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# FBI Law Enforcement

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## Child Abuse



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Director

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# Interrogating Child Molesters

By  
BLAINE D. McILWAINE, M.S.

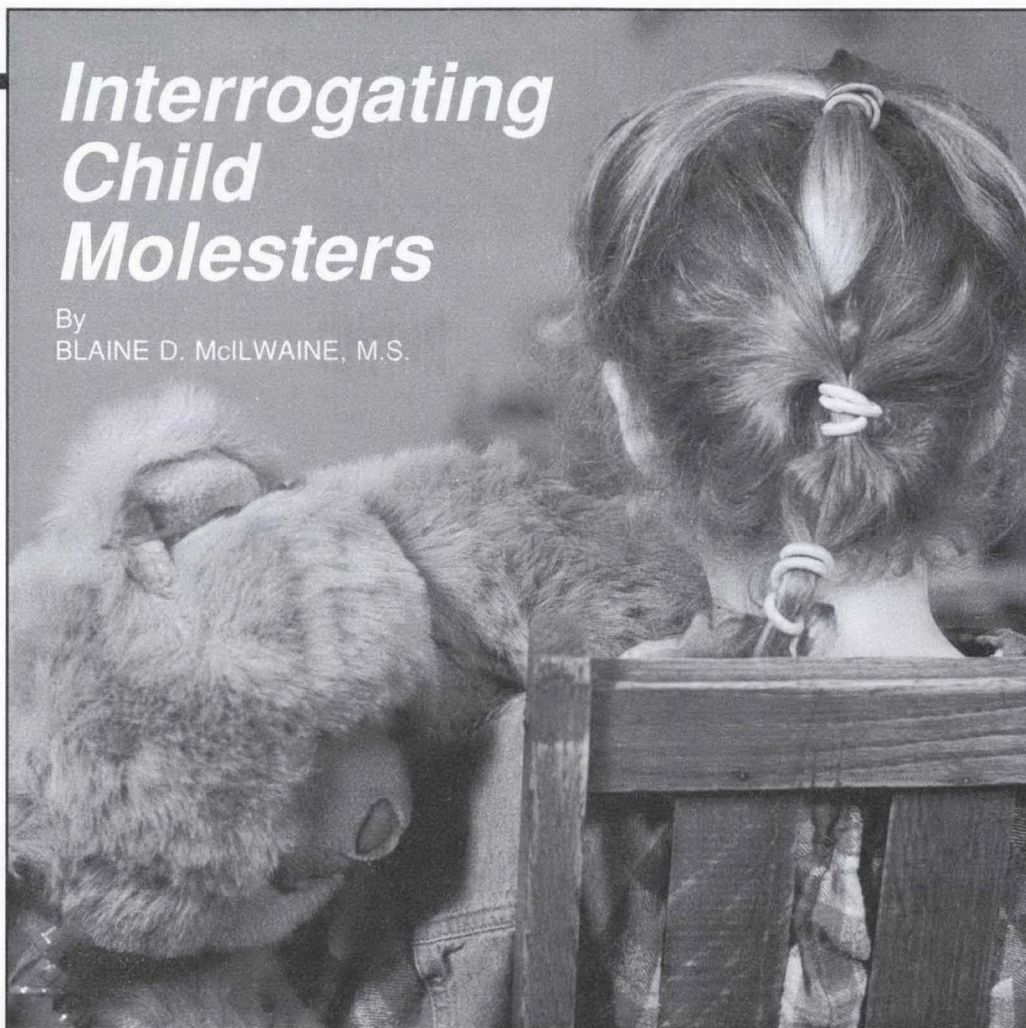


Photo © K.L. Morrison

**D**espite an evolving public awareness during the past decade, the sexual molestation of children remains a vastly underreported crime—one that represents a significant threat to America's children. When allegations of abuse do surface, cases are often difficult to investigate and prosecute because of a lack of physical evidence. Therefore, most investigations focus on resolving discrepancies between the victim's statement and that of the accused.

One of the best ways to overcome the problems inherent in this approach is to obtain a confession from the offender. Such a

confession produces many positive results, perhaps most notably averting the need for the young victim's testimony in court.

This article provides descriptions of the various typologies of child molesters. It then introduces interrogation techniques designed to assist investigators in interviewing these offenders successfully.

## **MOLESTER TYPOLOGIES**

Research conducted by the FBI Academy's Behavioral Science Services Unit in Quantico, Virginia, divides child molesters into two groups based on descriptive typology. All child molesters fall into one of these two broad categories—the

situational child molester and the preferential child molester.

## **Situational Child Molesters**

Situational child molesters do not have a true sexual preference for children, but instead, engage in sex with the young for varied and sometimes complex reasons. For such molesters, sexual contact with children may range from a "once-in-a-lifetime" act to a long-term pattern of behavior. However, situational child molesters generally have a very limited number of victims.<sup>1</sup>

Perhaps the most common manifestation of situational child molestation is represented by the parent or relative who molests a



child because of stress or while intoxicated. Because the majority of child sexual abuse cases encountered by investigators may indeed be situational, it is important to remember that this type of molester abuses children for reasons other than genuine sexual attraction.

### Preferential Child Molesters

Preferential child molesters have a definite sexual preference for children. Their sexual fantasies and erotic imagery focus on children. They engage in sexual acts with the young not because of some situational stress or insecurity, but because they are sexually attracted to, and prefer, children. They can possess a variety of character traits, but all engage in highly predictable sexual behavior. Although preferential child molesters are fewer in number than their situational counterparts, they have the potential to molest a much larger number of victims.<sup>2</sup>

### Comparison of Typologies

As a general rule, less physical and documentary evidence exists in investigations involving situational child molesters. This is true primarily because of a low victim-offender ratio and because of the less-predictable sexual behavior exhibited by this type of offender.

By contrast, preferential child molesters engage in highly predictable, and often, high-risk activities in order to identify and seduce their victims. In fact, because of their often-blatant behavior, preferential molesters are more commonly identified today as pedophiles.

### SUCCESSFUL INTERROGATION

The key to conducting a proper interrogation of either type of molester is to document patterns of behavior thoroughly. The interrogator must gather as much information as possible on both the offender and the victim(s).

Further, the offender's interpersonal style and methods of approach and seduction of children should be established in the interrogator's mind. A skillful interrogator should also be aware of the victim's background and be very familiar with the details of the case.

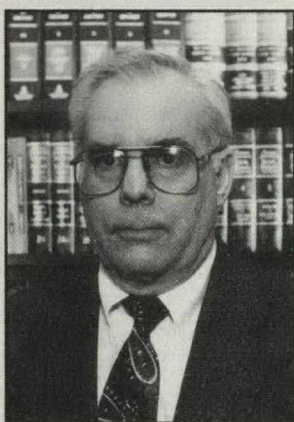
### INTERVIEW AND INTERROGATION

Skillful interviewing and interrogation are essential elements in resolving child sexual abuse cases. As taught at the FBI Academy, an *interview* is a "conversation with a purpose." During child sexual abuse cases, investigators may conduct numerous interviews with victims, witnesses, and professionals in the field. However, the ultimate success of an investigation often rests with the *interrogation* of the suspected offender.

Interrogation is an art that uses proposals and observations to elicit the truth from a subject. Investigators should base their interrogations on sound reasoning and understanding, without the use of threats or promises.

Because interrogations assume such importance in child abuse cases, they must be thoroughly planned in advance. Location and timing are critical. Great care should also be exercised when selecting the interrogator. Interrogators who prove successful in other kinds of cases may not always be the best choice to interrogate suspected child molesters.

A successful interrogator must display self-confidence, as well as a positive attitude, and must refrain from expressing demeaning or insensitive remarks that may



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preclude a successful interrogation. Interrogators should generally avoid the use of legal or emotional terms, such as "allegation," "molest," "charge," and "count."

### Use of Themes

Developing themes is the cornerstone to obtaining confessions in child sexual abuse cases. Proper theme development provides offenders with moral excuses that serve to minimize their crime. In this way, offenders can maintain their self-respect and still confess. Therefore, successful interrogators use themes and proposals or simply provide possible reasons why the offender committed the crime.

Throughout the interrogation, the purpose of the themes is to use the defense mechanisms of rationalization and projection. Themes allow offenders to rationalize or excuse their behavior to themselves or others and to project their actions onto something or someone else.

A properly formatted interrogation with the use of themes makes a big difference in an interrogator's success rate. Interrogators should ensure that the themes appear plausible to offenders, as well as to investigators. Therefore, the proposed excuses for offenders' actions should be carefully selected before the interrogation. While they may feel uncomfortable offering "excuses" to suspected offenders, interrogators must understand that providing such themes is a proven method to break down suspects' reluctance to confess their crimes. However, the investigator must have confidence in the themes used to appear credible to the offender.

Primary differences between an interview and an interrogation		
Interview	vs.	Interrogation
Non-accusatory		Accusatory
Less structured		More structured (Both setting and presentation)
Goal: To gather factual information		Goal: To obtain admissions and confession

If a theme approach proves unsuccessful, interrogators should not terminate the meeting. Often, an offender who is on the verge of confessing will hold back to observe the interrogator's next move.

In these cases, interrogators should consider using a new approach. They should advise the suspect that the absence of a confession will require the victim to appear and testify in court. An offender with any emotional attachment to the child may well want to avoid putting the victim through additional turmoil.

### Confronting the Offender

The offender should also be confronted with all physical and documented proof of the violation. Any medical histories, child drawings, and witness observations should be discussed and exhibited.

The offender should then be informed that, given the evidence in the case, a denial would seem implausible to an average juror. This can be accomplished by simply asking an offender, "If you were a juror in this case, what would you believe?"

### Nonverbal Behavior

Persistence in the interrogation process, coupled with self-confidence, is another key ingredient to obtaining a confession. In this regard, nonverbal behavior often makes a difference. Good interrogators should be aware of the "body language" they display. Their gestures should exhibit self-confidence and sincerity.

Likewise, an accurate reading of the offender's body language is also essential when themes are established in an interrogation. An upward glance, with eyes cast to the right, or the placing of a hand on the chin may indicate that the offender is seriously considering a particular theme.

### LOCATION AND TIMING

Aside from the interrogation itself, the site chosen for it may be the most important determinant of a successful outcome. Offenders may feel less inhibited during an interrogation conducted in a neutral setting, away from the police station. In fact, offenders reluctant to appear at the station due to status, employment, or personality style may



## Themes for Successful Interrogations

An interrogator may suggest that the offender:

- Seduced the child in a moment of weakness
- Blamed spouse for neglecting sexual role in the relationship
- Was teaching the child about life, love, and affection
- Believed such encounters occurred regularly in families
- Acted out of love
- Was under a great deal of stress (divorce, unemployment, loneliness), which caused the act
- Was not in a "real" state of mind at the time of offense because of the influence of drugs, alcohol, or a combination of factors
- Read and collected pornography, which caused the offender to lose control and to commit the crime
- Was predisposed to commit the crime because the offender was victimized as a child. (In reality, evidence suggests that the majority of individuals who were sexually molested as children lead productive lives and do not become child molesters.)

*(Based on guidelines issued by the U.S. Department of Defense Polygraph Institute.)*

prove more forthcoming in a different atmosphere, such as a motel. However, "hardcore" offenders, those unfamiliar with police techniques, and those with extensive records are generally best interrogated in a police setting.

Often, investigators can interrogate "on scene" in the offender's home or in the location where the offense allegedly occurred. When possible, this approach should be conducted in a surprise manner, without warning to the offender.

The timing of the interrogation is also important. Every effort

should be made to interrogate the suspected offender as quickly as possible. The timing of the interrogation itself should be commensurate with the collection of other facts related to the investigation. The longer the delay in scheduling an interrogation, the greater the risk of the offender gaining confidence and/or deciding against the meeting.

### USE OF POLYGRAPH

The polygraph is a potentially valuable forensic tool, especially in cases where individuals make allegations in direct contradiction to

each other. For this reason, and because child sexual abuse investigations are private in nature and rarely produce eye witness corroboration, the use of polygraph procedures should not be overlooked.

Polygraph examinations often lead to confessions in the post-test interrogation. In fact, when administered by a well-trained examiner/interrogator, the polygraph often means the difference between a successful prosecution and a case that ultimately remains unresolved.

### CONCLUSION

Several factors make the sexual molestation and abuse of children a difficult crime to investigate and prosecute. Effective interrogation of suspected offenders is a key element to building successful cases. Therefore, investigators should prepare thoroughly for interrogations. This includes a review of all pertinent documentation, selection of appropriate time and interrogation site, and development of plausible themes to induce offenders to confess.

A thoroughly planned interrogation that results in a confession benefits not only law enforcement agencies but also the entire criminal justice system by reducing case-loads. Perhaps most important, however, is the benefit to young victims who will not be required to recount a painful violation in court. ♦

### Endnotes

<sup>1</sup> Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis*, National Center for Missing and Exploited Children, Office of Juvenile Justice and Delinquency Prevention, Office of Justice, Research, and Statistics, U.S. Department of Justice, Washington, D.C., 5.

<sup>2</sup> Ibid.



### *Police Organizational Design and Structure*

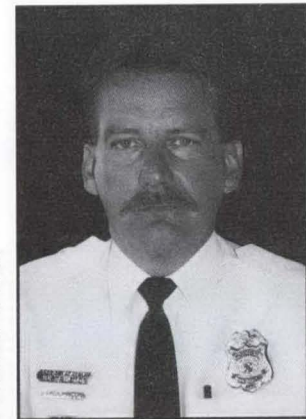
By Robert A. Johnson

**P**ublic agencies traditionally adhere to vertical organizational structures. This means that problems that cannot be solved at one level continue to rise through each hierarchical level until a resolution is reached.

Some organizations—particularly law enforcement agencies—carry this philosophy to an extreme by eliminating any semblance of discretion at the lowest level of the organization. Even minor decisions must be made by individuals who hold elevated positions in the hierarchy. This, in turn, impedes changes in organizational design and structure.

Police administrators need only look to the private sector to find examples of the positive effects of structural change. For instance, the American automobile industry changed its organizational structure by decentralizing operations. Industry leaders found that building smaller manufacturing plants outside the traditional Detroit location strengthened productivity, morale, and commitment. It also became clear to industry managers that structural change heightened employee motivation when employees accepted and understood company goals, especially their personal connections to them.

Unfortunately, the structural design of modern police organizations is a seldom-discussed, underdeveloped topic among managers.<sup>1</sup> Granted, through the years, some law enforcement administrators experimented with numerous efficiency models—directed patrol, split-force patrol, and saturation patrol—to increase productivity, lower costs, and foster better relations between their agencies and the public. Still, they often suffered from a somewhat myopic view of law enforcement work. They concentrated primarily on improving community relations, rather than improving organizational efficiency by incorporating into their plans ways to empower their own employees.



*Sergeant Johnson is assigned to the Police Education and Training Division of the Anne Arundel County Police Department in Davidsonville, Maryland.*

### **Empowering Employees**

Responding to crime problems within the community requires a flexible structure that allows officers to make necessary adjustments both quickly and efficiently. Therefore, law enforcement administrators must work to design an organizational structure that empowers employees at the lowest levels.

For example, civil disturbances often require an immediate commitment of personnel and equipment. However, the initial organizational response to emergencies is often inadequate and slow to evolve, even when the emergencies are anticipated. This circumstance exists because the rigid, semimilitary structure and the chain-of-command mentality is so strongly entrenched within most police organizations that alternative structural design strategies for emergency responses are rarely implemented or even discussed. For instance, it may be possible to



authorize lower-ranking officers to call out a specialized unit or borrow manpower from another district or precinct without prior approval.

Administrative functions, as well as operational ones, can benefit from employee empowerment. The budget, for instance, is an area that could be positively impacted by structural change. In many departments, even high-ranking officers have their expenditures scrutinized to ensure that any outlay of funds remains consistent with organizational priorities. In effect, this leaves them with no autonomy over their own areas of fiscal responsibility.

Certain policing concepts can be affected by the lack of employee empowerment. For example, the community policing concept stresses empowerment at the lowest level of the organization. Yet, many departments find it difficult to provide the autonomy necessary to change structure and design in response to even the most mundane and routine situations. Further, managers and administrators often vehemently protest any tampering with the existing design because they feel threatened by the loss of power and control when a flexible and adaptable structure replaces the traditional pyramid. This type of thinking dooms to failure any policing concept that requires a certain degree of employee empowerment.

Law enforcement organizational structure, in its current form, designates a formal reporting relationship (chain of command), identifies the grouping of individuals for task accomplishment, ensures that the grouping of individuals facilitates communication, and guarantees a response to any incident. The question now becomes: How can administrators change the structure of the organization in such a way that the grouping of individuals is conducive to accomplishing tasks at the lowest employee level with a minimal number of disruptions?

### **Changing the Structure**

In order to change the structure of the department, administrators must flatten authority and autonomy,

empowering those at the bottom of the organization to make the necessary day-to-day problem-solving decisions. At the same time, managers must acknowledge and accept the fact that mistakes inevitably occur with the advent of any new managerial approach.

First, administrators should bear in mind that police organizations need only be as complex as is required to respond effectively to the demands of the community. Clearly, the complexity of community problems requires some specialization within police agencies. However, because such specialization creates additional dominant cultures within the organization, it should be avoided as much as possible. The result of such culture establishment may be an organizational structure that is made up of many subcultures, making it difficult to pull the organization together under a one-mission umbrella.

Second, administrators should realize that by the very nature of flattening and downsizing, the traditionally vertical law enforcement organizational structure becomes horizontal. At this point, interdepartmental communication may become more difficult, making it necessary to assign a liaison person to maintain continuity of purpose across the organization. The liaison would coordinate activities between precincts or districts so that no duplication of effort occurs. This, in turn, may enhance the department's problem-solving capabilities because the successes of certain programs will be immediately communicated to all precincts.

Third, when changing the organizational structure of police agencies, the tone of the department must also change to reflect a more creative approach to problem-solving. Lowering the level of authority and autonomy within the organization provides a work environment where innovation can prosper. This ultimately has a positive effect on the organization's attempt to foster a problem-solving mentality among its employees.

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Finally, administrators should develop a strong planning and forecasting unit in order to ensure overall long-term effectiveness of the new organizational structure. When community problems are stable, the agency can concentrate on operational problems. However, when community problems are more volatile, administrators should appoint a "boundary spanner." This individual's primary duty would be to monitor community problems so that the department can respond quickly and effectively to citizens' concerns and problems.

### Decreasing Employee Resistance

Change of any type within organizations will certainly result in some rank-and-file resistance. Therefore, changes must be well-planned and flexible in order to deal with this anticipated opposition.

Before making any change, administrators should ensure that the change is necessary. They should then implement the changes in such a way that provokes the least amount of resistance possible. This may include creating a team to monitor the change.

Any plan for change should allow for incremental implementation, encourage employee participation, and provide continual communication and education on the project. It might also be beneficial to have an employee who is committed to the change to champion the effort among other employees.

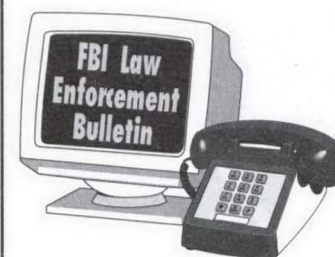
### Conclusion

Empowering employees at the lowest level possible and encouraging creative problem-solving can improve effectiveness within police departments. This type of organizational structure frees high-ranking officers from making low-level, day-to-day decisions, leaving them to deal with the more critical problems that arise. In turn, this system allows lower-ranking personnel to have more control over their daily work decisions, freeing them from the semimilitary structures that are so commonly found in American law enforcement agencies today. This results in more highly motivated, satisfied employees. ♦

### Endnote

Carl B. Klockars and Stephen D. Mastrofski, *Thinking about Police*, 2d. ed. (New York, New York: McGraw-Hill, 1991).

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# ***The Mesa Crime-Free Multi-Housing Program***

By  
TIMOTHY L. ZEHRING

**L**ike most cities in the Sun Belt, Mesa, Arizona, continues to experience rapid growth. Its population has nearly doubled each decade this century. Such growth and its accompanying increase in crime create great challenges for local law enforcement.

For the Mesa Police Department, spiraling crime rates in the city's numerous apartment communities presented a particularly demanding problem. To reduce this criminal activity, the police department developed the Mesa Crime-Free Multi-Housing Program.<sup>1</sup>

The program uses a three-level approach to eliminate crime in apartment communities and to reduce calls for police service. This is accomplished through a comprehensive training program for property managers, strict security requirements for participating properties, and crime prevention training for residents. Mesa Police Department crime prevention specialists conduct each phase of the program.

## **LEVEL ONE—PROPERTY MANAGER TRAINING**

The first level, an 8-hour training seminar for managers, covers topics pertinent to the overall operation of an apartment complex. These topics include creating, explaining, and enforcing rental



agreements, identifying illegal activity, and working with the police. Special emphasis is given to training managers on applicant screening and the eviction process.

## **Applicant Screening**

Property managers learn to begin the screening process by discussing the Crime-Free Multi-Housing Program with applicants.



They advise potential residents that the complex cooperates with the Mesa Police Department to maintain the quality of the neighborhood. Property managers also inform applicants that they will undergo an extensive screening process, based on a list of selected criteria that they are asked to review.

The screening criteria set forth the reasons for which management cannot deny rental to applicants, based on Fair Housing laws. These laws prohibit discrimination for reasons of race, color, religion, sex, national origin, handicap, marital status, familial status, and others, depending on the area.

However, managers may choose not to rent to pet owners or smokers, because they are not considered "protected classes" under Fair Housing laws. Managers may also deny rental to individuals convicted in the last 5 years for manufacturing or selling drugs, or for any crime that would pose a threat to the property or interfere with other residents' peaceful enjoyment of the residences. Such offenses may include repeated disturbances, gambling, prostitution, violence, threats of violence, and rape.

In addition, managers tell applicants that they can be denied rental privileges if a previous landlord reported such problems as damage to rental property, failure to pay rent, allowing nonresidents to move into their apartments, or failure to provide proper notice when vacating a property. Misrepresenting information on the application may also lead to rejection.

At this point, high-risk individuals often screen themselves out of consideration by opting not to

apply. In this way, providing information up front regarding the apartment complex's participation in the crime-free program acts as a deterrent to some potential tenants. For applicants who choose to seek residency, property managers screen them by checking references and by using local credit reporting agencies to conduct background and credit checks.

Approved applicants receive a copy of the drug-free lease addendum developed by the U.S. Department of Housing and Urban Development. The lease addendum represents a civil agreement between the property management and the resident. Residents agree not to engage in any type of criminal activity, including drug-related crimes and acts or threats of violence, on or near the premises.

The lease addendum also acts as a screening tool for managers. Usually, dishonest applicants will not sign such an agreement, because if they do commit any of the listed offenses, the landlord can immediately begin the eviction process,

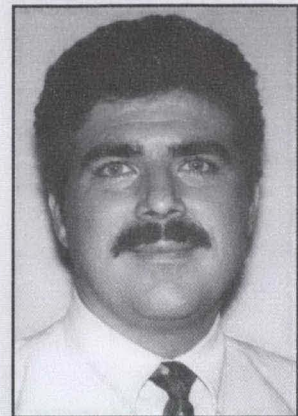
according to local landlord and tenant laws.

### **The Eviction Process**

Property managers know the types of eviction notices available and the process for serving them, as well as understanding the procedures of the entire eviction process. For example, while convicting an individual on a criminal charge requires proving guilt "beyond a reasonable doubt," landlords may evict residents based on a single violation and with only a preponderance of evidence. That is, if evidence exists to prove that residents "probably" violated the lease agreement, they can be evicted. This evidence may be no more than the testimony of other residents who witnessed the violation.

Although the Mesa Crime-Free Multi-Housing Program reviews the eviction process with managers, the program is governed by the philosophy that "an ounce of prevention is worth a pound of cure." Because the eviction process is difficult and expensive, managers

***"The program uses a three-level approach to eliminate crime in apartment communities...."***



*Reserve Officer Zehring is a crime prevention specialist with the Mesa, Arizona, Police Department.*



prefer to screen out potentially disruptive applicants when they apply. Property managers use every legal means available to accomplish that goal.

### **Level One Conclusion and Certification**

An overview of the next level of the program concludes the first training session. At this time, managers learn what they must do to satisfy the requirements of the second level, which is based on a property inspection. This allows managers to progress to the next level only when they feel their property is ready, thus saving themselves and the Mesa Police Department the time and expense that more than one inspection would require.

As they will in levels two and three, managers who complete the first level of training receive a certificate proclaiming their achievement. Displaying it in the property office of the apartment complex assists in attracting honest applicants, while deterring dishonest ones.

In addition to providing written recognition of the managers' success, members of the Mesa Police Department's Crime Prevention Unit encourage managers to maintain close telephone contact with the unit. The unit also monitors progress by requiring that property managers submit monthly reports.

### **LEVEL TWO—CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The second level of the program is crime prevention through environmental design (CPTED), which gives property managers the knowledge they need to protect

their properties against crime. The concepts of CPTED include natural surveillance, access control, territoriality, and activity support.

To many, CPTED represents a new concept, but it has existed for many years. For example, the Anasazi Indians of the Southwest lived high above the plains on cliffs, which afforded *natural surveillance*. From the clifftops, they could see invaders who were miles away. The ladders used to reach the plains below the Anasazis' clifftop homes provided *access control*. Removing these ladders at night made access difficult, if not impossible.

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”

In addition, the city looked well cared for and protected, thereby exhibiting *territoriality*. Collectively, the Anasazis would conduct their daily chores of gathering food and cleaning, thus creating *activity support*.

Unfortunately, many modern communities are not designed as carefully as the Anasazi villages. A recent case in Mesa demonstrates the need for CPTED. A woman was brutally raped in her apartment after she opened the door to see who was knocking. This crime might have been avoided if her apartment door

had been equipped with a simple device—an eyeviewer, or “peephole.” Had there been an eyeviewer, she might not have opened the door. Or, quite possibly, the suspect would have skipped her door completely. He would have chosen another door—one without an eyeviewer—in order to catch his victim off guard.

As noted, property managers learn during the first phase of their training that the apartment complex must meet certain minimum security requirements mandated by the police department to qualify for level-two certification. These include deadbolts on all exterior doors, double locks for windows, 180-degree eyeviewers on all front doors, and shrubs trimmed below the window line. In addition, Mesa crime prevention specialists may require other measures, depending on the complex.

When property managers believe that their complex meets the requirements of the second phase, a Mesa crime prevention specialist conducts an on-site inspection of the apartment complex. Following a successful inspection, the management receives a second certificate.

### **LEVEL THREE—TRAINING FOR RESIDENTS**

If managers wish to progress to the third and final level of the program, they must schedule crime prevention training for residents. Most managers provide incentives—such as pizza parties, barbecues, or potluck dinners—to draw residents to this event. Added incentives include musical entertainment provided by residents and door prizes donated by local businesses. In Mesa, many



local businesses willingly donate giveaways to support the crime-free effort, because they realize that the well-being of the neighborhood has a direct effect on their businesses.

Police crime prevention specialists address several topics during these meetings. First, they explain the lease addendum as it pertains to the crime-free zone. They make it clear that the addendum addresses only illegal activity committed on or near the property; managers wish to maintain a safe environment for residents, not to dictate morality or noncriminal behavior.

The specialists also discuss general safety and crime prevention techniques for specific offenses, such as automobile theft, sexual assault, and burglary. Many aspects of these meetings parallel a neighborhood watch presentation, and in effect, train tenants to be the eyes and ears of the apartment community.

After completing this level, the manager receives the third certificate. This certificate, along with the others, sends a message to all applicants—honest and high-risk—that residents look for and report criminal activity.

In addition, properties that complete all three levels of the program may purchase a striking, four-color sign imprinted with the Mesa Crime-Free Multi-Housing Program logo to post on their property. While they have earned this privilege, it is just that—a privilege. Managers must sign an agreement with the police department that they will abide by all program guidelines or lose permission to post the sign. Complexes qualify for the mandatory yearly renewal by holding at

least one crime prevention meeting, in conjunction with the Mesa Police Department, during the year. Many managers conduct these meetings quarterly or even monthly.

Property managers may also use the Mesa Police Department program logo in all of their advertising, including the telephone directory, apartment guides, and



newspaper ads. This alerts potential applicants of the partnership between the police department and the apartment community. It also attracts honest renters, who want to live in a "crime-free" environment. In that regard, managers sign an agreement not to advertise that the property is, in fact, crime-free, only that they have joined Mesa's crime-free program. This removes the

appearance of false advertising should illegal activity occur on the premises.

## OTHER TRAINING

The Mesa Fire Department also provides optional training for apartment managers, which is separate from the police department's program. An hour-long session informs managers about general safety and fire safety in apartment communities.

The training covers such topics as exiting systems, fire alarm systems, safety committees, pool safety, chemical storage, property inspections, and cooperating with the fire department. The department also provides an information booklet for residents and on-site inspections when requested by management.

## BENEFICIARIES OF THE PROGRAM

### Property Managers

Managers who join the Mesa Crime-Free Multi-Housing Program may lose tenants to the screening and eviction process. Why then, would managers want to join the program?

Quite simply, most managers want to rent to nondisruptive tenants. Further, renting to criminals can lead to dramatic declines in property values, severe property damage, drug raids, toxic contamination from drug labs, loss of rent during evictions and repairs, and animosity between residents and managers.

In contrast, participating managers reap numerous benefits from this program. The benefits to



managers include more stable and satisfied residents, increased demand for rental units, lower maintenance and repair costs, higher property values, and peace of mind from spending more time on routine management and less time on crisis control.

For example, one apartment complex had only 60-percent occupancy and was so crime-ridden that police never entered the community without backup. After joining the crime-free program, the complex increased its occupancy to 100 percent, with a waiting list. And, the police department now receives few, if any, calls for service.

Liability and forfeiture are other reasons that managers participate in the program. If property managers rent to dangerous criminals but ignore their violent behavior, managers could be found liable if innocent residents are injured or killed. Further, if property managers knowingly rent to drug criminals, they risk seizure of their property by law enforcement. By participating in the program, then, managers have a defense against law suits and legal forfeiture.

Finally, participating managers also benefit from the favorable publicity generated by the program. The Mesa Chamber of Commerce publishes a list of participating members, which is available to prospective tenants upon request. Complexes with one certificate receive a three-star rating; two certificates, a four-star rating; and all three certificates, a five-star rating. This feature has induced many property managers to join the program.

### **The Department**

Since the program's inception in January 1993, the Mesa Police Department has trained over 600 managers. There has been a groundswell of support from managers and residents alike. Officers are also receiving more cooperation in their dealings with property managers.

“  
***Apartment managers  
and residents...are  
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can help to control  
crime.***  
”

In addition, because managers better understand the difference between civil and criminal matters following the first phase of the program, the department has experienced a substantial decrease in calls of a civil nature. In fact, overall, the department receives fewer calls for service from complexes that have completed the program.

### **The Community**

The Mesa Crime-Free Multi-Housing Program reaches more than the apartment communities; it benefits the entire Mesa area. Many burglars and other criminals work within close proximity of their residences, but their activities can spread into neighboring communities as well. As a result, removing

offenders from a particular area usually evokes a decrease in crime in the entire area, affecting as much as a square mile. Armed robberies, auto thefts, and criminal damage are just a few of the crimes that may decrease. This improves the overall health and appearance of the entire community and may increase property values as well.

Further, because of the higher incidence of crime and graffiti in inner cities nationwide, many people spend their money at regional shopping centers and malls outside of once-flourishing downtown districts. Inner-city businesses certainly benefit from cleaner and safer neighborhoods as they set up crime-free and drug-free zones.

### **CONCLUSION**

While one individual or law enforcement officer may not be able to prevent crime single-handedly in an entire State or city, crime can be curtailed in targeted areas when residents accept responsibility for their own environment. The Mesa Crime-Free Multi-Housing Program demonstrates that even renters can feel “pride of ownership” toward their communities.

Apartment managers and residents, working in cooperation with law enforcement, are learning that they can help to control crime. They can live in a crime-free zone, and together, they can make a difference. ♦

#### **Endnote**

Mesa's Crime-Free Multi-Housing Program was adapted from a program originally developed by John Campbell, a private consultant in Portland, Oregon.





**Thinking Cop, Feeling Cop: A Study in Police Personalities** by Stephen M. Hennessy, Leadership, Inc., Scottsdale, Arizona, 1992, (602) 443-2737.

Anyone who works with or manages other people will eventually ask themselves the same question. Why does working with some individuals always seem to produce frustration, while dealing with others consistently results in a positive experience, even when disagreements surface? The answer to this question characterizes the essence of *Thinking Cop*.

Since the mid-1970s, two writing styles have predominated in discussions of police psychology and personality assessment. The literature has tended to be either excessively academic or exceedingly mundane. This, in part, explains why police administrators make so little use of Carl Jung's conceptual framework of personality types or the Myers-Briggs Type Indicator. Effectively explaining the complex nature of opposing psychological poles or characteristic types that distinguish perception and judgment combinations is not easy. If the explanations are oversimplified, scholars quickly become bored, while practitioners believe they are being patronized and insufficiently informed to apply this important research.

It is little wonder, then, that authors have struggled with determining how best to present this important field of the behavioral sciences. The author of *Thinking Cop* has managed to avoid these pitfalls and to bridge the gap between theory and the "real world." Subsequently, this book neither insults the intelligence of scholars nor ignores the needs of practitioners.

The turbulent environment in which law enforcement currently operates draws close scrutiny and occasionally shrill criticism from the far right, the far left, and the political center. This makes it essential for field training officers, first-line supervisors, middle managers, administrators, training academy instructors, as well as college and university faculty members, to develop a clear understanding of the various ways in which law enforcement officers assess the problems that they confront on a daily basis. Of equal importance is learning to recognize the internal "drivers" that motivate individuals. In short, leaders must be cognizant of their subordinates' psychological tendencies in order to draw more fully on their strengths.

*Thinking Cop* provides insight into why officers who usually perform brilliantly may fail miserably in certain circumstances. The book also sheds a great deal of light on why some individuals may prove poorly suited for a career in policing.

*Thinking Cop* is a very manageable book (118 pages) that presents rather complex material in a clear and concise manner. It is an exceptional presentation that would benefit any law enforcement administrator.

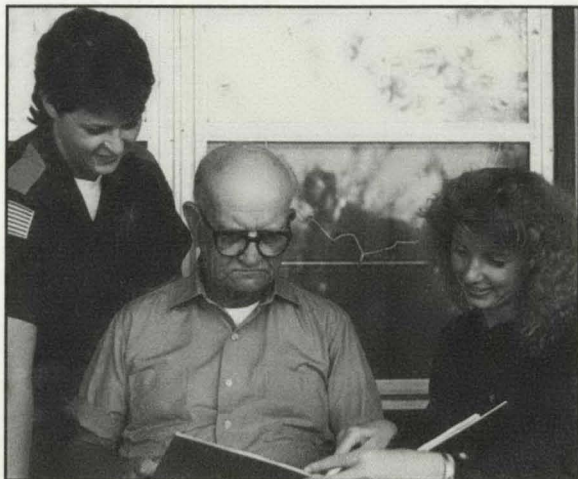
Reviewed by  
SA William L. Tafoya, Ph.D.  
Federal Bureau of Investigation  
San Francisco, California



# Police Practices

## Senior Citizens Police Advocates

By Christopher J. Gilfillan



**A**s the population ages, more law enforcement agencies are focusing on senior citizens. Many police departments have formed units devoted specifically to crimes against the elderly. The East Providence, Rhode Island, Police Department is no exception. When a 1991 local census revealed more citizens over age 65 than under age 18, in combination with an increase in service calls involving the elderly, the department realized something had to be done. In response, it created the Senior Citizens Police Advocate Program, a proactive, holistic approach to crime prevention. The program assists senior citizens not only by prioritizing their concerns but also by enlisting the services of various social service organizations in the community.

### A NEW APPROACH

In the past, the department had handled cases involving seniors in much the same way as it did any other case. However, it decided to change this approach after studying successful senior citizen units, such as the Milwaukee, Wisconsin, Police Department's "Gray Squad." East Providence's new method changed the way the department deals with two

different types of service calls: Those involving an elderly perpetrator and those with an elderly victim.

### Senior Suspects

While senior citizens are often seen as victims, they can be the perpetrators of crimes as well. However, crimes committed by senior citizens may be the result of abnormal aging rather than criminal intent.

For example, they may forget to pay for an item in a store and be charged with shoplifting. Or, they may become disoriented and commit a motor vehicle violation, such as driving the wrong way on a one-way street.

Thus, when officers respond to incidents, they try to determine if the crimes could be attributed to the effects of the aging process. If so, they refer the individuals to the senior citizens police advocate, who refers them to a social service agency that can help them. These agencies include the Rhode Island Department of Elderly Affairs and the local mental health facility.

### Senior Victims

Prior to instituting the advocate program, the department also experienced an increase in calls for service from elderly homeowners. These calls ranged from reporting possible burglaries and hearing strange noises to complaining of fear and loneliness. Sometimes, local residents would call asking the police to check on the welfare of an elderly neighbor.

Traditionally, the department handled these calls by proceeding to the scene, talking to the elderly resident, and taking a report. Oftentimes, no crime had occurred, and the responding officer never followed up—there was no need—or so the department thought. As the number of calls mounted, however, it became clear that the department's approach was inadequate.

As a result, officers responding to service calls from elderly citizens now assess the situation and, when necessary, refer residents to a senior citizens police advocate. In turn, the advocate notifies the appropriate social service agencies.

Reacting to residents' calls for service is only a small part of the program, however. The senior citizens police advocate spends most of the workday



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in the community, conducting crime prevention programs and speaking to residents. In this way, the advocate identifies individuals in need of assistance before any contact with the police becomes necessary. Further, the East Providence Protective Services Council—which includes members of the city's police, fire, mental health, welfare, social services, housing, zoning, and planning departments—meets monthly to discuss specific cases involving elderly citizens.

### CRIME PREVENTION

To assist senior victims of crime further, the department focuses on prevention. In cooperation with local church groups, the Rotary Club, and senior citizen residential complexes, the community crime prevention officer presents quarterly talks on different topics involving personal safety, such as avoiding accidents, recognizing frauds and scams, and upgrading security. The success of these programs depends on involving as many seniors citizens as possible, and the department uses every means available to inform residents of upcoming meetings.

### RESULTS

Once the Senior Citizens Police Advocate Program was in place, the advocate began to receive calls directly from the dispatcher, which eased the workload of patrol officers. And, while these calls grew in number each year since the program's inception in 1991, they now demonstrate an awareness of the existence of the department's advocate, as well as the citizens' new willingness to report crimes to the police. In fact, East Providence's program proved so successful that every department in the State of Rhode Island now has its own senior citizens advocate, appointed by the chief of police.

### OFFICER TRAINING

The advocate program relies on the knowledge and experience of its officers. Without proper

training, the senior citizens police advocate cannot effectively execute the program. Most important, all officers in the department need to learn about the aging process in order to deal effectively with elderly citizens and to know when they require referral to the advocate. The Rhode Island Municipal Training Academy, in conjunction with the American Association of Retired Persons and the Rhode Island Department of Elderly Affairs, provides training for new

recruits, veteran officers, and senior citizens police advocates.

Cadets receive 4 hours of instruction dedicated to the aging process so that they may deal effectively with seniors. Inservice training is conducted semiannually for experienced officers, and all senior citizens police advocates receive yearly training. This training ensures that officers are using proper procedures and are aware of the resources available to assist elderly residents. Further, because most municipal police officers in the State attend the

same academy, Rhode Island's citizens benefit from the uniform training that officers receive.

### CONCLUSION

Police managers often discuss the need to practice proactive law enforcement. This approach requires anticipating the needs of the community before they become dire.

The aging population presents unique challenges to police departments throughout the Nation. The success of the East Providence Senior Citizens Police Advocate Program in meeting the needs of the city's fast-growing elderly population can serve as an example for other departments, as they prepare for the future today. ♦

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Lieutenant Gilfillan is the Senior Citizens Police Advocate for the East Providence, Rhode Island, Police Department.

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# **Roadblocks to Crime**

## *Travel Restrictions for Convicted Prostitutes*

By  
JOHN M. GNAGEY III, M.Ed.  
and CHASE LEONHARD, J.D.

**D**uring 1986 and 1987, the City of Champaign, Illinois, suffered a serious problem with prostitution in its downtown area. Prostitutes solicited customers from the street, stopping cars and blocking traffic. Collateral crimes—including theft, robbery, assault, and “John rolling”—resulted in a significant drain on police resources. Local merchants, citizens, and members of the city council lodged complaints, making this problem the number-one priority for the Champaign Police Department.

After several nominally successful overt attempts at enforcement, the department tried two different covert approaches, which also met with some success and resulted in numerous arrests and successful prosecutions for a number of months. Unfortunately, the problem did not disappear; it merely moved to a residential area west of the downtown area and actually worsened. The prostitutes became more brazen, even using a local church parking lot to perform sexual acts openly. In fact, the area developed such a bad reputation that women who lived there were approached by men who thought that any woman in the area was a prostitute.

The worsening of the problem despite successful arrest and conviction rates convinced

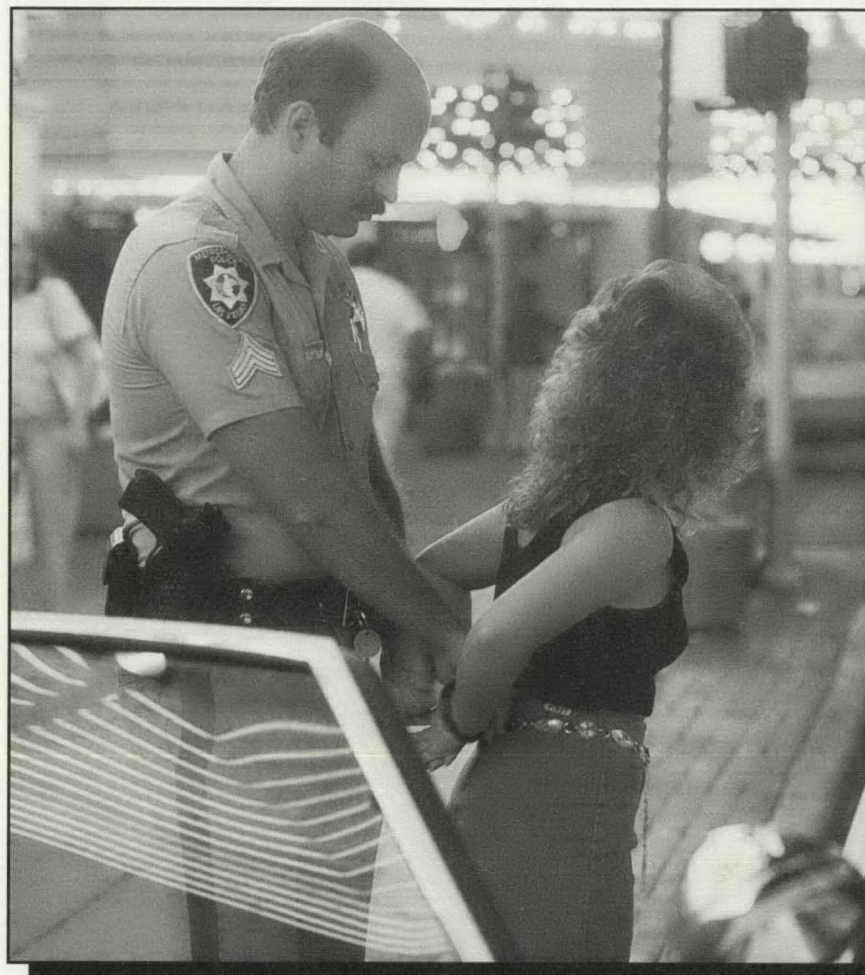


Photo © Peter Hendrie, Tribune

department administrators that nearly 2 years of routine prosecution had not served as a deterrent to street prostitutes. Over the course of time, recidivism rates exceeding 90 percent illustrated the need for a new strategy. Careful planning and a joint effort between police and prosecutors ultimately

led to the creation of a unique and comprehensive system of travel restrictions for convicted prostitutes.

### **Historical Background**

The failure of the criminal justice system to provide a remedy had many causes. In Illinois,



prostitution is a class A misdemeanor, punishable by up to 364 days in jail and a maximum fine of \$1,000. While maximum penalties might, in theory, serve preventive purposes, State laws mandating progressive discipline precluded the courts from imposing long jail sentences on both first offenders and recidivists. Thus, even in those cases that did not result in a plea-bargain agreement, a typical sentence for a first offender would be 12 months' probation, a fine, and perhaps some public service.

Likewise, repeat offenders rarely faced incarceration, due in part to the misperception that prostitution, a so-called "victimless" crime, did not warrant such a harsh sanction. A jail sentence was the exception, not the rule, for recidivists. Thus, sentences imposed were either short or, in one case, potentially scandalous, as when a defendant with no true means of support other than street prostitution sought placement in a work-release program.

In 1989, the Illinois Legislature passed a statute that made third and subsequent prostitution convictions felonies, punishable by up to 3 years in prison. The initial promise of this new provision soon evaporated in light of the fact that many months, sometimes years, would pass before offenders would amass a criminal history sufficient to make them eligible for enhanced felony sentencing. Moreover, when these offenders first appeared in felony court, the process of progressive discipline customarily began anew, frequently resulting in the imposition of longer terms of probation.

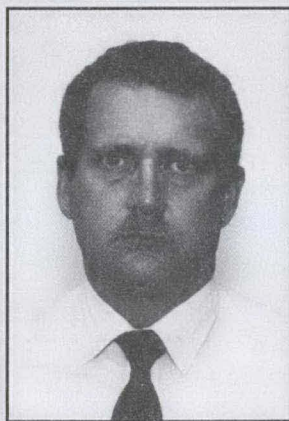
Due to the heavy caseloads of court services personnel, convicted prostitutes were put back on the street with minimum judicial oversight. As this type of crime is rooted frequently in drug abuse, offenders placed on probation one afternoon would invariably be back on the "stroll" that very night.

Clearly, Champaign needed a new approach, leading the assistant State's attorney to theorize on the feasibility of travel restrictions. Such "no contact" provisions had previously received judicial sanction on a small, site-specific scale, such as offenders' being ordered to stay away from a fixed place of business where they had trespassed. However, broader restrictions had neither statutory authority nor appellate court precedent. As a result, the department faced the formidable task of convincing the courts to allow imposition of travel restrictions on convicted prostitutes.

### Case Preparation

The first step in this process entailed establishing legal precedent, which extensive research provided. Courts in several States had addressed the propriety of travel restrictions for convicted prostitutes, presenting the prevailing view that such restrictions would be upheld if not overly broad or onerous in their scope and effect. While none of the reported cases upheld restrictions on the scale contemplated in Champaign, they did provide persuasive authority on which to base a request for imposing travel restrictions.

Next, the department needed to amass a factual basis for the implementation of travel restrictions. Toward that end, officers in the Crime Analysis Unit analyzed prostitution arrests in the city from 1983 to 1987. They paid specific attention to the geographic location of each offense, as defined by the location of the

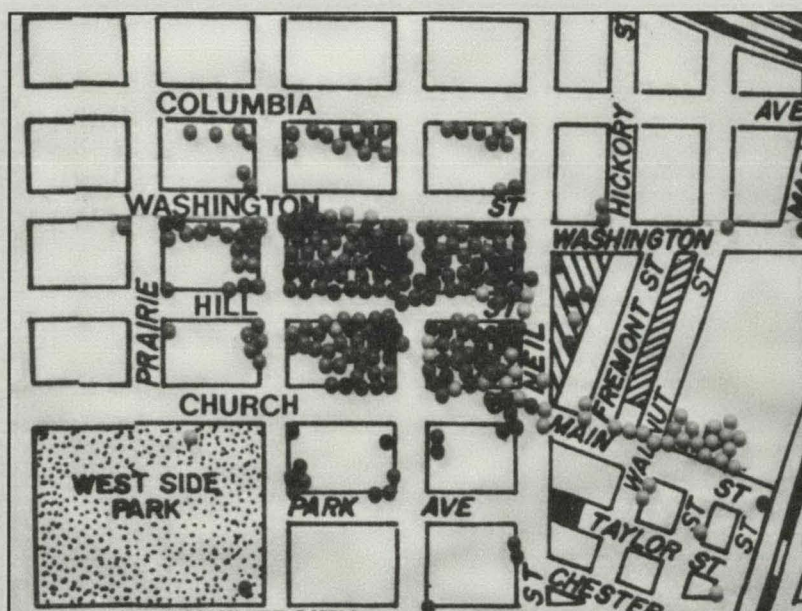


*Deputy Chief Gnagey serves with the Champaign, Illinois, Police Department.*



*Officer Leonhard also serves in the Champaign Police Department.*





An extensive analysis revealed that 92 percent of documented arrests occurred within a 12-square-block area.

arrest or the initial covert contact made by police with the offender.

The results of this extensive analysis were indeed revealing, especially when plotted on an enlarged city map. Colored pins marking the location of each offense graphically illustrated that 92 percent of 321 documented arrests occurred within a 12-square-block area of downtown Champaign. In addition, because the different colors represented the years in which the offenses occurred, the map also demonstrated the migration of the center of illicit commerce from the downtown business area into an adjacent, well-established area of single family residences.

### The Prosecution's Day in Court

The Champaign County State's Attorney's Office now had the evidentiary arsenal it needed to

make its unprecedented request for judicial approval of travel restrictions on a broad geographic scale. At the sentencing hearing for a convicted prostitute, prosecutors requested a punishment that included travel restrictions. When presenting their case, they used the plot map as Exhibit 1. This evidence provided an irrefutable argument that the government had a compelling interest in providing safe streets in the affected area. The map also graphically illustrated that while in itself large, the area comprised only a small percentage of the entire community.

The defense's arguments were nonetheless formidable, relying in part on the time-honored constitutional right of travel and the absence of any express legal authority for the imposition of restrictions. Indeed, at the time of the hearings,

the only valid legal authority was a provision in the State Code of Corrections that permitted a court to impose conditions of probation considered "reasonable" and "relat[ed]" to the nature of the offense or the rehabilitation of the defendant<sup>1</sup> on an individual basis. The prosecutors used this seemingly vague statutory provision to make a convincing claim that restricting access to Champaign's "open-air brothel" would indeed serve a rehabilitative purpose, by depriving the defendants access to their principal place of business.

The prosecutors' claim did not, however, go unanswered. Champaign County public defenders countered that complete "banishment" from the defined area would unduly hamper legitimate activity. In support, they presented evidence that drug rehabilitation facilities, job placement agencies, and arterial bus routes were either in or coursed through the area in which travel would be forbidden.

The prosecutor successfully rebutted this argument by proposing that probation supervision personnel monitor the travel ban. In other words, offenders could obtain written permission from a probation officer to enter the restricted area for legitimate purposes, with appropriate limitations as to time and place.

The prosecution ultimately prevailed. Balancing the competing concerns, the Circuit Court of Champaign County placed the offender on probation, subject to statutory conditions, with the added condition that she neither enter nor remain within the designated area



without prior written permission from a probation officer.<sup>2</sup>

Following this case, the State's attorney successfully argued for travel restrictions for a second convicted prostitute.<sup>3</sup> Thirteen other cases were plea-bargained and also included travel restrictions as punishment.

### Enforcement

The mere imposition of sentences of this nature, while unprecedented, could only be viewed as a starting point, for without successful enforcement, it would mean nothing. But, both the police and prosecutors had envisioned enforcement as well.

Mindful that Illinois law permits police officers to arrest probationers found violating the conditions of their sentences, the State's attorney immediately provided the Champaign Police Department with written notices of the imposition of the sentences in these cases. The notices contained photographs of the offenders, their biographical data, and a description of the area in which their travel had been restricted.

The State's attorney also provided specific direction that these offenders be arrested and brought before the court should they be encountered in the restricted area without the required written travel permit. In addition, the prosecutor handling the case volunteered to be available on an on-call basis to provide guidance.

### Results

The implementation and enforcement of travel restrictions

became a model of interagency cooperation. Nine weeks following trial court litigation, 12 recidivist and first-offender prostitutes were restricted from illegitimate presence in the area in which they had worked previously. While some rehabilitated themselves, the majority, unfortunately, tested government resolve and violated the travel restrictions. Police officers arrested these offenders, and the State's attorney initiated proceedings to revoke probation the same or following day.

***“The implementation and enforcement of travel restrictions became a model of interagency cooperation.”***

Eventually, diligent enforcement and prosecution of the restrictions brought about successes never envisioned by those who devised and implemented the program. Over the ensuing 4-year period, street prostitution in Champaign decreased in excess of 90 percent. The quality of life in the impacted residential area improved markedly; the government prevailed; and the residents in the area reclaimed their neighborhood.

There were also legal inroads made far beyond the circuit court level. The Appellate Court of Illi-

nois subsequently upheld the legality of Champaign's program, and the Illinois Legislature, in the wake of that decision, amended the Code of Corrections to authorize travel restrictions expressly as a condition of probation.

### Conclusion

Champaign's experience provides valuable lessons for the future. The resulting legal remedies, now written into Illinois law, provide a resource for other communities throughout the State. Moreover, use of travel restrictions as a condition of community-based sentences has great potential for application to drug- and gang-related crimes.

When police officers and prosecutors work together, they can approach problems with solutions they may not have considered individually. Through continued cooperation, they can successfully implement these strategies and, with unrelenting enforcement and prosecution, warn potential lawbreakers that the city will not provide a haven for their illegal activities. Through such efforts, “the world's oldest profession” might be one step closer to extinction. ♦

### Endnotes

<sup>1</sup> ILL. REV. STAT., Ch. 38, Sec. 1005-6-3(b) (1987).

<sup>2</sup> Although the appellate court later reversed this case on trial errors, the propriety of the travel restrictions was not addressed, and the defendant began serving her sentence prior to the retrial. On appeal, the court upheld the defendant's sentence, which included travel restrictions.

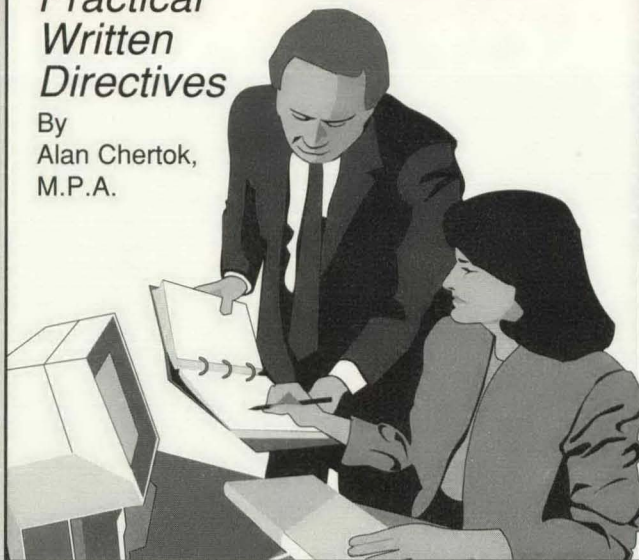
<sup>3</sup> In this case, the propriety of the travel restrictions was challenged and subsequently upheld in appellate court. See *People v. Pickens* 186 Ill.App.3d 456, 542 N.E.2d 1253 (1989).



# Focus on Administration

## *Practical Written Directives*

By  
Alan Chertok,  
M.P.A.



**M**ost police agencies operate on the basis of their written directives, which form the cornerstone for departmental procedures and spell out a department's philosophy on various matters, including its partnership with the community. Further, written directives provide crucial information on legal requirements, training guidelines, and disciplinary matters.

Administrators who understand the critical nature of written directives should also understand that their department's manuals must be well-organized and clearly written. Manuals that hibernate in a police cruiser's trunk or an officer's locker benefit no one, not the officer, the department, or the citizens they serve. The presentation of the material impacts on how frequently officers choose to use such a reference tool.

### **WRITTEN DIRECTIVES**

Many departments have two major sources of written directives: The General Order Manual (GOM) and the Standard Operating Procedures (SOP) Manuals. The roots of many of these manuals lie in laws passed in the 1950's, when police officer standards and training commissions decreed that police operations should be detailed in writing. The

directives often include a title, number, effective date, policy statement, purpose statement, and procedures.

### **General Order Manual**

The heart of a department's written directives is normally the General Order Manual. This manual provides daily direction for departmental operations.

Various philosophies exist on what should be included in the manual. The format often mirrors the size, function, and philosophy of the agency. Small agencies that police low-crime residential communities might include extensive philosophical statements, while larger agencies may produce lengthy, detailed manuals. Some agencies divide procedures into separate administrative and procedural manuals and restrict distribution to save on printing expenses.

Most GOMs also include procedures that affect all personnel. The manuals provide exact guidance to officers on how to execute specific procedures.

General orders should be grouped in the manual by function with no accompanying purpose statements, and titles should describe succinctly the subject matter. Orders that need a purpose paragraph have been titled improperly.

### **Standard Operating Procedures**

Standard Operating Procedures are another integral part of written directives found in most police departments. SOPs are procedures or regulations that affect the operations of components within the department, such as precincts or divisions. For example, a Planning and Research Division SOP may detail how to structure the department's GOM.

SOPs may restrict, but not expand, authority granted by general orders. Examples of this may include control and use of pool vehicles at the precinct, standby scheduling for callout of public information officers, or procedures for maintaining accountability of facsimile machine use. For smaller departments, especially those housed in a single location, general orders may function as standard operating procedures as well.

### **Format**

There is no ideal way to format law enforcement manuals, given the range of variations in workforce



size, function, and jurisdiction of various agencies. Agencies may choose a format based on tradition or practicality.

A major consideration is that manuals be user-friendly, permitting easy reference in the field. Officers on mobile patrol should be able to open and refer to the manual in the police cruiser. Bearing this in mind, most departments print their manuals on standard-size paper. This is because manuals published on smaller-size paper tend to be thicker and more unwieldy, making them more difficult to use.

The written directives for the Prince George's County, Maryland, Police Department are printed in a three-column, newsprint-style format, using desktop publishing software. This format is easier to read and less expensive to print than single-column copy. Further, the 12-font type used for directives reduces the number of pages needed, because approximately 10 to 20 percent more text can be placed on a page.

Numbering the manual pages can be a hindrance, because with revisions, the page numbers are likely to change. However, the numbers of the general orders themselves are important because the index identifies specific information by general order number. Also important is the effective date of the page, which should appear at the bottom of the page.

### Revisions

Because many police directives are based on law or political climate, they may require periodic revisions. Loose-leaf designs facilitate easy changes, allowing agencies to simply issue revised pages with highlighted or underlined changes.

The Prince George's County department prints an insert-delete page with each new group of general orders. This page includes specific instructions on what to take out or insert, as well as a GOM master checklist.

Some agencies issue bound manuals, which offer a more professional appearance. The disadvantage to

this format is that it requires agencies to reprint the entire manual periodically. Officers must make interim handwritten changes to the text, based on special orders or through departmentwide teletype messages. This method may result in more problems, because many officers find it burdensome to insert revisions into loose-leaf binders, much less actually writing new material directly on the pages.

In order to limit the number of necessary revisions, names and telephone numbers should be left out of specific general orders. Instead, job titles, such as "district commanding officer" (rather than "district captain") should be used. This eliminates problems

caused by rank changes or departmental reorganizations that result in the reallocation of a position to a different rank.

### Approval

In large agencies, general orders are written for the entire department. A high-ranking officer—delegated by the executive officer—approves routine, noncontroversial orders following staff review. Of course, the chief approves potentially controversial matters, such as the pursuit policy.

It is best not to have the agency head sign general orders unless there is a legal reason for doing so. In fact, there are valid reasons to avoid the practice. For example, it is expensive to reprint the general orders when these individuals leave the agency. Additionally, it may be inconvenient to delay the orders while awaiting the signature. To document approval authority for the directives, a single general order stating that the manual is issued on the authority of the chief of police (or whatever title is given to the head of the agency) should suffice.

### Writing Style

It is crucial to tailor the writing style of written directives to the audience. Failure to write clear, understandable directives results in misunderstandings and a lack of communication. For example, presenting the regulations in complicated "legalese"

**“...clear, concisely written directives increase the effectiveness of police departments.”**



will not serve any agency. Using legal verbiage only serves to confuse the officers who must use the manuals. In some discipline cases, police administrative hearing boards have exonerated officers charged with committing a prohibited act following a successful defense that the officer could not understand the directive at issue.

When writing directives, administrators should avoid restating the laws upon which they are based. However, the material from which the orders were written should be referenced. Some agencies reference the material by adding "For additional or amplified information, refer to ...." The reference can be printed in a smaller font just below the appropriate section.

### Issuing Manuals

In most law enforcement agencies, each officer receives a copy of the manual, as well as all updates. Some agencies also issue manuals to civilian employees.

All recipients of the manual should sign a receipt for each manual, as well as for any subsequent revisions. This documentation could prove critical in cases where manual materials are used as promotional material or when disciplinary action is being brought against an officer based on a regulation within the manual.

### CONCLUSION

Granted, there are many more interesting issues in law enforcement than written directives. Yet, all law enforcement personnel need to realize that clear, concisely written directives increase the effectiveness of police departments. Only through the availability of such directives can officers act independently, knowing that they understand fully how to fulfill their duties and responsibilities and the stand their departments take on certain issues. ♦

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*Captain Chertok commands the Planning and Research Division of the Prince George's County, Maryland, Police Department.*

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### Missing Children and Homeless Youth

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has published a new report entitled "Law Enforcement Policies and Practices Regarding Missing Children and Homeless Youth." The report presents the findings of a study to describe the police response, the factors associated with the response, and parent/caretaker satisfaction with police handling of cases of runaway, throwaway, and abducted children. Its analyses also focus on the profiles of cases and their outcomes.

The information can provide guidance when developing policies that address police effectiveness and efficiency, as well as the safety of children and youth. Study findings were developed through mail surveys of police departments, site visits to police departments, and interviews with parents and caretakers.

"Law Enforcement Policies and Practices Regarding Missing Children and Homeless Youth" is currently available as a free, 22-page "Research Summary" (NCJ #145644), or as a more-detailed, 208-page "Final Report" (NCJ #143397) that can be purchased. For more information, or to order a copy of the report, contact the Juvenile Justice Clearinghouse, Box 6000, Rockville, MD 20850, or call 1-800-638-8736. Orders can also be faxed to 1-301-251-5212.



## *Prosecutors Respond to Drug Problems*

The American Prosecutors Research Institute's (APRI) National Drug Prosecution Center has completed a study of nontraditional prosecutorial responses to community drug problems. The final report, "Beyond Convictions: Prosecutors as Community Leaders in the War on Drugs," provides an overview of prosecutor-led, antidrug programs in education, prevention, treatment, and enforcement.

Based on a survey of prosecutors across the country and subsequent telephone and onsite interviews, the APRI documented 36 antidrug abuse programs led by prosecutors. "Beyond Convictions" also profiles prosecutors who have used innovative funding sources to support antidrug programs and provides a list of sources for information on drugs and crime, publications and resources for funding, training, and technical assistance.

Each chapter contains an introduction to a drug control issue, an indepth case study in one jurisdiction, several program briefs on other jurisdictions, and sample forms and correspondence used by prosecutors' offices in implementing antidrug strategies. The program descriptions, sample forms, and correspondence will help to replicate the strategies in other jurisdictions.

The 443-page report, "Beyond Convictions: Prosecutors as Community Leaders in the War on Drugs," is available from the American Prosecutors Research Institute, 99 Canal Center Plaza, Suite 510, Alexandria, VA 22314. There is no charge for the report for prosecutors and other criminal justice practitioners, although there is a nominal fee to defray postage and handling expenses.

## *Violence and Gangs Video*

The Cook County, Illinois, State Attorney's Office developed and produced "Choose Not To Lose," a 20-minute video that focuses on the violence surrounding gangs and drug involvement. Narrated by NFL Pro-bowler Dave Duerson, the video offers positive alternatives to youths and is directed to students in grades 4-12.

With graphic "street" footage and interviews with former gang members, the video conveys a strong message to its viewers. Police

departments, community groups, and schools can incorporate the video into violence prevention curricula and drug awareness programs.

A copy of the video can be obtained at no cost by writing the Cook County State's Attorney, "Choose Not to Lose," Daley Center, Room 406, Chicago, IL 60602. The video was funded through the drug forfeiture account of the State Attorney's Office, at no expense to taxpayers.



## Notable Speech

### *Policing an Increasingly Diverse America*

By Sherman Block

A conference devoted to the issue of cultural diversity is not only timely but also vital to the well-being and effectiveness of the law enforcement profession. Cultural diversity has been the backbone of growth throughout the history of our great country.

The diversity that exists today in Los Angeles County started in a little Indian village, 1 of about 25 Indian villages scattered throughout the Los Angeles Basin. In those days, little over 200 years ago, what is now known as Los Angeles County had fewer than 2,000 inhabitants.

Then, in 1781, 11 families left Sonora, Mexico, to establish an agricultural settlement for Spanish authorities near the Indian village. These immigrants founded the town of Our Lady, The Queen of the Angels, known today as Los Angeles. The ethnic diversity of those first settlers included 21 individuals of mixed blood, 15 blacks, and 8 native Mexicans.

From 1781 to the present, wave after wave of people of varying ethnicities, cultures, and races streamed into Los Angeles County to make it a multicultural, multinational community. Today, people from over 140 countries comprise the mix of 9.3 million residents in Los Angeles County. Some of the immigrant populations are very substantial.

Los Angeles is the second-largest Mexican, Armenian, Korean, Filipino, Salvadoran, and Guatemalan city in the world. It is the third-largest Canadian city and has the largest Japanese, Iranian, Cambodian, and gypsy communities in the United States. More Samoans reside in Los Angeles County than in American Samoa.

#### **Richness of Diversity**

The merging of cultures and ethnic backgrounds produced both a richness of diversity and a myriad of problems. The richness of diversity is evident in the new communities that have evolved from people relocating here in hopes of establishing a better life

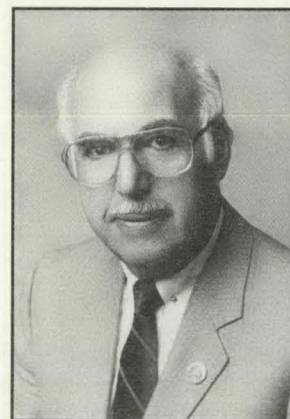
for themselves and their families. Can you remember the first time that you did a double take at a market sign written in both English and a foreign language? Such signs are now so prevalent in communities throughout Los Angeles County that they are no longer unusual.

There are also new and unique stores, businesses, places of worship, newspapers, and television and radio stations throughout Southern California catering to this rich diversity. In fact, it was reported recently that the most popular radio station in Los Angeles is a Hispanic language station.

#### **The Complexity of Culture**

The myriad of problems are as diverse as the mix of individuals who now comprise Los Angeles. Each ethnic community strives and struggles to overcome life's challenges to acquire part of the American Dream—the dream to be free to live, work, worship, and play as it sees fit. However, the cultural mix itself can cause problems.

The complexity of culture might be explained by comparing it to an iceberg. The tip of the iceberg represents the external part of a culture, e.g., the language, customs, dress, etc. The portion of the iceberg that lies beneath the ocean's surface, which makes up the larger part of the iceberg, corresponds to the internal aspects of a culture. This includes the beliefs, thought patterns, and perspectives shared by others in the same cultural



*Sheriff Block of the Los Angeles County, California, Sheriff's Department delivered this keynote speech at a cultural diversity conference sponsored by the Police Executive Research Forum.*



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group—in other words, their basic feelings toward life in general.

Internal culture often determines people's behavior. To understand what motivates people's behavior is to understand their internal culture.

When internal cultures conflict, it can be as destructive as a collision between an iceberg and an ocean liner. Misunderstanding between two cultural groups can lead to conflict and, taken to the extreme, physical confrontations.

We have recently seen this physical conflict in our schools, our jails, and throughout our communities. Taken to the extreme, these acts of conflict can become hate crimes. Hate crimes, whether directed at a place of worship or a specific group of individuals because of their lifestyle, is a sad example of a value system in decay—values in direct conflict with the American value that all men are created equal.

### **Cultural Empathy**

Law enforcement professionals need to develop cultural understanding or, better yet, cultural empathy. We need to put ourselves in other people's cultural shoes to understand what motivates their behavior. This concept can, perhaps, be illustrated by the following story:

There once was a naval officer whose ultimate ambition was to command a battleship. He finally achieved that goal and was given commission of the newest and proudest ship in the fleet. One stormy night, the captain was on the ship's bridge, when off to the port side, he spotted a strange light rapidly closing on his ship. Immediately, he ordered the signalman to flash the message to the unidentified craft, "Alter your course 10 degrees to the south." Within moments, the reply came back, "Alter your course 10 degrees to the north."

The captain was determined that his ship would take a back seat to no other, and he ordered the

signalman to declare, "Alter course 10 degrees. I am the captain!" Back came the response, "Alter your course. I am Seaman Third Class Smith." Now the captain was infuriated. He grabbed the signal light and fired off, "Alter course. I am a battleship!" The reply came back, "Alter your course. I am a lighthouse!"

Law enforcement professionals need to alter their course with a broader understanding of others. More

than ever, law enforcement professionals need an open mind for change. Not being willing to alter a hazardous course may put you and your ship in peril.

### **Cultural Guidelines**

Many of you attending this conference are looking for direction in developing a cultural awareness program for your department. I am sure that you will be exposed to a variety of innovative programs that you may consider adopting. But I believe, that to succeed in such an impor-

tant endeavor you must first consider the foundation on which your department is built.

In the Los Angeles County Sheriff's Department, the foundation on which all programs, projects, and our very future are built is our core values. You might call them our cultural guidelines. They are:

- Be service-oriented to our diverse communities by performing duties with the highest possible degree of personal and professional integrity
- Be fair and impartial and treat all people with dignity
- Work in partnership with the community and its citizens in solving problems and maintaining peace
- Be fully accountable for your actions or failures and, when appropriate, for the actions and failures of subordinates
- Be guided by reverence for human life when considering the use of deadly force

“

**Cultural diversity  
has been the  
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great country.**

”



- Treat every member of the department, both sworn and civilian, as you would expect to be treated if the position were reversed.

I sincerely believe that law enforcement leaders must establish their own department's core values that will serve as a foundation and springboard for the future. Once that foundation is firmly in place, it must be incorporated into all aspects of the organization.

### **Cultural Awareness Community Advisory Committee**

When the sheriff's department developed its cultural awareness training program, we continually drew on our core values. We first established a cultural awareness community advisory committee to reflect the rich diversity that is part of the department and the communities we serve. The advisory committee has direct access to me and makes recommendations on issues concerning the community and the department.

The advisory committee assisted the department greatly in developing cultural awareness training programs. The committee also recommended programs to increase understanding between law enforcement and specific ethnic groups within the community.

As an example, the sheriff's department established the "Host a Deputy Program." A family within the community voluntarily hosts a deputy in its home for an evening. The purpose is to have a deputy and a community member communicate directly in an informal, friendly environment. Open lines of communication broaden understanding for both the citizen and the deputy.

### **Cultural Awareness Training**

The department also established what I believe to be an effective, all-encompassing cultural awareness training program to be able to deal more effectively with the diverse communities we serve. A training program dealing with such a sensitive topic as cultural diversity should not be viewed as a political-expedient act. It should be viewed as skill development, and more importantly, as employee

development, which leads to organizational competency.

The training begins with a 36-hour cultural diversity course in the academy. This training is followed by cultural awareness specific to the custody environment and the patrol unit level, as well as training for supervisors, managers, and the executive staff. Cultural awareness is also incorporated into

other training programs to underscore its importance and the organization's commitment.

A key aspect of the cultural awareness program is conducted at the field training officer level. The field training officer develops organizational values in new personnel, which is why these officers must have the understanding, knowledge, and commitment to train personnel in diversity issues.

The commitment of department executives in supporting the training endeavor is of utmost importance. The department head

must be seen as totally supportive and as an integral part of the training program. A department head who personally introduces the training day or does a video lead-in to the training day communicates to the organization the importance of the training and the commitment of the department head to it.

### **Conclusion**

Victor Frankel, a survivor of 2 years in a Nazi concentration camp, saw his wife, children, parents, and many other family members tortured and murdered during the Holocaust. Frankel somehow survived. After being liberated from this horror, he wrote a comment about humanity: "There are only two races of people in the world—the decent and the indecent."

As law enforcement professionals, we must strive to eliminate any racial, ethnic, or cultural bias that may exist among our ranks and that may influence the manner in which we carry out our duties. We must recognize that there are indecent, as well as decent, people among all groups throughout our society. ♦

“

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”



# Legal Issues in Crisis Management

By

JEFFREY HIGGINBOTHAM, J.D.

Newspaper headlines today too often herald crisis situations—hostages are taken during a robbery attempt, a man holds his estranged wife against her will in their home, an angry former employee storms into a business threatening those inside, a man barricades himself inside his home while firing randomly at passersby. All of these situations are examples of crises that demand an immediate police response. They also raise a variety of legal issues as the crisis is defused and the situation resolved.

This article addresses the legal issues most likely encountered by police responding to and managing such crisis situations. Before proceeding further, however, two important points should be made. First, in every life-threatening crisis situation, the law recognizes that a safe and peaceful resolution is the paramount objective. Though legal issues cannot be ignored, law enforcement officers should be confident in the knowledge that in the heat of a crisis situation, where "...the pressure becomes intense and decisions must be made quickly..."<sup>1</sup> the law sanctions a reasoned response to the situation at hand.

Second, because legal issues do arise, it is extremely beneficial to have a legal advisor as part of the crisis management team. When legal issues surface, the legal advisor

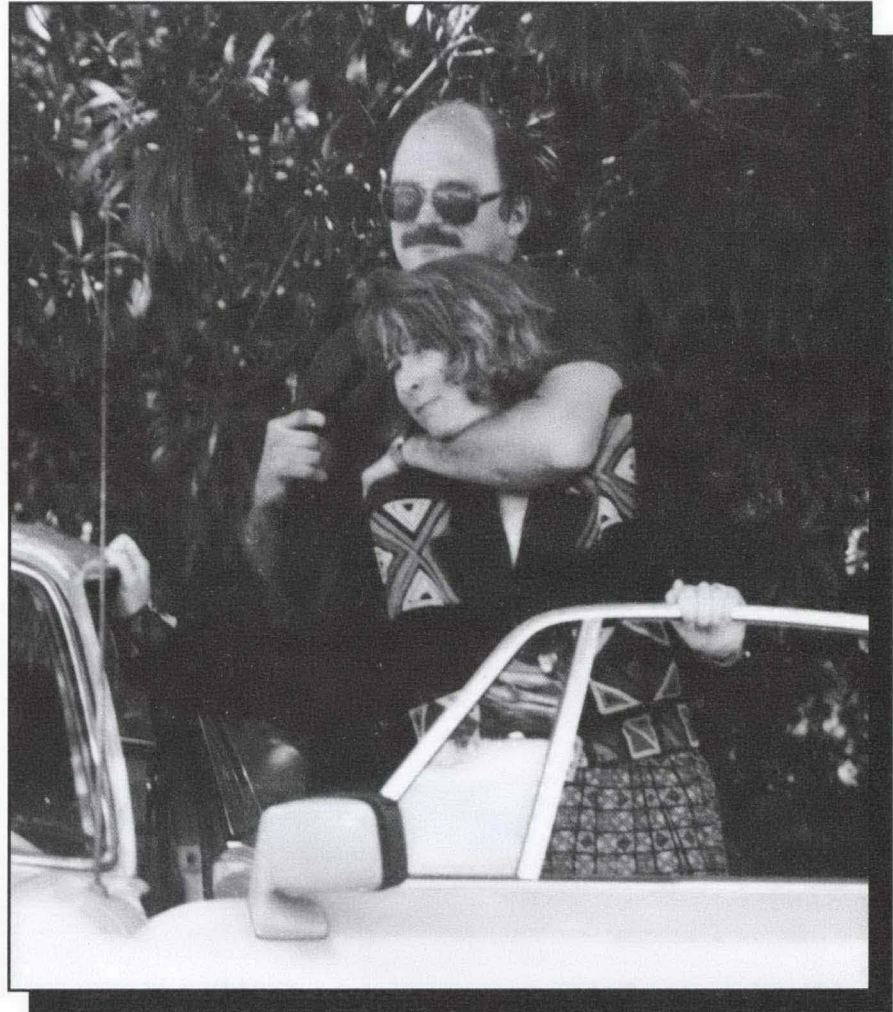


Photo by Janet Lockett, FBI

can begin working toward their resolution, freeing the negotiators and crisis commanders to continue their functions.

The following legal issues are most likely to arise in a crisis situation:

1) Application of the fourth amendment's proscription of

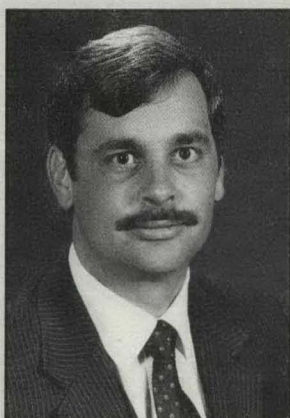
unreasonable searches and seizures

2) Admissibility of statements made during negotiations into evidence

3) Enforceability of promises made by negotiators

4) Use of electronic surveillance equipment





Special Agent Higginbotham is the Deputy General Counsel of the FBI.

“  
**...in the heat of a  
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 hand.**  
 ”

5) Use of force and

6) Control of the media.

Each of these issues will be discussed in turn.

#### **Fourth Amendment Issues**

The fourth amendment to the U.S. Constitution<sup>2</sup> is implicated whenever the police intrude into a reasonable expectation of privacy and imposes a presumptive warrant requirement for the legality of searches.<sup>3</sup> However, there are exceptions to that warrant requirement, several of which are applicable to crisis situations.

For example, in *Mincey v. Arizona*,<sup>4</sup> the Supreme Court recognized that emergencies relating to life and safety excused the normal warrant requirement. In *Mincey*, police officers made a warrantless entry into a home upon hearing a gun battle erupt inside shortly after an undercover officer entered the home. The officers' entry and immediate search of the premises to locate injured persons, render

medical assistance, and find those responsible were considered reasonable under the fourth amendment, even in the absence of a warrant.

The Court concluded that “the need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal....”<sup>5</sup> Notably, the Court limited the scope of police authority in such situations to the immediate emergency at hand and suppressed evidence found in a subsequent 4-day search. The teaching of *Mincey* is clear: No warrant is necessary to enter a residence in a crisis situation where the purpose of the entry is to provide immediate aid to those inside or to locate and arrest the suspect, but the officer's actions are limited to that conduct which is immediately necessary to resolve the emergency.<sup>6</sup>

#### **Admissibility of Statements Made During Negotiations**

Occasionally, in the prosecution following the resolution of a crisis situation, a defendant will

challenge the admissibility into evidence of statements made to negotiators during the crisis. Usually, these challenges allege some violation of the rule of *Miranda v. Arizona*,<sup>7</sup> where the Supreme Court held that statements made by a defendant while subject to custodial interrogation must be preceded by the now-familiar warnings and a valid waiver. For three reasons, however, a challenge to the admissibility of such statements based on *Miranda* will be unsuccessful.

First, *Miranda* applies only if the suspect is in custody. Custody, for purposes of *Miranda*, occurs when the suspect is under arrest or has been restrained in freedom of movement in a fashion normally associated with formal arrest.<sup>8</sup> In crisis situations, where the suspect is not within the complete control of the police, there is no custody, and therefore, the *Miranda* rule is inapplicable. One court noted that this principle was the only workable approach for police:

“When confronted with an armed, barricaded suspect who is possibly holding hostages, their attention would be diverted from what should be their primary purpose—that of using the means most likely to convince the suspect to surrender peacefully without harming anyone else in the area. They would be forced to consider the possibility that the suspect might make a statement that the government eventually would want to introduce at trial, and then they would have to assess whether he would be likely to



react violently to the antagonistic-sounding *Miranda* warnings."<sup>9</sup>

Second, *Miranda* warnings are required only if the custodial suspect is subjected to interrogation. Negotiations for the safe and peaceful resolution of a crisis situation are not considered to be interrogation.<sup>10</sup> It is for this reason that the court refused to suppress incriminating statements made by a defendant during hostage negotiations in *People v. Gantz*.<sup>11</sup>

"Even assuming that the defendant was in custody during the hostage negotiations...the negotiations were directed toward providing defendant with medication and maintaining the hostage's safety, not to elicit inculpatory statements...Despite the lack of *Miranda* warnings, the trial court did not err in refusing to suppress those statements."

Third, the Supreme Court has recognized that the *Miranda* rule does not apply when questions are reasonably prompted by concerns for public safety.<sup>12</sup> The public safety exception to *Miranda* includes questions relating to the safety of persons who have been abducted by the suspect. For example, in *Minnesota v. Provost*,<sup>13</sup> the court recognized a "rescue doctrine" exception to *Miranda*, where an urgent need presents no other course of action, the questions are necessary to preserve a human life, and rescue is the primary purpose and objective of the interrogators. Under those circumstances, *Provost* held the *Miranda* rule to be inapplicable.

### Enforceability of Promises Made During Negotiations

During negotiations with police, a hostage taker may make demands that appear to have serious legal consequences. For example, a hostage taker may demand safe passage to a location outside the jurisdiction of the police or a promise that he will not be prosecuted for his crimes if he frees the hostages. Does the negotiator have the prerogative to agree to such demands without binding the government to enforce them? The answer, of course, is yes.

**"...it is extremely beneficial to have a legal advisor as part of the crisis management team."**

In *State v. Sands*,<sup>14</sup> a court ruled that a purported letter of immunity signed by the sheriff during the negotiation with a hostage taker was void, because it was given under duress. Because the hostage taker would have to allege breach of contract or some other similar theory to enforce the putative agreement, normal contract law prevails, and a "contract induced by duress is unenforceable."<sup>15</sup> Moreover, a defendant may not even be entitled to raise such issues before a jury without a showing of relevance, because it might induce unwarranted sympathy.<sup>16</sup>

Whether a negotiator should agree to the demands of the hostage taker is a matter within the judgment and discretion of the negotiator and the crisis commander. If, however, they judge such an agreement to be useful, the law will not absolve the hostage taker of legal responsibility for actions based on those promises.

### Electronic Surveillance Issues

Accurate and timely intelligence is an important component of successful crisis management. Because the very nature of crisis situations often disrupts the normal collection of relevant intelligence, electronic surveillance in the form of wiretaps and listening devices is often used to assist. Those techniques, however, raise legal issues.

Federal law,<sup>17</sup> which establishes minimum requirements that are applicable to all law enforcement personnel, generally prohibits the interception of the contents of a telephone conversation without a court order or consent of one of the parties to the conversation.<sup>18</sup> Thus, where the negotiator is talking directly to the hostage taker on a telephone, Federal law would permit the contents of that conversation to be recorded without a court order based on the consent of the negotiator. If, however, the hostage taker is talking over a commercial telephone line or cellular telephone to a person who has not consented to the interception of the conversation, the restrictions of Federal law would require either a court order or an emergency justification.<sup>19</sup>

Federal electronic surveillance law contains an emergency provision that allows the nonconsensual interception of telephone



conversations in cases involving the "...immediate danger of death or serious physical injury to any person..."<sup>20</sup> if the emergency interception has been approved by high-level prosecutorial personnel and the application for a court order is filed within 48 hours of the first actual interception.<sup>21</sup> Ensuring that the statutory requirements for emergency electronic surveillance are met will enable the crisis management team to maintain the flow of necessary intelligence that could lead to the safe resolution of the crisis.

Federal law also governs the use of listening devices. Without a court order or an emergency affecting the life or safety of persons, Federal law prohibits the nonconsensual electronic surveillance of oral conversations in which there is a reasonable expectation of privacy.<sup>22</sup> Arguably, two hostage takers inside their own home talking between themselves and outside the presence of any hostage have a reasonable expectation of privacy. Any electronic surveillance of that conversation would have to be in accordance with the Federal statute. On the other hand, prison inmates involved in a riot and takeover would likely have no reasonable expectation of privacy in their conversations overheard by crisis team electronic surveillance.<sup>23</sup>

Because it is not always possible to predetermine when expectations of privacy may or may not exist, law enforcement personnel involved in the response to crisis situations should be aware that the use of listening devices may be circumscribed by Federal law. Accordingly, the crisis team legal advisor

should be prepared to secure emergency approval and to apply to the court for the necessary order.

#### Use of Force

While the safe and peaceful resolution of crisis situations is the goal of law enforcement, complete crisis management also includes a tactical component in the event a negotiated solution cannot be reached. If force is necessary, crisis managers should remember that the Supreme Court has established a constitutional standard for the use of deadly force.

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In *Tennessee v. Garner*,<sup>24</sup> the Court sanctioned the use of deadly force when necessary for self-defense, defense of others, or to prevent the escape of a person who committed a felony involving the infliction or threatened infliction of serious bodily injury or death. The Court said:

“Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by

using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if where feasible, some warning has been given.”<sup>25</sup>

The essence of most hostage situations or similar crises is that the offender has threatened the lives of the hostages, the officers, or both. Clearly, whenever there is an imminent threat to the lives or safety of either hostages or officers, force, including deadly force, necessary to resolve the threats is permissible. Likewise, force, including deadly force, can be employed whenever necessary to prevent the escape of suspects who meet the *Tennessee v. Garner* standard of a “dangerous person.”<sup>26</sup>

#### Control of the Media

Crisis situations requiring a law enforcement response almost always draw the attention of the media. Reporters from the print and electronic media are quickly dispatched to the scene of the crisis and make demands on the crisis management team for access to news and information. Trying to accommodate media demands or dealing with overzealous reporters whose activities might interfere with police command of the situation raise additional concerns for the crisis management team.

Law enforcement personnel assigned to crisis response teams



should anticipate and plan for media presence at the crisis scene. Preplanning a response that includes accommodating the media will assist the orderly response to the crisis. In creating the plan, law enforcement officials should remember that the media play a special role in our system of Government:

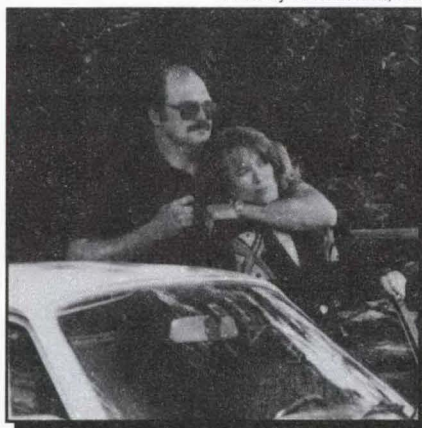
"In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press could remain forever free to censure the Government."<sup>27</sup>

Nonetheless, the media do not have an unlimited right to engage in news-gathering. The balance was described in *Branzburg v. Hayes*,<sup>28</sup> where the Supreme Court noted that "...news gathering is not without its First Amendment protections"<sup>29</sup> and the press has the right to acquire news "...from any source by means within the law."<sup>30</sup> However, "...the First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally...Newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded...."<sup>31</sup>

When the law enforcement crisis manager establishes a perimeter around the crisis scene, an order should be issued excluding both the public and the media.<sup>32</sup> A media area safely away from the crisis scene could then be established

where the crisis manager or public information officer would brief the media. Such a system accommodates both the interests of law enforcement and the interests of the media without trammeling the prerogatives of law enforcement or the first amendment rights of the media.

Photo by Janet Lockett, FBI



## Conclusion

Crisis situations are stressful and demanding. The legal issues that arise do not, however, pose insurmountable obstacles to the safe and peaceful resolution of the crises.

The fourth amendment recognizes that threats to life and safety may excuse the usual need for a warrant. The fifth amendment privilege against self-incrimination, protected by the *Miranda* rule, does not constrain the ability of negotiators to seek the surrender of suspects.

Irrational demands of hostage takers can be agreed to by crisis managers without fear of creating an enforceable right. Intelligence can be gathered through electronic surveillance techniques by consensual monitoring, under the authority of a

court order obtained in advance of the monitoring, or under the emergency provisions of the electronic surveillance statutes. Tactical resolutions of crisis situations can be reasonable and constitutional. The media's interests and rights can be accommodated without compromise to the operational necessities of the crisis.

Even though our legal system generally recognizes and sanctions reasonable police responses to crisis situations, law enforcement managers should integrate the various legal issues discussed in this article into their policy development, training programs, and operational decisionmaking. Preplanning for the legal issues inherent in crisis situations facilitates their solution later. ♦

## Endnotes

<sup>1</sup> *Taylor v. Watters*, 655 F.Supp. 801, 806 (E.D. Mich. 1987).

<sup>2</sup> The fourth amendment provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized."

<sup>3</sup> *United States v. Katz*, 389 U.S. 347, 357 (1967).

<sup>4</sup> 437 U.S. 385 (1978).

<sup>5</sup> *Id.* at 392. See also *United States v. Boyd*, 496 F.Supp. 25 (S.D.N.Y. 1980), *aff'd*, 636 F.2d 1204 (2d Cir.), *cert. denied*, 449 U.S. 1038 (1980); *People v. Cloud*, 587 N.E.2d 270 (N.Y. 1991); *Commonwealth v. Hinkson*, 461 A.2d 616 (Pa. Super. 1983); and *State v. Hammer*, 759 P.2d 979 (Mont. 1988).

<sup>6</sup> Evidence seen in plain view while police respond to the emergency may be seized. *Mincey v. Arizona*, 437 U.S. at 393. The warrant requirement of the fourth amendment is also excused when a police entry is necessary to prevent the imminent destruction of evidence, see, e.g., *Ker v. California*, 374 U.S. 23 (1963), or where the arrest is a product of "hot pursuit,"



*Warden v. Hayden*, 387 U.S. 294 (1967).

<sup>7</sup> 384 U.S. 436 (1966).

<sup>8</sup> *Berkemer v. McCarty*, 468 U.S. 420 (1984).

<sup>9</sup> *United States v. Mesa*, 638 F.2d 582, 588 (3d Cir. 1980). See also, *State v. Sands*, 700 P.2d 1369 (Ariz. App. 1985).

<sup>10</sup> Interrogation may consist of direct questioning or its functional equivalent. *Rhode Island v. Innis*, 446 U.S. 291 (1980).

<sup>11</sup> 480 N.Y.S.2d 583 (N.Y. Sup. Ct. 1984).

<sup>12</sup> *New York v. Quarles*, 467 U.S. 649 (1984).

<sup>13</sup> 490 N.W.2d 93 (Minn. 1992), *cert. denied*, 113 S.Ct. 1306 (1993).

<sup>14</sup> 700 P.2d 1369 (Ariz. App. 1985).

<sup>15</sup> *Id.* at 1375. See also *People v. Pasch*, 604 N.E.2d 294 (Ill. 1992).

<sup>16</sup> *United States v. Crosby*, 713 F.2d 1066 (5th Cir. 1983), *cert. denied*, 464 U.S. 1001 (1983). See also *United States v. Gorham*, 523 F.2d 1088 (D.C. Cir. 1975).

<sup>17</sup> See Title 18, United States Code (U.S.C.), Section 2510, *et. seq.* State and local law

enforcement agencies may be subject to additional State laws.

<sup>18</sup> 18 U.S.C. §2511(2)(c).

<sup>19</sup> This covers most situations, because commercial lines will likely be placed under control of the crisis management team and access to those lines by the hostage taker restricted or denied. If the hostage taker has access to cellular telephones, it is more difficult to establish control of or access to that technology.

<sup>20</sup> 18 U.S.C. §2518(7).

<sup>21</sup> *Id.*

<sup>22</sup> 18 U.S.C. §2511(1).

<sup>23</sup> 468 U.S. 517 (1984).

<sup>24</sup> 471 U.S. 1 (1985).

<sup>25</sup> *Id.* at 11-12. See also, *Fitzgerald v. Patrick*, 927 F.2d 1037 (8th Cir. 1991).

<sup>26</sup> A verbal warning to surrender immediately prior to the use of deadly force is not always possible. Crisis situations may present facts where the suspect's repeated refusal to surrender or the immediate threat to life obviates the need for the verbal warning. See

*Liebenstein v. Crowe*, 826 F.Supp. 1174 (E.D. Wisc. 1992).

<sup>27</sup> *New York Times Co. v. United States*, 403 U.S. 713, 717 (1971), Justice Black, concurring.

<sup>28</sup> 408 U.S. 665 (1972).

<sup>29</sup> *Id.* at 707.

<sup>30</sup> *Id.* at 681-82.

<sup>31</sup> *Id.* at 684-85.

<sup>32</sup> It is important to address the media's right to acquire news in the first instance. Once news is acquired, the government is hard pressed to prevent its publication. See, e.g., *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963); Privacy Protection Act of 1980, 42 U.S.C. §§2000aa, *et seq.*

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

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## Bulletin Alert

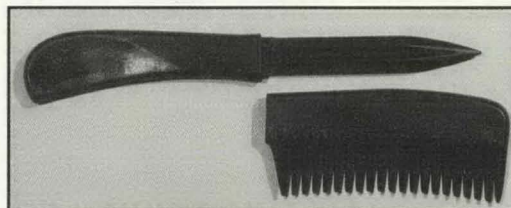
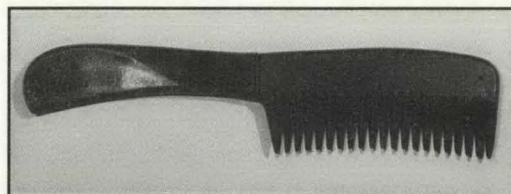
### Hair-raising Comb

This "comb" quickly converts into a dangerous weapon. The toothed section of the comb slips off to reveal a 4-inch blade of hard plastic. Available in at least three colors (black, white, or pink), this concealed dagger could be overlooked easily by law enforcement or corrections personnel during searches.

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*Submitted by D.P. Van Blaricom, retired chief of the Bellevue, Washington, Police Department.*

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## The Bulletin Notes

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



Deputy Madden

Off-duty Deputy Ray Madden of the Aiken County, South Carolina, Sheriff's Office responded to a frantic request for assistance from one of his neighbors. The woman's newborn baby girl had stopped breathing. Deputy Madden immediately rushed to the house and took efforts to clear the infant's airway. After the baby began to take slight breaths, he continued to care for her until paramedics arrived. The infant was later taken to an area medical center for further care.



Sergeant Feyen



Sergeant Woodside

While monitoring the front desk of the Rogers, Arkansas, Police Department, Patrolman Ray Feyen was shot several times by a subject who had walked into the building with a female hostage after committing a double homicide in a nearby residential area. Although severely wounded, Patrolman Feyen returned fire and eventually crawled from the lobby area to take refuge in a closet. From there, he radioed the subject's last position to other officers, enabling them to devise a plan to isolate and apprehend the assailant. One of the first responding officers, Patrolman Terry Woodside, climbed through a broken window into the closet where Patrolman Feyen lay bleeding. Through the darkness and broken glass, Patrolman Woodside was able to locate the fallen patrolman and assist him back through the window to awaiting officers and medical personnel. Patrolman Feyen's severe wounds would have caused him to bleed to death if not for the quick actions of Patrolman Woodside. Both officers have since been promoted to sergeant.



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