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# **FBI** **Law Enforcement** **Bulletin**

**Workplace  
Violence  
Prevention**





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Director

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# FBI Law Enforcement Bulletin

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# ***Workplace Violence Prevention Readiness and Response***

By STEPHEN J. ROMANO, M.A., MICÒL E. LEVI-MINZI, M.A., M.S.,  
EUGENE A. RUGALA, and VINCENT B. VAN HASSELT, Ph.D.

**W**orkplace violence, a complex and widespread issue, has received increased attention from the public, mental health experts, and law enforcement professionals.<sup>1</sup> The wide range of acts that fall under this rubric include all violent behavior and threats of violence, as well as any conduct that can result in injury, damage property, induce a sense of fear, and otherwise



impede the normal course of work.<sup>2</sup> Threats, harassment, intimidation, bullying, stalking, intimate partner violence, physical or sexual assaults, and homicides fall within this category.<sup>3</sup>

Although a handful of high-profile incidents (e.g., mass shootings at a workplace) have led to increased public awareness, prevalence rates show that nonfatal workplace violence is a more common phenomenon than previously believed. For example, a Bureau of Justice Statistics Special Report estimated that approximately 1.7 million incidents of workplace violence occurred each year between 1993 and 1999, with simple and aggravated assaults comprising the largest portion.<sup>4</sup> The same report revealed that 6 percent of workplace violence involved rape, sexual assault, or homicide.

According to a Bureau of Labor Statistics report, 518 homicides occurred in the workplace in the United States in 2008.<sup>5</sup> Most recently, data revealed that 16 percent of workplace fatalities resulted from assaultive and violent acts.<sup>6</sup> However, this being said, most workplace homicides take place during robberies or related crimes. Finally, considering actual reported workplace violence, it is estimated that these events cost the American workforce approximately \$36 billion dollars per year.<sup>7</sup>

Recently, two of the authors, Rugala and Romano, conceptualized a workplace violence spectrum (adapted from the American Society for Industrial Security International) as a means of understanding and categorizing crimes that occur within the workplace.<sup>8</sup> As

illustrated in figure 1, the right end of the spectrum consists of such acts as overt violence causing physical harm, nonfatal assaults with or without weapons, and lethal violence. Moving toward the left end of the spectrum, behaviors become less physical and more emotional/psychological. These include disruptive, aggressive, hostile, or emotionally abusive conduct that interrupts the flow of the workplace and causes employees concern for their personal safety. Bullying, stalking, and threatening appear on this end of the spectrum. At the far left end are behaviors of concern. According to Rugala and Romano as well as others, individuals do not “snap” and suddenly become violent without an antecedent or perceived provocation.<sup>9</sup> Instead, the path to violence is an



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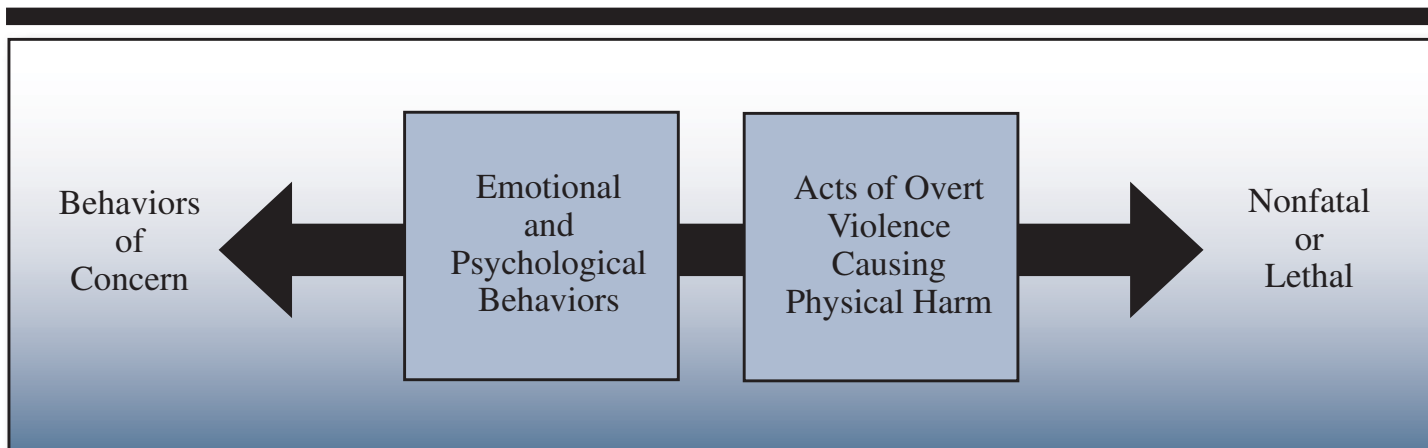


Figure 1 - Workplace Violence Spectrum

evolutionary one often consisting of such behaviors of concern as brooding and odd writings or drawings. These can be subtle indicators of the potential for violence and may be unusual or typical for an individual.

Several typologies of workplace violence behaviors and events also have emerged over the past few years.<sup>10</sup> Rugala divides workplace violence into four types, or categories, of acts based on the relationship among victims, perpetrators, and work settings (see figure 2).<sup>11</sup> Type I incidents involve offenders who have no relationship with either the victims or the establishments. Type II events are those where the offenders currently receive services from the facilities (retail-, health-, or service-industry settings) when they commit an act of violence against them. Type III episodes involve those current or former employees acting out toward their present or past places of employment. In Type IV situations, domestic disputes between an employee and the perpetrator spill over into the workplace.

### Prevention

Many corporations and organizations throughout the United States have instituted programs to help prevent violence in the workplace. These efforts can go a long way toward mitigating the threat of such occurrences. Although no extant actuarial methods for predicting workplace violence exist, employees can take certain actions to reduce these incidents. First, it is critical to understand that workplace violence does not happen at random or “out of the blue.” Rather, perpetrators usually display some behaviors of concern. Thus, awareness of these indicators and the subsequent implementation of an action plan to de-escalate potentially violent situations form essential components of workplace violence prevention.

Behaviors of concern can help workers recognize potential problems with fellow employees. If a coworker begins acting differently, determining the frequency, duration, and intensity of the new, and possibly troubling, behavior can prove

helpful. Specific behaviors of concern that should increase vigilance for coworkers and supervisors include sadness, depression, threats, menacing or erratic behavior, aggressive outbursts, references to weaponry, verbal abuse, inability to handle criticism, hypersensitivity to perceived slights, and offensive commentary or jokes referring to violence. These behaviors—when observed in clusters and coupled with diminished work performance (as manifested by increased tardiness or absences, poor coworker relations, and decreased productivity)—may suggest a heightened violence potential. It must be pointed out, however, that no single behavior is more suggestive of violence than another. All actions have to be judged in the proper context and in totality to determine the potential for violence.

Not surprisingly, relationship problems (e.g., emotional/psychological or physical abuse, separation, or divorce) can carry over from home to the work setting.<sup>12</sup> Certain signs that may help determine if a coworker is

experiencing such difficulties include disruptive phone calls and e-mails, anxiety, poor concentration, unexplained bruises or injuries, frequent absences and tardiness, use of unplanned personal time, and disruptive visits from current or former partners. Care must be taken when dealing with what can be highly charged situations. Companies may lack the expertise to handle these on their own and may have to consult with experienced professionals. Finally, all incidents are different and must be viewed on their own individual merits. Experience has shown that no “one size fits all” strategy exists.

### Intervention

Intervention strategies must take into account two aspects of the workplace violence spectrum: action and flash points. An action point is the moment when an individual recognizes that an employee may be on the path toward committing some type of violent act in the workplace and subsequently takes action to prevent it. Action points offer an opportunity for coworkers to intervene before a situation becomes dangerous. Given that human behavior is not always predictable and that no absolute way exists to gauge where an individual may be on the pathway, spectrum, or continuum toward

violence, action points should be established as early as possible.

When an action point has been identified, fellow employees can intervene in a number of ways. First, they can talk with the person and “check in” to see if everything is all right. Allowing people to vent about stressful life situations can help them release tension.<sup>13</sup> This type of intervention should be used cautiously. If the individuals display potentially threatening behaviors of concern, vigilant coworkers should report these directly to a supervisor. Workers also can relay information regarding questionable behaviors to their human resources or

Type of Act	Description of Act
Type I	Offender has no relationship with the victim or workplace establishment. In these incidents, the motive most often is robbery or another type of crime.
Type II	Offender currently receives services from the workplace, often as a customer, client, patient, student, or other type of consumer.
Type III	Offender is either a current or former employee who is acting out toward coworkers, managers, or supervisors.
Type IV	Offender is not employed at the workplace, but has a personal relationship with an employee. Often, these incidents are due to domestic disagreements between an employee and the offender.

Figure 2 - Classification of Workplace Violence Acts

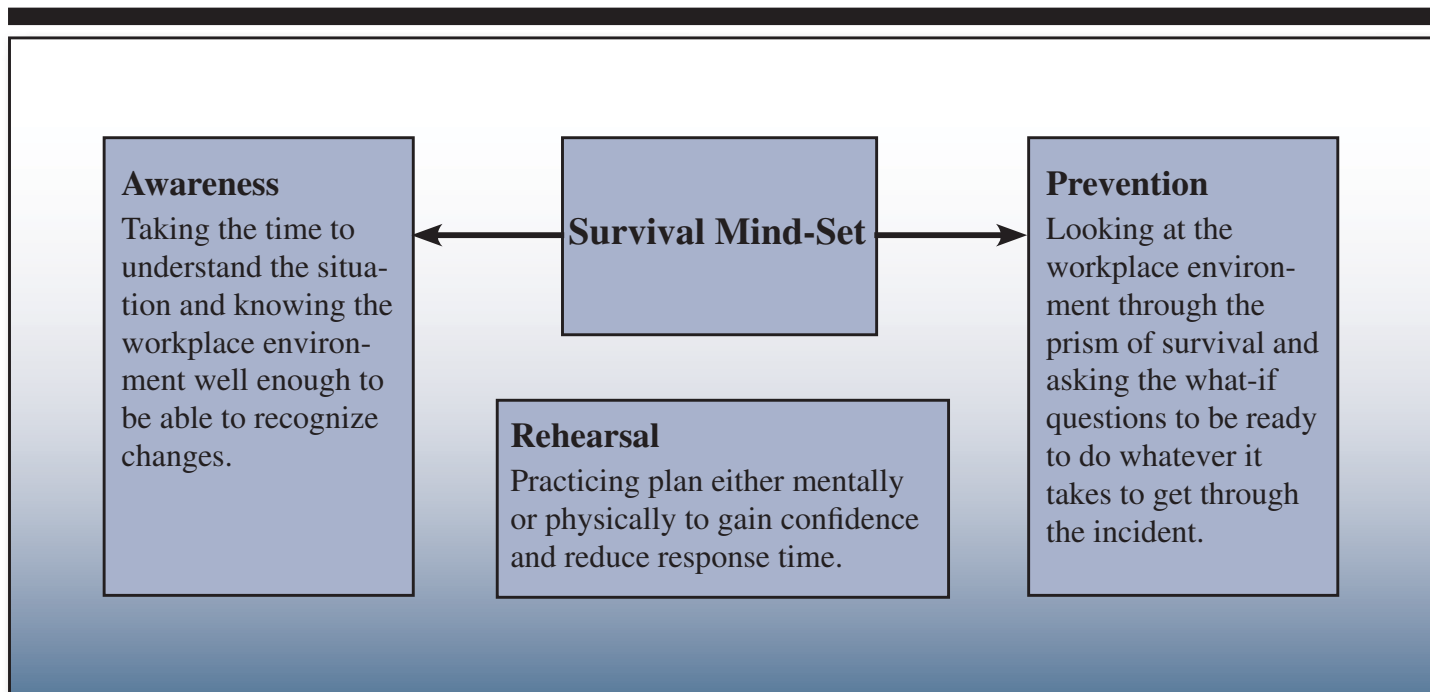


Figure 3 - Survival Mind-Set

security department, ombudsman, or employee assistance program. Moreover, if employees feel unable to directly approach someone about a coworker, they can communicate their concerns via an e-mail or text message. Companies have used drop boxes, 24-7 tip lines, and ethics hotlines to allow employees to report suspicious behavior while maintaining their anonymity.

A “flash point,” the moment when workplace violence occurs, is too late for any type of preventive strategy and best avoided by implementing initiatives early, once an action point has been detected. After a flash point, coworkers often indicate that they were concerned about the offender but never reported their suspicions. Consequently, authorities emphasize that “if you sense something, say

something.” Employees generally do not want to be viewed as undermining their peers and, therefore, wait until they are certain that a situation is serious before reporting it. Unfortunately, at this point, it may be too late. This stresses the importance of awareness on the part of employees. Workers must be trained so that when behaviors of concern occur, a “red flag” is raised and appropriate action taken. In this strategy, awareness + action = prevention constitutes the key to prevention. By being aware of and acting on behaviors of concern, employees can help keep their workplace safe from violence. Most important, companies must create a climate of trust within their organizations that allows their employees to come forward to report troubling behavior.

## Survival

An awareness of the workplace violence spectrum, along with knowledge of prevention and intervention strategies, can help increase safety in the work setting. However, advance planning and preparation for such incidents and knowing how to respond if one occurs are imperative for survival. Of equal importance is recognizing the difference between an active-shooter scenario and a hostage situation because of the different approaches needed in each set of circumstances.

In a more personal vein, realizing that the incident may end prior to the arrival of law enforcement demonstrates the need for workers to take responsibility for their own lives, in part, by developing a survival mind-set, which involves being ready (both

mentally and physically) for the worst-case scenario. While no foolproof strategy for surviving an active-shooting incident exists, this type of mind-set has the three components of awareness, preparation, and rehearsal which can provide a foundation for survival (see figure 3).<sup>14</sup> Awareness means understanding that workplace violence can impact anyone, in any work setting, and across all levels of employment. Further, awareness involves knowing the work environment well enough to recognize when changes occur that may reflect a potential

problem. While some may be subtle (e.g., verbal outbursts), others are more obvious (e.g., gunshots).

The second component of the survival mind-set, preparation, entails employees becoming stakeholders in their own safety and security. In particular, they must change how they view their work environment and shift to a what-if way of thinking. For example, workers must consider what they would do if an active shooter was in the hallway or lobby of their office building. These types of scenarios will help them plan and be better

prepared for a possible workplace violence incident.

The third element of the survival mind-set involves rehearsing for an event. This may include a mental rehearsal or a walk-through of the workplace to determine possible exit routes or hiding places. This can help inoculate employees against the stress of survival, reduce their response time, and build confidence in their ability to survive. This idea is akin to that of fire drills and role-playing, which involve simulations of real-world situations to teach new behavioral skills.<sup>15</sup> Indeed, practicing responses in advance produces a more fluid and rapid response in the event of a real incident.

## Responses

Figure 4 illustrates the disparities in responses between those who have and those who have not been trained to deal with these types of stressful situations. Both groups initially react by being startled and experiencing fear. Then, they begin to diverge: the untrained panic, whereas the trained experience controllable anxiety. From that point on, the trained group members begin to recall what they should do next, prepare, and act. The untrained, however, experience disbelief that eventually leads to denial and, ultimately, helplessness. Knowing how differently the

Figure 4 - Untrained and Trained Responses





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groups will react based solely on training underscores the importance of advanced preparation.<sup>16</sup>

The first response to an active-shooter incident is to figure out what is occurring. For example, Hollywood has simulated gunshots in countless movies and television shows; however, real gunfire sounds extremely different. Rapidly assessing the situation and evaluating available options constitute the first steps toward survival. This may include evacuating the building; however, sometimes the only alternative is concealment. The process of assessing the situation and evaluating options will cycle continuously through the minds of workers over the course of the event.

This type of assessment may point to the possibility of escape. In that case, employees should leave as quickly as possible, without seeking approval from others or waiting to collect belongings. Once safe, they should immediately contact emergency personnel. In these situations, phone lines often become jammed, or individuals may think others have contacted authorities when, in reality, no one has called for help. Once connected to an emergency operator, certain information, if known, should be relayed: description and location of the perpetrator, number and types of weapons used, and an estimate of the number of people in the building.

If escape is not feasible, employees can take other actions. For example, finding a hiding place can mean the difference between life and death. If an office space is available, workers can lock themselves in, barricade the door, and become very quiet so as not to alert the perpetrator. Individuals gathered together should disperse because it is easier to inflict a greater number

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***Awareness means understanding that workplace violence can impact anyone, in any work setting, and across all levels of employment.***

”

of casualties when shooting at a group or cluster of people; therefore, spreading out will create confusion and provide fewer targets, resulting in fewer victims. Another critical action is ongoing communication with fellow employees. Keeping everyone informed of the situation and helping the injured are important to surviving an active-shooter event.

Although escaping or hiding from danger are solid survival strategies, they may not

always be possible. The shooter may directly confront workers. When this occurs, they must be prepared to know what they have to do and understand that neutralizing the shooter in some manner may be their only way to survive. This involves behaviors and a mind-set that few people ever have to consider. Coming to terms with what needs to be done and then committing to it will prove necessary and likely mean the difference between life and death.

### **Situations**

Active-shooter and hostage situations are equally dangerous; both present a high risk for injury or death. However, it is imperative to know the difference between them (see figure 5).

Ranging from an individual to a group, active shooters operate in close quarters or distant settings, choosing random or specific targets. Hostage takers also are armed and dangerous individuals who may or may not use deadly force.<sup>17</sup> But, one main difference is that an active shooter may have unrestricted access to victims, whereas a hostage taker is restricted either by choice or the presence of law enforcement. Hostage takers and their captives often are contained in a specific space and surrounded by law enforcement until the situation is resolved.

Moreover, hostage takers differ in that they subscribe to

Type of Perpetrator	Description of Perpetrator
Active Shooter	An individual with a firearm who begins shooting in the workplace
Hostage Taker	<p>An armed individual who may or may not use deadly force, has restricted access to victims, and eventually will be contained with hostages. This type of perpetrator is motivated in one of two ways.</p> <ol style="list-style-type: none"> <li>1. Substantive: Motivated by things the perpetrator cannot obtain, including money, social or political change, and escape. These individuals use hostages as pawns to achieve their goals.</li> <li>2. Expressive: Motivated by a loss, including job or relationship. These individuals act out of emotion and often behave in senseless, reckless ways with no clear goals.</li> </ol>

Figure 5 - Perpetrators

either substantive or expressive motives.<sup>18</sup> Substantive motives involve money, material items, escape, and social or political change that hostage takers cannot obtain on their own. Perpetrators with expressive motives are compensating for a loss (e.g., end of a relationship or job) and appear irrational because their actions are emotionally driven. The motives of hostage takers generally do not include harming captives because this would completely change the situation and the consequences.<sup>19</sup> Those who operate based on substantive motives do not want to harm their captives because they need them as pawns to achieve their goals.

It is important for individuals held captive to remember that it will take law enforcement negotiators time to resolve the

situation. Patience on their part is essential for survival. Some recommended strategies include remaining calm, following directions, and not being argumentative or irritating to the perpetrator. Further, it is critical for captives to find a “neutral ground” where they are neither too assertive nor too passive with their captor.<sup>20</sup>

Although negotiating to end the hostage-taking scenario is preferable, sometimes law enforcement must neutralize the perpetrator. Police may use SWAT, active-shooter, or rapid-deployment teams.<sup>21</sup> If this is the case, captives should take certain actions and avoid others to help law enforcement safely and efficiently resolve the situation. For example, when responding law enforcement officers arrive, they are not initially aware of the

identity of the perpetrator. Also, their only goal is to neutralize or stabilize the situation. Police officers are taught that hands kill. Therefore, it is important for victims to raise their arms, spread their fingers, and drop to the floor while showing that they do not have any weapons or intention of harming anyone. Finally, once they have made contact with officers, survivors should relay any information that may help, such as how many shooters were present, identities and location of them, and weapons used.

## Conclusion

Workplace violence is a prevalent and complex problem. While certain high-profile, catastrophic incidents have drawn the attention of the media and the public, numerous events

go unreported. Workers should learn about workplace violence, recognize the behaviors of concern, and remember that awareness + action = prevention. If an incident does occur, they should be able to distinguish a hostage taker from an active shooter so that they can determine how to behave to increase their chances of survival.

Research has shown that many of these situations are over in minutes and law enforcement may not arrive in time. As a result, employees have to become stakeholders in their own safety and security and develop a survival mind-set comprised of awareness, preparation, and rehearsal. Vigorous prevention programs, timely intervention, and appropriate responses by organizations and their employees will contribute significantly to a safe and secure work environment.

#### Endnotes

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## Wanted: Notable Speeches

**T**he *FBI Law Enforcement Bulletin* seeks transcripts of presentations made by criminal justice professionals for its Notable Speech department. Anyone who has delivered a speech recently and would like to share the information with a wider audience may submit a transcript of the presentation to the *Bulletin* for consideration.

As with article submissions, the *Bulletin* staff will edit the speech for length and clarity, but, realizing that the information was presented orally, maintain as much of the original flavor as possible. Presenters should submit their transcripts typed and double-spaced on 8 1/2- by 11-inch white paper with all pages numbered, along with an electronic version of the transcript saved on computer disk, or e-mail them. Send the material to: Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Outreach and Communications Unit, Quantico, VA 22135, or to [leb@fbiacademy.edu](mailto:leb@fbiacademy.edu).



# Police Practice

## ***The Child and Family Leadership Exchange***

By Gerald Kelley

**P**olice departments continually strive to maintain and improve their relationships with those they serve. Such positive connections benefit the community and increase an agency's effectiveness. Of Sir Robert Peel's Nine Principles of Policing, five directly mention relationships with the public as essential for law enforcement organizations to perform their duties.<sup>2</sup>

Similarly, a police agency's partnerships with its professional associates are just as crucial for effectiveness. Collaboration and coordination among working partners brings about information sharing that makes each organization's decision making more thorough. This is especially true of police units that investigate crimes against juveniles—in particular, those targeting children.

In Ohio, state law mandates the coordination of child abuse investigations with the county's children's service agency, as well as with children's advocacy centers, whose members include both public and private organizations.<sup>3</sup>

*To me, teamwork is a lot like being part of a family. It comes with other obligations, entanglements, headaches, and quarrels. But the rewards are worth it.<sup>1</sup>*

*- Pat Summit*



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While these dual investigations by separate entities both are directed at protecting the child, they have different focuses. Law enforcement departments want to make an arrest and remove the threat of the suspect. Social service agencies strive to protect the well-being of the child and provide assistance to the victim and the family. Complications arise because children's service agencies follow state-mandated time restrictions for the completion and reporting of their investigations. However, law enforcement investigations can continue longer before a case decision is made, especially if the criminal case depends on DNA or other forensic tests that may take months for completion. The individual agencies involved do not always understand others' time policies and investigative practices.

To provide a mutual understanding of the different roles each organization has in the protection of children, the Summit Forum, a collaboration of local private and government officials, developed the 1-day Close Up program, included in the county's month-long Child Abuse and Family Awareness program. Through the interaction of area professionals, Close Up illustrated the process of service delivery to children and families at risk. Drawing from the success of the 1-day program and the interest of other service providers in involving their organizations' processes, the Child and Family Leadership Exchange (CFLE) began.

## THE PROGRAM

The mission of the 10-month CFLE is "to promote excellence in leadership among Summit County professionals serving children and

families."<sup>4</sup> Participants gain an in-depth understanding of the county's child and family services from point of discovery through assessment, legal intervention, case management, and treatment. The program incorporates a detailed examination of the system's strengths and weakness and identifies techniques for cultivating and advocating for improved services.

## Structure

CFLE begins with an orientation luncheon, which gives class members the opportunity to meet one another and learn about each other's job and background. A community leaders' reception follows. This introduces the participants to past CFLE graduates, as well as local political and business leaders. At the end of the program, class members participate in a graduation ceremony. A series of individual sessions constitute the majority of the 10 months.

## Individual Sessions

The monthly sessions last mostly 1 day and are grouped into common service-provider categories. Prior to each session, class members participate in related preclass assignments hosted by the agency providing the upcoming presentation. This gives each participant firsthand experience with the organization. After each session, class members evaluate the day's activities and the preclass assignments. Each year, the executive committee reviews the past year's curriculum and suggests ways to improve CFLE using these evaluations as a starting point. Recommendations then are reviewed with each session head, and, if necessary, the program is changed for the next year.

**“ Collaboration and coordination among working partners brings about information sharing that makes each organization's decision making more thorough. ”**

### *Overnight Retreat*

This longest session lasts a day and a half. Participants learn about challenges facing the community in helping families meet demands posed by societal changes, how the human service system functions to create a network to help families become whole and complete, and methods to promote awareness of issues that interfere with the well-being of children.

It begins with a discussion, "The Challenge of Changing Times," conducted by a panel consisting of representatives from children's service agencies, job and family service organizations, health departments, organizations specializing in mental retardation and development, children's hospital, the legal system, police departments, and additional agencies as needed. These entities discuss their roles in providing community services and the challenges they face in both day-to-day activity and long-term planning. Following the panel discussion, participants cover current issues during follow-up sessions. Recent topics have included bullying and family violence issues. Subjects vary from year to year and reflect both community and national concerns involving children and families.

### *Investigation and Assessment*

This session shows how agencies involved with investigating child abuse work together. Pre-class assignments include riding with a uniformed police officer during a shift, training on a firearms simulator, and observing as a social worker meets with a client. A prosecutor and representatives from the children's service board, children's hospital, and law enforcement all explain their part in



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the criminal justice system and how their investigations interconnect.

Law enforcement discussions involve the investigative process from assigning the initial case to determining if an arrest is to be made. This includes a review of past investigations and the problems encountered while conducting them. Questions asked by members of the class often begin with "I saw on TV where" and this leads to a discussion on admissible evidence, police practices, criteria needed before an arrest can be made, and elements of a prosecutable case.

### *Court Involvement*

Following the investigative session, the program covers the role of the court. This is not only the criminal court when an arrest has been made but also the civil court where custody of the children becomes an issue. Representatives from the domestic relations, probate, and criminal courts participate in this session.

In addition to presentations by each agency, the class tours the various facilities, including the juvenile detention center. The session ends with a panel discussion and a hypothetical scenario.

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### *Family Support Services*

The objective of this session is to promote awareness of the range of resources and services available in the community. Preclass assignments include visiting the agencies, giving class members an opportunity to both observe the organization and ask questions concerning its operation. Representatives participating include those from the areas of mental retardation and development, housing, and health care, as well as the Urban League. At the suggestion of past class members, participants also include representatives from the metro transit authority, which provides clients without available transportation a way to get to scheduled appointments.

### *Media Relations Day*

This event brings in members from the local print and broadcast media. They explain how the media interacts with community agencies and keeps the public informed of available services or the lack thereof. Discussions have included the First Amendment and the role of the media in the community. At the end of the session, class members are "interviewed" by a local TV reporter so they can experience the receiving end of the camera.

### *Treatment Services*

Follow-up treatment is very important for victims. In this session, representatives from the Child Guidance and Family Solutions and the Community Health Center, both based in Akron, explain the services they provide in both group and individual sessions. If available, clients of one of the services address the class and explain how they

were helped and what problems they encountered during the process.

### *Leadership and Important Decisions*

During this session, the class travels to the state capital and meets with government leaders. Participants review a proposed law that involves children and families and question the state representatives about it. This includes whether they support the law or not and why. If available, the class observes hearings on the bill that they reviewed.

### *Close Up and Prevention Programs*

The last session focuses on an emerging area of concern for professionals serving children and families and discusses available programs. Topics vary from year to year, and the answers to the problems are not always what the class expects. It highlights what the professionals face in making decisions that have lasting effects

on the involved individuals and community services. Last year's topic, date rape, produced many questions and varying viewpoints.

### **FEEDBACK**

Since the CFLE began, over 375 participants from 28 agencies have completed the program. It certainly seems to cultivate excellence among Summit County professionals and provide a sense of cooperation among the various organizations. One attendee said, "Meeting and interacting with others in similar fields provided me with many different perspectives of addressing similar problems." Another stated, "I have already used the contacts I made in assisting me in my work." A

**“  
...working together  
as a team can make  
the task of providing  
better service to the  
community's children  
and families easier.  
”**



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third participant declared about newfound knowledge of other agencies, "I have learned so much that will forever change my view of their work."

## CONCLUSION

Throughout the year, the Child and Family Leadership Exchange stresses that working together as a team can make the task of providing better service to the community's children and families easier. It recognizes the problems that individual organizations have with outside collaboration, such as agency-specific policies, procedures, and interpretation of laws. The program works to identify, address, and overcome these issues or at least have one agency understand another's point of view. By working together, the community's child

protection professionals can improve the services they provide to the individuals they serve.

## Endnotes

<sup>1</sup> Pat Summit and Sally Jenkins, *Reach for the Summit* (New York, NY: Broadway Books, 1998).

<sup>2</sup> <http://www.historyhome.co.uk/peel/laworder/9points.htm> (accessed June 11, 2010)

<sup>3</sup> Ohio Revised Code: 2151.42.1 (D)(1) and 2151.42.1 (F)(1): Reporting Child Abuse or Neglect; and Ohio Revised Code: 2151.42.1 (D)(2)(b): Reporting Child Abuse or Neglect.

<sup>4</sup> <http://www.summitkids.org/CommunityEducation/ChildFamilyLeadershipExchange/tabid/84/Default.aspx> (accessed June 11, 2010)

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*Lieutenant Kelley is the unit commander for the Juvenile Bureau of the Akron, Ohio, Police Department.*

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## The *Bulletin's* E-mail Address

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## *Responding to a Child Predator's Suicide*

**W**hen officers investigating cases that expose them to child pornography and child exploitation materials experience the suicide of a subject, what “typical” or “normal” responses might they have? In fact, investigators have a wide range of reactions in these instances.

The FBI's Undercover Safeguard Unit (USU) has found that the more face-to-face contact officers had with the subject, the more potential conflict may characterize their response to the suicide. USU personnel currently are researching this trend.

Investigators may fall back on their sense of just anger because of the egregious nature of child predatory acts. These officers may hear about a subject suicide and consider it a tangible end to an overwhelmingly rampant and potentially vicious crime.

Considering the wide range of possible reactions, how might a supervisor or team member respond to a group of investigators? USU personnel offer some constructive steps worthy of consideration.

- Before a subject suicide, educate and talk to your team members about the diversity of reactions they may encounter. During, perhaps, a staff meeting, ask them how they might expect to react or how they have responded in the past. Emphasize that it is normal for people to not know how to react in unusual circumstances—the suicide of a child predator certainly fits this category.

- Following a subject suicide, it is acceptable and possibly appreciated to ask people about their thoughts and feelings. Talking about suicide is not taboo; it actually can give individuals an opportunity to share their perspectives. During assessments, USU personnel have spoken to officers who previously had not discussed their reactions; doing so gave them relief. Nonprofessionals should speak and listen to their colleagues about their reactions to suicide.
- If people cheer upon learning of a suicide, it is appropriate to point out that not everyone responds the same way. Providing tangible rules pertaining to behavior during critical times actually may relieve some discomfort, particularly when people are unsure about what to say or do in the midst of a suicide.
- Public displays of the subject suicide, such as posting pictures of the deceased individual or a “predator suicide list” on the office wall, can make some people uncomfortable in the workplace. Such actions also can give the impression to the public that the agency encourages subject suicide. Further, imagine a family member of the subject entering the office and seeing such displays; remember, they also are victims.
- Find appropriate ways for you and your team to control anger. Encourage peer

discussion and provide team-building time and excursions. These cases make many of-  
ficers feel primarily shock and anger. While  
investigators may compartmentalize such  
feelings, anger still is a normal response to  
extreme human violation and, perhaps, even  
necessary for officers to continue prosecuting  
these charges. However, personnel must fun-  
nel this anger in constructive ways. Perhaps,  
provide investigators an as-needed break.  
Sometimes, “dark” humor helps to detoxify  
exposure to horrific activity; however, al-  
though normal, it also may signify a need for  
more ways to ventilate.

Contact USU if you have questions about  
debriefings following a subject suicide. We  
can assist you or refer you to someone else  
who can help. Unit personnel can provide  
education about the psychological impact of  
working these cases.

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*Dr. Nicole Cruz of the FBI's Undercover Safeguard  
Unit (USU) prepared this Safeguard Spotlight. USU  
provides guidance and support for personnel exposed  
to child pornography and child exploitation materials.  
The unit can be contacted at 202-324-3000.*

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*“One less child predator in the world...”*

*“I know that I’m not responsible, but, somehow,  
I feel somewhat responsible.”*

*“What about all the time I put into this case...  
all for nothing...”*

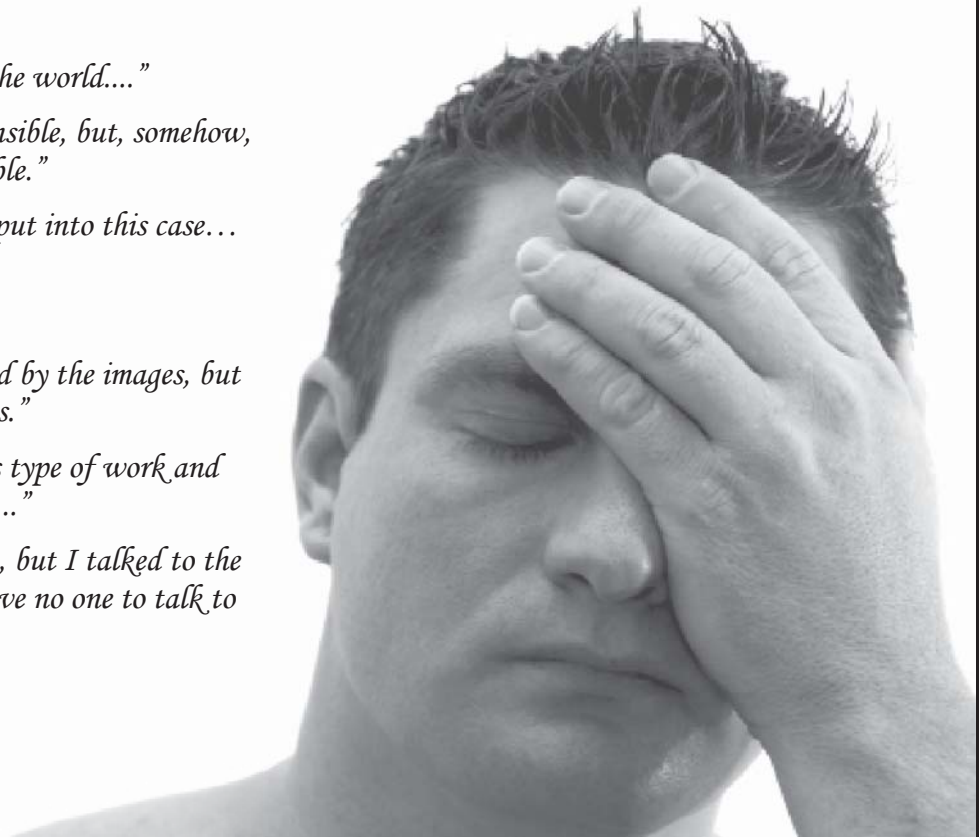
*“That poor family....”*

*“I’ve never been traumatized by the images, but  
I was traumatized by this.”*

*“I never signed on to do this type of work and  
see someone die like that....”*

*“Everyone is happy about it, but I talked to the  
guy and I feel upset. I have no one to talk to  
about it....”*

*“He got off easy.”*



## Perspective

### ***Strategies for Curbing Organizational Politics***

By Tracey G. Gove, M.P.A.



**U**ndoubtedly, police work involves danger. While law enforcement officers are highly trained and well equipped to meet the challenges they face on the street, a hidden danger lies within the police organization itself. Though this danger may remain largely unseen and ignored, it deeply entrenches itself within the agency's culture and daily operations. This foe, which lurks below the surface of most workplaces, is a complex and sinister web known as "office politics." Left unabated, such political games destroy employee morale and sap an agency's time and resources. Fortunately, law enforcement officers and supervisors can take steps to minimize these negative effects.

*Detective Lieutenant Gove of the West Hartford, Connecticut, Police Department is an adjunct faculty member at Manchester Community College in Connecticut.*





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Office politics often are easier to recognize than to describe. The general term politics simply describes a competition for power, but office politics involves those who seek power at the expense of others, with an “I win, you lose” attitude. Office politics are behaviors that maximize self-interest and conflict with the collective goals and interests of others.<sup>1</sup>

These divisive behaviors take many forms. At its worst, office politics manifest as outright manipulation and sabotage for the sake of one’s own upward mobility, power, or success. These tactics function as a means to win the regard of superiors or key decision makers, both in and outside of the agency. Instead of honest, professionally built relationships, office politicians build relationships through deceit and chicanery.

More often, though, workplace politics take the more subtle forms of malicious gossip, rumors, or criticism through which the office politician controls the flow of information. For example, office politicians may spread nuggets of bad information that discredit and ruin the reputation of a coworker, or they might exploit the weaknesses of others to make them appear less competent. With these tactics, office politicians aim to undermine coworkers whom they perceive as threats to success.

Employees play political games regardless of their education, intelligence, or position of authority. Intelligent, confident people who will do anything to climb the promotional ladder often adopt such tactics; or, those who perceive themselves as less competent may resort to political games to compensate for their shortcomings.

Law enforcement agencies are especially susceptible to the influence of internal political games. As highly structured organizations, agencies’ strict hierarchy of titles and ranks allows employees at all levels to exercise authority. These factors, coupled with the competitive, type-A personalities of many law enforcement professionals, inevitably create a highly charged political environment.

### Strategies for Officers

In law enforcement organizations, internal politics often affect officers more than anyone else. While the political games of peers and immediate supervisors impact officers directly, the byproducts of upper-echelon political drama may trickle down to the agency’s lower levels as well. Strategies exist that can help officers avoid becoming personally entangled in the political web.

Long hours at work with little activity often lead officers to share many personal thoughts and ideas. Officers should remember that a coworker can and likely will repeat whatever they say, so they should not reveal anything sensitive. Also, of-

ficers should not repeat anything that a coworker tells them in confidence as this can and surely will cause negative repercussions in the future.

When officers strive for a special assignment, promotion, or just a successful, enjoyable career, they must rely on personal merit alone. To reach their professional goals, officers need not resort to politicking; instead, they should improve themselves professionally through higher education, specialized training, and simple hard work. If officers set goals and couple them with appropriate

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**Left unabated, such political games destroy employee morale and sap an agency’s time and resources.**

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strategies, they always will outperform those who rely on political maneuvers. Additionally, if officers dedicate their time toward their professional development, they will have less time to worry about the ambitions of others.<sup>2</sup>

Officers should not rationalize, either internally or externally, any negative behaviors that they exhibit in pursuit of their goals. Officers might think “everyone does it” or “they did not deserve that promotion,” but these are only weak attempts to justify improper and even unconscionable behavior.<sup>3</sup> Humans can rationalize just about anything, but, in the end, political games most likely will hurt only the player’s career.

Officers need to develop emotional and social intelligence by building healthy relationships at all levels within their organization. This opens lines of communication and prevents misunderstandings about the behaviors and actions of others. Similarly, officers should pay proper courtesy and respect to all coworkers and not align with cliques or social groups. Networking, while important, need not exclude others.

When officers make personal complaints, they should follow proper procedures and handle them through the appropriate chain of command. Ideally, officers should express their grievances to a spouse or trusted friend outside of the agency. Often, however, fellow law enforcement officers more easily relate to job frustrations because they understand the unique characteristics of police work. If officers confide in a fellow law enforcement professional, they should carefully choose a select few confidants whom they trust to keep their concerns in confidence. If not, unchecked venting

in the workplace causes long-term complications when grievances are repeated.

### **Approaches for Supervisory Personnel**

Because of their managerial position, supervisors play a pivotal role in curbing workplace politics; unfortunately, supervisors may exacerbate the problem if they engage in political behavior themselves. Supervisors can take steps to minimize political maneuvering in their offices.

- They should keep an eye out for political behavior not only in others but also in themselves. Supervisors are only human and, thus, may feel tempted to play the political game when they might benefit personally. Such behavior, however, will destroy trust and weaken employee performance.<sup>4</sup> Unfortunately, a political web often is so subtle and complex that it can ensnare supervisors before they ever realize it exists.<sup>5</sup> To escape this trap, supervisors should



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keep their antenna tuned to both the internal workings of their agency and their own behavior.

- Supervisors should pay attention to the informal leaders and power players among their subordinates. Officers become leaders not just through formal promotion; certain frontline officers attract and keep a loyal following of peers. If the formal hierarchy acts as the skeleton of an organization, these informal networks function as the central nervous system.<sup>6</sup> If supervisors want to successfully navigate this political environment, they must keep abreast of the informal power networks

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that build it. Supervisors can gain insight to this complex web of relationships if they observe and study the workplace interactions of their coworkers.<sup>7</sup>

- Upper-level administrators should ensure that their agencies maintain a zero-tolerance policy that clearly prohibits unnecessary criticism and disparaging comments, as well as malicious gossip, rumors, and other disinformation. Agencies must not only maintain a written policy but also strictly enforce it at all levels in the agency. Supervisors should not gossip or talk about coworkers behind their backs, especially in front of subordinates.
- Supervisors should examine how they measure success among their subordinates to ensure that their standards do not reward political behavior. If supervisors bestow promotions and plumb assignments based on personal relationships or favor, then they encourage a highly political environment. Promotions and desirable assignments only should go to workers who possess a relevant track record of success and the requisite skills for the new position.<sup>8</sup>
- Similarly, upper-level administrators should analyze their agency's rewards and recognition process. To ensure fairness and supplant hidden agendas, supervisors should apply objective standards toward their recognition criteria. Law enforcement organizations must design their recognition process so that supervisors only reward their employees based on objective criteria rather than as a personal favor.

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**Supervisors should examine how they measure success among their subordinates to ensure that their standards do not reward political behavior.**

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- Instead of involving themselves in the political arena, supervisors should develop their managerial skills and encourage open and transparent communication from their subordinates. Effective communication eliminates the deadly grapevine and rumor mill; otherwise, communication voids will be filled with any available information regardless of its accuracy. Poor communication, even unintentional, facilitates a destructive political culture.<sup>9</sup>
- Supervisors must coach, mentor, and set goals with their subordinates. A manager's

day-to-day duties include more than extinguishing “fires” that erupt; they also should work closely with personnel on their professional development. This type of leadership lessens the risk of employees resorting to deceptive practices to accelerate their careers.

All of these proposed strategies to counter office politics are mostly informal approaches. At

times, however, organizational politicking rises to a level that requires more formal action (e.g., if an employee violates a zero-tolerance policy). In these instances, supervisors should discipline employees according to their organization's standards, and officers should report misbehavior through the official complaint process. Additionally, both supervisors and officers should consider using their union, human resources department, or state labor board; each mediates a variety of disputes, complaints, and discrimination issues.

## Conclusion

Law enforcement organizations must certify that their culture, policies, and operations discourage an excessively political environment—a task, no doubt easier said than done. Agency leaders should remember that above all, employees want their organizations to operate fairly. Objective standards for assignments and promotions, transparent communication, and opportunities for professional development all foster an environment where political maneuvers do not replace hard work, honesty, and accomplishment. Law enforcement officers already have inherently dangerous jobs, and an agency's internal politics need not cause officers more stress than the conditions on the street.

## Endnotes

<sup>1</sup> Eran Vigoda-Gadot, "Leadership Style, Organizational Politics, and Employees' Performance: An Empirical Examination of Two Competing Models," *Personnel Review* 36, no. 5 (2007): 661-683.

<sup>2</sup> Biagio W. Sciacca, "Don't Turn Your Back on Organizational Politics," *Pennsylvania CPA Journal* (Fall 2004).

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<sup>4</sup> "Coping with Office Politics," [http://www.bnet.com/article/coping-with-office-politics/57033?tag=mantle\\_skin;content](http://www.bnet.com/article/coping-with-office-politics/57033?tag=mantle_skin;content) (accessed November 17, 2010).

<sup>5</sup> Scott J. Harr and Karen M. Hess, *Careers in Criminal Justice and Related Fields: From Internship to Promotion* (Belmont, CA: Wadsworth Cengage Learning, 2006).

<sup>6</sup> David Krackhardt and Jeffrey R. Hanson, "Informal Networks: The Company Behind the Chart," *Harvard Business Review*, July-August 1993.

<sup>7</sup> Louellen Essex and Mitchell Kusy, "Playing the 'Office Politics' Game," *Training + Development*, March 2008, 76-79.

<sup>8</sup> "Coping with Office Politics."

<sup>9</sup> "Coping with Office Politics."

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## Changing Roles

About a year ago, I began accompanying my mom to one of her weekly evening activity groups. It seemed like a perfect way to spend more time with her, which is an increasingly more precious commodity as we both grow older. What it has become, however, is an amazing experience in changing roles.

When I was young, my mom supported me in everything I did. The entity of "Deborah's Mom" would wait day after day to pick me up from after-school activities. She was my Girl Scout troop leader for several years. Deborah's mom would deliver forgotten reports and chaperon field trips. Deborah's mom was a cheerleader and champion, confident and counselor, and, like all parents, chauffeur. She was an essential part of who I was becoming.

Twenty-five years later, the roles have reversed. Hardly anyone in my mom's activity group knows my name. I am Anita's daughter. My mom is the center of attention. Her skills and expertise are coveted and shared. The adventures of learning new things and meeting new people are hers. I am there just to spend time with her,

to support her, and to be a chauffeur. I am Anita's daughter.

In most aspects of our lives, our roles change far more often than every 25 years. Sometimes, however, it may take us nearly that long to realize that we no longer are serving or leading others in the way they need. Our subordinates may not have need-

ed our direction for a long time, but they may be hungering for our support. Our superiors may be looking to us

for more leadership and guidance than they did in the past. Our colleagues may be following our example and leadership, unbeknownst to us.

Wise leaders should try not only to be flexible in the roles they play but also be sensitive to when those roles change. As leaders, sometimes our roles and responsibilities are obvious; sometimes, they are subtle and slight. All of these roles are essential. And, while it is important to be the mom, it is an honor to be the daughter. ♦

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*Deborah Southard of the Leadership Development Unit at the FBI Academy prepared this Leadership Spotlight.*

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## *Off-Duty Officers and Firearms*

By MICHAEL J. BULZOMI, J.D.

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**P**eople generally recognize law enforcement officers by their marked cruisers and uniforms, which include the display of symbols of authority—a badge and a gun. The public expects officers to be comfortable carrying a sidearm and to exercise precision and sound judgment when using it. Officers are responsible for ensuring the safety and protection of citizens and, thus,

expected to provide a calming presence. This is true when they are on duty, but does this extend to off-duty hours when there are no outward signs of authority?

The U.S. Congress has determined that in a post-9/11 world, the public is better served when off-duty officers are in a position to effectively respond in the face of a threat. To this end, the Law Enforcement Officers Safety Act of

2004 (LEOSA) allows officers to carry concealed weapons not only in their jurisdictions but in all 50 states, and the territories of the United States, provided certain conditions are met.<sup>1</sup> This article will explore LEOSA, address federal statutory limitations regarding firearms possession, and summarize a short legal history of the Second Amendment concerning the right to bear arms.<sup>2</sup>

## THE SECOND AMENDMENT

The Second Amendment to the Bill of Rights was ratified on December 15, 1791. It reads, “(a) well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”<sup>3</sup> History shows, however, that this simple amendment is anything but. Over the years, much debate has centered on whether the right referred to in the Second Amendment is an individual or a state right.<sup>4</sup>

In 1939, the U.S. Supreme Court offered some insight as to the context of the Second Amendment in deciding *United States v. Miller*.<sup>5</sup> The case involved the interstate transportation of an unregistered short-barreled shotgun in violation of the National Firearms Act of 1934.<sup>6</sup> The Court decided that the Second Amendment’s “obvious purpose was to assure the continuation and render possible the effectiveness of militia forces.”<sup>7</sup> The Court further stated that only weapons with a “reasonable relationship to the preservation or efficiency of a well regulated militia” would come under the Second Amendment definition of arms.<sup>8</sup> Explaining that the militia meant “all males physically capable of acting in concert for the common defense,” the Court

advised that these men would commonly provide their own customary arms when called to service.<sup>9</sup> The Court, thus, upheld the ban of weapons having no connection to the militia or to the common defense.

From 1939 until recently, the Supreme Court steered clear of much of the debate regarding the meaning of the Second Amendment. In 2008, the Court offered guidance as to the meaning of the Second Amendment in *Heller v. District of Columbia*.<sup>10</sup> The Supreme Court held that the District of Columbia’s ban on handguns and operable firearms in the home was unconstitutional. However, the Court did note that the Second Amendment does not allow an unfettered right to possess all kinds of firearms or permit all persons to possess them.

Heller, a special police officer in the District of Columbia, was denied a license to register a handgun for self-protection in his home even though he possessed one for his job. Citing the Second Amendment, Heller filed suit in federal district court challenging the city’s gun laws. This challenge was rejected and Heller appealed. The D.C. Circuit Court reversed the district court’s decision, holding that an individual has a right under the Second Amendment to possess firearms and that the city’s gun laws infringed upon that right. The U.S. Supreme Court affirmed the decision and discussed the extent of the right to bear arms.

The Court declared that an “inherent right to self-defense” is central to the Second Amendment and that a total ban on an

**“...law enforcement officers retain their identity, training, experience, and dedication to the safety and welfare of the community regardless of whether they are on duty....”**



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

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entire class of firearms essentially serving as Americans' first choice for self-defense of "the home, where the need for defense of self, family, and property is most acute" is an impermissible infringement upon one's right to keep and bear arms.<sup>11</sup> The Court clarified, however, that this right is not absolute. Further, the Court provided a nonexhaustive list of "presumptively lawful regulatory measures," including restricting felons and mentally ill persons from possessing firearms, restricting the carrying of firearms into schools and government buildings, and imposing conditions or qualifications concerning the sale of commercial firearms.<sup>12</sup> The Court concluded by ordering the District of Columbia to allow Heller to register his handgun and to issue him a license to carry it in his home.

As the District of Columbia is a federal enclave and not a state, the decision only impacts the federal government. However, this past term in *McDonald v. City of Chicago*,<sup>13</sup> the Supreme Court addressed the role of the Second Amendment with respect to state gun control.

In *McDonald*, the ban on handguns by the city of Chicago and one of its suburbs, the Village of Oak Park, Illinois, was challenged as violating the Second and Fourteenth

Amendments to the U.S. Constitution. The plaintiffs contended that the Court's decision in *Heller*<sup>14</sup> should be applied to the states through the Fourteenth Amendment's Due Process Clause—interpreted by the Supreme Court as allowing the Court to incorporate provisions of the Bill of Rights and apply them to the states. According to the Court, the issue is "whether the particular Bill of Rights

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***LEOSA applies to qualified active duty and retired officers.***

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guarantee is fundamental to our scheme of ordered liberty and system of justice”<sup>15</sup> or, in other words, “deeply rooted in this Nation's history and tradition.”<sup>16</sup> The Court stated that its decision in *Heller*<sup>17</sup> was clear on this point.

Self-defense is a basic right recognized by various legal systems throughout the ages. More important, individual self-defense is a fundamental right from an American perspective,

deeply rooted in the nation's history and tradition. As such, it is a “central component” to the Second Amendment right to bear arms to include the protection of one's home, self, family, and property, a right protected from infringement by the federal government, as well as from the states. The Court reversed the court of appeals and remanded the case for further proceedings.

Today, not only police officers but virtually all Americans may possess a handgun for home protection. As noted in *Heller*,<sup>18</sup> this may be limited as a result of reasonable restrictions, such as mental instability and felony convictions. In addition, local and state restrictions concerning the storage and number of handguns still may be lawful. However, any restrictions that appear so restrictive as to circumvent this individual right to bear arms likely will be deemed unconstitutional.

## **FEDERAL STATUTES**

In 1968, Congress enacted the Federal Gun Control Act,<sup>19</sup> prohibiting convicted felons from possessing a firearm. Since the passage of this act, Congress has enacted additional pieces of legislation to further restrict firearm possession. Two of these acts in particular—the Lautenberg Amendment<sup>20</sup> and the Brady Handgun Violence



Prevention Act—could affect law enforcement officers and their employers.<sup>21</sup>

### The Lautenberg Amendment

Enacted in 1996, the Lautenberg Amendment creates a prohibited-possessor status for persons convicted of a misdemeanor crime of domestic violence.<sup>22</sup> There is a statutory stipulation that the convicted individual had legal counsel or knowingly, voluntarily, and intelligently waived it. If the conviction is set aside, it does not automatically mean that the prohibited-possessor status also is set aside. If the judge's order contains restrictions on firearms possession, the prohibited-possessor status continues.<sup>23</sup> The act permits an individual who is a prohibited possessor to petition to the U.S. attorney general for relief. If the relief is denied, the act allows for judicial review of the denial.<sup>24</sup>

In *United States v. Hayes*,<sup>25</sup> the Supreme Court held that the statutory predicate requiring a "misdemeanor crime of domestic violence" does not have to include a crime establishing a specified domestic relationship.<sup>26</sup> In other words, the statutory predicate is satisfied as long as it involves a misdemeanor crime of violence and the victim is a person who has a qualifying domestic relationship. To require the predicate



offense to be a crime that specifically included the domestic relationship as an element to the underlying crime would have limited the reach of the statute.

In *Hayes*, police officers responded to a 911 call of domestic violence. They arrived at the home of Ronald Hayes, obtained his consent to search his home, and discovered a rifle, as well as two other firearms. Hayes was indicted on three charges of possession of firearms after having been previously convicted of a misdemeanor crime of domestic violence against his wife. He contested the indictment on the basis that battery was not a predicate offense under the Lautenberg Amendment.

The U.S. District Court for the Northern District of West Virginia denied the motion to dismiss the indictment. Hayes then entered a conditional guilty plea and appealed the denial. The U.S. Court of Appeals for the Fourth Circuit reversed the district court, agreeing with Hayes that the underlying charge was not a qualifying predicate offense because it did not designate a domestic relationship as an element to the crime. The U.S. Supreme Court agreed to hear the case and reversed the Fourth Circuit decision.

The Supreme Court held that the government need only show beyond a reasonable doubt that the victim of domestic violence was the defendant's

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current or former spouse or in some way related to the defendant. The Court stated, “but that relationship, while it must be established, need not be denominated as an element of the predicate offense.”<sup>27</sup>

Aside from the obvious suitability issues raised by the underlying conduct engaged in by the applicant or officer, which should be considered by the agency, *Hayes* may impact hiring and retaining officers by law enforcement agencies. For example, if a misdemeanor conviction pertaining to a crime of violence surfaces during the investigation, the department must determine whether the crime involved someone who had a domestic relationship with the applicant or officer.

### **The Brady Handgun Violence Prevention Act**

The Brady Handgun Violence Prevention Act also creates a prohibited-possessor status upon a finding based on reasonable cause to believe, after a hearing with notice and an opportunity to participate, that an individual is a “credible threat” to the safety of an intimate partner or child.<sup>28</sup> An exception to the act exists whereby the prohibited possessor status does not extend to the “United States or any department or agency thereof or any state or department,

agency, or political subdivision thereof or for military training or competitions.”<sup>29</sup> The extent of this exception and whether it applies to individuals has yet to be fully determined. As with the prohibited-possessor status created by the Lautenberg Amendment, the provision in the Brady statute also could impact the ability of an officer to carry a firearm.

***LEOSA allows qualified officers to protect themselves, their families, and the community by being armed while off duty.***

### **LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2004**

On July 22, 2004, President George W. Bush signed into law H.R. 218, the Law Enforcement Officers Safety Act (LEOSA),<sup>30</sup> which created a general nationwide recognition that the public is better served by allowing law enforcement officers to carry their firearms outside of their jurisdictions whether they are on or off duty. The theory behind

LEOSA already was recognized among a number of states.<sup>31</sup> That is, law enforcement officers retain their identity, training, experience, and dedication to the safety and welfare of the community regardless of whether they are on duty in their employer’s jurisdiction, going home to another community, or merely traveling for leisure purposes. However, the act creates a limited privilege to carry concealed weapons for law enforcement officers, not a right to bear arms.

### **Qualification Under LEOSA**

LEOSA applies to qualified active duty and retired officers.<sup>32</sup> Qualification under LEOSA requires employment by or retirement from a local, state, or federal law enforcement agency as someone charged with the ability to investigate, prosecute, and arrest people for violations of law.<sup>33</sup> If an agency has firearms proficiency standards, the officer must meet them to qualify to carry under this act.<sup>34</sup> The statute also prohibits carrying firearms when under the influence of alcohol or any intoxicating or hallucinatory substance.<sup>35</sup> If a current or retired officer is prohibited by federal law from possessing a firearm, they are not qualified to carry one under this legislation.<sup>36</sup> It also is important to note that if

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an officer is under a disciplinary action that may result in suspension or termination by their agency, they are not qualified to carry under this act.<sup>37</sup>

Qualified retired officers must have retired in good standing for reasons other than mental instability and served at least an aggregate of 15 years.<sup>38</sup> However, if the retirement was due to a service-related disability, the officer need only have completed the probationary period to qualify under this act.<sup>39</sup> Retired officers also must have a nonforfeitable right to benefits under their agency's retirement plan.<sup>40</sup> At personal expense, the retired officer must meet the state standard for firearms qualification required for active law enforcement officers.<sup>41</sup>

Qualified active duty and retired officers must have photographic identification issued by the agency they work for or retired from.<sup>42</sup> Retired officers' identification must have some indication that they have been tested or have otherwise been determined by the issuing agency to meet the standards active officers must meet to carry concealed weapons.<sup>43</sup> Retired officers do have the option of possessing the photographic identification with a certification from the state, rather than their former agency, that they have met the state's requirements for active duty officers to

carry concealed weapons within 12 months of the issuing date of the identification.<sup>44</sup>

LEOSA does not give qualified officers any special enforcement or arrest authority or immunity. It merely allows them to carry concealed weapons. If these weapons are used, there is no special protection from arrest. Qualified officers may find themselves acting only



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under the authority of a citizen's arrest or self-defense claim or under authority established by the state.

Qualified officers may use LEOSA only as an affirmative defense if prosecuted. An affirmative defense requires that the finder of fact, the judge, must make a determination of whether the person raising the defense is eligible to do so. To be eligible, the judge must have determined that the

person raising the defense is, in fact, a qualified officer under LEOSA and was carrying the required identification at the time of the alleged violation. This means that the act will not keep officers from being arrested. However, LEOSA will stand as a defense at a hearing as to the legality of the arrest if the arrestee is, in fact, a qualified officer with the requisite identification.

## Limitations of LEOSA

### *Type of Firearm*

LEOSA allows qualifying officers to carry concealed firearms, but, at the same time, limits what qualifies as a firearm. The act's definition of firearms does not include machine guns, silencers, or explosive or destructive devices.<sup>45</sup>

### *State Limitations on Carrying in Certain Locations*

Limitations also exist as to where a concealed firearm may be carried. LEOSA exempts qualified officers from state laws limiting or prohibiting the carrying of concealed weapons.<sup>46</sup> However, LEOSA does not supersede state laws permitting private property owners from limiting or prohibiting the carrying of concealed weapons on their property.<sup>47</sup> This would include public bars, private clubs, and places, such

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as amusement parks. Nor does the act circumvent any state laws prohibiting carrying concealed weapons on state or local government property.<sup>48</sup> Possible examples would be courthouses, schools, or parks.

#### *Federal Limitations on Carrying in Certain Locations*

Federal laws or regulations are not superseded by LEOSA. Qualified officers may not carry concealed weapons onto aircraft under the act. They also cannot carry firearms into federal buildings or onto federal property. However, in February 2010, a federal statute took effect authorizing individuals to carry concealed weapons into national parks if they have complied with the carry concealed rules of the state or states in which the park is located.<sup>49</sup> Of course, this federal statute will not change the fact that it is unlawful to carry a firearm into federal buildings, even in a national park.<sup>50</sup> This would include facilities, such as visitor's centers, museums, and restrooms.

#### *Internal Policies*

It is unclear whether LEOSA overrides an agency's ability to limit an officer's authority to carry a personally owned handgun off duty as part of off-duty restriction

policies. Some agencies have continued to enforce such policies. Arguably, because LEOSA explicitly overrides state law provisions (except those addressing state facilities and property), and the head of an executive agency is given power by way of state law, it would appear that LEOSA would override off duty restriction policies. However, agencies with such a policy and officers

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***The authorization to carry concealed is not accompanied by any grant of extraterritorial arrest powers.***

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working within these agencies should seek guidance and clarification in regard to the legality of such policies.

#### **CONCLUSION**

In recent opinions, the U.S. Supreme Court has clarified what previously was unclear for hundreds of years, that the Second Amendment does confer a right to bear arms for purposes of self-defense in the home,

subject to reasonable restrictions. LEOSA, as noted above, does not confer a right to bear arms. The act merely confers a limited immunity from state and local laws dealing with concealed firearms and does not supersede any federal laws or regulations. Some jurisdictions outlaw the open display and carrying of firearms; however, LEOSA does not allow officers to carry firearms other than concealed. The authorization to carry concealed is not accompanied by any grant of extraterritorial arrest powers. Qualified officers must be aware of the laws of the state in which they are carrying concealed weapons, satisfy qualification standards, and carry proper identification.

The world changed on September 11, 2001. Through LEOSA, Congress reacted to this new age of terrorism, accepting the fact that America never has faced a greater need to have additional watchful eyes on the streets of its cities, towns, and rural areas. These eyes possess the training, skills, and resources necessary to stop rapidly evolving situations before they become disasters. They also provide an instantaneous, no-cost benefit to the country by simply allowing trustworthy officers to carry concealed weapons while off duty.



Law enforcement officers know that criminals are never off duty. LEOSA also is premised on the notion that officers are vulnerable off duty. Criminals sometimes target them, as well as their families, for harm; these individuals also know that off-duty officers may be unarmed. LEOSA allows qualified officers to protect themselves, their families, and the community by being armed while off duty. ♦

#### Endnotes

<sup>1</sup> Title 18 U.S.C. § 926 B and C.

<sup>2</sup> U.S. Constitution, amend. II.

<sup>3</sup> *Id.*

<sup>4</sup> In 1875, the U.S. Supreme Court in *United States v. Cruikshank*, 92 U.S. 542, dismissed an indictment for two individuals charged with denying freemen their Second Amendment right to keep and “bear arms for a lawful purpose.” The Court advised that citizens must look to the state’s police power for protection against other parties infringing upon their right to bear arms as the amendment wording “shall not be infringed...means no more than it shall not be infringed by Congress, and has no other effect than to restrict the powers of the national government.” The Court concluded that under the laws of the United States there were no applicable federal charges in the indictment.

The Court continued along this trail of precedent that the Second Amendment limits only the federal government when it upheld a state prohibition against participation in an unauthorized militia in the 1886 case *Presser v. Illinois*, 116 U.S. 252 (1886). Presser was an unlicensed militiaman who, along with 400 others, marched through the streets of Chicago with swords and rifles in violation of Illinois state law,

exercising what Presser and the others claimed was their right to bear arms. The Court decided that the states, unlike the federal government, were free to regulate the right to keep and bear arms. The Court also emphasized that the Second Amendment protects only a legitimate reserve militia meant to serve the states and the federal government. The Court cautioned, however, that the states cannot disarm the people so as to deny the United States this military resource regardless of the Second Amendment.

<sup>5</sup> 307 U.S. 174 (1939).

<sup>6</sup> *Id.* at 175-76, (National Firearms Act, Pub. L. No. 90-618, 48 Stat. 1236 (1934) (codified as amended in scattered sections of 28 U.S.C.) was the first federal regulation of private firearms).

<sup>7</sup> *Id.* at 178.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 179-80.

<sup>10</sup> 128 S. Ct. 2783 (2008).

<sup>11</sup> *Id.* at 2817-18.

<sup>12</sup> *Id.* at 2816-17.

<sup>13</sup> 130 S. Ct. 3020 (2010).

<sup>14</sup> 128 S. Ct. 2783 (2008).

<sup>15</sup> *Id.* at 3034.

<sup>16</sup> *Id.*

<sup>17</sup> 128 S. Ct. 2783 (2008).

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

<sup>19</sup> Pub. L. No. 90-618 (1968), codified in chapter 44 of Title 18 of the U.S. Code.

<sup>20</sup> Title 18 U.S.C. § 922.

<sup>21</sup> The short title of the 1993 amendment, which included amendment to § 922 and 924.

<sup>22</sup> The Lautenberg Amendment contains § 922(d)(9) and (g)(9), passed in 1996, which was part of the Omnibus Consolidated Appropriations Act of 1997. This act was challenged in *United States v. Hayes*, 129 S. Ct. 1079 (2009), without success.

<sup>23</sup> See Title 18 § 921 (33)(B)(ii).

<sup>24</sup> See Title 18 U.S.C. § 925 (c).

<sup>25</sup> 129 S. Ct. 1079 (2009).

<sup>26</sup> *Id.* at 1090.

<sup>27</sup> *Id.* at 1088.

<sup>28</sup> See Title 18 U.S.C. § 922 (g)(g).

<sup>29</sup> See Title 18 U.S.C. § 925 (a)(1).

<sup>30</sup> Title 18 U.S.C. § 926 (B) and (C).

<sup>31</sup> All 50 states exempt their own on-duty police officers from statutes governing the right to carry concealed weapons. A majority of states allow within their borders other states’ peace officers to carry concealed weapons if on official business. Kansas, Michigan, Minnesota, Pennsylvania, Wyoming, and Vermont allow on- and off-duty out-of-state officers to carry concealed weapons. California, Connecticut, Delaware, Florida, Idaho, Indiana, Maryland, Mississippi, Nevada, New York, Oregon, Vermont, and Wyoming allow carry-concealed permits or rights for retired officers.

<sup>32</sup> Title 18 U.S.C. § 926B (qualified law enforcement officers) and § 926C (qualified retired law enforcement officers).

<sup>33</sup> *Id.*; and *Id.* at Sec. 926B(1) and 926C(1).

<sup>34</sup> *Id.* at § 926B (C)(4).

<sup>35</sup> *Id.* at § 926B (C)(5) and 926C (C)(6).

<sup>36</sup> *Id.* at § 926B (C)(6) and 926C (C)(7).

<sup>37</sup> *Id.* at § 926B (C)(3).

<sup>38</sup> *Id.* at § 926C (c)(3)(A).

<sup>39</sup> *Id.* at § 926C (c)(3)(B).

<sup>40</sup> *Id.* at § 926C (c)(4).

<sup>41</sup> *Id.* at § 926C (c)(5).

<sup>42</sup> *Id.* at § 926B(d) and § 926C(d)(1).

<sup>43</sup> *Id.* at § 926C(d)(1).

<sup>44</sup> *Id.* at § 926C(d)(2)(A) and (B).

<sup>45</sup> *Id.* at § 926B(e)(1)-(3) and § 926C(e)(1)-(3).

<sup>46</sup> *Id.* at § 926B(a) and § 926C(a).

<sup>47</sup> *Id.* at § 926B(b)(1) and § 926C(b)(1).

<sup>48</sup> *Id.* at § 926B(b)(2) and § 926C(b)(2).

<sup>49</sup> See Title 36 U.S.C. § 2.4.

<sup>50</sup> See Title 18 U.S.C. § 930, Possession of Firearms and Dangerous Weapons in Federal Facilities.

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

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## Reentry Housing Options

The Bureau of Justice Assistance has sponsored *Reentry Housing Options: The Policymakers' Guide* to provide practical steps that lawmakers and others can take to increase public safety through better access to affordable housing for individuals released to the community. In most jurisdictions, people returning from incarceration find accessible and affordable housing in short supply. They often face additional challenges unique to individuals with a criminal history that make it even more difficult to obtain suitable housing.

Historically, the national debate on housing for people returning from prison or jail has been considered within broader discussions of affordable housing. However, as the number of formerly incarcerated individuals has skyrocketed over the past few decades, widespread concern has developed about how to provide them with housing in ways that promote public safety. The high cost associated with not doing so for the growing reentry population has become apparent, prompting many jurisdictions across the country to look for innovative approaches to increase affordable housing capacity for newly released individuals.

Without a stable residence, these people can find it nearly impossible to reconnect positively to a community. Significant costs to public safety in the form of increased crime and victimization can occur. Moreover, when newly released individuals lack stable housing and fail to maintain steady employment, children and others who depend on them for support are adversely affected.

The guide begins with a short narrative on housing options and a chart that profiles six alternatives for reentry housing. Then, the document goes on to examine three distinct approaches (greater access, increased housing stock, revitalized neighborhoods) to enhance the availability of these housing options, giving examples of how a particular jurisdiction has put each of the three into action. The three jurisdiction examples help illustrate a cross-section of the categories of housing and the types of tactics available to policymakers wishing to increase the reentry housing stock in their jurisdiction. Moreover, the examples were selected because of the broad applicability of their methods to other jurisdictions faced with similar affordable housing shortages for individuals returning from prison and jail.

*Reentry Housing Options: The Policymakers' Guide* (NCJ 230589) can be obtained by accessing the National Criminal Justice Reference Service's Web site, <http://www.ncjrs.gov>.



## Bulletin Notes

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



Officer Oak

Officer Scott Oak of the West Richland, Washington, Police Department witnessed an unfortunate sight on his way to work in his patrol car. The officer observed a two-vehicle collision after which the cars quickly burst into flames. As he ran to the scene, Officer Oak was told that a child was trapped inside one of the burning vehicles. The officer delved through the smoke- and flame-filled vehicle three different times to free the child. When Officer Oak finally managed to extract the child from the mangled car, the vehicle exploded and knocked both him and the victim to the ground, but the officer quickly recovered and performed CPR. Officer Oak suffered burns on his arms and smoke inhalation injuries to his lungs as a result of his heroic rescue.



Lieutenant Landrum

One morning in May 2009 at Atascadero State Hospital in Atascadero, California, Chief Larry Holt and Lieutenant David Landrum of the Department of Police Services were traveling from a meeting when they responded to an emergency call for a collision between a single vehicle and a tree. Upon their arrival at the scene, Lieutenant Landrum ran to the car while Chief Holt accessed a fire extinguisher and first aid kit. In the automobile, Lieutenant Landrum found the semiconscious, incoherent driver behind the wheel, as an engine fire caused by a broken fuel line quickly approached the driver's seat. Even though the driver outweighed Lieutenant Landrum by over 100 pounds, the lieutenant managed to free him from the vehicle and transport him to a safe location until paramedics arrived. The victim of the accident suffered multiple fractured ribs and lacerations, but his injuries may have been fatal if Lieutenant Landrum had not swiftly removed him from the burning vehicle.

Nominations for the **Bulletin Notes** should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions can be mailed to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Outreach and Communications Unit, Quantico, VA 22135 or e-mailed to [leb@fbiacademy.edu](mailto:leb@fbiacademy.edu).

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## Patch Call



The Estes Park, Colorado, Police Department patch highlights the town's location as the gateway to the 265,000-acre Rocky Mountain National Park. Each summer the park receives over 3 million visitors who tour the majestic and rugged mountain peaks and valleys. The patch features one of the area's most abundant wildlife species, the 5-point bull elk, with snow-capped Rocky Mountains in the background and the Colorado State seal in the foreground.



The patch of the Dixon, Illinois, Police Department represents several aspects of the town's history. Across the top, a white arch symbolizes Dixon's War Memorial Arch, and white letters state the town's founding year of 1830. The patch's border proudly highlights Dixon as the hometown of 40th President Ronald Reagan. Finally, the center graphics display the American and Illinois State flags beneath the bald eagle, honoring the state and nation that the department serves.