Business
Penalty for Private Use \$300
Address Correction Requested

The Bulletin Notes

Cpl. Bill Parker of the Ouachita Parish Sheriff's Department, Monroe, LA, used his training in CPR for the second time to save a life. On the night of March 5, 1986, he rescued a teenage female driver who had partially submerged her car upside down in a lake. Corporal Parker administered CPR to the victim, who had stopped breathing. She recovered, and the Bulletin is pleased to join Corporal Parker's sheriff in recognizing his lifesaving action.



Corporal Parker
