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# FBI Law Enforcement Bulletin



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# Juvenile Sexual Homicide

By JOHN A. HUNTER, Ph.D.,  
ROBERT R. HAZELWOOD, M.S.,  
and DAVID SLESINGER, M.Ed.

In 1992, police arrested two brothers, ages 13 and 15, for the rape and attempted murder of a 36-year-old woman. The crime was particularly heinous because the youthful offenders emotionally and physically terrorized the victim. After the rape, the victim asked the brothers if they planned to kill her. When the 13-year-old said yes, the victim asked if she could look at her mother's photograph first. The youngest offender removed the unframed photo from her dresser and tore it into small pieces in front of the kneeling victim. Then, for no apparent reason, he began cutting and stabbing her. She started screaming, and when her neighbors responded to investigate, the subjects fled. As a result of the attack, the victim suffered partial paralysis on the left side of her body. The emotional scars may never heal.

This case illustrates the extremes of violence that frequently confront the police in sexual crimes committed by juveniles. These crimes raise a question of whether the criminal justice system in general and law enforcement in particular are prepared to deal with such violent and youthful sexual criminals.



The number of juvenile offenders (defined as 17 years old and younger) arrested for sexual crimes has increased steadily over the past decade.<sup>1</sup> Recent studies estimate that juveniles remain responsible for 15 to 20 percent of all rapes and 30 to 60 percent of child sexual assault cases committed in the United States each year.<sup>2</sup> Contemporary research, as well as clinical observation, suggests that the degree to which youthful perpetrators suffer from disturbances in either the psychosocial or sexual arenas varies.

Accordingly, their risk of committing crimes, particularly violent ones, also differs.<sup>3</sup>

In an effort to understand the similarities and differences between juveniles who assault children 5 or more years younger than themselves (child molesters), and juvenile offenders who target peers or adults (peer/adult offenders), the authors conducted extensive criminal case reviews of 126 juvenile sex offenders. The larger report presents details of sample characteristics, methods of data analysis,



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research findings, and how officers obtained cases.<sup>4</sup> This article briefly summarizes several key findings from that study and presents seven cases in which the juveniles murdered their sexual assault victims. Comprehensive information on this study can help law enforcement agencies better understand the criminal activities of the most violent and dangerous of these youthful offenders.

### **AGGRESSIVE BEHAVIOR**

Peer/adult offenders more often showed aggressive or violent behavior in the commission of their sexual crimes than those who targeted children 5 or more years younger than themselves. In the larger study, over 25 percent of these subjects demonstrated a moderate-to-high level of aggression, and nearly 10 percent of their victims required extensive hospitalization or died as a result of their injuries.

Statistical analysis of the study's data revealed that the interaction of three variables associated with the offenders' difficulty in controlling their victims predicted higher levels of aggression and violence. These variables are: 1) the sex of the victim, 2) the age of the victim, and 3) the degree of victim resistance. In general, offenders used higher levels of violence against victims who were physically capable of defending themselves and who resisted. While experts may anticipate these results due to the youthfulness of the offenders, their lack of developed social skills, and their inability to control others without resorting to force, the data indicate that homicidal juvenile sexual offenders often engage in gratuitous violence.

### **Offender/Victim Characteristics**

The seven youths who murdered their victims ranged in age from 14 to 17, and five of the

offenders were 15 years old at the time of the offense. Three of these youths were white (42.9 percent), three were black (42.9 percent), and one was Hispanic (14.3 percent). Only two of these juveniles had previous arrests—one for a sexual crime and one for a nonsexual crime. Only one of the seven youths was reportedly under the influence of alcohol or other drugs at the time of the offense.

Victims ranged in age from 9 to 81. Four were juveniles, and three were middle-aged or elderly. Except for a 9-year-old boy, all of the victims were female. The seven victims were not related to the offenders; two were strangers (28.6 percent), and five were acquaintances of the perpetrator (71.4 percent).

### **Sexual Assault in Conjunction with Another Crime**

Juvenile offenders who target peers or adults more often commit

sexual assault in conjunction with another crime (e.g., robbery) than those offenders who target children. Approximately 26 percent of the peer/adult offenders and 16 percent of the child molesters used a weapon in the commission of the sexual crime with knives representing the most frequently used weapon in both groups. The study

found that, contrary to popular belief, fewer than 10 percent of either group of juvenile sexual offenders were under the influence of alcohol or other drugs at the time of the offense.

In two of the murders (28.6 percent), the offenders intentionally tortured their victims. In three cases (42.9 percent), offenders took

valuable items from the victims or the victims' homes. The sexual assault included apparent penis/anal rape in one case (14.3 percent), penis/vaginal rape (or attempted rape) in three cases (42.9 percent), penetration with a foreign object in two cases (28.6 percent), and cunnilingus in one case (14.3 percent). In three of the seven cases

### Case #1

A 15-year-old male robbed a convenience store and raped a 52-year-old female employee as he threatened her with a 12-inch knife. Upon entering the store, he immediately forced the woman into a back room, beat her severely in the head and face, tore her shirt, and raped her as she lay semiconscious. Then, he stabbed her three times in the chest and abdomen and

left her to die. Police found her underwear and earrings on the floor of the room and recovered and preserved latent fingerprints and seminal fluids. Two weeks later, police arrested the assailant during another armed robbery. A comparison of the forensic evidence linked the subject to the murder. The offender had a history of aggravated sexual assault and burglary.

### Case #2

A 15-year-old female who had been missing was found strangled and sexually assaulted. The offender committed the crime in the home of a 15-year-old male acquaintance of the victim. The offending juvenile reported that he had recently broken up with his girlfriend and had invited the victim to the home to trade baseball cards. He reported that he had attempted to kiss the girl, but she had turned her face away from him. He then strangled her, first with his hands and then with the sleeves of a shirt. The victim apparently attempted to fight back but was physically overpowered and killed. The offender admitted that after murdering the victim, he had performed cunnilingus on her. He then placed her nude body in a garbage bag and disposed of it in a garbage can behind his home.

When found, the victim was nude from the waist down with evidence of bleeding from her nose and mouth. Blood was found on her buttocks and thigh, and the autopsy revealed trauma to the vagina. However, the offender denied any sexual act other than cunnilingus. During a search of the juvenile's bedroom, law enforcement officers found handwritten notes describing violence, sex, and death involving females. Notably, the adolescent spoke of a dream in which he killed a young girl and placed her in a garbage bag. The youth had an arrest record involving several misdemeanor offenses and had been under a psychologist's care for depression during the 6 months preceding the murder.

### Case #3

The parents of a 9-year-old boy reported him missing. Three days later, friends of the missing boy found blood in a wooded area near the victim's home and called the police. At the base of a tree where the offender and victim had previously shot paper targets, the police found an indentation with a blood trail and two unfired .22-caliber bullets. Searchers followed the blood approximately 214 feet and found the child's partially clothed body beneath a tree. He had been shot twice in the head, and his pants had been pulled below his knees. Semen found in his underwear was later matched to a 14-year-old male acquaintance.

Initially, the adolescent denied committing the crime. He later confessed but claimed that

he and the victim had been raking leaves together and that he had accidentally shot the victim. He attempted to stage the killing as a stranger-to-stranger sexual murder by lowering the boy's pants and underwear. He then intentionally shot the victim a second time to "make sure he was dead." The offender denied sexually assaulting the boy. He was indicted not only for murder and sexual assault but also for hindering an investigation and falsifying physical evidence (he had dragged the body away from the murder site and attempted to hide it under a tree). The offending adolescent had no previous arrest record.

### Case #4

An 81-year-old female allowed a 15-year-old male stranger into her home after he asked to use the telephone. The adolescent physically assaulted and overpowered her. He then sexually assaulted her with a foreign object. Finally, the perpetrator strangled the victim with his hands and covered her nude body with a blanket. He also searched her bedroom and dumped the contents of her purse on the dining room

table. When his parents found items belonging to the victim, they notified the police, who used latent fingerprints found in the victim's residence to connect the adolescent to the crime. The subject had no previous criminal history and told the police that he could only recall seeing a knife and "going berserk," later finding himself in the field of a nearby school.

(42.9 percent), the rape occurred postmortem.

#### Crime Scene

While the sexual crimes of both sets of juvenile perpetrators occasionally took place in the residence of the victim, offenders who chose peer/adult victims more often assaulted their victims in a public area (30 percent) than the offenders who assaulted children (7 percent). Three of the seven victims were

murdered in their homes (42.9 percent), one was killed in the home of the perpetrator (14.3 percent), and one was murdered in the convenience store where she worked (14.3 percent). Two victims were murdered outside (28.6 percent).

#### Method of Approach and Nature of the Crime

Offenders approached victims using deception in three of the seven cases (42.9 percent). All of

the murders showed an obvious lack of criminal skills. For example, the offenders knew the victims in five cases (71.5 percent), and in five of the cases (71.5 percent), offenders left latent fingerprints or seminal fluids at the scene that linked them to the crime. Experienced offenders realize that the likelihood of detection decreases when 1) they choose as victims people they do not know, and 2) they do not leave evidence behind. In two of the



seven cases (28.6 percent), offenders immediately employed physical violence, while in two other killings, the offenders became aggressive over time in the context of a dating or social relationship with the victims.

### Use of Weapons

In the seven cases, the killers used a variety of weapons. Personal

weapons (hands, fists, or feet) were used in three of the incidents, knives in two, a firearm in one, and a blunt object (e.g., a large rock) in one. The lone offender using a firearm and one of the subjects employing a knife brought these weapons to the scene (weapons of choice), while the other knife-wielding perpetrator and the remaining assailants used weapons

available at the scene (weapons of opportunity).

### Cause of Death

Three of the victims died of strangulation (42.9 percent). Two had been manually strangled, and one had been killed with a cord. In both cases of manual strangulation, the killer apparently engaged in postmortem sexual assault. Two of

### Case #5

A passerby found the body of a 15-year-old female under a bridge. She was partially clothed and lying on her back. The offender had beaten the victim on her face, head, neck, chest, and back with a piece of concrete and had sexually assaulted her, using a sharp stick that had perforated her uterus and bladder. The police found a number of personal belongings at the scene, including the victim's wallet, comb, shoes, and clothing, as well as a cup of beer and a pack of cigarette papers.

The victim's mother had reported her missing the day before, advising the police that she had not returned from a party. The killer, a

15-year-old male who had known the victim for approximately 9 months, had been her date. Witnesses had seen them leaving the party together. A search of the subject's home revealed that his shoes, clothing, and wristwatch were stained with the victim's blood. According to the offender, he had been engaging in consensual sexual intercourse with the victim when he experienced impotence. When the victim ridiculed him for his poor performance, he "went nuts," beating her with both fists and then a large piece of concrete. The assailant had no previous arrest record.

### Case #6

A 54-year-old female was found in her home, strangled and raped, several days after her death. The front door was ajar, and there were no signs of a struggle. The victim's car was located several days later, parked in the lot of a school. Four days after the discovery of the body, the assailant, a 15-year-old male who knew the victim and lived on the same street, was arrested as he entered the car using the victim's keys. Latent prints in the car and residence belonged to the young killer, and

he confessed that he had gained entry into the victim's home under the pretext of using her clothes dryer. The adolescent advised that after using the dryer, he pretended to leave the victim's home, but instead hid, attacked her using a pillow to cover her face, and then strangled her with a telephone cord. He stated that he raped her after her death. Following the postmortem sexual assault, he fled and took approximately \$2.25 in change, as well as the victim's car.

## Case #7

A 17-year-old male forcibly entered the home of two young children while they were under the care of a 13-year-old female babysitter. The sounds of a struggle woke the children, and one child advised that she had heard the babysitter threatening to tell the assailant's mother (the victim knew her assailant—he was her sister's boyfriend). The children then witnessed the assailant attempting to rape the babysitter. He strangled her and stabbed her more than 30 times with a 12-inch butcher knife from the home. In addition to the stab wounds, the

victim also suffered wounds to both hands as she attempted to defend herself. The assailant had entered the residence by removing several plants and a screen from the kitchen window, possibly in an attempt to stage the offense as a stranger-to-stranger crime. The subject left via the front door of the home, making no effort to conceal the victim prior to leaving. Police found latent fingerprints at the point of entry and matched them to the killer. He had been on bail pending court certification as an adult involving a prior burglary and assault charge.

the victims died as a result of stabbing (28.6 percent), one from a gunshot (14.3 percent), and one from massive internal bleeding (14.3 percent).

In two cases, there was evidence of overkill, i.e., much more violence than necessary to end life. In one case, this involved more than 30 stab wounds and, in the other, random multiple blows to the head and body of the victim with a blunt object. In four of the seven cases (57.1 percent), the offender left the body of the victim with no attempt to conceal or display it. In the remainder of the cases, offenders made some effort to hide the body.

### FINDINGS

In all but one of these cases, juvenile offenders committed sexual homicide against adults or peers. This finding remains consistent with the larger study where peer/adult offenders displayed higher levels of aggression than the child molesters and with existing

sex offender literature that suggests that adult rapists who target their peers generally exhibit more violent and antisocial behavior than adult child molesters.<sup>5</sup> In addition, six out of seven cases involved female victims. This finding coincides with both the high ratio of female-to-male victims in the larger peer/adult offender sample (in which nearly 94 percent of the victims were female) and empirical evidence that suggests that physical aggression toward women often results in greater harm to the victim than when offenders direct violence toward men.<sup>6</sup>

In the larger study, juvenile child molesters more frequently acted alone and chose male victims, and they more often were related to the victim. By contrast, peer/adult offenders most often targeted acquaintances or strangers (nearly 85 percent of the victims). Similarly, in the smaller study, juveniles who sexually assaulted and murdered their victims targeted acquaintances

and strangers. They also chose victims they could access easily.<sup>7</sup> All of the evidence indicates that these murders were intentional and, in at least two cases, sadistic in nature. The offenders also showed a lack of criminal skills typical of youthful and inexperienced criminals.

### RECOMMENDATIONS

This study illustrates the importance of research in the area of sexual violence, particularly as it pertains to juvenile sexual offenders. Such research should focus on a number of issues relevant to the criminal justice system, including the causes and prevention of violence disorders in youths, the relationship between sexual violence and other juvenile crime, and the education of criminal investigators to recognize and appropriately deal with dangerous juvenile sex offenders.

Although juvenile sexual aggression remains an issue of considerable concern in today's

society, the majority of juvenile sex offenders (particularly those who target children younger than themselves) do not engage in physical violence and appear amenable to focused interventions by appropriately trained mental health professionals.<sup>8</sup> On the contrary, offenders whose actions result in homicide, as denoted in these cases, more likely used physical violence. The heterogeneity found in the juvenile sex offender population underscores the importance of developing empirically sound risk-profiling and -classification tools. Doing so will help criminal justice and mental health professionals make critical decisions concerning the disposition of cases involving juveniles.

## CONCLUSION

Recent studies show an increase in the number of juveniles committing sexual crimes. These youthful perpetrators demonstrate varying degrees of aggression depending on the need to control their victims. Whether they target peers, adults, or children; relatives, acquaintances, or strangers, they can become violent and kill their victims.

Further research into this topic could address issues that would help police officers understand violence disorders in youths and how to effectively handle crimes involving juvenile sexual offenders. Working together, law enforcement agencies and mental health professionals can help identify and prevent the causes and consequences of juvenile sexual crimes. ♦

## Endnotes

<sup>1</sup> H.N. Snyder and M. Sigmund, *Juvenile Offenders and Victims: A Focus on Violence* (Pittsburgh, PA: National Center for Juvenile Justice, 1995).

<sup>2</sup> H.E. Barbaree, S.M. Hudson, and M.C. Seto, "Sexual Assault in Society: The Role of the Juvenile Offender," in *The Juvenile Sex Offender*, ed. H.E. Barbaree, W.I. Marshall, and S.M. Hudson (New York: Guilford Press, 1993), 10-11.

<sup>3</sup> J.V. Becker and J.A. Hunter, "Understanding and Treating Child and Adolescent Sexual Offenders," in *Advances in Clinical Child Psychology* 19, ed. T.H. Ollendick and R.J. Prinz (New York: Plenum Press, 1997).

<sup>4</sup> Police officers participating in the National Academy program at the FBI Academy in Quantico, Virginia, provided the reviewed records. See J.A. Hunter, R.R. Hazelwood, and D. Slesinger, "The Modus Operandi of Juvenile Sexual Offenders: A Comparison of Child Molesters and Rapists," *Journal of Family Violence*, in press.

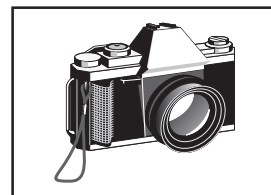
<sup>5</sup> Supra note 2; and G. Richardson, T.P. Kelly, S.R. Bhate, and F. Graham, "Group Differences in Abuser and Abuse Characteristics in a British Sample of Sexually Abusive Adolescents," *Sexual Abuse: A Journal of Research and Treatment* 9, no. 3 (1997): 239-257.

<sup>6</sup> J.M. Makepeace, "Gender Differences in Courtship Violence Victimization," *Family Relations: Journal of Applied Family and Child Studies* 35, no. 3 (1986): 383-388; and C.M. Murphy and K.D. O'Leary, "Psychological Aggression Predicts Physical Aggression in Early Marriage," *Journal of Consulting and Clinical Psychology* 57 (1989): 579-582.

<sup>7</sup> See also R.R. Hazelwood and J. Warren, "The Serial Rapist: His Characteristics and Victims (Part I)," *FBI Law Enforcement Bulletin*, January 1989, 10-17; and R.R. Hazelwood and J. Warren, "The Serial Rapist: His Characteristics and Victims (Conclusion)," *FBI Law Enforcement Bulletin*, February 1989, 18-25.

<sup>8</sup> J.A. Hunter and J.V. Becker, "Motivators of Adolescent Sex Offenders and Treatment Perspectives," in *Sexual Aggression*, ed. J. Shaw (Washington, DC: American Psychiatric Press, Inc., in press).

## Wanted: Photographs



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

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

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## Child Victims and Witnesses

*Breaking the Cycle of Violence: Recommendations to Improve the Criminal Justice Response to Child Victims and Witnesses*, a monograph recently released from the U.S. Department of Justice's Office for Victims of Crime, offers specific recommendations to law enforcement personnel, prosecutors, and criminal court judges and administrators. Moreover, the monograph offers five recommendations to all criminal justice professionals to improve their response to children exposed to violence.

- To ensure the earliest possible recognition and reporting of crimes against children, all criminal justice professionals who come in contact with children should be trained to identify children who are exposed to violence as victims or witnesses and informed of the impact of victimization on children.
- Criminal justice professionals assigned to handle cases involving child victims and child witnesses should have more in-depth training in forensic interviewing, child development, identification of abuse-related injuries, the emotional and psychological impact of abuse, and legal issues related to child victims and witnesses.
- Children who witness violence should be provided the same level of victim assistance and special protections within the criminal and juvenile justice systems as child victims.

- Criminal justice agencies handling cases involving children as victims and witnesses should work in collaboration with other agencies having responsibility for at-risk children, such as family and juvenile courts, social and victim services agencies, and medical and mental health providers.
- Criminal justice professionals should adapt their practices to recognize the developmental stages and needs of child victims and witnesses to ensure they receive sensitive treatment throughout the investigative and trial process.

The monograph describes the best practices and programs that focus on the most effective response to child victims and child witnesses by all those who work in the criminal justice system. The information, skills, programs, and practices described in the publication can serve as a blueprint for policymakers, criminal justice professionals, and others who recognize the importance of effective intervention in the lives of victimized children as a way to prevent future crime and violence.

For further information, contact the Office for Victims of Crime at 800-627-6872, or access its Internet site at <http://www.ojp.usdoj.gov/ovc/>.

**Bulletin Reports**, a collection of criminal justice studies, reports, and project findings, is compiled by Bunny S. Morris. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 209, Madison Building, FBI Academy, Quantico, VA 22135. (NOTE: The material in this section is intended to be strictly an information source and should not be considered an endorsement by the FBI for any product or service.)

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## *Law Enforcement Officers and DNA Evidence*

*What Every Law Enforcement Officer Should Know About DNA Evidence*, a brochure produced by the National Institute of Justice (NIJ) and the National Commission on the Future of DNA Evidence, contains vital information on identifying, collecting, avoiding contamination, and transporting and storing DNA evidence. The brochure features a small removable section suitable for officers to carry with them that identifies some common items of evidence, the possible location of DNA on the evidence, and the source of the DNA. It also lists ways that officers can avoid contaminating the evidence.

Also produced by NIJ is a report by the National Commission on the Future of DNA Evidence, *Postconviction DNA Testing: Recommendations for Handling Requests*. The report contains information on legal and biological issues of DNA evidence and recommendations for defense counsel, prosecutors, judicial officers, victims advocates, and DNA laboratories. To obtain a copy of the brochure or the report (NCJ 177626), contact the National Criminal Justice Reference Service at 800-851-3420, or access its Internet site at <http://www.ncjrs.org>.

## *School Security*

In conjunction with the U.S. Department of Education Safe and Drug-Free Schools Program and the U.S. Department of Energy Sandia National Laboratories, the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice has released a research report on school security. *The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies* represents the first in a series of manuals designed for school administrators and law enforcement agencies. The report contains information on nontechnical, nonvendor-specific products readily available; the strengths and weaknesses of these products and their expected effectiveness in a school environment; the costs of these products, including installation, long-term operational and maintenance, staffing needs, and training; the requests for quotes requirements; and possible legal issues. The report also contains numerous resources, including publications, Web sites, and conferences. To obtain a copy of the report (NCJ 178265), contact the National Criminal Justice Reference Service at 800-851-3420, or access its Internet site at <http://www.ncjrs.org>.



# ***Stalking- Investigation Strategies***

By GEORGE E. WATTENDORF, J.D.

**O**n a warm summer evening in 1985, an officer received a call that shots had been fired at a residence. When the officer arrived at the home, a woman, crying and shaking, opened the door. The officer noticed blood trickling from the woman's head. She told the officer that she thought her ex-husband had broken into her house and fired a gun at her while she was sleeping. After investigating, the officer found a single .38-caliber round of ammunition embedded in the mattress near a pillow where the woman had been sleeping.

The woman explained to the officer that her divorce had been finalized just the week before. She also advised that her ex-husband had threatened her, saying, "If I can't have you, no one will." She described letters she had received from her ex-husband and the feeling that he had been watching her (i.e., he could recite her daily routine and who she had been with at a particular time). She said that she had not reported the incidents to the police because she did not think her ex-husband had committed a crime.

Upon further investigation, officers learned that her ex-husband

suddenly had quit his job and sold his car and other possessions, and he had not been to his residence in another state for weeks. Additionally, evidence showed that the ex-husband had started drinking again after a long period of sobriety.

Despite the danger, the woman chose not to stay at a shelter until the police could apprehend her ex-husband. A few days later, the ex-husband waited for her at work. He shot her, emptying his .38-caliber revolver into her body at close range. He then committed suicide by driving his car into a large boulder.

Unfortunately for the victim in this real-life incident, her state had not yet enacted stalking laws. But if this tragic incident had occurred several years later, this woman might have reported her ex-husband's conduct to the police before the initial shooting. Moreover, if she had known what actions to take to protect herself, she might still be alive.

Stalking cases present unique challenges to law enforcement. Offenders do not adhere to predictable stalking patterns; therefore, no one knows what stalkers will do next or how far they will go. In some instances, stalkers limit harassment to annoying phone calls and letters, but other cases can escalate to assault or homicide.

### CATEGORIZING STALKERS

Most stalking cases involve a male offender and a female victim who had some type of prior intimate relationship with each other.<sup>1</sup> Although not as common, other types of stalking cases include acquaintance stalking, where the stalker and the victim may know each other casually (e.g., co-workers or neighbors), and stranger stalking, where the stalker and the victim do not know each other at all (e.g., victims who are celebrities or public figures). Often, acquaintance and stranger stalkers have a mental disorder such as erotomania—a delusional belief that the victim loves them.<sup>2</sup>

Studies reveal that most stalking cases average 1 year or less.<sup>3</sup> During this time, stalkers may exhibit many types of behaviors. Although stalking cases differ in intensity and length, they share many

characteristics, such as repetitive acts. The most common stalking activities include following or spying on the victim and attempting to communicate with the victim by telephone and mail.<sup>4</sup> Whatever techniques a stalker uses, law enforcement officers should advise victims to document all incidents, which they may use against offenders at a later time.

### COLLECTING EVIDENCE

Evidence collection starts with the victims. Officers should explain the importance of preserving all evidence. Victims should record each time they see the stalker or when any contact is made. Further, victims should document specific details, such as time, place, location, and any witnesses. Messages on answering machines, faxes, letters, and computer e-mail messages provide useful resources to build a case against the offender.<sup>5</sup> Law enforcement agencies should consider

providing the victim with a small tape recorder to facilitate the collection of this information. Additionally, when victims receive objects or mail from stalkers, their first instinct is to discard these items. Investigators should emphasize the necessity of maintaining all evidence, which may be used to support victim credibility in some cases. Assigning a number to the case and asking the victim to refer to it when calling for service can facilitate evidence collection.

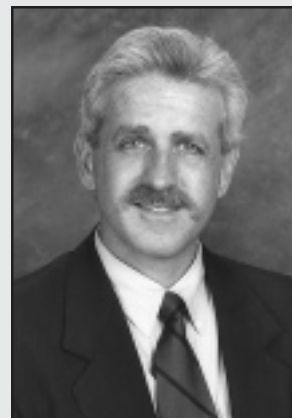
### Documentation

Law enforcement officers should encourage victims to report in a journal how the stalking has affected them and their lifestyle. For example, they should indicate sleep lost; days missed from work; and the need to seek counseling, obtain new phone numbers, get door locks replaced, or even move. This information can help convince a jury of the victim's fear and

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***Stalking cases  
present unique  
challenges  
to law  
enforcement.***

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*Mr. Wattendorf serves with the Dover, New Hampshire, Police Department.*



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trauma. The journal also can serve as a memory refresher for the victim if the case does not go to trial immediately after the subject's arrest. Subsequently, officers should inform the victim that the defense also will have the right to review the journal.

Because harassing phone calls remain the most common stalking behavior, law enforcement officers should encourage victims to use an answering machine to screen their calls. At the same time, victims should obtain an unlisted phone number or use a different name for a second phone line. Phone companies offer many options for identifying incoming calls, such as caller ID, and procedures to trace the source of the calls.

#### **Interview**

Law enforcement officers should consider a noncustodial interview of the suspect. In some cases, investigators might not have enough probable cause to arrest the suspect, but often, offenders will make admissions about their victims. Even denials in the face of clear contradicting evidence can help prove guilt. Officers should check all of the suspect's alibis.

After the interview concludes, officers should provide a form letter advising the suspect of the stalking statute and warning that future contact with the victim could result in a charge against the suspect. This will aid the prosecutor because it establishes that the subject purposefully or knowingly stalked the victim. The investigator should personally serve the letter to the offender, documenting the date and time on the original.

#### **Surveillance**

Another investigative strategy involves surveilling suspects at times when they would likely stalk the victim, such as when the victim goes to, or returns from, work. Additionally, agencies should consider electronically tracking the offender's vehicle or installing concealed cameras outside the victim's home. Many convicted stalking offenders have revealed that they repeatedly engage in some type of behavior that never gets detected.

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***Investigators  
should emphasize  
the necessity  
of maintaining  
all evidence....***

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Further, officers should check for external security cameras in areas where the victim has reported seeing the suspect. Many banks and businesses have cameras that monitor exterior parking lots and intersections and may have caught the subject on tape.

#### **Search Warrant**

Executing a search warrant for the suspect's personal and work computers, residence, and vehicle can prove useful in many circumstances. Officers should look for spying equipment (e.g., binoculars or a camera with a telephoto lens), photos, and any property belonging to the victim. These items can

enhance the stalking prosecution. Further, agencies should consider working with postal inspectors to establish a mail cover of the offender's outgoing mail. This authorizes the postal service to monitor outgoing mail from the suspect's residence.

#### **Other Options**

Investigators should look beyond the stalking statute and consider charging stalkers under alternative statutes, which might result in quicker legal action. Harassment or trespassing charges can provide early intervention and place the case in the court system, which can administer bail or sentencing supervision options, while establishing a history of stalking behavior that prosecutors can use later to enhance sentencing.

Additionally, Congress passed new federal laws criminalizing interstate stalking and crossing state lines to violate protection orders.<sup>6</sup> Law enforcement officers should consult with the U.S. attorney in their jurisdictions for investigative procedures to employ when a stalker crosses state lines.

#### **PLANNING VICTIM SAFETY MEASURES**

Although officers should advise victims that they cannot guarantee their protection, law enforcement agencies can recommend certain safety rules and precautions for stalking victims to follow. First, officers should advise the victim to seek a protection order from the stalker. Generally, to obtain this order, victims must demonstrate how their safety is at risk from any assaultive, threatening, or stalking



behavior by the offender. Each state can enforce the order, which prohibits a broader range of conduct than stalking statutes. For example, the order can forbid any type of contact between the stalker and the victim. The victim does not have to establish a threat or demonstrate fear in order to support a charge of violating a restraining order.

### **Notification**

Police officers should encourage victims to inform their neighbors and employers that they have a restraining order against an offender. Victims can prepare a notice describing the offender's physical appearance and vehicle information. The notice should request that anyone who sees the offender on restricted property contact the police. Investigators also should refer victims to shelter advocates for safety planning advice.

### **Confidentiality**

Law enforcement agencies should advise victims to instruct utility companies, motor vehicle departments, and offices with public property records to keep address and account information confidential. Additionally, the investigator may consider preparing a form letter for stalking victims to send to such companies, asking that the recipient of the letter honor the confidentiality request. Further, victims can change their social security numbers more easily today, making it difficult for offenders to trace their locations in this manner. Victims also should destroy all discarded mail and avoid talking on portable phones, which other individuals can easily intercept.

### **Security**

Officers should inform victims about simple security measures to initiate, such as obtaining and carrying cellular phones, changing their daily routines (i.e., using different routes to go to work and home and varying regular shopping locations), changing locks on their homes, and taking basic home security measures, such as locking all doors and windows and knowing the location of their nearest police station and firehouse. Investigators should recommend that victims establish an escape plan at work or home. When possible, victims should request escorts; they should not go out alone.

### **Arrest**

When arresting offenders, police officers should complete an extensive background investigation that goes beyond the standard booking information. Because of the increased risk of homicide in stalking cases involving individuals who once had an intimate relationship, investigators should ask the victim and the offender's friends and family if the suspect has made suicidal threats, lost a job, recently acquired a weapon, or made threats, such as "If I can't have you no one will," to the victim. Most domestic

violence homicide investigators can declare that this type of conduct precedes domestic homicide. This experience enables investigators to qualify as experts when testifying at bail hearings about the dangerousness of stalkers.

Further, agencies always should conduct a criminal background check to determine any prior record of violence, as well as prior defaults on court appearances. This information, combined with the lethality assessment, can assist the prosecutor in seeking a higher bail. If the court system grants the offender pretrial release, jurisdictions may consider various electronic monitoring systems, court-ordered medication (e.g., antidepressants), or supervision by pretrial probation services. Law enforcement agencies also may consider implementing a system to immediately notify the victim of the subject's release or violation of probation.

### **CONCLUSION**

At one time, the behavior associated with stalking was not considered a crime. Today, however, most jurisdictions have criminalized stalking. Moreover, greater awareness has led to the ability to charge offenders under

#### **Victim Resources**

- **The National Center for Victims of Crime**  
703-276-2880  
[www.ncvc.org](http://www.ncvc.org)

- **National Domestic Violence Hotline**  
800-799-SAFE

such statutes as harassment or trespass. This capability often hinges on the investigator's ability to collect evidence and protect the victim.

Investigators should provide victims with the support they need to gather evidence and keep themselves safe. Victims should document and report every incident, save proof of the offender's behavior, and, most important, take safety precautions. Community service organizations can provide a lifeline for victims in this regard.

Stalking represents a crime that can leave victims psychologically traumatized, physically injured, or even dead. For the sake of these victims, members of the criminal justice community need to take stalking threats seriously and work together to pursue, arrest, and prosecute stalkers. ♦

#### Endnotes

<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, "Third Annual Report to Congress Under the Violence Against Women Act" (Washington, DC, July 1998), 10.

<sup>2</sup> Susan Cullen Anderson, "Anti-Stalking Laws: Will They Curb the Erotomaniacs' Obsessive Pursuit?" *Law and Psychology Review* 17 (1993): 171.

<sup>3</sup> Supra note 1, 21.

<sup>4</sup> Supra note 1, 13.

<sup>5</sup> Robert L. Snow, *Stopping Stalking: A Cop's Guide to Making the System Work for You* (New York: Plenum Press, 1998), 198.

<sup>6</sup> 18 U.S.C. § 2261A and § 2262.

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*The Dover, New Hampshire, Police Department can provide sample letters and forms upon request. Additionally, they have a free, 10-minute informational videotape for stalking victims. Please request by e-mail to g.wattendorf@ci.dover.nh.us.*

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## Crime Data

### *Law Enforcement Officers Killed in the Line of Duty*

According to preliminary figures released by the FBI, 61 law enforcement officers were slain feloniously in the line of duty in 1998. Seventy officers lost their lives due to criminal action in 1997.

During 1998, handguns were used in 40 of the murders, rifles in 17, and a shotgun in 1. A vehicle was used in 1 killing, a blunt object in another, and a bomb was the weapon in the remaining attack. Thirty-four officers were wearing body armor at the time of their deaths, and 6 were slain with their own weapons.

Sixteen officers were slain during arrest situations: 7 were investigating drug-related incidents; 6 were serving arrest warrants; and 3 were attempting to prevent robberies or

apprehend robbery suspects. Sixteen officers were killed while answering disturbance calls, 10 in ambush situations, 9 while enforcing traffic laws, 6 while investigating suspicious persons or circumstances, and 4 while handling prisoners. Authorities have cleared 51 of these incidents by arrest or exceptional means, and 5 suspects remain at large.

Preliminary statistics also indicate that in 1998, an additional 77 officers accidentally lost their lives during the performance of their duties. This total represents an increase of 15 over the 62 accidental deaths that occurred in 1997.

Final statistics and complete details have been published in *Law Enforcement Officers Killed and Assaulted—1998*.

## Focus on Juveniles

### Implementing Juvenile Curfew Programs

By J. Richard Ward, Jr.

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*"The curfew tolls the knell of parting day...."*  
—Thomas Gray, *Elegy Written in a Country Churchyard*

Besides meaning "the sounding of a bell at evening," the word *curfew* also denotes "a regulation enjoining the withdrawal of usually specified persons (as juveniles or military personnel) from the streets or the closing of business establishments or places of assembly at a stated hour."<sup>2</sup> The latter application has begun to appear ever increasingly in research studies and articles as a way to stem juvenile crime and victimization.

For over a century, American communities have imposed curfews at various times in an effort to maintain social order. For example, curfews first appeared during the 1890s in large urban areas to decrease crime among immigrant youth. During World War II, many communities again turned to curfews as a method of control for parents busily engaged in the war effort. More recent interest in

curfews occurred as a response to the increase in juvenile crime and gang activity during the 1970s.<sup>3</sup>

Today, lawmakers, government leaders, social scientists, and law enforcement authorities have begun to examine the legalities, planning, effects, and benefits of juvenile curfews. Most believe that any law that may decrease the number of juveniles involved in illegal activities and possibly reduce the crimes perpetrated against juveniles would benefit their communities. Although critics have voiced concerns about infringing on the rights of juveniles and their parents, as well as the effectiveness of curfews on crime rates, many communities have found curfews beneficial.<sup>4</sup>

#### THE CHARLOTTESVILLE EXPERIENCE

Located about 70 miles northwest of Richmond in the foothills of the Blue Ridge Mountains, Charlottesville, Virginia, encompasses over 10 square miles and has a population of nearly 40,000 residents. Although the community had experienced relatively little juvenile violence, the city decided to adopt a curfew more as a preventive measure to protect its children from harmful influences, such as drug abuse and gang involvement, and to promote healthy behavior, rather than as a response to an increase in juvenile crime. Complaints of young people riding bicycles or loitering on the streets at 1 or 2 o'clock in the morning prompted the city council, the police department, and concerned community members to find a way not only to protect these youngsters but also to help parents enforce their own curfew rules.

After several months of study and deliberation, the Charlottesville City Council enacted a juvenile curfew on December 16, 1996.<sup>5</sup> The city council designed the curfew ordinance—

- to promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;
- to promote the safety and well-being of the city's youngest citizens, persons under the age of 17, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, especially unlawful drug activities, and to being victimized by older perpetrators of crime; and

- to foster and strengthen parental responsibility for children.<sup>6</sup>

With these basic tenets in mind, the Charlottesville Police Department examined other communities with positive curfew experiences and learned the importance of the three main factors that go into making successful curfew programs: community acceptance, consistent enforcement practices, and accurate record keeping.

### Community Acceptance

First and foremost, community members must accept the curfew. Parents and guardians must realize that they will have to assist in its enforcement on the family level and always know the whereabouts of their children after curfew hours. Law enforcement authorities alone cannot effectively enforce curfews; all adults concerned with the safety of their community's children must join in the effort. For example, one way that the Charlottesville Police Department gained community support for the curfew involved using its school resource officers to inform all school personnel and students. This allowed students to learn firsthand about the curfew and its impact on them.

Additionally, communities should implement comprehensive curfew programs that change the punitive nature of the curfew into an intervention process that can attack the primary causes of juvenile delinquency and victimization.<sup>7</sup> These programs should include such strategies as—

- creating a dedicated curfew center or using recreation centers and churches to house curfew violators;
- staffing these centers with social service professionals and community volunteers;
- offering referrals to social service providers and counseling classes for juvenile violators and their families;
- establishing procedures—such as fines, counseling, or community service—for repeat offenders;

- developing recreation, employment, antidrug, and antigang programs; and
- providing hot lines for follow-up services and crisis intervention.<sup>8</sup>

These strategies proved beneficial in Charlottesville, which brought together representatives from its local law enforcement, judicial, social services, educational, religious, and medical fields to create a comprehensive program to protect its youngest citizens while encouraging positive, healthful behavior. Other communities, both urban and rural, could adapt these strategies to fit their needs and available resources.

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...a juvenile curfew  
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manner.  
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### Consistent Enforcement Practices

While community acceptance remains paramount, a juvenile curfew can succeed only if authorities enforce it in a consistent, fair, and uniform manner. To this end, law enforcement agencies should establish curfew enforcement policies that set forth required procedures, including guidelines for confronting potential violators, enforcement options, and reporting and follow-up requirements.<sup>9</sup> Agencies should advise community members of these procedures to ensure their support and compliance. For example, Charlottesville police officers met with parents and guardians of juveniles and explained the procedures that they would follow. The vast majority of parents and guardians told the officers that they fully supported the curfew, and many of them, particularly single mothers of teenagers, said that the curfew would help them restrict their children's activities.

Officers who deal with curfew violators also need to comprehend the various reasons that youngsters may have for committing such acts. For example, Charlottesville officers found that some juveniles had not realized they were out past the curfew, others had run away from home and needed social or child protective services, while still others had engaged in repeated curfew violations for criminal purposes.



Therefore, the department established enforcement guidelines and procedures for its officers to follow that included a variety of options—such as telling the violator to proceed directly home, transporting the juvenile home, or arresting and detaining the youngster. Agencies should encourage their officers to use discretion when determining their courses of action and always consider the safety of the violators, as well as the community, when determining which enforcement option to choose.<sup>10</sup>

### Accurate Record Keeping

Accurate record keeping stands as an important element of successfully implementing curfews. A complete record should include the number of juveniles contacted as a result of the curfew and the number detained, released, and summoned. Officers should note when and where they found violators; their age, sex, and race; the reason for the violation; and whether the parents or guardians knew the whereabouts of the juveniles. Most important, officers always should document cases where domestic problems or abuse triggered the curfew violation. Charlottesville police officers found this especially true in cases where they may have never learned of such problems, and the youngsters involved may have never received the resultant social services.

The department also found that a follow-up visit, a letter, or even a telephone call by officers assigned to youth activities often prevented future violations. Whichever course officers take, they should document these actions, as well. Likewise, in cases that require the intervention of social or child protection services, officers should record this information and maintain communication with the service provider.

### RESULTS

Many communities credit curfews with reducing juvenile crime and violence. Many law enforcement agencies appreciate the tools that curfews give them to keep youths off the streets and away from potential dangers. Many parents and guardians say that they

can place boundaries on their children's activities more easily when other young people in the neighborhood must comply with a communitywide curfew. Even though these successful experiences with juvenile curfews exist, critics often oppose such efforts on both practical and legal grounds.<sup>11</sup> However, research

has shown that communities can reduce juvenile delinquency and victimization when community members work together to create and implement comprehensive curfew programs.<sup>12</sup>

Since the inception of its curfew, the city of Charlottesville has seen a dramatic decrease in the number of juveniles on the streets late at night or in the early morning hours. While the community experienced relatively little juvenile crime before implementing the curfew, even

less has occurred after it began. Most parents and guardians have applauded the police department's efforts of having its school resource officers explain to young people the potential dangers that exist during these time periods. Also, school administrators have noticed an improvement in attendance. Implementing the curfew has gone smoothly, and the results have exceeded the department's expectations of safeguarding the community's children and encouraging them and their families to pursue healthy, constructive lives.

### CONCLUSION

For over a century, communities in the United States have imposed juvenile curfews to help maintain order and reduce crime committed by youths. Recently, many communities have expanded this basic method of curtailing the activities of young people to include comprehensive, community-based curfew programs, which include strategies to protect children from elements that place them at risk for becoming involved in drugs, gangs, and other dangerous or illegal activities.

To protect its children from such harmful and unhealthy influences, the city of Charlottesville, Virginia, developed and implemented a

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community-based juvenile curfew program. The community felt that a preventive approach to its young people's wandering the streets late at night or in the early morning hours would prove beneficial in reducing the victimization of these youths. Concern for the safety of its youngsters rather than an increase in juvenile crime propelled the community to implement a curfew program. The success of this effort has shown how community members can work together to find effective ways of not only reducing juvenile crime and violence but, more important, preventing such occurrences in the first place. ♦

#### Endnotes

<sup>1</sup> John Bartlett, *Bartlett's Familiar Quotations*, 16th ed., ed. Justin Kaplan (New York: Little, Brown and Company, 1992), 322.

<sup>2</sup> *Webster's Collegiate Dictionary* (1996), s.v. "curfew."

<sup>3</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Justice Reform Initiatives in the States, 1994-1996*; available from [http://www.ojjdp.ncjrs.org/pubs/reform/ch2\\_c.html](http://www.ojjdp.ncjrs.org/pubs/reform/ch2_c.html); accessed October 5, 1999.

<sup>4</sup> Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Curfew: An Answer to Juvenile Delinquency and*

*Victimization?* April 1996; available from <http://www.ncjrs.org/txtfiles/curfew.txt>; accessed October 5, 1999.

<sup>5</sup> Charlottesville, Virginia, City Code, Chapter 17, Section 17-7; available from <http://cityatty.ci.charlottesville.va.us>; accessed October 5, 1999. Communities should realize that some individuals have challenged curfew ordinances; therefore, they should obtain legal guidance when crafting and implementing these ordinances. For additional information about ordinances that have withstood legal challenges, see Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Curfew: An Answer to Juvenile Delinquency and Victimization?* April 1996; available from <http://www.ncjrs.org/txtfiles/curfew.txt>; accessed October 5, 1999.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Supra* note 4.

<sup>8</sup> *Supra* note 4.

<sup>9</sup> For an example of a model curfew policy, contact the International Association of Chiefs of Police (IACP) National Law Enforcement Policy Center, 515 North Washington Street, Alexandria, VA 22314-2357; telephone: 800-THE-IACP; Web site: <http://www.theiacp.org/pubinfo/>.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Supra* note 3.

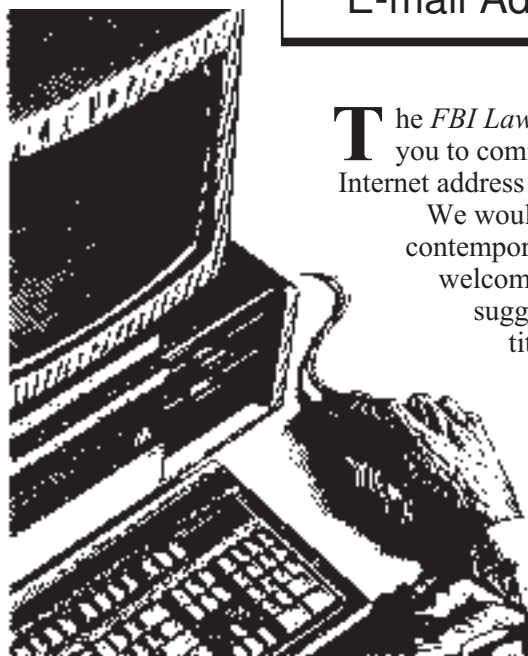
<sup>12</sup> *Supra* note 4.

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*Sergeant Ward serves as the Charlottesville, Virginia, Police Department's training coordinator.*

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## The Bulletin's E-mail Address



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# *Mentoring for Law Enforcement*

By JULIE WILLIAMS, M.S.

© Tribute



**T**he probationary period can be a stressful time for police recruits. Despite their successful completion of academy training, new graduates sometimes find it difficult to make the transition from their roles as police students, when their mistakes can be corrected, to street officers, when their errors can cost lives. Whether they lack skills or confidence, some recruits simply do not survive the probationary period; they quit or get fired, leaving their agencies without

the officers that the organization invested a great deal of time and money to select and train.

Even officers who make it through the probationary period may find their careers stymied by a lack of opportunity, savvy, or a host of other obstacles that keep some employees from advancing in their organizations. This may prove particularly true for women and minorities. In fact, scholars and police researchers have cited lack of promotions of women and minorities to

supervisory and command ranks as a severe problem in policing for at least two decades. In the United States, women comprise a minuscule number of supervisors in municipal and state police agencies, while approximately 16 percent of African American men and 2 percent of African American women have attained a rank above entry level, compared to 30 percent of white men.<sup>1</sup>

Many police agencies employ some form of Field Training Officer



*Captain Williams serves with the Lansing, Michigan, Police Department and coordinates the department's mentoring program.*

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***....mentoring  
benefits every  
employee—  
civilian and  
sworn, veteran  
and rookie, male  
and female.***

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(FTO) program to formally train recruits, just as the Lansing, Michigan, Police Department does. Between January 1988 and November 1996, the department hired 135 police officers (108 men and 27 women), and each participated in an FTO program. Eighty-three percent (112 actual) successfully completed the program. Twenty-three police officer candidates failed the FTO program, in effect, failing their probationary period. Moreover, although 87 percent of the men (94 actual) successfully completed their probationary period, only 67 percent of the women (18 actual) did so. African Americans comprised 14 of the hires and had a 79 percent success rate. Asian American and Hispanic officers each achieved a 75 percent success rate with 4 hires and 12 hires, respectively.

Thus, an FTO program helps many new employees successfully complete their probationary periods and establish a foundation for further growth; yet, it may not ensure their continued advancement or

provide the additional support that some officers need. Research has found that a mentor may prove crucial to a new hire's successful transition into an organization<sup>2</sup> and, furthermore, that mentoring benefits protégés, mentors, and organizations alike.

#### **THE BENEFITS OF MENTORING**

Whether it is an informal arrangement between two individuals or a formalized, structured program sanctioned by the organization, mentoring involves the provision of wise assistance by a mentor to a protégé. Mentoring operates on the assumption that people relate more readily and positively to peer assistance than to supervisory direction. It provides a nonthreatening environment for learning and growth to occur.

Many researchers have documented the fact that mentors and mentoring relationships have a positive and powerful impact on professional growth, career

advancement, and career mobility. Generally, a person moving into managerial ranks must learn six things—the politics of the organization; the norms, standards, values, ideology, and history of the organization; the skills necessary for progression to the next career step; the paths to advancement and the blind alleys; the acceptable methods for gaining visibility; and the characteristic stumbling blocks and personal failure patterns in the organization.<sup>3</sup> A mentoring relationship addresses each of these areas. In fact, the mentor-protégé relationship undeniably is one of the most developmentally important professional relationships a person can have.

Mentors help their protégés by filling such roles as teachers, guides, coaches, confidantes, role models, advisors, facilitators, sponsors, promoters, and protectors. In a sponsor role, a mentor can make things happen that normally would prove beyond the protégé's ability to accomplish; as a teacher, a mentor imparts insight into organizational culture; in the devil's advocate role, a mentor hones the protégé's problem-solving skills. Perhaps the mentor's main role is that of coach—giving candid feedback in a supportive atmosphere about the protégé's potential, career paths, strengths, and areas for development.

Mentors benefit from their relationship with their protégés, as well. Mentors share and take pride in their protégés' accomplishments. In addition, the knowledge and insight they impart reminds them of the contribution they make to their

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agency. Moreover, the excitement and fresh perspective that new employees bring to an agency invigorates even the most veteran officers, renewing their commitment to their job and their profession.

The benefits organizations garner from mentoring prove both tangible and intangible. More employees successfully complete their probationary periods, and as a result of the increased job satisfaction that mentoring programs often foster, they stay on the job longer. In addition, the enthusiasm, camaraderie, and professionalism mentoring programs achieve affect the entire culture of an organization. By designing a structured program (with an evaluation and feedback process built into it), carefully selecting and adequately training mentors, properly matching mentors and protégés, and monitoring the mentor-protégé relationship, an organization can enjoy the benefits that mentoring has to offer.

#### **THE COMPONENTS OF A SUCCESSFUL PROGRAM**

Identifying goals represents an important first step in implementing a successful mentoring program. The proper formulation of goals establishes the program boundaries and expectations. Organizational goals may include improving employee retention rates, enhancing the match between employees and jobs, increasing employee job satisfaction and loyalty, facilitating the professional growth of protégés, and teaching organizational culture, values, and standards.

Input on organizational goals can and should come from all

members of the organization. In the Lansing Police Department (LPD), the mentoring coordinator conducted a series of focus groups, including a representative mix of supervisory and nonsupervisory personnel from every area of the department, as well as individuals from the academy and the police union. These sessions provided critical, substantive input on every aspect of the proposed program.

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Every sworn officer with 3 or more years of service with the department (205 actual) completed a survey to provide feedback on a mentoring program, including any potential barriers to implementation, accessibility, and acceptability. Sworn personnel with fewer than 3 years of service (49 actual) completed another survey designed to elicit the positive and negative experiences they had encountered during their probationary year with the department. Respondents to both surveys could remain anonymous.

All of this research and data helped the coordinator to identify the LPD's needs and

goals—employee retention and professional growth—while defining the mentor program structure and implementation strategy. At the same time, the anonymous surveys and focus group sessions allowed participants to provide honest and objective input and also enhanced support for the program.

In fact, a mentoring program cannot succeed without support from all levels of the organization, especially senior management. Moreover, the institutional commitment must be more than mere words. It includes policy statements, allocation of physical and financial resources, active recruitment by and involvement of administrators in the program, inclusion of mentoring as a consideration for promotion, and public speeches by administrators about the progress and accomplishments of the program. Building on this firm foundation, agency personnel provide the framework for a solid mentoring program.

#### **Selecting, Training, and Pairing Participants**

The selection and training of mentors represent critical components of a successful program. Mentoring research in the United Kingdom reveals that mentor criteria fall into three areas: being a good role model, offering guidance and counseling, and possessing strong knowledge and experience within one's profession.<sup>4</sup> As a role model, a mentor should be adaptable, understanding, reliable, conscientious, and articulate. To provide guidance and counseling, a mentor should have a supportive



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demeanor and good interpersonal skills and remain accessible. Demonstrated professional ability and experience, as well as a philosophical grasp of mentoring, complete the picture of a mentor.

#### *Selecting Mentors*

Not everyone has the capacity to be a mentor. Mentors provide both practical and emotional support,<sup>5</sup> both knowledge and understanding. Protégés should learn from the best. Mentors should be respected in the organization, motivated, liked, confident, flexible, able to engender trust, and concerned with the development of the protégé to the extent that the mentor will spend whatever time proves necessary to assist the protégé. For open communication and learning to take place, both mentors and protégés should participate voluntarily.

In LPD, a departmentwide posting announces the need for mentors. Volunteers complete a questionnaire, which provides critical information used to pair mentors and protégés.

#### *Training Mentors*

All mentors should receive formal training, either in the form of in-house program meetings and workshops, external vendor seminars, or a combination thereof. The LPD mentoring program coordinator developed the department's training program based on personal research, experience, and training, which included a 2-day seminar conducted by a law enforcement consultant, a retired law enforcement officer who had pioneered a

mentoring program in her own department. Agencies should develop training according to their own unique needs; however, quality training provided by qualified professionals remains paramount to program success.

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***Mentors provide both practical and emotional support, both knowledge and understanding.***

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LPD mentor training covers the history and roles of mentors and protégés, the success factors for mentor-protégé pairings, practical hints and suggestions, and general expectations mentors and protégés have of each other. The training also contains an overview of the program structure, guidelines, policy, goals, and evaluation criteria. It also covers the FTO program, so mentors understand exactly what the department expects recruits to accomplish during their probationary periods, as well as how they should handle their protégés' concerns about the program. (Mentors should help protégés follow the proper channels to express legitimate complaints; they never should criticize the program themselves.) Mentors receive practical advice on such areas as identifying protégé needs and goals, developing a

trusting relationship, and being a positive role model.

Communication represents the heart of the mentoring program and plays a leading role in mentoring training, as well. Mentors study verbal and nonverbal communication, practice active listening, and learn to extract the message behind their protégé's words. A communication expert conducts this part of the training.

The LPD coordinator also asked program participants to evaluate the training they received. However, unlike most classes where students are asked for their opinions at the end of the session, LPD mentors completed their evaluations after they had had the chance to put the theories into practice. In this way, their comments proved more constructive than those they might have made immediately following their training.

#### *Pairing Participants*

The LPD produced a video to promote its mentoring program. LPD police cadets, recruits, and officer candidates view the video near the end of the hiring process, and if interested, they complete a program questionnaire. Once they officially join the department, the mentor advisory team and the program coordinator pair them with mentors. Although mentors have some input, the coordinator makes the final decision on mentor-protégé pairings and notifies the mentor, protégé, and human resources personnel of that decision.

Without an appropriate pairing of mentor and protégé, a mentoring program most likely will fail to



attain program goals and objectives. Prior to actually pairing mentors and protégés, the coordinator should examine the strengths of all available mentors and consult protégés about their career goals. To facilitate a proper match, both mentors and protégés should complete formal applications. Then the mentor and protégé should meet informally to discuss their needs and wants. These factors, as well as the personalities of both the mentor and protégé, represent important considerations for mentor-protégé pairings.

Pairings run the gamut from one-on-one to group pairings. Organizations must determine which style will best serve them and then develop a process that facilitates quality pairings. Agencies also should evaluate the pros and cons of cross-gender and cross-cultural pairings with a realization of the unique potentials each may yield.

Successful mentoring requires that mentor-protégé pairs meet regularly without prompting; that the mentor exhibit an attitude that mandates success; that the mentor and protégé respect each other; that the mentor and protégé have compatible values and career goals, yielding a comfortable, open communication atmosphere; and that the focus of the relationship remain on the protégé and what the protégé needs to do to be successful.<sup>6</sup> Essentially, effective mentoring requires such basic activities as listening to each other, caring about each other, and cooperatively engaging in mutually satisfying ventures. This allows the transfer of knowledge, skills, attitudes, and behaviors

based on a level of trust that provides the protégé with the comfort and confidence to grow. Indeed, trust remains the most important dimension of a successful mentoring relationship.<sup>7</sup> Without trust, no amount of structure, guidelines, or effort can make the relationship succeed.

### **Monitoring Participants**

Mentoring occurs differently for each pair of participants, and generally, mentor-protégé relationships should develop at their own pace. Still, some activities—such as meeting regularly, remaining open to criticism, and keeping behavior appropriate and businesslike—represent crucial aspects for every pair. The program coordinator monitors the partnerships and helps them bear fruit.

In the LPD, meetings involving the coordinator and advisory team occur whenever needed to address pairings and to respond in a timely manner to protégé needs. Mid-year

problem-solving sessions with mentors, advisory team members, and the program coordinator address mentor roles, responsibilities, training needs, and program modification issues. The coordinator also meets one-on-one with mentors and protégés as needed.

The coordinator also publishes a monthly newsletter to provide mentoring tips, program updates, and spotlights on particular participants or occurrences. This key communication device maintains program focus and bridges the communication barriers that exist when mentors and protégés have different shift and precinct assignments. Issues feature articles by either mentors or protégés, detailing, in their own words, their insight and experiences with the program.

### **Evaluating the Program**

An organization may use a number of formal and informal evaluation procedures to assess program impact on protégés, mentors,



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and the organization. Since its inception, the LPD mentor program has focused on employee retention and professional growth. Although no reliable measure of protégé professional growth exists beyond the protégés' demonstration of the basic police skills necessary to perform their duties, LPD retention statistics reveal positive program results.

Between 1992 and 1998, new hires arrived at an average yearly rate of 8.5 percent. In fact, 67 percent of LPD sworn personnel came on board during those years. The sworn personnel hired in 1997 consisted of the single largest group of women and minorities ever hired in a single effort until 1998, when the department hired an even larger pool of minorities. Thus, the mentor program was put to the test early. The average yearly retention rate from 1992 to 1997 stood at 82 percent, then rose in 1998 to 86 percent, a notable figure given the high numbers of new hires, especially women and minorities, who typically find it most difficult to complete their probationary periods.

Program evaluations obtain mentor and protégé feedback. Year-end mentor and protégé survey results proved overwhelmingly positive. One hundred percent of mentors believed the program helped their protégés assimilate into the department, acquire and enhance their skills, identify career goals, and successfully complete their probationary periods. Many mentors felt pride and a sense of accomplishment in assisting the protégé's professional growth while enjoying the friendship the

mentoring relationship provided. Seventy-five percent believed they would have benefitted from a mentor program when they first came to work for the department.

At the same time, 89 percent of the protégés felt the program and their mentors helped them assimilate into the department, build knowledge and confidence, enhance and acquire skills, identify career goals, and successfully complete their probationary periods. They reported that the enjoyable, stress-free learning and problem-

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***...a mentor may prove crucial to a new hire's successful transition into an organization....***

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solving nature of the mentoring relationship proved the most beneficial in helping them achieve these goals. Many wanted to spend more time with their mentors.

Human resources personnel, police academy instructors, uniformed supervisors, FTOs, and clerical support staff also completed a survey. The vast majority of respondents believed the program has had a positive impact on protégé conduct, appearance, and attitude, which, in turn, has had a positive influence on other sworn and civilian personnel. Eighty-two

percent thought the program effectively assists protégés or the organization, and they recommended assigning mentors to all new sworn employees and expanding the program to other workgroups.

And, in fact, the mentor program has expanded to include the 911 communication center, which, ultimately, will have its own distinct program. The mentor pool also has grown to comprise 68 officers, including 7 mentors who had once been protégés themselves.

The mentor program has enjoyed countless individual success stories. Two of the most notable incidents involved two protégés who each had suffered a sudden and nearly catastrophic loss of confidence midway through the FTO program. Their mentors helped them regain their confidence and successfully move forward in the FTO program. One of these protégés declared that he served as living proof of the success of the department's mentoring program.

## CONCLUSION

The complexion of today's law enforcement workforce is changing, as police executives realize the importance of employing officers that better reflect the diversity of the communities they serve. Yet, some researchers contend that without structured organizational interventions, women and minorities cannot achieve their full potential.<sup>8</sup> A number of studies and surveys have shown that mentoring provides individuals with extra support and improved opportunities for success and satisfaction in their careers.<sup>9</sup> Mentoring represents a

At the same time, mentoring benefits every employee—civilian and sworn, veteran and rookie, male and female. When employees flourish, their agencies prosper, and community residents profit, as well. Mentoring has proven a win-win proposition for individuals and organizations. The question law enforcement leaders must ask is no longer, “Why use mentoring?” but, rather, “Why not use mentoring?” ♦

<sup>9</sup> G.M. Mobley, C. Jaret, K. Marsh, and Y.Y. Lim, "Mentoring, Job Satisfaction, Gender, and the Legal Profession," *Sex Roles: A Journal of Research* 31, no. 1-2 (1994): 79-98.



# Book Review

**Problem-Oriented Policing: Crime-Specific Problems, Critical Issues, and Making POP Work** edited by Tara O'Connor Shelley and Anne C. Grant, *Police Executive Research Forum, Washington, DC.*

Problem-oriented policing has emerged as one of the most promising developments in policing over the past few decades. Police officers nationwide and abroad have employed the problem-solving process commonly known as SARA (scanning, analysis, response, and assessment) to address crime, disorder, and fear problems in their communities. This, however, remains no simple task and requires that officers obtain new knowledge, skills, and abilities that improve their understanding and responses to crime and its causes.

*Problem-Oriented Policing*, an edited book, contains presentations from the 1998 International Problem-Oriented Policing Conference held in San Diego, California. More than 1,500 academics, practitioners, and community activists worldwide attended this ninth annual conference. This forum provided a unique opportunity for participants to learn from one another's efforts. The articles selected for this edition provide a rich blend of the practitioners' experiences and research presented at the conference.

Divided into three sections, this book is well organized. The first section, Crime Specific Problems, highlights crime problems commonly experienced by communities, including gangs, burglaries, and violence against women. For example, the use of the SARA process in handling gangs helps to illustrate its application to a serious crime problem.

The next section, Critical Issues, addresses a few of the most serious and emerging concerns facing law enforcement leadership, including civilian review boards, school violence and fear, and crime in business districts. Both timely and

contemporary, the issues discussed in this section, include recent misconduct by police and current schoolyard shootings, which have received national attention. The authors for these articles provide useful and replicable strategies to address these concerns within the context of problem solving. The Critical Issues section can assist chief executives seeking to overcome potential barriers to implementation of problem solving.

The final section, Making POP Work, focuses on the daily practice of problem solving and advancing it to the next level. Articles in this section present such important issues as problem-oriented policing versus zero tolerance, how to evaluate problem-solving officers, and the application of problem solving for investigators. Combined, these articles respond to skeptics who question the efficacy of problem oriented policing.

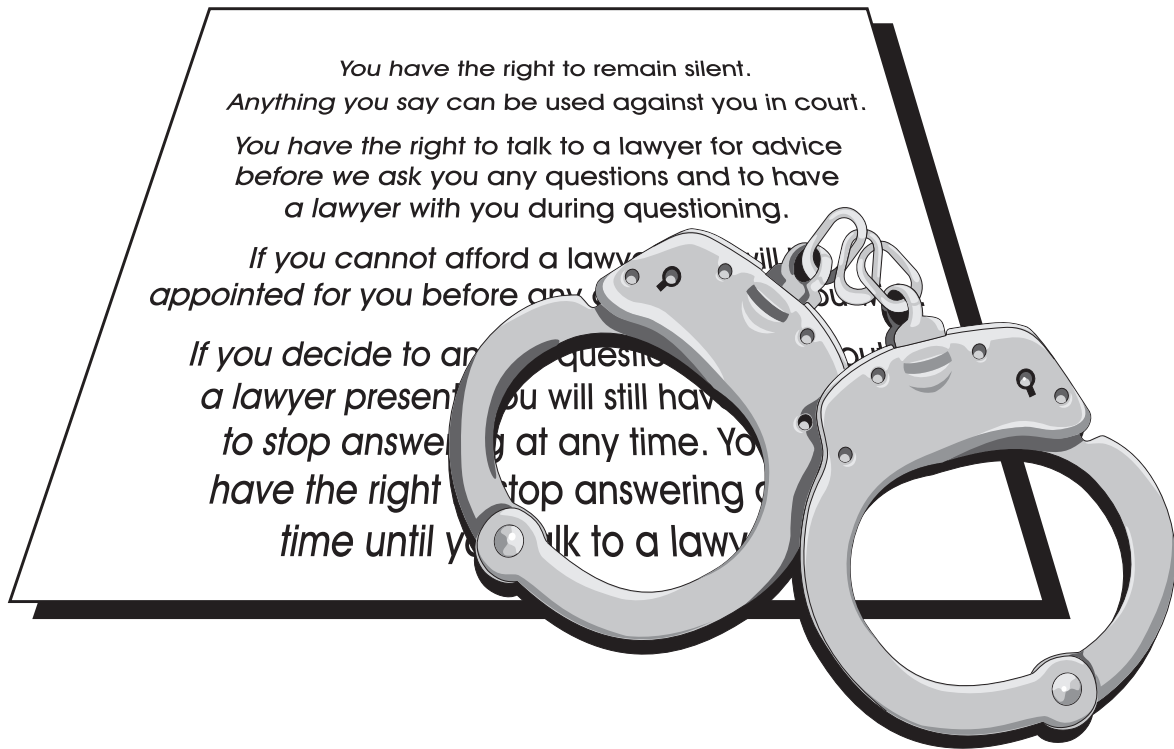
This long-overdue text serves as a welcome addition to the law enforcement field. It provides information on several of the most recent and innovative problem-solving strategies employed by officers in the field. The Police Executive Research Forum offers this text as the first in a publication series that will highlight and document information shared at future annual International Problem Oriented Policing Conferences.

*Problem-Oriented Policing* provides a practical resource for many audiences. The text is well suited for basic police academy training, in-service officers engaging in problem solving, and as a required reading for promotional exams.

Reviewed by  
Ronald W. Glensor, Ph.D.  
Deputy Chief of Police  
Reno Police Department  
Reno, Nevada

# The Supreme Court Revisits Miranda

By LISA A. REGINI, J.D.



The end of the 20th century brought one of the United States' most significant legal fixtures, the *Miranda* warnings, before the Supreme Court in what likely will be one of the most closely watched Supreme Court decisions in the new century. As witnessed nightly on televisions across the United States for the last three decades, there may be no legal principle more firmly established in the country's popular culture than the *Miranda* warnings. Nearly every evening, an actor-turned-police officer informs

an actor-turned-criminal of the following:

You have the right to remain silent. Anything you say may be used against you in a court of law. You have the right to consult with an attorney. If you cannot afford an attorney, one will be appointed for you.<sup>1</sup>

The role that these warnings have within this country's criminal justice system will be put to the test when the Supreme Court reviews a U.S. Court of Appeals for the Fourth Circuit Court ruling in *United States v. Dickerson*.<sup>2</sup> In

*Dickerson*, the Fourth Circuit overturned a lower court decision<sup>3</sup> to suppress a confession obtained in violation of the *Miranda* warnings. The Fourth Circuit held that the admissibility of the confession should be assessed in light of a federal statute, codified at Title 18 United States Code, Section 3501 (18 U.S.C. 3501 or § 3501), directing federal courts to apply a voluntariness standard to confessions in lieu of the *Miranda* requirements.

This article discusses the Fourth Circuit's holding in *Dickerson* and the federal statute





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

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**...even if the Supreme Court upholds § 3501, exchanges between law enforcement and arrested subjects should remain similar to what has existed for the past three decades.**  
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relied on by the court. The article begins with a summary of the facts of *Dickerson* and addresses the lower court's decision to suppress the defendant's confession and the Fourth Circuit's reversal. The article then discusses the origins of § 3501, particularly Congress' intent to restore a voluntariness test for determining the admissibility of confessions in federal court. The article concludes with a discussion of the possible impact *Dickerson* could have on law enforcement. The intention of this article is not to advocate how the Supreme Court should rule in *Dickerson* but, rather, to provide law enforcement a better understanding of the important issues raised in the case.

## ***UNITED STATES v. DICKERSON***

### **The Facts**

On January 24, 1997, an individual armed with a semiautomatic pistol robbed a bank in Old Town Alexandria, Virginia. An eyewitness provided police with a description of the robber and getaway car,

including a license plate number. Investigators determined that the getaway car was registered to Charles T. Dickerson. With this information in hand, approximately 10 FBI agents and a police officer went to Dickerson's apartment. Upon arriving at the apartment, the officers observed an automobile matching the getaway car. The agents knocked on the door and were greeted by Mr. Dickerson. Following a short conversation, Dickerson was asked whether he would accompany them to the FBI office in Washington, DC. Dickerson agreed and indicated that he would ride in an agent's car. Dickerson indicated at a later court proceeding that he had felt he did not have a choice but to accompany the agents to the field office.<sup>4</sup>

While still in the apartment prior to leaving for the office, Dickerson asked if he could get his coat from his room. As he picked up his coat, an agent observed a large amount of cash on the bed. Dickerson explained that the money was gambling proceeds from a recent trip to Atlantic City. Agents

testified later that at the time they left Dickerson's apartment, he was not formally placed under arrest or handcuffed.<sup>5</sup> Several agents remained in the vicinity of the apartment once Dickerson was on his way to the FBI office.

At the FBI office, Dickerson denied any involvement in the bank robbery but admitted that he had driven to Old Town Alexandria on the morning of the robbery to look for a restaurant. He stated that while in Old Town, he had ran into a friend of his who asked for a ride to Maryland. At this point, a break in the interview occurred and one of the agents requested a telephonic search warrant to search Dickerson's apartment. The warrant was granted after the requesting agent summarized the facts and represented that Dickerson was not under arrest and could easily return home and destroy evidence. A judge concurred that probable cause existed and authorized the search. Agents searching the apartment located numerous items of evidence implicating Dickerson in the robbery.<sup>6</sup>

The agent requesting the telephonic warrant returned to the interview room and informed Dickerson that his apartment was about to be searched. Dickerson indicated that he wished to change his statement and admitted to being the getaway driver in several bank robberies.<sup>7</sup> Dickerson named another individual as the actual robber. After making these statements, Dickerson was placed under arrest.

Dickerson was charged with bank robbery and later moved to suppress the statements he made at the FBI office and the evidence

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seized at his apartment. The defense argued that the statements should be suppressed because he was not properly advised of his *Miranda* rights.

### Timing of the Advice of Rights

The district court concluded that the confession was voluntary for purposes of the Fifth Amendment but nevertheless suppressed the statements because they were obtained in violation of *Miranda*.<sup>8</sup> At the suppression hearing, the timing of the *Miranda* advice of rights was in dispute. Specifically, there was a discrepancy as to whether they were provided prior to Dickerson's admission to being the getaway driver or after.

The district court judge concluded that the statements were provided in violation of *Miranda* after determining that the defendant was not given his *Miranda* rights until after he gave the statement. The district court also concluded, without challenge from the government, that Dickerson was in police custody for *Miranda* purposes when he was brought to the office.<sup>10</sup> Based on the determination that *Miranda* was violated, the district court judge suppressed Dickerson's statements.

### THE GOVERNMENT'S APPEAL

Initially, the government requested a review of the district court's decision to suppress the statements on two grounds: 1) that *Miranda* had not been violated because there was a discrepancy with the time the *Miranda* warnings were provided, and 2) even if *Miranda* was violated, the

confession should be admitted because it was voluntarily provided and, thus, consistent with 18 U.S.C. § 3501 and should be permitted to be used against the defendant.

The Department of Justice eventually withdrew its request for reconsideration with respect to use of § 3501, asserting that it would not argue the statute on the grounds that Congress did not have the authority to overrule *Miranda* and would not advocate the application of a statute of questionable constitutionality.<sup>11</sup>

**“Any legislatively adopted alternative to the *Miranda* requirements must meet the strict mandate of voluntariness....”**

Against this backdrop, the Fourth Circuit nevertheless concluded that it had the authority to apply § 3501 to Dickerson's statements.<sup>12</sup> The court stated:

Because the Department of Justice will not defend the constitutionality of § 3501—and no criminal defendant will press the issue—the question of whether the statute, rather than *Miranda*, governs the admission of confessions in federal court will most likely not be answered until a Court of Appeals exercises its discretion to consider the

issue. Here the district court has suppressed a confession that, on its face, is admissible under the mandate of § 3501. As a result, we are required to consider the issue now.<sup>13</sup>

### 18 U.S.C. § 3501

Congress passed 18 U.S.C. § 3501 partly in response to the Supreme Court's invitation in *Miranda* to develop alternative mechanisms to protect individuals who are the subject of custodial questioning and to “reverse the holding of *Miranda v. Arizona*.”<sup>14</sup>

### The *Miranda* Decision

Over 30 years ago, the Supreme Court expressed in *Miranda* concern with what the Court perceived to be an unfair advantage to the government during a custodial interview. The Supreme Court held that custodial interviews create a psychologically compelling atmosphere that countermands the Fifth Amendment privilege against self-incrimination.<sup>15</sup> Accordingly, the Court fashioned a procedural set of rules in an attempt to level the playing field between the government and an in-custody subject. These procedural rules are, of course, the well-known *Miranda* advice of rights and the government's obligation to obtain a knowing, intelligent, and voluntary waiver of those rights from the subject prior to engaging in an interview.

In *Miranda*, however, the Supreme Court recognized that other alternatives may adequately safeguard the privilege against self-incrimination and alleviate the Court's concerns with respect to the inherently compelling pressures

that work to undermine an in-custody subject's free will when being interviewed by the government. The Court stated:

It is impossible for us to foresee the potential alternatives for protecting the privilege which might be devised by Congress or the States in the exercise of their creative rule-making capacities. Therefore, we cannot say that the Constitution necessarily requires adherence to any particular solution for the inherent compulsions of the interrogation process as it is presently conducted. Our decision in no way creates a constitutional straightjacket which will handicap sound efforts at reform, nor is it intended to have this effect.<sup>16</sup>

The Court continued by expressly encouraging Congress and the states "to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws."<sup>17</sup>

The statute at issue in *Dickerson* was intended to restore a totality of the circumstances test to the admissibility of confessions and restore the principle of voluntariness as the touchstone in admitting confessions in federal courts. Section 3501 provides federal courts with a list of factors to consider when deciding whether statements made to the government were obtained in violation of the privilege against self-incrimination. The statute begins by instructing federal courts that statements

"...shall be admissible in evidence if voluntarily given."<sup>18</sup> Courts then are instructed that all of the circumstances surrounding the confession should be taken into consideration, including:

- the time elapsing between arrest and presentment of the defendant making the confession, if the confession was made after arrest and before the presentment;

***"The statute in Dickerson represents an attempt by the U.S. Congress to provide an alternative to Miranda for use in federal courts."***

- whether the defendant knew of the nature of the offense that he was charged with or suspected of at the time of making the confession;
- whether the defendant was advised or knew that he was not required to make any statement (*Miranda* right);
- whether the defendant understood that the statement could be used against him (*Miranda* right);
- whether the defendant understood he had a right to an attorney (*Miranda* right); and
- whether the defendant was without the assistance of counsel when questioned.<sup>19</sup>

The statute then emphasizes that the test to be applied is a totality of the circumstances test by instructing courts that "[t]he presence or absence of any of the above-mentioned factors to be taken into consideration by the judge need not be conclusive on the issue of voluntariness of the confession."<sup>20</sup>

### **Earlier Application of § 3501 and the holding in *Dickerson***

Until *Dickerson*, the statute was largely ignored within the federal system with two notable exceptions.<sup>21</sup> In 1975, the 10th Circuit Court of Appeals applied the statute to a confession obtained from an in-custody interview and upheld the constitutionality of Congress' effort.<sup>22</sup> More recently, in *Davis v. United States*,<sup>23</sup> Justice Scalia made reference to § 3501 in a footnote when he questioned the government's authority to refuse to argue the applicability of the statute in cases where *Miranda* violations occur but the statements obtained are arguably voluntarily provided.<sup>24</sup>

Agreeing with Justice Scalia and concluding that the procedural set of rules established in *Miranda* is not constitutionally required, the Fourth Circuit Court of Appeals concluded that § 3501 is a constitutional exercise of Congress' power.<sup>25</sup> Thus, according to the court, the admissibility of confessions in federal court is governed by the voluntariness standard proscribed in § 3501. The court also held that based on the district court's conclusion that the confession was voluntary, its suppression was improper.<sup>26</sup>

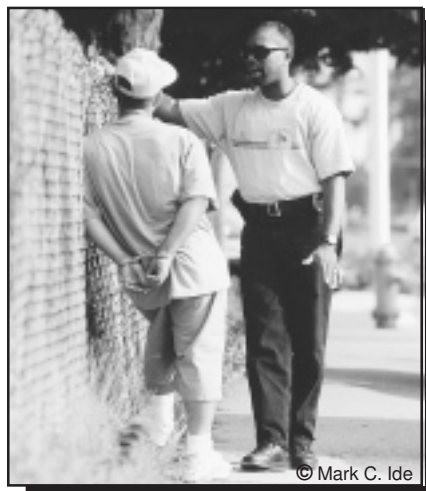
As a result of the holding in *Dickerson*, § 3501 has been transformed from a largely unknown federal provision to the topic of a great deal of public attention. The final outcome of this much-debated issue will likely resolve the question of whether Congress has the authority to legislatively “override” the *Miranda* decision. The answer to this question will likely require Supreme Court clarification on the extent to which the *Miranda* warnings are constitutionally required. The *Miranda* Court’s apparent invitation for federal and state governments to craft alternative measures, as discussed previously, may play a significant role in the current Court’s treatment of § 3501.<sup>27</sup>

#### POSSIBLE IMPACT ON POLICE PRACTICES

Any change in the legal landscape with respect to *Miranda* that may occur as the result of the Supreme Court’s decision in *Dickerson* will certainly generate a great deal of attention but may not alter the current law enforcement practice of advising in-custody subjects of their rights. In the event that the Supreme Court agrees with the Fourth Circuit and upholds the federal statute, the initial impact will be felt only at the federal level. The statute in *Dickerson* represents an attempt by the U.S. Congress to provide an alternative to *Miranda* for use in federal courts. Assuming this attempt receives the support of the U.S. Supreme Court, individual states, should they so choose, would have to fashion their own alternatives to the *Miranda* warnings to ensure that the privilege against

self-incrimination is adequately protected.

Additionally, even if the federal statute is upheld and states exercise their legislative prerogatives and adopt similar measures, the look of the interview will, in all likelihood, not significantly change. The statute includes consideration of such factors as whether subjects were



advised of their right to an attorney, appointed if necessary; their right to silence; and the potential use of the statement. Such warnings were provided even before they became known as “*Miranda* warnings.” In *Miranda*, the Supreme Court discussed the FBI’s pre-*Miranda* practice of advising arrested subjects of their rights prior to attempting to interview them.<sup>28</sup>

In other words, even if the Supreme Court adopts the Fourth Circuit’s reasoning, the voluntariness factors set forth in § 3501 should ensure prompt judicial condemnation of any inappropriate physical or psychological coercive pressure.<sup>29</sup> Any legislatively adopted alternative to the *Miranda*

requirements must meet the strict mandate of voluntariness and likely would impose requirements on law enforcement that are significantly similar to the *Miranda* requirements.

#### CONCLUSION

In what likely will be one of the most significant early Supreme Court decisions of the new century, a federal statute will be measured against one of the most well-recognized legal principles, the *Miranda* advice of rights. The reality is that since any alternative to the *Miranda* warnings must satisfy strict principles of voluntariness, even if the Supreme Court upholds § 3501, exchanges between law enforcement and arrested subjects should remain similar to what has existed for the past three decades. This will further one of the *Miranda* Court’s guiding principles: “The quality of a nation’s civilization can be largely measured by the methods it uses in the enforcement of its criminal law.”<sup>30</sup> ♦

#### Endnotes

<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 436, 479 (1966).

<sup>2</sup> 166 F.3d 667 (4th Cir. 1999).

<sup>3</sup> 971 F. Supp.1023 (E.D. Va. 1997).

<sup>4</sup> 166 F.3d at 673, n.2.

<sup>5</sup> Id. at 675, n.6.

<sup>6</sup> Id. at 673-675.

<sup>7</sup> Id. at 674.

<sup>8</sup> 971 F. Supp. 1023 (E.D. Va. 1997). The lower court also suppressed the evidence seized during the execution of the search warrant after concluding that the warrant failed to describe with particularity the items to be seized. The circuit court of appeals reversed this ruling, concluding that the items were sufficiently described, or, in the alternative, the agents executing the warrant acted in good faith. 166 F.3d at 694.

<sup>9</sup> 166 F.3d at 676-677. The district court judge believed the defendant’s testimony regarding the timing of the rights. The agent



testified that he read the defendant his rights “shortly after” obtaining the warrant when the warrant was issued at 8:50 p.m. and the advice of rights form was executed at 9:41 p.m. The district court reasoned that this apparent discrepancy in times suggests that Dickerson was not properly advised of his *Miranda* rights.

<sup>10</sup> 166 F.3d at 675, n.5.

<sup>11</sup> Id. at 682, n.16, citing a 9/10/97 letter from Attorney General Reno to Congress notifying Congress that it would not defend the constitutionality of 18 U.S.C. § 3501.

<sup>12</sup> For a discussion of the parties arguing § 3501 before the Fourth Circuit in *Dickerson* and the court’s authority to rule on arguments proposed by amicus briefs see 166 F.3d at 680, n.14.

<sup>13</sup> Id. at 683, citing *United States v. Davis*, 512 U.S. 452, 464 (Scalia, J., concurring) (noting that the “time will have arrived” to consider the applicability of § 3501 the next time “a case comes within the terms of the statute is...presented to us”).

<sup>14</sup> S. Rep. No. 90-1097 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2141.

<sup>15</sup> *Miranda v. Arizona*, 384 U.S. at 448 (“[T]he modern practice of in-custody interrogation is psychologically rather than physically oriented...coercion can be mental as well as physical”).

<sup>16</sup> Id. at 467.

<sup>17</sup> Id.

<sup>18</sup> 18 U.S.C. § 3501(a).

<sup>19</sup> 18 U.S.C. § 3501(b).

<sup>20</sup> 18 U.S.C. § 3501(b).

<sup>21</sup> As noted in the Fourth Circuit’s opinion, the statute has been referred to in cases where *Miranda* was not applicable but where voluntariness was a concern. See 166 F.3d at 688, n.19, citing *U.S. v. Braxton*, 112 F.3d 777 (4th Cir.), cert. denied, 118 S. Ct. 192 (1997); *United States v. Wilson*, 895 F.2d 168 (4th Cir. 1990).

<sup>22</sup> *United States v. Crocker*, 510 F.2d 1129 (10th Cir. 1975).

<sup>23</sup> 512 U.S. 452 (1994).

<sup>24</sup> *Davis* at 465. Justice Scalia stated:

“This is not the first case in which the United States has declined to invoke § 3501 before us—nor even the first case in which that failure has been called to its attention.... In fact, with limited exceptions, the provision has been studiously avoided by every Administration, not only in this Court but in lower courts, since its enactment more than 25 years ago.... Perhaps (though I do not immediately see why) the Justice Department has good basis for believing that allowing prosecutors to be defeated on grounds that could be avoided by invocation is consistent with the Executive’s obligation to ‘take Care that the laws be faithfully executed....’ That is not the point. The point is whether our continuing refusal to consider §

3501 is consistent with the Third Branch’s obligation to decide according to the law. I think it is not.”

See also *United States v. Alvarez*, 54 F.Supp.2d 713, n.4 (W.D. Mich. 1999) (noting the government’s refusal to argue § 3501).

<sup>25</sup> *Dickerson* at 691.

<sup>26</sup> Id. at 692.

<sup>27</sup> Of additional interest are Supreme Court cases referring to the rule as a procedural mechanism designed to protect a constitutional right and “not themselves rights protected by the Constitution.” Quoting *Michigan v. Tucker*, 417 U.S. 433 (1974). See also *Withrow v. Williams*, 507 U.S. 680, 690-691 (1993) (“*Miranda*’s safeguards are not constitutional in character.”); *New York v. Carlist*, 467 U.S. 649 (1984); *Duckworth v. Egan*, 492 U.S. 195 (1989).

<sup>28</sup> *Miranda* at 485-487.

<sup>29</sup> See *Brown v. Mississippi*, 297 U.S. 278 (1936); *Chambers v. Florida*, 309 U.S. 227 (1940); *Canty v. Alabama*, 309 U.S. 629 (1940).

<sup>30</sup> *Miranda* at 480, quoting Schaefer, *Federalism and State Criminal Procedure*, 70 Harv L. Rev. 1, 26 (1956).

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



Officer Bowser

Officer Aaron Bowser of the Kent County, Michigan, Sheriff’s Department was taking a complaint from a citizen when he noticed smoke coming from another house in the neighborhood. After notifying the fire department, Officer Bowser approached the house and removed a crying child from the porch, as smoke billowed from the front door and windows. Officer Bowser entered the smoke-filled house, located another child on the floor, and saw the children’s mother in a wheelchair, trying to hold another child on her lap. Officer Bowser helped all of the occupants from the house, which was fully engulfed in flames. The quick and unselfish actions of Officer Bowser prevented this situation from escalating into a more tragic incident.

# 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.



Officer Dawson



Officer Currier



Officer Terracciano

Officers Donald Dawson, Robert Currier, and Ralph Terracciano of the Princeton, New Jersey, Police Department responded to the report of a bank robbery. Upon entering the bank, they were confronted by a masked gunman who was holding a gun to a teller's head. Officers Dawson, Currier, and Terracciano attempted to negotiate with the gunman, but he threatened to

shoot the hostage. The officers fired, and mortally wounded the gunman. The hostage escaped harm. The identity of the gunman led to the eventual identification and capture of two other individuals who had fled the scene. The prompt actions of Officers Dawson, Currier, and Terracciano saved the hostage's life and thwarted any attempts of additional violence.



Officer Kennard

While off duty at his home, Officer Blaine Kennard of the Willard, Missouri, Police Department encountered one of his neighbors who had been brutally stabbed. After learning that the suspect was still in his neighbor's house, Officer Kennard confronted the suspect and handcuffed him. Officer Kennard and his wife administered first aid to the victim. The quick response and first aid provided by Officer Kennard and his wife saved the life of his neighbor.

Nominations for the *Bulletin Notes* should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions should be sent to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

Official Business  
Penalty for Private Use \$300

## Patch Call



The patch of the La Crosse, Wisconsin, Police Department depicts the city's civic and national pride by displaying the U.S. flag flying proudly at the top of Grandad Bluff. On the shape of Wisconsin, the bald eagle represents the annual return of the birds to the La Crosse area, and the gold star identifies the city's location along the Mississippi River. The city's natural resources and recreational opportunities are characterized by the La Crosse Queen Riverboat with the majestic bluffs of La Crosse depicted in the background.



The patch of the U.S. Immigration and Naturalization Service features the Statue of Liberty standing in front of a silhouette of the country she represents. The contents of the patch were chosen to depict the function and role of the U.S. Immigration Service and the Inspector position. The colors of the patch—dark blue, gold, and cream—create a regal and patriotic appearance.