

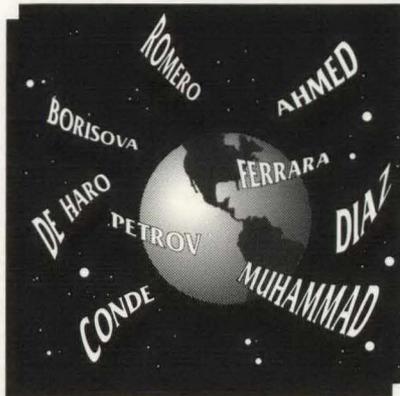


March 1992

# FBI

## Law Enforcement Bulletin

*Air Passenger Processing*



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**Cover:** Processing the millions of travelers who use this Nation's airports requires accurate information and interagency cooperation. See article p. 1. Cover photo and all photos used with this article are courtesy of Regina Kosicki.

United States Department of Justice  
Federal Bureau of Investigation  
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William S. Sessions, Director

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# Air Passenger Processing for the 1990s

By  
STEPHAN M. GARICH

← Baggage Claim Terminal II  
← Ground Transport  
← Rapid Transit To City  
← Parking

↑ Concourse C E F  
Gates B1-B10  
Terminal III

↑ Customer Service Center

**F**or law enforcement officers who work at the Nation's airports, maintaining the balance between processing the millions of honest travelers while still identifying and apprehending dishonest individuals who may be smuggling illicit drugs or other contraband is a constant challenge. In addition, annual increases in the number of travelers, the continuing popularity of drugs, and a lack of needed resources further complicate an already demanding job. To address these ever-increasing challenges, the U.S. Customs Service developed innovative, yet cost conscious, approaches to air passenger processing.

Air passenger processing has come a long way since 1975, when virtually every air passenger and piece of luggage were subject to inspection. Since then, changes in the processing system have been introduced, most of which altered the physical configuration of airport facilities. The latest innovation, the 1990s Airport Passenger Processing System, includes processing and classifying flights and individual passengers depending upon perceived risk.

The 1990s system is the boldest step yet taken toward the concept of complete selectivity in passenger processing. Under this new system, all facets of passenger processing, including automation, personnel, and facilities, are restructured to support the plan. It should be noted, however, that each airport uniquely adapts these new procedures to suit its own needs.

Even so, this new plan would not be effective without the cooperation of various airlines, which must willingly provide ad-

vance passenger data, and the U.S. Department of State's increased use of machine-readable travel documents. The ability of the Immigration and Naturalization Service (INS) to perform computer inquiries and the Department of Agriculture's automated system are also critical to the system's success. It is the combination of all these factors that provides Customs officers with the necessary information to initiate enforcement action based on documented criteria, while allowing honest travelers to proceed with minimal processing.

#### **Automated Systems**

Automation is the heart of the 1990s processing system. In fact, the ability to link the information stored in various automated databases is crucial to the system's success.

The new system uses two types of automated systems. The first type includes simple lookout or watchlist database systems, such as NCIC, AVLOS, and Armed and

Dangerous. The second and more complex category of automated systems includes sophisticated systems, such as the Target Flight Connector System (TFCS), used primarily at busier airports. The TFCS analyzes information to determine which flights originate at, or are connector flights to or from, drug source areas. These flights are then assigned a greater risk status and are subject to a higher enforcement priority. Enforcement information in the TFCS database is supplied by various sources and is adjusted routinely to reflect changing worldwide smuggling activities, trends, and methods.

In the future, it is hoped that passenger information, including itinerary, ticketing, and passport information, will be made available at the time of overseas check-in. Then, while the flight is enroute, this information could be queried against existing databases in order to send positive lookouts to the airport well before the flight's arrival.

#### **The Importance of Personnel**

Even with this greater dependence on automated systems, inspection personnel remain the most important component of the 1990s system. To make the most effective use of personnel under this system, Customs officers are assigned to units called Passenger Analysis Teams (PAT). It is the responsibility of these teams to increase seizures while facilitating passenger traffic. The PAT system has three major components: An analytical unit, roving inspectors (rovers), and a rover command center (RCC). All PAT members work together and



**“...the U.S. Customs Service developed innovative, yet cost conscious, approaches to air passenger processing.”**

*Mr. Garich is a Senior Customs Inspector for the U.S. Customs Service in Detroit, Michigan.*

rotate regularly among all three components to ensure that each member maintains a high level of proficiency in all areas.

Members of the PAT analytical unit analyze information from the various databases, airline automated systems, and from other Federal, State, and local agencies. Officers assigned to this unit then categorize arriving flights and passengers according to risk levels. It is then the analytical unit's responsibility to provide other PAT members with passenger lookouts for each flight and with new information regarding smuggling activities, methods, and trends.

PAT rovers are Customs officers who operate from the airport's arrival gates to its exit doors, observing passengers and selecting for intensive secondary inspections those who exhibit suspicious behavior, or who the automated systems identified as targets. Rovers are also encouraged to select travelers for more intensive inspections based upon observation and questioning. Prior to their assignments as rovers, officers receive extensive inservice training in such topics as behavioral analysis, interview techniques, and fraudulent travel document recognition.

The rover command center controls the operation. Its personnel coordinate the location and the activities of the rovers. As such, the RCC, strategically located in the airport terminal, is equipped with closed-circuit television and communication equipment to monitor arriving flights and passenger activity. RCC officers also monitor positive responses to database in-



quiries and radio this information to rovers, who then monitor or intercept the passenger, depending upon the nature of the information provided.

### **The New Air Processing Facility**

All aspects of this new system are currently in operation at the Detroit International Airport's international terminal. In fact, the U.S. Customs' facility at the Detroit airport is the first facility in the United States designed expressly to fit this new system. At the Detroit facility, passengers are directed to an INS examination area upon their arrival, where INS officers make specific computer inquiries. If these inquiries are negative and other INS processing requirements are met, passengers can then proceed to the main baggage floor to retrieve their luggage. They are free to leave the inspection area after handing their

written declaration to Customs officers assigned to exit control.

### **Conclusion**

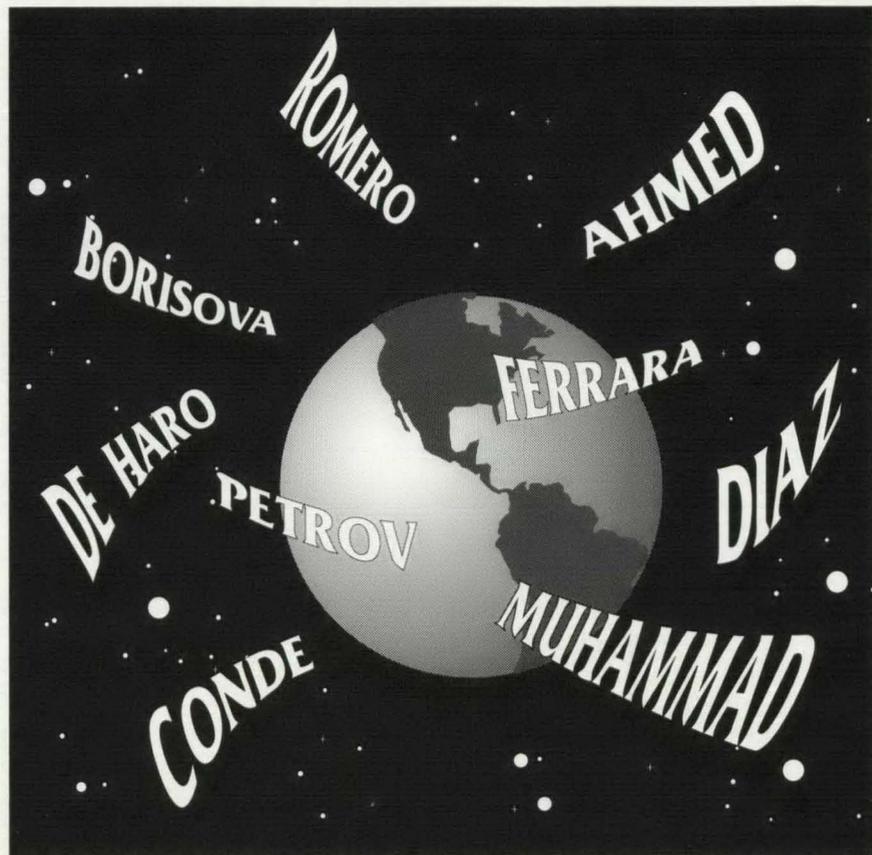
To date, this new system has processed millions of passengers through customs in less time, on the average, than previous methods. And, large drug seizures have also increased. These successes can be directly attributed to the availability of more accurate and timely information supplied by the various automated systems, closer cooperation between different government agencies and airlines, and the increased expertise of Customs officers in the areas of behavioral analysis and interviewing techniques. The positive results strengthen the commitment of the U.S. Customs Service and demonstrate that air passenger processing for the 1990s is definitely a concept whose time has come.

**LEB**

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# A Name Is Just a Name— Or Is It?

By  
J. PHILIP BOLLER, JR.



**R**ecently, the victim of a serious assault identified herself to the police as Maria Elena Rodriguez-Diaz. She then indicated that she wanted to prosecute her assailant because he had threatened her for some time and was very likely to assault her again. She also advised the police that she planned to move in the near future and provided them with her new address.

Unfortunately, at the time of the trial, the police were unable to locate the victim at her new address, and the neighbors informed them that they did not know a Ms. Diaz. However, the victim did, indeed,

reside there, and the neighbors did know her, but not as Ms. Diaz.

On another occasion, a State trooper stopped an individual in a rural area for a minor traffic violation. His driver's license was in the name of Mikhail Ivanovich Petrov. The trooper checked this name through the National Crime Information Center (NCIC), but NCIC had no record in the above name. A warrant, however, had been entered into NCIC in the name of Mikail Ivanovich, which was the name he was known by in the community. Unknown to the trooper, the driver was wanted for a violent homicide. But, the driver was

aware that a warrant had been issued for his arrest and had been eluding law enforcement for some time.

Although the trooper planned to simply issue a traffic citation and let the driver leave, the driver thought that he was about to be arrested for the homicide. As a result, the trooper was placed in unnecessary jeopardy, and a wanted subject eluded apprehension.

Law enforcement personnel come into contact with a wide range of people and cultures on a daily basis. Therefore, proper and complete identification of subjects and/or victims is of the utmost

importance. What happened in each of the above incidents could and should have been avoided, but cultural and/or ethnic differences complicated matters and prevented accurate identification.

Accurate identification of any individual is often difficult at best, and it is even more complicated if the officer or investigator is not familiar with how various cultures construct proper names. This article discusses the formation of various proper names. It also offers some suggestions that may help law enforcement officers identify accurately individuals of cultures common in American society today, including Italians, Filipinos, Middle Eastern peoples, Nigerians, Russians and Ukrainians, Southwest Asians, Spanish-Americans, and Spanish-speaking individuals.

### Italians

In most cases, when constructing a name, Italians start with the given name, which is the first name, followed by the surname or last name.<sup>1</sup> However, in formal or legal situations, this order is often reversed, and an individual's name is followed by "di" (of) and then the parents' names. For example, the name Giuseppe Esposito di Giovanni e di Francesca Ferrara indicates that Giovanni Esposito is the father and that Francesca Ferrara is the mother of Giuseppe Esposito. If both of Giuseppe Esposito's parents are deceased, "fu" precedes the father's given name and the mother's full maiden name, as in Giuseppe Esposito fu Giovanni fu Francesca Ferrara. If only one parent is deceased, the name would be

**“ Learning...to understand proper names of various ethnic groups is... one avenue law enforcement should take toward mutual respect and understanding. ”**



*Special Agent Boller is assigned to the FBI's New York City Field Office.*

written as Giuseppe Esposito di Giovanni e fu Francesca Ferrara.

In addition, in certain parts of Italy, it is customary for women to retain their maiden name after marriage. However, if they immigrate to the United States, oftentimes, they decide to adopt their husband's surname.

### Filipinos

Filipino names are also constructed by placing the given name first followed by the surname.<sup>2</sup> However, in most cases, a Filipino's middle name will be the mother's maiden name. For example, an individual named Benjamin Herrero Colobong has a mother whose maiden name is Herrero.

### Middle Eastern Names

Citizens of most Middle Eastern countries speak and write various dialects of the Arabic language.<sup>3</sup> However, written, formal language is the same in each Arabic country—it is the language of the Koran, the Islamic holy book. And, even

though this practice may facilitate communication among fellow Arab nations, in the United States, Arabic names are not always spelled the same way each time they are written in English.

To foster the uniform English spelling of Arabic proper names, the Middle East Studies Association of North America (MESA) established a standard transliteration system for the transliteration of Arabic names into only one English equivalent.<sup>4</sup> Transliteration is the representation of letters or words in the corresponding characters of another alphabet.

For example, the Arabic word "abd" means servant in English. However, these letters represent a transliteration of the Arabic characters for "abd" into the English spelling. Servant is simply the English translation of the Arabic word "abd."

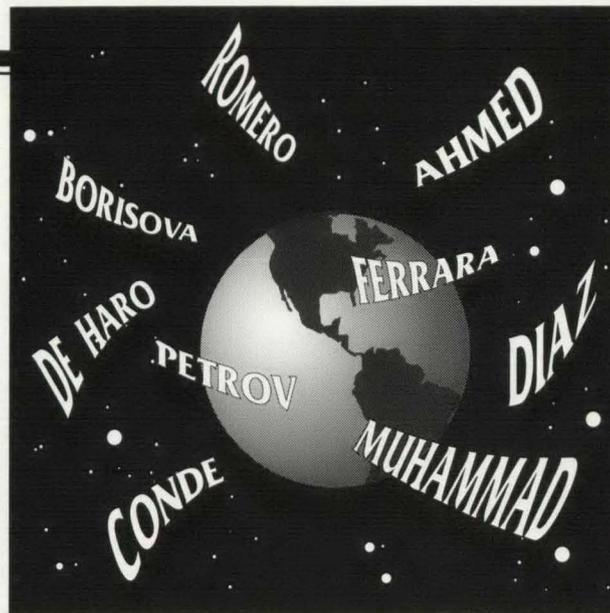
The MESA system was not designed to designate a correct English transliteration, but merely to eliminate multiple-correct, and

therefore, possibly misleading transliterations. For example, the name Muhammad has approximately 50 possible English spellings, but only one MESA transliteration.

Obviously, applying the MESA system has definite practical applications to law enforcement. In fact, prior to adopting the MESA system, the FBI's New York Office initiated 19 separate investigations on the same subject because his name had been spelled 19 different ways. After transliterating each of the various names into their MESA equivalents, the FBI realized that all 19 subjects were actually the same individual, and the 19 cases were consolidated into one.

Whenever possible, it is very important to have Arab subjects write their names in Arabic and in English in the manner that they normally use. Then, if the English spelling of the Arabic name is not the same as the MESA transliteration, it can later be noted as an alias. In addition, every subject's name, written in Arabic, should be protected as evidence and a photocopy sent to a translator for an English transliteration according to the MESA system or to the nearest FBI field office for transliteration by an FBI language specialist.

In addition, law enforcement officers should also realize that as is the case with Italian women, most Arab women do not change their name as a result of marriage or divorce. Therefore, the concept of "maiden" and "married" names will probably be unknown to them be-



cause they will keep their father's surname for life.

#### **Nigerians**

Nigerian names are constructed with the given name first, followed by the surname.<sup>5</sup> However, Nigerians may legally change their names with the Bureau of Vital Statistics in Lagos, Nigeria. They can also change their date of birth by having only one other person affirm the accuracy of the new date of birth, and then have a birth certificate issued under their new name with their new date of birth. Therefore, if Nigerians wish to hide their identities for illegal purposes, it may be almost impossible to identify them without a complete description and fingerprints or the assistance of the Immigration and Naturalization Service (INS).

#### **Russians and Ukrainians**

Russian and Ukrainian names are constructed in a manner similar to English names.<sup>6</sup> However, the middle name is a patronymic and the surname is the family name. The patronymic, or middle name, is de-

rived from the father's given name. Thus, a son whose father's name is Ivan would have the patronymic Ivanovich, and the daughter would have the patronymic Ivanovna. Care should be taken not to label the patronymic as the surname.

In addition, Russian or Ukrainian surnames have both masculine and feminine forms. For example, a married Russian female whose name is Alexandra

Ivanovna Borisova is the daughter of a man whose given name is Ivan. Her last name indicates that her husband's surname is Borisov. Married Russian and Ukrainian women also are never known by their husband's name, such as Mrs. John J. Doe. Instead, they are known by their own given, patronymic, and family names.

The standard form of address among Russians and Ukrainians includes the given name and patronymic, but not the surname. For example, Mikhail Sergeyeovich Gorbachev would be known as Mikhail Sergeyeovich to his acquaintances. However, within the family and among close friends, diminutives, or nicknames, are used almost to the exclusion of formal given names, and one given name may have several diminutive forms. For example, "Misha" is one diminutive for Mikhail (Michael) and "Sasha" is a diminutive for Alexander.

Additionally, the Cyrillic alphabet is the primary alphabet in the Russian Federation. And, because there is no standard transliteration

system, an English transliteration is largely a matter of choice. As a result, the surnames Borissov, Borissoff, and Borisoff, for example, are all viable English transliterations of the same surname. Therefore, for accurate identification, it is important that law enforcement officers obtain the full and complete name, including the given name, patronymic, and surname. Also, subjects should be asked to write their name in the Cyrillic alphabet. Then, if their name is similar to a name in question, further investigation may be warranted.

### Southwest Asians

Individuals from Southwest Asian countries, such as Afghanistan, India, Nepal, Pakistan, or Sri Lanka, construct their names in a variety of ways.<sup>7</sup> And, a full explanation of how each culture constructs proper names is beyond the scope of this article. However, for purpose of explanation, the characteristics of Pakistani names and what information law enforcement officers should obtain to identify Pakistani subjects will be provided here.

A typical Pakistani proper name may denote various religious, racial, ethnic, tribal, or caste characteristics. Oftentimes, there is no distinction between the given name and the Muslim or Christian name. There are also numerous common names, and as a result, persons who belong to different families may have identical names. In such cases, parentage usually determines identity.

Also, male Pakistani names usually have three units, two of which can be described as principal and the third as auxiliary. The auxil-

iary unit may either precede or follow the principal units. It may denote characteristics of family, tribe, or caste, but very often it signifies a title of respect, such as "Khan," "Mian," or "Shah," which a person may adopt upon attaining a certain level of social distinction. Such titles of respect are equivalent to the English title "Mister." The principal units are essential and interdependent as in the common Pakistani name Abdur-Rahman.

If possible, law enforcement officers should have Pakistani subjects write their names in Urdu script in the form and order they normally use. These should then be sent for translation. In addition, for

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”**

those not intimately familiar with Pakistani culture and language, it would be best to record accurately all units of the individual's name and to consider all units as a whole.

Additionally, the English spelling of Pakistani names is largely a matter of choice. This often results by altering vowels and consonants. For example, Mohammad may also be written as Muhammad, Muhammed or Mohamad; Ahmed may be written as Ahmad; Hussain as Hossain, Hossein, or Husain. It should be noted, however, that these vowel and/or conso-

nant alterations do not necessarily change the name as a whole.

To ease this confusion, law enforcement officers should obtain the following information from Pakistani subjects in order to identify them accurately:

- Full name and occupation
- Father's name and occupation (For married women, the husband's name should be obtained as well.)
- Date of birth
- Religion
- Tribe or caste
- Details of residence, including the house number, street, locality (Mohalla), village or city, Tahsil (subunit of a district), district, province
- Name of the local Pakistani police department (Criminal and identification records are kept at the police station nearest the subject's residence, while central records are maintained only by certain specialized agencies and only with respect to certain types of crimes.)
- Place where the passport was issued, as well as the passport number (This information is important because Pakistan has no central passport office. In addition, the office that issued the passport can possibly provide a photo of the person, if necessary.)

### Hispanic and Spanish-Speaking People

Hispanic and Spanish-speaking persons usually use the surnames of

both parents to construct their proper names.<sup>8</sup> Neither surname is ever considered to be a middle name. The surname of the father usually precedes the mother's, and the two surnames may or may not be joined by the conjunction "y" or by a hyphen. For example, Juan Romero y Conde is the same person as Juan Romero-Conde. Juan is the given name; Romero, the father's surname; and Conde, the surname of the mother. The following variations of the same name may also be found: Juan Conde Romero, Juan C. Romero, Juan Conde, Juan Romero C., or Juan Romero.

Legally, a Hispanic female retains her maiden name after marriage, but it is also common practice to drop the surname of the mother and to add that of the husband joined by the preposition "de." For example, when Luisa Romero-Conde marries Carlos Villa-Tovar, she will be known as Luisa Romero de Villa. Should her husband die, she will be known as Luisa Romero Vda. de Villa (Vda. is an abbreviation for "viuda," meaning widow).

The preposition "de," with or without a definite article, such as "el," appears in a number of Spanish surnames. Formerly, this preposition was an indication of nobility, but today, such a distinction no longer exists. However, some families have retained it as a part of their surname. Some examples of this are the surnames De Haro, De Lora, Del Campo, Del Valla, De la Torre, De la Rosa, and De la O.

After Spanish-speaking persons have resided in the United States for some time, they may anglicize their

names. Even so, their signatures may not necessarily represent their full and correct names. This is particularly true of Spanish-speaking people whose signatures are written with many flourishes. Whenever there is any doubt as to the correct spelling of a person's name, the subject should be asked to write it down. This practice should also make it easier to verify previous records.

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**...for individuals of certain cultures, it may be wise to use various combinations of the proper name when conducting inquiries.**  
”

Additionally, if subjects provide only one surname, it will be necessary to question them further to obtain full and correct names. If both surnames are not known, or in the case of a married female, all three surnames, the persons have not been identified accurately. As a result, an officer may have difficulty locating the individuals at a later date, since many often use both surnames interchangeably.

### Conclusion

In general, if there are any doubts as to any individual's identity, it is usually best to have them write their entire proper name, in their own handwriting. Also, for individuals of certain cultures, it may

be wise to use various combinations of the proper name when conducting inquiries.

The United States is home to people of various ethnic, racial, and cultural backgrounds. As such, law enforcement officers around the country must take this diversity into account and must attempt to become familiar with the various customs of the individual ethnic groups that reside within their jurisdictions. Learning to record accurately and to understand proper names of various ethnic groups is but one avenue law enforcement should take toward mutual respect and understanding.

**LEB**

### Footnotes

<sup>1</sup> Interviews with Special Agent Carmine Nigro and Language Specialist Ralph Sigona, Federal Bureau of Investigation, New York, New York.

<sup>2</sup> Interview with Det. Benjamin Herrero Colobong, New York City Police Department.

<sup>3</sup> Interview with Dr. L.O. Gowani, Ph.D., Language Specialist, Federal Bureau of Investigation, New York, New York. A few of the Arab-speaking countries are Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, Tunisia, and the United Arab Emirates. Other languages of the Middle East are Kurdish, Urdu, Pashto, and Persian.

<sup>4</sup> Middle Eastern Studies Association of North America (MESA), Department of Oriental Studies, University of Arizona, Tucson, Arizona.

<sup>5</sup> Interview with George Fallon, Postal Inspector, New York, New York.

<sup>6</sup> Interview with Eugene W. Fedorenko, Ph.D., Intelligence Analyst Instructor, Federal Bureau of Investigation, New York, New York.

<sup>7</sup> Contact with U.S. Department of Justice, Drug Enforcement Administration.

<sup>8</sup> *A Practical Spanish Grammar for Border Patrol Officers*, U.S. Department of Justice, Immigration and Naturalization Service, (Washington, DC: U.S. Government Printing Office).

## Legislative Guidelines for DNA Databases

Recently, the FBI Laboratory issued a legislative guidelines booklet for use by State legislatures, State attorneys general, State police agencies, and other organizations engaged in drafting legislation to establish and operate State DNA identification databases. The FBI developed these guidelines after recognizing the need for uniform State laws to facilitate participation in a national DNA identification index system currently being established by the FBI. Once operational, this index system will enable law enforcement agencies to share DNA information when investigating sex offenses and violent crimes.

To date, 15 States, including Arizona, California, Colorado, Florida, Kansas, Illinois, Iowa, Louisiana, Michigan, Minnesota, Nevada, Oregon, South Dakota, Virginia, and Washington, enacted laws authorizing the establishment

of databases to store DNA identification records for law enforcement purposes. However, the legislatures of these States drafted and approved existing laws without anticipating national standards or Federal requirements for participation in a national DNA index. As a result, the statutes differ significantly from each other, particularly in the categories of offenders to be included in the database and the DNA collection procedures.

Most provisions contained in the FBI guidelines appear in one or more current State laws. Covered topics include terms and definitions, authority to establish a State DNA database, compatibility with the FBI Laboratory, categories of offenders included in State DNA databases, and collection of DNA samples for the State DNA database.

Other sections address specifying the effective date for taking

DNA samples, authority to contract for DNA typing for offenders, conformance with the DNA Identification Act of 1991, privacy and civil liberties concerns, and funding authorization. The guidelines booklet also contains a description of the FBI's plans to develop a national DNA identification index system called "CODIS," the provisions of the DNA Identification Act of 1991, and a copy of the Federal court ruling in *Jones v. Murray*, 763 F.Supp. 842 (W.D. Va. 1991), in which prisoners challenged Virginia's DNA database law on constitutional grounds.

*A copy of these guidelines can be obtained by writing to the Assistant Director in Charge, Laboratory Division, Federal Bureau of Investigation, Washington, D.C. 20535. The telephone number is 1-202-324-4410; the fax number is 1-202-324-1093.*

## Women in Corrections

The American Correctional Association (ACA) recently published a new book about women working in corrections. Entitled *Change, Challenge & Choices: Women's Role in Modern Corrections*, the book is a compilation of articles written by respected corrections practitioners and academicians. These articles discuss the expanded role of women employed in corrections

and examine the challenges associated with it.

The book identifies system and individual changes necessary to accommodate female corrections workers and provides guidelines and recommendations to help women maximize their potential. It addresses management, legal, and training issues and examines such key topics as sexual harassment, pregnancy, and changing

employment opportunities. It can be a valuable information source for administrators, employees, and educators.

*To obtain a copy of this publication, call the Publications Department of the American Correctional Association at 1-800-825-2665. For those calling from outside the continental United States or Canada, the number is 301-206-5059.*

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# A Guide to Chinese Names

By  
C. FREDRIC ANDERSON  
and  
HENRIETTE LIU LEVY



**T**oday, many law enforcement agencies are experiencing increasing difficulties in identifying accurately individuals with Chinese names. These difficulties have arisen primarily because of the diversity of the Chinese language and naming systems and how authorities recorded Chinese names in the past. Therefore, the purpose of this article is to discuss Chinese characters and dialects, romanization systems, and how to determine and record Chinese proper names. It is intended to provide law enforcement officers with a basic understanding of the Chinese language and naming system, thereby helping them to report

and record Chinese names more accurately.

## Chinese Characters

Unlike English and other Western languages, Chinese is not built upon an alphabet. Rather, it is composed of thousands of characters, each of which represents one syllable. Each character, or syllable, is also a unit in itself and represents a complete idea.

Some Chinese characters are pictographic in nature. These characters are derived from ancient Chinese symbols that are pictures of the objects they represent. Chinese characters may also be combined to create another character and con-

cept. For example, the character meaning "bright" is composed of the characters that represent the sun and the moon. Together, they suggest the idea of brightness.

## Chinese Dialects

Written Chinese characters are understood by anyone who understands Chinese; however, spoken Chinese varies according to dialects. In other words, although all Chinese read the same language, they may not be able to understand someone who speaks a different dialect of Chinese. Therefore, to consider Chinese as one language is an oversimplification. Rather, Chinese is a group of related, yet distinct,

languages within the Chinese branch of the Sino-Tibetan family of languages. Chinese is composed of hundreds of dialects and subdialects, each of which developed as various peoples migrated to different geographic regions. Scholars disagree as to the number and classification of Chinese dialects, but for the purposes of this article, only seven major dialects will be discussed.

The most common Chinese dialect is Mandarin. Mandarin is spoken by approximately 70 percent of the Chinese population, primarily in northern, eastern, and southwestern China. It is the national language of both the People's Republic of China and the Republic of China on Taiwan. The Wu dialect, common to the area near Shanghai, is the second most prevalent and is spoken by roughly 15 percent of the people.

Cantonese is popularly spoken in Canton and Hong Kong. Taishenese, or Toyshan, a subdialect of Cantonese, was once the most important Chinese dialect in the United States because it was spoken by most of the early Chinese immigrants. The Min, or Fukienese, dialect is derived from Fujian Province of China. Gan and related dialects are common in eastern-central China, and Xiang is spoken in central and southwestern China. In addition, Hakka, unlike other dialects, is not geographically based. This dialect is common among descendants of refugees from China's 9th century civil wars.

It must be emphasized that the above dialects are as different as French is to Spanish. For example, a Mandarin speaker cannot communi-

cate verbally with a Cantonese speaker just as someone who speaks Spanish could not understand someone who speaks French. However, unlike French and Spanish, speakers of different Chinese dialects can still communicate through the written form of the language.

Furthermore, most dialects branched out and subdialects evolved. Subdialects are variations of the mother dialect. While subdialects differ to varying degrees, it is easier for speakers of various subdialects, derived from the same dialect, to understand one another. For instance, a speaker of the Southern Min subdialect will find it easier to converse with a Northern Min speaker than with someone who speaks Cantonese.

Language reformers within China have tried to standardize spoken Chinese, in the hope of eliminating the difficulties created by so many dialects. This movement led

to the establishment of Mandarin Chinese as the standard dialect and official language of both the People's Republic of China and of Taiwan. Mandarin is also taught uniformly throughout the educational systems in both countries.

### **Romanization Systems**

The phonetic representation of a Chinese character into words or syllables using the Latin alphabet is called romanization. This process is, at times, referred to as transliteration. Transliteration is different from translation in that it only provides the pronunciation, whereas translation provides the meaning of the character.

Romanization of a Chinese character into English is accomplished by replicating the pronunciation of the Chinese character using English letters. For example, the Chinese character meaning "man" or "husband" is pronounced in both



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Mandarin and Cantonese as “fu,” and thus, it is romanized as “fu.” However, in another example, the Chinese character meaning “3” is pronounced differently in Mandarin and Cantonese. As a result, it is romanized as “san” in Mandarin and as “sam” in Cantonese.

Ideally, the romanization process should be standardized and documented to ensure that all transliterations are consistent and accurate. Without a standardized system, one transliterator may romanize the same character as “fu” and another as “foo.” Even though both transliterators intended their romanized word to represent the character for “man” or “husband,” their romanizations are different because each used different rules for converting the same sound into English. As a result, someone could incorrectly believe that the transliterators were referring to two different characters that have two different meanings. This issue of consistent romanization becomes critical when applied to specific individual names.

Even though not all dialects have their own standardized romanization systems, most common dialects, such as Cantonese, do use a standardized romanization system. In other words, in order to convert Chinese characters into Cantonese, each and every character should always be consistently converted (transliterated) into the same English spelling (pronunciation). In addition, each romanization system has different rules for transliterating characters into English words or syllables.

Mandarin has two popular romanization systems, Pinyin and

Wade-Giles. Both systems represent the same Mandarin sounds, but use different rules for incorporating these sounds into English words or syllables. The Wade-Giles system was developed during the late 1800s and early 1900s by two British diplomats and is still used to this day in many parts of the world. The

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***Because the Chinese language is so diverse, investigators should take great care when recording and reporting Chinese proper names.***  
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People’s Republic of China introduced Pinyin in the mid-1950s and officially adopted this system in 1978 for its Chinese-language publications and business letters sent to foreign countries.

Since the People’s Republic of China adopted the Pinyin system in 1978, many institutions, including the FBI, have also adopted the Pinyin system for Mandarin romanizations. As a result, in FBI files prior to 1980, the Chinese characters for names of people who speak Mandarin were romanized according to the Wade-Giles system—the only romanization system used for Mandarin at that time. After 1980, the FBI adopted the Pinyin system of transliterating Mandarin names.

There are also romanization systems for Cantonese and

Toyshan, which use different rules for transliterating characters into English words or syllables. Whatever system is used, it is imperative that the conversion of the characters into English spelling be done faithfully in adherence to the rules of that system so that a particular system will not romanize a character in more than one spelling.

While stressing the importance of consistency in romanization, it is of equal importance to know that the Chinese do not necessarily romanize their names according to any established systems. Often, a Chinese name will be romanized based solely on how it sounds to the English listener. For example, the name of the Chinese general and politician, CHIANG Kai-shek, can be romanized into numerous forms, including:

- JIANG Jieshi (Mandarin/Pinyin)
- CHIANG Chieh-shih (Mandarin/Wade-Giles)
- TSEUNG Kai-shek (Cantonese), and
- CHIANG Kai-shek (his own romanization part Mandarin/Wade-Giles and part Cantonese).

The same can be said of the name of the founder of the Republic of China, SUN Yat-sen, whose variations include:

- SUN Yixian (Mandarin/Pinyin)
- SUN I-hsien (Mandarin/Wade-Giles)
- SUN Yat-sin (Cantonese), and
- SUN Yat-sen (his own romanization).

In the first example, CHIANG Kai-shek's own romanization is composed of a Cantonese given name and a Mandarin family name. In the second example, SUN Yat-sen created his own individual romanization of his given name; yet, the romanization of his family name is "SUN" in all systems. These examples are indicative of the various possible romanizations and the difficulties law enforcement officers can encounter as a result of attempting to identify a Chinese person by using a romanized name.

### Standard Telegraphic Code

As explained above, the various romanization systems present difficulties in identifying a Chinese individual because they create different versions of spelling when converting a Chinese character into English. This problem highlights the fact that the best identification of a Chinese name is the characters themselves. However, this procedure is complicated by the fact that most communication systems do not transmit Chinese characters, and most law enforcement officers do not have the proficiency to read them.

To remedy this problem, coding systems, developed many years ago, are used. These systems convert Chinese characters into four-digit numbers which, unlike Chinese characters, can be transmitted by telegraph, teletype, or typewriter. These numbers are also readily recognizable and can be retrieved easily. Several such coding systems are the Chinese Telegraphic Code (CTC), the Chinese Commercial Code (CCC), and the Standard Tele-

graphic Code (STC). However, to avoid confusion and ensure consistency, it is recommended that law enforcement agencies use the STC when possible.

As mentioned, the STC provides numerical equivalents for all Chinese characters by assigning a four-digit number to each character. For example, for the name CHIANG Kai-shek, the four-digit numbers would be 5592, 0094, and 4258 respectively.

An STC manual also provides an English equivalent, or romanization, for each character for

some of the common dialects, such as Mandarin (Pinyin), Mandarin (Wade-Giles), Cantonese, and/or Taishanese. Also, some STC manuals furnish the meaning or translation for each of the characters. For example, the meaning for STC number 0857 is "excellent, praise."

When a name in Chinese characters is transmitted in STC numbers, the receiver simply uses the STC manual to decode the STC numbers into their corresponding Chinese characters and romanize them into the proper dialect. Since both the sender and the receiver of

### Helpful Hints to Record/Report Chinese Names

- *Include the STC numbers as an alias*—WANG Jianguo, aka. STC 3769/1696/0948
- *Place the romanized family name in uppercase letters*—WANG Jianguo or WONG Kin-kwok, and/or
- *Place a comma after the family name*—Wong, Kin-kwok, and/or
- *Place the family name in double parentheses*—((WANG)) Jianguo, and/or
- *Underline the family name*—WONG Kin-kwok

- Have subject print name in Chinese characters
- Have subject print romanized name, along with any aliases
- Confirm with subject which character and romanized name is the subject's family name and indicate this in writing
- Remember that in Chinese, the family name is listed first
- Determine the STC numbers for subject's name.

## STC Numbers and Their Equivalents in Various Dialects

Language specialists look up the Chinese characters in the STC manual to determine the corresponding STC numbers. They will also find the corresponding romanizations according to the various Chinese dialects. For example:

STC No.	MANDARIN Pinyin	MANDARIN Wade-Giles	CANTONESE	TAISHAN
3769	Wang	Wang	Wong	Wong
1696	Jian	Chien	Kin	Gan
0948	Guo	Kuo	Kwok	Gwok

the information use the same STC manual, accuracy is guaranteed.

The STC numbers should be kept and recorded as an alias. Many Asian law enforcement agencies will accept requests for identification checks or fugitive stops only if the providing agency submits the subject's name in either Chinese characters or STC numbers. Although the recent wide use of facsimile machines allows for the transmission of Chinese characters, it should be emphasized that the receiver needs to be proficient in the written Chinese language to read it and romanize the text.

### Chinese Names

Chinese names generally consist of three characters. The first character represents the family name, and the last two characters represent the given name. Unlike English proper names, Chinese names are presented with the family

name first and the given name(s) last. This could be illustrated by taking the typical American name, John Henry Doe, in which the given names are listed first and the family name is last. However, the Chinese equivalent to this name would be Doe John Henry. This custom is kept even in the West. For example, Chinese leader, DENG Xiaoping, is never referred to as Xiaoping DENG.

In addition, a Chinese individual generally will be referred to by both family and given names. For example, one would address a man with the name WANG Jianguo with his full name rather than as Jian, Jianguo, or WANG. Only among relatives and close friends do Chinese address one another by their given names. However, Cantonese speakers may address close friends and family with the family name preceded by "Ah," an informal term that can be translated

roughly as "dear." Thus, WONG Kin-kuok may be addressed by a close friend as Ah WONG. In the same manner, Mandarin speakers may precede their family names with "Lao," "Xiao," or "Da" as in Lao WANG, Xiao WANG, or Da WANG, which means "Old Wang," "Little Wang," and "Big Wang," respectively.

In the United States, Chinese-Americans commonly add a Western or "Christian" given name as a prefix to their Chinese name. For example, after adopting a Western given name, such as Peter, the Cantonese name LEUNG King-hung becomes Peter King-hung LEUNG or simply Peter LEUNG. However, often the adoption of a Christian name is for convenience only and may not be reflected in official records.

In addition, married Chinese women will usually keep their full names and add their husbands' names before the others. For example, if Miss LEUNG Yut-wa married Mr. CHAN, she would become Mrs. CHAN (LEUNG) Yut-wa. However, sometimes Chinese-American women will not use their given and maiden names and will keep only their married name. This is particularly true if the woman has an Americanized name. For instance, if Mary Yut Wa LEUNG married Mr. CHAN, she would become Mrs. Mary LEUNG CHAN.

The arrangement of given names is treated differently in the various romanization systems. The Wade-Giles system connects the two syllables of the given name by a hyphen (e.g. LI Yu-lung), while the Pinyin system links the two syl-

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lables without any break in between (e.g. Li Yulong). Still another arrangement, commonly used in Malaysia and Singapore, treats the three romanized syllables as three separate words, such as LEE Yu Lung.

### **How to Determine and Record Chinese Names**

Because the Chinese language is so diverse, investigators should take great care when recording and reporting Chinese proper names. Often, a subject's name will only be reported in its romanized form. This can cause great difficulty in light of the multiplicity of possible characters for any one phonetic spelling.

This confusion could be likened to looking in the telephone book under Gene Smith for an acquaintance who actually spells his name Jean Smythe. For example, if the only information available is that the romanization of the subject's family name is WANG, this is not enough to determine the exact Chinese character that WANG represents. In the Mandarin dialect, WANG may be represented by 19 different characters. In other words, there are 19 different characters that have the Mandarin pronunciation and romanization of WANG. Also, in Cantonese, WANG could refer to one of five characters, none of which is identical to any of the Mandarin characters for WANG.

However, if the Chinese character for the subject's family name is known, then an accurate romanization can be determined. Therefore, recording an individual's name in its original Chinese characters is crucial to identify accurately

any Chinese individual. In addition, when the suspect or individual in question is providing this information, they should be reminded to print the characters. And, because many individuals use romanized names for certain American legal situations, the investigator should

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**...there are methods  
law enforcement  
can apply...to  
determine and record  
Chinese proper names  
accurately.**  
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have them print their romanized names. This can be especially helpful if the subjects have an unusual romanization.

Again, when recording Chinese names, investigators should also remember that in Chinese, family names are listed first. For example, someone with the name WANG Chien-Kuo should be addressed as Mr. WANG, not as Mr. Kuo. Therefore, when recording Chinese names, it would be helpful to identify clearly which name is the family name. For example, suppose a Chinese individual is arrested and interrogated. The investigator should immediately have the suspect print his name in Chinese characters and his romanized name, along with any aliases. The investigator should then confirm with the subject which character and which romanized

name is the subject's family name, and then clearly indicate such in writing.

Next, the STC numbers for the subject's name should be determined. This process will most likely require a Chinese language specialist or someone schooled in Chinese transliteration to look up the characters in an STC manual. As mentioned previously, some STC manuals also provide romanizations for different dialects, such as Mandarin and Cantonese. The STC manual will also reveal one or more romanizations for the subject's name which may or may not confirm the individual's own romanization.

### **Conclusion**

Despite the numerous dialects, romanization systems, and various other peculiarities of the Chinese language, there are methods law enforcement can apply to better understand Chinese individuals and to determine and record Chinese proper names accurately. Today, American society represents a wealth of ethnic diversity. As a result of this diversity, however, it is imperative that law enforcement officers nationwide become more familiar with other cultures that are becoming increasingly present in their communities. Basic knowledge of various cultures and languages, such as Chinese, is just one way law enforcement officers can help tear down the walls between various ethnic groups and better protect the citizens they serve.

**LEB**

## Point of View

### Is Distance Firearms Training Obsolete?

By  
Lt. Glenda E. Mercer

**T**he issue of distance training with firearms gives rise to diverse opinions. Those trainers who endorse close firearms training (25 yards or less) quote statistics that I believe, for the most part, have been taken out of context. While I realize data are needed to evaluate programs, it is extremely important that care be exercised on how this information is used.

Most statistics cited to support close firearms training involve officers killed, and such statistics do indicate that the majority of these incidents occur at close range. But, what about those officers who survived shooting incidents? Could it be possible that these officers are still alive because they were some distance from their assailant(s) and had taken good cover?

Don't we, as trainers, stress cover and concealment? Don't we also tell officers that if they have a good cover position not to rush in closer without carefully evaluating the situation. Aren't officers trained to be patient and to call for backup or a tactical team, if needed?

My point is that firearms training should not be designed in such a way that officers feel compelled to rush and establish a position simply to be closer to the

target. And, if officers are being trained to do this because they lack the ability or confidence to fire at longer distances, then we, as trainers, are not preparing officers to survive.

I believe another reason for the lack of support for distance training is the surge of semi-automatics in policing. This is because it takes time and work to provide transitional training from revolvers to semiautomatics. When faced with numerous officers to train, limited training funds, and few hours to accomplish the transition, trainers start to feel the pressure and limit training to proficiency in handling and firing firearms at close distances.

But, can trainers be absolutely positive that no officer will be required to fire a semiautomatic from a distance farther than 25 yards? Of course not. In any case, I believe that the job of every firearms instructor is to train officers so that they will be able to respond properly to any shooting incident that they might encounter, regardless of the distance involved.

Shooting at 50 yards takes concentration, and at longer distances, the fundamentals of firearms training are very important and must be stressed constantly. If officers are making shooting errors at 25 yards, those



*Lieutenant Mercer is the Director of Firearms Training at the Indiana Law Enforcement Academy in Plainfield, Indiana.*

**“...firearms training should not be designed in such a way that officers feel compelled to rush and establish a position simply to be closer to the target.”**

errors will be magnified at 50 yards. Instructors should not eliminate such training because officers complain about their inability to fire well at distances beyond 25 yards. Lowering the standards is not the answer.

Don't misunderstand me. I believe that reflexive combat shooting is very important. Officers should train on courses where they must react at close distances within short time periods—on courses where the use of sights is not emphasized. But, if officers

train only for close range firing, aren't they being taught to rush into situations that could endanger their lives? Such close-in training encourages officers to move in for good shots instead of building confidence in their ability that they can shoot, and shoot well, at a distance of 50 yards and beyond.

Some departments have done away with *all* distance shooting training, which I believe is an extreme position to take. By doing away with distance shooting, firearms instructors are not teaching officers the skills that they need to survive, and such a policy may result in officers needlessly losing their lives. Instead, I would encourage all firearms trainers to evaluate their programs continually to ensure that they aren't making changes without considering all the consequences.

As firearms trainers, officers depend on us to teach them the proper techniques in the use of firearms and to develop their skills. We must ensure that every officer we train has the confidence and ability to respond well to every shooting incident, whether at 5 yards or 50 yards, and survive. We cannot and should not let them down.

**LEB**

**Point of View** is a forum for law enforcement professionals to suggest recommendations to improve police work. Submissions for this feature should be typed, double-spaced, and forwarded to Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th and Pennsylvania Ave., NW, Washington, DC 20535.

## Author Guidelines

### Manuscript Specifications

**Length:** 1,000 to 3,000 words or 5 to 12 pages double-spaced.

**Format:** All manuscripts should be double-spaced and typed on 8 1/2" by 11" white paper. All pages should be numbered, and three copies should be submitted for review purposes. Where possible, floppy disks using WordPerfect should be submitted with typed manuscript.

### Publication

**Basis For Judging Manuscripts:** Manuscripts are judged on the following points: Factual accuracy, style and ease of reading, structure and logical flow, length, relevance to audience, and analysis of information. Favorable consideration will generally not be given to an article that has been published previously or that is being considered for publication by another magazine. Articles that are used to advertise a product or a service will be rejected.

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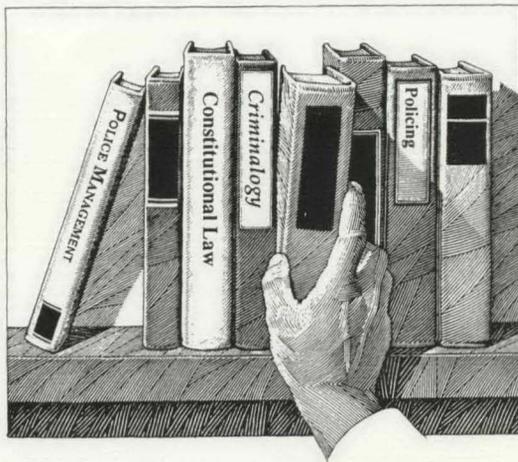
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**LEB**

## Book Review



**The Americans With Disabilities Act**  
by David A. Snyder, published by the Labor Relations Information System, Portland, Oregon, 1991, Phone (503) 621-9720.

By July 26, 1992, the employment practices of many firms and services in the United States, including most law enforcement agencies, will undergo changes brought about by the Americans With Disabilities Act (ADA). In this book, the author dissects the ADA and discusses the effect Title I of the ADA will have upon employment practices.

The book begins with an examination of background issues, including the ADA's definitions of impairment, disability, and "qualified individuals with a disability." Each issue is discussed in detail, with direct references drawn from the ADA and the regulations and interpretive guidance issued by the Equal Employment Opportunity Commission (EEOC). For comparison, the author parallels the ADA to the Federal Rehabilitation Act of 1973. While such a detailed analysis might at first glance seem unnecessarily tedious, in reality, it is not. As

the author correctly argues, these preliminary determinations are necessary predicates to application of the ADA.

Seven chapters focus exclusively on the employment practices expressly prohibited or limited by the ADA. These chapters discuss relevant hiring issues, classification of applicants or employees based on disability, the duty of reasonable accommodation, and the medical testing of applicants and employees. Each chapter is divided into subchapters that independently analyze the key components of the ADA and its regulations. The book is designed for quick reference and easy location of specific topics of interest.

The book also contains separate discussions of specific ADA issues that may arise specifically in a law enforcement context. More importantly, however, the author goes beyond simple analysis of the act and discusses actual dilemmas that may face law enforcement managers.

The book concludes with appendices that include a copy of the relevant portions of the ADA, the EEOC regulations, the EEOC's interpretive guidance on Title I of the act, and a listing of resource groups and services. A topical index is also provided for easy reference.

Given its emphasis on public safety issues, *The Americans With Disabilities Act* is an invaluable resource for law enforcement managers. For, as with any broad-based change in public policy, understanding is the key to ensure the new act is carried out fairly and in accordance with the principles set forth by Congress.

Reviewed by  
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# **Police Recruits**

## *Training Tomorrow's Workforce*

By  
GARY M. POST



**I**n the decade of the 90s, two broad, recurring themes will impact on the way police agencies "do business." One theme relates to how departments will manage an ever-increasing volume of information; the other reflects the accelerating rate of change that will become the trademark of the 1990s. While these projected trends have obvious implications for law enforcement agencies in general, nowhere will law enforcement's response to them be more crucial than in the area of police training.

The training function is vital to the effectiveness of every police agency. The primary reason for this

is that training is the vehicle used to impart knowledge and develop skills. In the future, as the increasing volume of information and the accelerated rate of change make police work more complex, the training function will become even more important.

An equally significant, though less obvious, contribution of the training function to organizational effectiveness involves the socialization of new members into the police subculture. Socialization is the process by which new members are introduced to the underlying values and belief systems of the agency.<sup>1</sup> Over the next decade, the socializa-

tion process will grow in importance as police agencies explore innovative ways to interact with the communities they serve.

Therefore, today's police trainers need to reevaluate recruit training programs and instructional techniques to ensure that they provide what recruits need to be effective police officers. However, to understand the strategies required to train tomorrow's officers, it is first necessary to look at traditional police recruit training.

### **Traditional Recruit Training**

Police recruit training for most agencies evolved quite naturally



**“ The most effective training will be conducted in an environment that fosters high self-esteem, motivation, and performance. ”**

*Lieutenant Post is assigned to the Training Division of the Michigan State Police, Lansing, Michigan.*

from a military model. Some agencies even trace their beginnings to a “home guard” or “State militia” staffed mainly by military men. In fact, over the years, police agencies actively recruited former military personnel because of the perception that they would “fit” more readily into paramilitary police agencies. Therefore, it is no surprise that police recruit training perpetuated the military training model.

The classic military training model for police recruits is easily recognized by the high levels of nonspecific stress deliberately induced into the program by training officers. Stress in this case is defined as “...the application of pressure on recruits, singularly or in groups, for the sole purpose of generating a response to that pressure.”<sup>22</sup>

In classic stress training, verbal harassment, criticism, and physical activity used as punishment are commonplace. To a detached observer, an instructor’s interaction with a recruit might be interpreted as negative, intimidating, and demeaning.

The widely accepted theory behind this type of training for police recruits is that application of a high level of stress develops discipline and group cohesiveness. Many would argue that operating under a high level of stress prepares recruits for the situations they will encounter in the “real world” of policing. But, does it?

#### **Training in Transition**

Within the past 15 years, many agencies began to question the value of classic stress training. These agencies evaluated their current programs by comparing stress-trained recruits with those who were nonstress trained. As a result, they determined that recruits trained in a nonstress environment “...displayed a higher level of performance proficiency in the field, a higher level of job satisfaction and a higher level of performance acceptability by persons served.”<sup>23</sup> In other words, these departments determined that there are numerous adverse consequences associated with stress training.

#### **Consequences of Stress Training**

Classic stress training, by design and definition, deliberately undermines the police recruits’ self-esteem through instructor-applied nonspecific stress. A diminished level of self-esteem inevitably results in lower motivation which, in turn, leads to poorer performance. Classic stress training masks this temporarily by using fear as a motivator to improve performance. But, this is a short-term strategy. Once the threat, or fear, is removed, performance deteriorates because the recruits’ self-esteem and motivation remain low.

The stress training model also tends to develop dependent recruits.<sup>4</sup> Stress training develops recruits who can take orders and who do what they are told. It also tends to produce police officers who are afraid to make decisions, show no initiative, cannot act independently, and who may only perform when they are being watched.

In light of this, departments need to base their police recruit training on sound job analysis to ensure that training strategies and practices produce police officers who can function effectively. Police executives must realize that today’s recruits no longer accept the “just-do-as-I-say” way of thinking as their counterparts did 30 years ago. They have different expectations of their role in the workplace. Those agencies that take a more developmental approach to police training, one which incorporates the principles of adult learning theory, report “...fewer incidents of citizen complaints, fewer internal discipline complaints, and significantly

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better academic and proficiency performance levels while in the academy.”<sup>5</sup>

### Adult Learning Principles

If the primary objectives of recruit training are to transfer knowledge and skills and to socialize recruits into the police subculture, then it is important for police instructors to understand what adult learners bring to a learning situation. As one author noted: “Adults, by definition...are responsible people who seek to build their self-esteem through pragmatic learning activities in which their competence is enhanced.”<sup>6</sup>

Specific characteristics of adult learners are:

- Adults possess a rich resource of skill and experience
- Adults learn when the instruction provides a bridge between what they know and the information they want to master
- Adults learn best when they can immediately apply newly acquired knowledge and skill
- Adults prefer active learning experiences
- Adults prefer learning experiences that allow them to have some input into content and learning mode
- Adults prefer to set their own pace at which to learn
- Adults learn more easily in an atmosphere of mutual respect
- Adults learn not only to improve skill and competence but also to enhance their self-esteem.<sup>7</sup>

The fact is that adult learners learn best when they are actively involved in the learning process. In other words, adults learn by doing. Along those same lines, learning retention from traditional lecture-based instruction is low, in the range of 10-15 percent. In spite of this fact, most police recruit training is still lecture based, and therefore, extremely inefficient.

Extensive research with adult learners also indicates that an adult’s motivation to learn is inextricably intertwined with self-esteem.<sup>8</sup> In other words, a person with a high level of self-esteem tends to have a high expectation of success in a learning situation, which translates into high motivation and superior performance. On the other hand, those learners with low or damaged self-esteem have a lower expectation of success, lower motivation,

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**...adult learners learn best when they are actively involved in the learning process.**

and poorer performance in the learning situation. In fact, research indicates that low self-esteem is one of the primary reasons for attrition from adult learning situations.<sup>9</sup>

In light of modern adult learning principles, the potential for severe consequences resulting from classic police stress training becomes readily apparent. Therefore, trainers need to review techniques

currently used in recruit training, evaluate their effectiveness to transmit the knowledge and develop skills required for the job, and practice the training strategies that will best produce what the job requires.

### Instructional Strategies

In terms of instructional strategies, the general and nonspecific application of stress in the training process is not only counterproductive but also potentially disruptive to the effective transfer of knowledge and skills to police recruits.<sup>10</sup> This is not to say that the use of stress cannot be a legitimate training strategy. It can, if used appropriately.

If stress is introduced into a specific scenario in order to simulate a real-life situation, then the application of stress can be productive. For example, it would be appropriate to introduce stress into a simulated confrontation between a recruit and an irate motorist or an aggressive drunk. However, this should only be done after the recruit has been taught the appropriate skills to deal with such situations. The same holds true for firearms training. Only after recruits demonstrate a basic level of competence with firearms should instructors place them in a shoot/don’t shoot training environment.

### Job Analysis

One question trainers should ask is, “Are recruits learning what they really need to know to function effectively?” Trainers must be thoroughly familiar with what police officers are required to do to perform their jobs so that they can

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structure the learning experiences to transfer the skills and knowledge needed. In essence, they should complete a job task analysis and then structure the curricula so that the instruction given is relevant to the job.

The lack of job task analysis is a fundamental shortcoming of classic stress training. For the most part, the stress model overemphasizes knowledge and skills that are unrelated to those needed in day-to-day police work. Why should police officers be evaluated on military march formation, how they make their beds, or their ability to recite the organization's chain of command? Yet, in some recruit programs, these areas are emphasized to the neglect of critical skills that police officers use every day.

One author estimates that 90 percent of recruit training is dedicated to knowledge and skills that comprise no more than 10 percent of the police officer's job.<sup>11</sup> Certainly, firearms training, defensive tactics, and first-aid are important job-related skills that deserve training time. But, just as important are human relations and communications skills.

There is no single skill used as frequently in police work as the ability to communicate. Yet, the amount of training time invested in this area is negligible. Currently, human relations and communications skills training comprise, on the average, only 5 percent of recruit training curricula nationwide.<sup>12</sup> The obvious question then becomes, "If police officers spend 80-90 percent of their time communicating, why is only 5 percent of recruit training

spent teaching them to communicate?" This is surely an issue that police trainers should address.

### **Socialization**

Every organization adheres to a system of values, beliefs, and practices that make up its organizational culture. Therefore, it is important for recruits to incorporate the organization's principles into their individual belief systems. This is accomplished through the process of socialization. As a dimension of police recruit training, socialization is extremely important because it determines, to a large degree, what kind of police officer recruits will become, how they will interact with members of the community, and ultimately, how they will help to shape the direction of the organization.

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The training academy is the primary avenue through which recruits make the transition into the police subculture. At the academy, recruits meet powerful role models at precisely the place where their readiness to learn is at an all-time high. When making a major life transition, adults experience a level of anxiety and anticipation that causes them to grasp at anything that will help them to make the transition

successfully. Who could be more powerful role models than police trainers?

Most officers can recall their days at the training academy and their instructors, even 20 years later. The power inherent in the role of recruit trainer carries with it an awesome responsibility, both for the individual trainer and for the organization.

Unfortunately, police trainers under the classic stress model, by design, may become officious, intimidating, rude, abrupt, negative, and demeaning. While the overall intentions of these trainers may be honorable, their negative impact on the socialization of new recruits cannot be denied.

In other words, the danger inherent in stress training is that recruits will emulate all the negative aspects of their role models as police officers on the street. Recruits want to be what trainers already are—police officers—and they eagerly emulate any model that will help them to reach that goal. If recruits have rude, abusive, demeaning role models, the odds are that they may become rude, demeaning, abusive police officers. However, recruits don't realize that the negative image portrayed by their instructors is not the way the department expects them to behave.

### **Future Implications**

Futurists project a radical redefinition of the police officer's role over the next decade.<sup>13</sup> Intelligently planned enforcement efforts will continue to be important, especially as criminals turn increasingly to high technology. But, in addition to

the traditional enforcement role, police officers will need to become more community oriented to work with citizens to address community problems and needs.

To accomplish this, police officers must be able to think critically about complex community problems and act independently to solve them. Police officers need to become master communicators and negotiators who understand and practice human relations skills to draw diverse citizen groups together.

Realizing this, the question then becomes, "Are we training tomorrow's police officers with yesterday's models?" The military model and its stress training approach served law enforcement well for many years, but the times have changed. Or, more to the point, people have changed.

In 1959, the National Opinion Research Corporation surveyed a cross-section of the American workforce. Regarding the question, "What is important to you about your job?" the top three responses, in order of importance, were salary, job security, and fringe benefits.

When the same question was asked of a similar cross-section of Americans 20 years later, the top three responses were self-expression, self-fulfillment, and personal growth.<sup>14</sup> Salary, fringe benefits, and job security dropped to the 15th, 16th, and 17th place, respectively. Interestingly, although there was virtually no difference between the responses of police officers and those of employees in other professions, police officers did place job security before fringe benefits.<sup>15</sup>

## Effective Instructional Strategies

**Communicate Concepts of the Skill to be Learned**

Certain basic information and concepts must be mastered by students as a tool to facilitate learning a skill. As a start, performance objectives must be defined to lay a foundation for later skill development.

**Model the Skill**

Modeling is an effective instructional technique that trainers can use to teach a wide variety of skills to students. Modeling accelerates the learning process by allowing recruits to see a skill demonstrated correctly.

**Practice the Skill**

Practice provides the student with the opportunity to refine and perfect the skill to be learned. Proficiency in a skill cannot be developed without practice.

**Give and Receive Feedback**

Feedback comes after trainers correctly model the skill and allow recruits the opportunity to practice it. Positive, constructive feedback helps recruits to refine and perfect their skills, thereby accelerating the learning process.

**Test Skills**

Skill tests should closely reflect the performance objective and allow the recruit to demonstrate the skill. Generally speaking, the more closely a skill test reflects the real-world circumstances in which the skill will be used, the more effectively the test will evaluate that skill. Too often, trainers test for information about the desired competency without testing for the competency itself.

The dramatic shift in responses should send a signal to police trainers that the attitudes, expectations, and desires of recruits entering the law enforcement profession are dramatically different than they were 30 years ago. People want challenging work, input into decisions and problems that affect them, true career development apart from just promotions, the opportunity to achieve something of importance,

and recognition for what they do. Trainers need to realize this and recognize that recruits are not unmanageable, as many complain, but that men and women joining police forces today simply have different career expectations than those of a generation ago.

**Conclusion**

In many cases, today's police recruits are being trained with

# Police Practices

yesterday's models. Therefore, police trainers need to review their instructional strategies and adapt them to the needs and expectations of adult learners. The most effective training will be conducted in an environment that fosters high self-esteem, motivation, and performance.

**LEB**

## Footnotes

<sup>1</sup> Robert E. Little, "The Police Academy: Toward a Typology of Modes of Anticipatory Occupational Socialization Among a Sample of Police Recruits," *Journal of Police Science and Administration*, April 1990, p. 159.

<sup>2</sup> James L. Lockard, "Making Recruit Training Responsive to Agency Needs: A Model Approach," *The Police Chief*, November 1989, p. 48.

<sup>3</sup> Howard H. Earle, *Police Recruit Training: Stress vs. Non-stress* (Springfield, Illinois: Charles C. Thomas, 1973), p. 143.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *Supra* note 2, p. 51.

<sup>6</sup> Raymond J. Wlodkowski, *Enhancing Adult Motivation to Learn* (San Francisco, California: Jossey-Bass Publishers, 1985), p. 6.

<sup>7</sup> K. Patricia Cross, *Adults as Learners* (San Francisco, California: Jossey-Bass Publishers, 1981).

<sup>8</sup> *Ibid.* p. 126.

<sup>9</sup> *Ibid.* p. 120.

<sup>10</sup> *Supra* note 2, p. 49.

<sup>11</sup> Robert J. Meadows, "Beliefs of Law Enforcement Administrators and Criminal Justice Educators Toward the Needed Skill Competencies in Entry-Level Police Training Curriculum," *Journal of Police Science and Administration*, 1987, p. 1.

<sup>12</sup> S.A. Cunningham, "Human Resource Management in the 21st Century," *The Police Chief*, April 1989, p. 102.

<sup>13</sup> Alvin and Heidi Toffler, "The Future of Law Enforcement: Dangerous and Different," *FBI Law Enforcement Bulletin*, 50, January 1990, p. 1.

<sup>14</sup> William Tafoya, classroom presentation, FBI National Academy, Quantico, Virginia, July 18, 1990.

<sup>15</sup> Similar questions asked to supervisors and managers attending the Michigan State Police training academy in 1990 and responses were very similar to those given in 1979 National Opinion Research Corporation study.



## Ft. Lauderdale's Code Enforcement Team

In 1987, the City of Fort Lauderdale, Florida, grappled with a rising drug-related murder rate, especially in the northwest quadrant. This drug-ridden, inner-city area was also plagued by poor living conditions and an accompanying low quality of life.

The obvious question confronting the city was how to solve these problems. After studying the issue, one significant idea that emerged was the formation of a Code Enforcement Team. What made this idea unique, and ultimately effective, was that it involved the integration of the police department, the building and zoning department, and the fire department.

### Code Enforcement Team

A Code Enforcement Team is comprised of one member each from the police, fire, and building

and zoning departments. By combining the city's full regulatory and police powers with patrolling the area together, the team works to reduce and prevent criminal activity and to bring commercial and residential structures into compliance.

Also, by eliminating the locations where drugs are bought and used and revitalizing the surrounding neighborhood, a decrease of drug-related burglaries and robberies, as well as the violence associated with drug-infested neighborhoods, could possibly be realized. Ultimately, the objective was to improve the quality of life within the community.

### Results

The results of the initial Code Enforcement Team were astonishing. During 1987-1990, the team:

- Demolished 124 crack cocaine houses and dangerous buildings and boarded up another 587,
- Collected \$600,000 in fines from 300 landlords and property managers of substandard housing, and
- Pressured landlords into spending \$5.7 million on repairs to deteriorating properties.

The efforts of the Code Enforcement Team also resulted in a 57-percent drop in drug activity in the targeted neighborhood and a 24-percent reduction in calls for police service.

In fiscal year 1991 alone, the Code Enforcement team inspected approximately 2,500 dwellings. This resulted in over 21,600 violations being cited and in over 60 structures being boarded up or demolished. In addition, the team completed a 6-month action plan to clean up a 15-square block area of the city.

### **The Code Enforcement Team and Community Policing**

Based on its continued success and the overwhelming acceptance by all levels of police department personnel, the Code Enforcement Team became part of the department's overall crime control strategy. Police officers began using the team concept as part of their directed patrol action plans and in their crime control initiatives throughout the city. District commanders also found great value in the team approach and began to use it more often. In addition, by using the Code

Enforcement Team as a template, the police department developed further initiatives with other city departments, the business community, and the neighborhood associations.

More importantly, the rank and file began discussing the significance of incorporating the team's expertise into the police department's training program. To

**“The efforts of the Code Enforcement Team also resulted in a 57-percent drop in drug activity in the targeted neighborhood and a 24-percent reduction in calls for police service.”**

accomplish this, the Code Enforcement Team and the police department developed lesson plans and held several training sessions. This new knowledge enables officers to deal with difficult and complex problems with much greater confidence.

Now, more officers perform self-initiated code enforcement.

Because of this, the department expanded its community policing policies into a departmentwide strategy that continues to support an aggressive training program and formulated a decentralized code enforcement strategy.

### **Conclusion**

The Fort Lauderdale Code Enforcement Team remains an outstanding example of a unified approach to problem solving. It imparts a new sense of optimism to a part of Fort Lauderdale, Florida, that previously felt neglected and forgotten. Another important outcome of the team's effort is a new, productive relationship between the community, the police department, and the city.

The Code Enforcement Team also inspires the police department, as well as the entire city, to continue to strive for excellence. The effect of combining police, who have the power of arrest, and the regulatory powers of the building and zoning department with the authority of the Fire Marshall proves that the whole is, indeed, greater than the sum of its parts.

**LEB**

*Maj. Joseph M. Donisi, a member of the Fort Lauderdale, Florida, Police Department, provided the information for this column.*

**Police Practices** serves as an information source for unique or noteworthy methods, techniques, or operations of law enforcement agencies. Submissions should be no more than 750 words (3 pages, double spaced and typed) and should be directed to Kathy Sulewski, Managing Editor, *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.

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# *Transnational Crimes*

## *A Global Approach*

By  
AUSTIN A. ANDERSEN

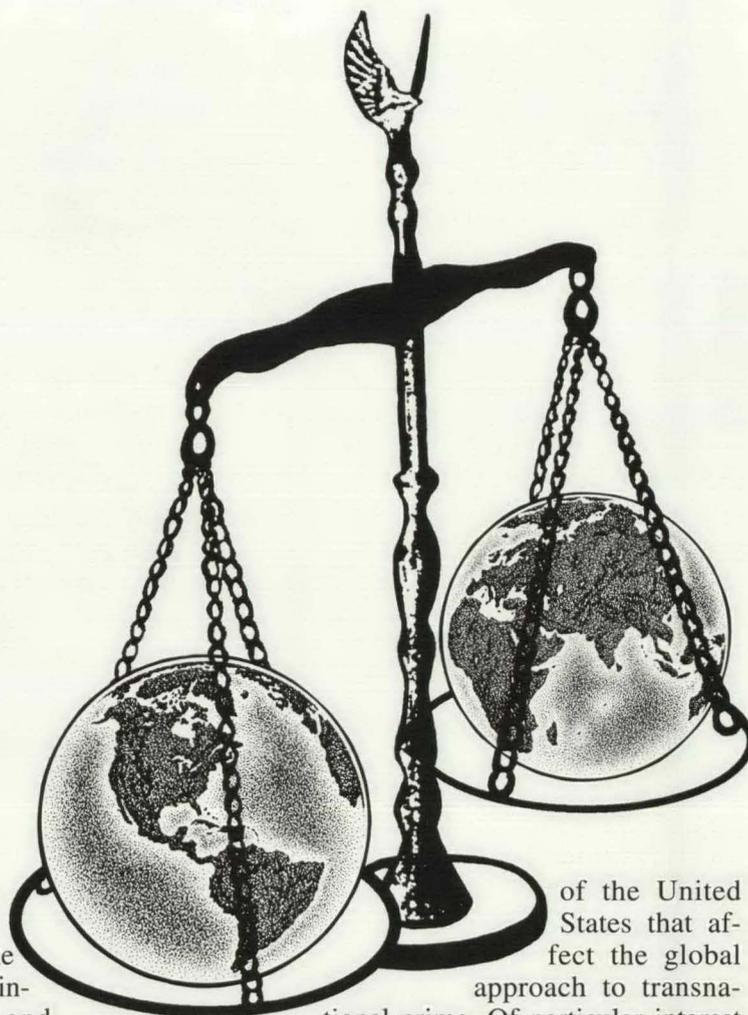
**A**n estimated \$50 billion-a-year cocaine industry flourishes in the United States because drug cartels control a transnational criminal mosaic. This mosaic consists of coca plant cultivation sites in Peru and Bolivia; processing laboratories for the coca leaves in Colombia, Brazil, and Argentina; importation networks that ship the drug into the United States; and money laundering channels that direct cashflow into "legitimate" investments all over the world.<sup>1</sup> Global conglomerates dealing in illicit activities survive and flourish because unilateral enforcement efforts by a single country generally disable only small segments of such operations.

Unlike criminal investigations coordinated within the jurisdiction of a particular country, the international law enforcement community faces two formidable obstacles when developing prosecutable cases against criminal enterprises with tentacles that extend throughout the world. First, evidence admissible in one country may be suppressed in another with more restrictive procedural standards. Second, the doctrine of sovereignty, or self-government within national boundaries, limits the ability of law

enforcement officers in one country to investigate and prosecute criminal activities that extend into another.

Because of the enormous damage caused by international crime cartels, however, legal systems throughout the world are changing to facilitate the international efforts of police agencies. This article provides an overview of recent changes in the caselaw, statutes, and treaties

of the United States that affect the global approach to transnational crime. Of particular interest are the following developments: Increased attention by the U.S. judicial system to the application of constitutional standards to evidence from foreign sources, the passage of statutes that provide U.S. courts with jurisdiction to try crimes that occur beyond U.S. boundaries, and treaties that clarify the ability of some police agencies to assist their



foreign counterparts in investigations, searches, and seizures.

## APPLYING THE BILL OF RIGHTS TO FOREIGN INVESTIGATIONS

### Searches and Seizures

The fourth amendment of the U.S. Constitution requires law enforcement officers in the United States to conduct searches and seizures in a "reasonable"<sup>2</sup> manner. The U.S. Supreme Court has held that as a general rule, a reasonable search is one conducted with a search warrant requiring a judicially approved showing of probable cause and limitations on the scope of the search.<sup>3</sup> In addition, the Court recognized a number of exceptions to the warrant requirement as reasonable, namely, emergency searches, searches based on consent, the motor vehicle exception, and search incident to arrest.<sup>4</sup>

As a deterrent to unreasonable searches by police officers, the Court adopted the exclusionary rule, which requires the suppression of evidence derived from investigations that violate the Constitution.<sup>5</sup> Because police in foreign countries are generally unaware of the procedural standards of the American judicial system, the danger exists that under certain circumstances, evidence collected by foreign police will be suppressed in this country.

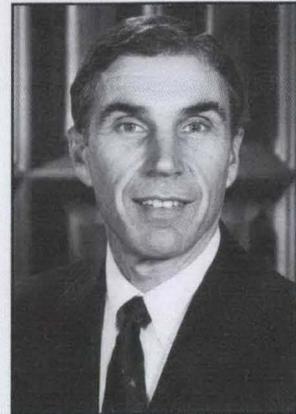
In many instances, however, the exclusionary rule does not apply to searches and seizures conducted in foreign countries. Because the Bill of Rights has been interpreted as applying only to the actions of the U.S. Government and its employees,<sup>6</sup> evidence independently ac-

quired by foreign police for their own purposes is admissible in U.S. courts, despite the fact that such evidence, if seized in the same manner by American police, would be excluded as violative of the fourth amendment.<sup>7</sup>

This rule applies even when the evidence is seized from American citizens.<sup>8</sup> An exception to this rule, though infrequently applied, occurs when the behavior of the investigating officers is so inhumane or outrageous that a court, exercising its supervisory responsibilities, suppresses evidence obtained pursuant to the offending action.<sup>9</sup>

Another exception to the general rule of admissibility of evidence located by foreign police occurs when there is substantial participation in the search by U.S. law enforcement agents, thereby converting the investigation into a joint venture implicating the fourth amendment and the exclusionary rule.<sup>10</sup> Recently, however, the Supreme Court limited this exception by determining that the fourth amendment does not apply to the search and seizure by U.S. authorities of property owned by a nonresident alien and located in a foreign country.

In *United States v. Verdugo-Urquidez*,<sup>11</sup> Verdugo-Urquidez, a Mexican national suspected of the torture-murder of an undercover DEA agent, became a fugitive after being charged by the DEA with numerous drug violations in the United States. Based on the outstanding American warrant, Verdugo-Urquidez was arrested in Mexico by the Mexican Federal Judicial Police (MFJP) and remanded to U.S. marshals at the California



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border. The next day, the Director of the MFJP, at the request of DEA agents, authorized a warrantless search of Verdugo's two residences in Mexico. During the searches, conducted by both MFJP officers and DEA agents, one of the DEA agents found and seized documents allegedly reflecting the volume of marijuana smuggled into the United States by Verdugo's organization.

Because the searches, which were unrelated to any contemplated Mexican prosecution, were initiated and participated in by DEA agents (who also took custody of the evidence), the lower courts found that the participation of the DEA agents was substantial enough to make the searches joint ventures subject to the strictures of the fourth amendment. Holding that a warrant was required to ensure reasonableness in the search of the Mexican premises of Verdugo-Urquidez, the lower courts suppressed the evidence.

The Supreme Court reversed, and in a plurality opinion, con-

cluded that the use of the words "the people" in the fourth amendment was intended as a term of art referring to a class of persons who are part of a national community or who have otherwise developed sufficient connection with the United States to be considered part of that community.<sup>12</sup> Therefore, the Court reasoned that the protections of the fourth amendment were not intended by the framers of the Constitution to apply to U.S. Government action against foreign nationals on foreign soil.<sup>13</sup>

It is important to note, however, that the *Verdugo-Urquidez* decision does not address the fourth amendment rights of foreign nationals or aliens subject to search and seizure by law enforcement officials *within* the United States. In general, after an alien lawfully enters and resides in the United States, "he becomes invested with the rights guaranteed by the Constitution to all people within . . . the borders [of the United States]."<sup>14</sup>

The fourth amendment application to *illegal* aliens is less clear. While illegal aliens are protected by the Equal Protection Clause of the U.S. Constitution,<sup>15</sup> neither the fourth amendment nor the exclusionary rule apply in a civil deportation hearing.<sup>16</sup> However, without deciding the issue, the Supreme Court has implied that once an ille-

gal alien voluntarily enters the United States and "accepts some societal obligations,"<sup>17</sup> fourth amendment protections extend to criminal prosecutions.

At the same time, *Verdugo-Urquidez* does not alter the applicability of fourth amendment protections for U.S. citizens in foreign countries with respect to searches and seizures by U.S. officials.

The U.S. Government, whether it acts at home or abroad, is subject to the limitations placed on its

power by the Bill of Rights as far as its relationship with its own citizens is concerned.<sup>18</sup> There-

fore, U.S. agents, who participate to a substantial degree in a search or seizure of a U.S. citizen with foreign police in a foreign country, must comply with the U.S. Constitution or risk exclusion of any evidence obtained thereby in American courts.

### Interrogation

The Supreme Court has not clearly addressed the issue of whether U.S. officials interrogating foreign nationals outside the United States must comply with the U.S. Constitution's fifth amendment protection against self-incrimination. This protection requires that all confessions must be voluntary and that custodial interrogations must be preceded by constitutional warn-

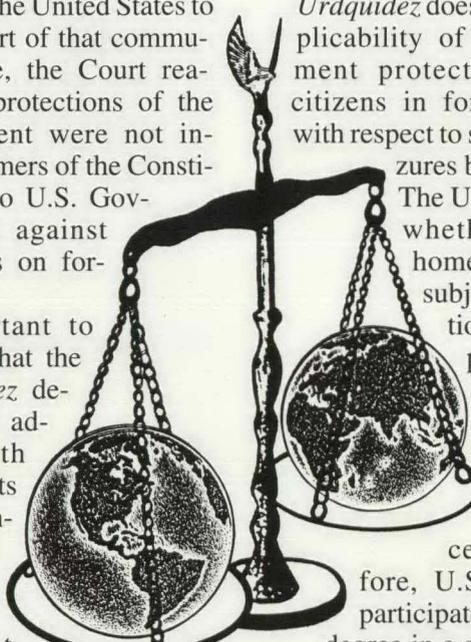
ings in accordance with *Miranda v. Arizona*.<sup>19</sup>

Several years ago, the Supreme Court rejected the claim that aliens are entitled to fifth amendment protections outside the United States.<sup>20</sup> The Court in *Verdugo-Urquidez*, however, observes that the "privilege against self-incrimination guaranteed by the Fifth Amendment is a fundamental trial right of criminal defendants"<sup>21</sup> as opposed to a fourth amendment violation that is "fully accomplished" at the time of the unreasonable intrusion.<sup>22</sup>

A lower Federal court has taken this reasoning a step further:

"[I]t is not until the statement is received in evidence that the violation of the Fifth Amendment becomes complete. For this reason we believe that if the statement is not voluntarily given—whether given to a United States or foreign officer—the defendant has been compelled to be a witness against himself when the statement is admitted."<sup>23</sup>

Foreign officials certainly cannot be required to adopt the criminal procedure of the United States during the questioning of suspects. However, in the absence of succinct judicial guidance concerning the extraterritorial application of the Bill of Rights during interrogations conducted by U.S. officials abroad, it would seem prudent to consider the protection against self-incrimination as a necessary constitutional principle whenever confessions intended for prosecutions in the United States are sought.



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## U.S. STATUTES THAT PROVIDE EXTRATERRITORIAL JURISDICTION

The traditional limitations<sup>24</sup> on a sovereign state to assign criminal liability to conduct committed outside its territorial jurisdiction has undergone dramatic changes in the United States. In his dissenting opinion to *Verdugo*, Justice Brennan cautioned that “[f]oreign nationals must now take care not to violate our drug laws, our anti-trust laws, our securities laws, and a host of other federal criminal statutes. . . .”<sup>25</sup>

Congress enhanced the extraterritorial subject matter jurisdiction of U.S. courts through the passage of a wide variety of statutes.<sup>26</sup> The following are among those that appear most useful to the international law enforcement community:

- Subchapter II, entitled “Import and Export,” of the Controlled Substances Act (Title 21, U.S. Code) regulates the methods by which controlled substances enter and leave the United States. Of particular interest is §959, which is intended to permit extraterritorial application of laws proscribing the distribution or manufacture of controlled substances *outside* the United States intended for importation to the United States. Section 959(b) reaches any person aboard an American aircraft anywhere in the world who possesses a controlled substance with intent to distribute. According to the statute, “any

person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.”

“***In many instances...the exclusionary rule does not apply to searches and seizures conducted in foreign countries.***”

- Title 18 of the U.S. Code provides American courts with jurisdiction to try cases involving several types of violent acts occurring outside the United States. This provision covers crimes falling within the special maritime and territorial jurisdiction of the United States, including any place “outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.” (§7[7]); crimes aboard aircraft (§32); murder or attempted murder of certain Federal employees (§1114); kidnaping of certain Federal employees or “internationally protected” persons (§1201); hostage taking outside the United States when either the hostage

or the hostage taker is a U.S. national (§1203); terrorist acts against U.S. nationals (§2331).

- Federal conspiracy statutes may often allow prosecution of foreign nationals who have engaged in a conspiracy outside the United States.<sup>27</sup>

One of the best methods of combating large-scale international crime, however, is through the seizure and forfeiture of assets associated with illegal activity. Among the most effective statutes providing for the forfeiture of assets in the United States are those associated with drug violations<sup>28</sup> and money laundering.<sup>29</sup>

Although the U.S. Government cannot lawfully seize assets located within the territorial borders of other countries, foreign criminals often attempt to hide illegally gained profits from the authorities of their countries by transferring funds to the United States. To attack this problem, Congress enacted 18 U.S.C. §981(a)(1)(B), which permits the forfeiture of assets located inside the United States that are derived from drug trafficking abroad.

This section does not require a violation of U.S. law and permits the civil forfeiture of any property, real or personal, within the jurisdiction of the United States. The property forfeited must be derived from or traceable to any proceeds obtained directly or indirectly from an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance for which the offense is punishable by death or imprisonment exceeding 1 year.

In an effort to encourage international cooperation, Congress enacted several Federal statutes that permit the sharing of the proceeds of U.S. forfeiture actions with countries that facilitate the seizure of those assets under U.S. law.<sup>30</sup> The sharing process requires recognition by the Federal prosecutor and investigative agency that the foreign country's involvement was of material assistance. The Asset Forfeiture Office and the Office of International Affairs, U.S. Department of Justice, coordinate international forfeiture-sharing agreements, which require approval by the U.S. Attorney General and the Department of State.

#### **INTERNATIONAL COOPERATION**

The doctrine of sovereignty generally prevents police officers of one country from conducting investigations in another. In fact, unauthorized overseas investigations can result in denial of access to the evidence, diplomatic protest, or even the arrest of the visiting agent. Fortunately, a number of formal and informal methods have been developed for criminal investigators to obtain assistance from their colleagues in other countries.

#### **Informal Assistance**

Many Federal agencies have representatives—FBI legal attaches (Legats) and DEA country attaches, for instance—stationed in American embassies abroad for the purpose of maintaining liaison with foreign police. While such personnel have no investigative jurisdiction in their host countries, they often fa-

cilitate international cooperation by requesting certain types of assistance from foreign authorities, as well as accommodating requests for investigation in the United States by Federal agencies.<sup>31</sup>

Examples of frequently requested assistance coordinated through Legats<sup>32</sup> are name checks in investigative files, name and fingerprint searches in the files of the FBI's Identification Division, interviews with witnesses, and determination of the location of suspects or assets. Informal requests for assistance have the advantage of being more expeditious and flexible than formal channels, but they have important limitations.

For instance, matters occurring before the grand jury, because of the secret nature of Federal grand jury proceedings,<sup>33</sup> and interceptions of

“  
***Congress enhanced the extraterritorial subject matter jurisdiction of U.S. courts through the passage of a wide variety of statutes.***  
”

wire, oral, and electronic communications under the provisions of the Electronic Communications Privacy Act<sup>34</sup> cannot be furnished to foreign police without a court order. As a general rule, testimony or evidence that must be compelled by

subpoena or court order cannot usually be obtained through interagency liaison.

#### **Formal Channels of Assistance**

Assistance to foreign countries that requires compulsory measures or intervention by the judiciary will necessitate the use of formal channels of legal assistance—letters rogatory, requests under treaties, and requests for compliance under specific executive agreements. Examples of assistance requiring formal requests are the transmittal of certain types of business documents, such as bank or telephone records; executing a search or arrest warrant; freezing assets; and compelling testimony.

Letters rogatory<sup>35</sup> are written requests to the judiciary of another country for the performance of official acts. Such requests not only involve the cooperation of judges or magistrates but also require approval by the Office of International Affairs at the U.S. Department of Justice and the Department of State, as well as their foreign counterparts. Because a letter rogatory involves diplomatic channels, the procedure often results in a slower response than desired by police agencies conducting criminal investigations.

Fortunately, a number of countries have entered into treaties or executive agreements with the United States for the purpose of defining and expediting the obligation to provide reciprocating assistance. Perhaps the most promising of these agreements are mutual legal assistance treaties (MLATs),<sup>36</sup> which permit prosecutors to expedite international cooperation by eliminating

many of the time-consuming diplomatic requirements of letters rogatory.

Another important step toward reconciling the diversity of legal systems of the international community was the United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or the "Vienna Convention," in which 40 signatory countries agreed to adopt an international stance with respect to drug trafficking, money laundering, and forfeiture. In addition, several executive agreements covering ground rules for multinational drug forfeitures and asset sharing have been established to promote effective law enforcement by the United States in conjunction with specific countries.<sup>37</sup>

### Extraditions

The removal of a person from one country to another for trial or punishment is governed by treaty and usually requires formal processing through diplomatic channels. For a number of reasons, many international fugitives avoid extradition. The United States, for instance, lacks extradition treaties with about one-third of the nations of the world.<sup>38</sup> Procedures for extradition are complex, vary from country to country, and are subject to a number of defenses.<sup>39</sup> Additionally, in the event that the fugitive is at large during the time-consuming negotiations for extradition, it will become necessary to request a provisional arrest warrant in order to secure the suspect until rendition is accomplished.<sup>40</sup>

Occasionally, efforts are made to circumvent obstacles to extra-

dition by unilateral actions, such as ruses to lure the fugitive to the prosecuting country or arranging for the deportation of the suspect either to the United States or to a country from which extradition is more feasible.

More drastic measures, however, may backfire. Some Federal courts<sup>41</sup> recently decided that they lacked jurisdiction to try individuals abducted from Mexico by U.S. authorities in violation of the extradition treaty in force between the United States and Mexico.<sup>42</sup>

### CONCLUSION

The urgency to respond to transnational crime has created pressure to balance the doctrine of sovereignty with the need for the international law enforcement community to interact and cooperate. However, it is important to plan the international approach to global criminal activity very carefully.

One of the first considerations should be the admissibility of evidence in the forum of prosecution. The fourth amendment is not implicated during searches and seizures by foreign officers acting independently with respect to U.S. citizens or foreign nationals. However, when U.S. authorities are invited to participate in searches and seizures abroad, the fourth amendment will apply to U.S. citizens (and possibly others who have a significant relationship to the United States), but not to foreign nationals. In addition,

it is likely that courts will refuse to admit statements that were involuntarily made, whether by a U.S. citizen or foreign national.

A wide range of statutes now provide U.S. courts with jurisdiction over illegal activities that take place outside U.S. borders and territories. U.S. courts can try these cases, however, only when there is personal jurisdiction of the defendant, that is, when the defendant is physically present in the courtroom. In the event the defendant must be brought to trial in the United States from another country, the international law enforcement community must seek mutually acceptable means for securing the rendition of the defendant to the forum of prosecution.

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### Footnotes

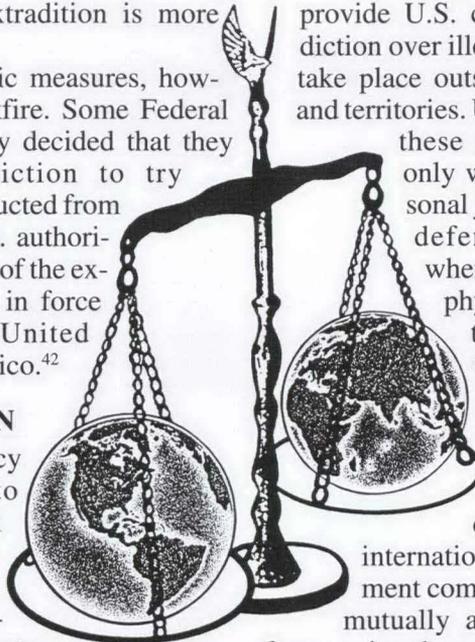
<sup>1</sup> Oakley Ray and Charles Ksir, *Drugs, Society, & Human Behavior* (St. Louis, Missouri: College Publishing, 1990), p. 83.

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

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

<sup>4</sup> *Id.* at pp. 557-8; see also *California v. Acevedo*, 111 S.Ct. 1982 (1991), J. Scalia, concurring, for a comprehensive list of exceptions to the warrant requirement currently recognized by the Supreme Court.

<sup>5</sup> *Weeks v. United States*, 232 U.S. 383 (1914)(establishes the exclusionary rule in Federal courts); *Mapp v. Ohio*, 367 U.S. 643 (1961)(extends the rule to State courts).



<sup>6</sup> *Burdeau v. McDowell*, 256 U.S. 465 (1921). See Andersen, "The Admissibility of Evidence Located in Searches by Private Persons," *FBI Law Enforcement Bulletin*, April 1989, pp. 25-29 and May 1989, pp. 26-31; and Andersen, "Foreign Searches and the Fourth Amendment," *FBI Law Enforcement Bulletin*, February 1990, pp. 23-29.

<sup>7</sup> See, e.g., *United States v. Mount*, 757 F.2d 1315, 1317 (D.C. Cir. 1985); *United States v. Rose*, 570 F.2d 1358, 1361-2 (9th Cir. 1978).

<sup>8</sup> See, e.g., *Birdsell v. United States*, 346 F.2d 775, 782 (5th Cir. 1965) *cert. denied*, 382 U.S. 963 (1965).

<sup>9</sup> See, e.g., *United States v. Toscanino*, 500 F.2d 267 (2d Cir. 1974)(kidnaping combined with long periods of torture violated due process); Cf. *Rochin v. California*, 342 U.S. 165 (1952)(forcing an emetic solution into the defendant's mouth to recover two morphine tablets that had been swallowed shocked the conscience of the court and resulted in suppression).

<sup>10</sup> See, e.g., *United States v. Rosenthal*, 793 F.2d 1214, 1230-31 (11th Cir. 1984), *cert. denied*, 107 S.Ct. 1377 (1987); *United States v. Paternina-Vergara*, 749 F.2d 993, 998 (2d Cir. 1984), *cert. denied*, 469 U.S. 1217 (1985); *United States v. Marzano*, 537 F.2d 257, 269-71 (7th Cir. 1976), *cert. denied*, 429 U.S. 1038 (1977).

<sup>11</sup> 110 S.Ct. 1056 (1990).

<sup>12</sup> *Id.*, pp. 1060-1061.

<sup>13</sup> *Id.*

<sup>14</sup> *Bridges v. Wixon*, 326 U.S. 135, 161 (1945).

<sup>15</sup> *Plyler v. Doe*, 457 U.S. 202 (1982).

<sup>16</sup> *Immigration and Naturalization Service v. Lopez-Mendoza*, 104 S.Ct. 3479 (1984).

<sup>17</sup> *Verdugo-Urquidez*, *supra* note 11, at p. 1065.

<sup>18</sup> *Reid v. Covert*, 354 U.S. 1, 5-6 (1957)("When the government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land.")

<sup>19</sup> 384 U.S. 436 (1966).

<sup>20</sup> *Johnson v. Eisentrager*, 339 U.S. 763 (1950). See also, the so-called *Insular Cases*, which are *Downes v. Bidwell*, 182 U.S. 244 (1901); *Hawaii v. Mankick*, 190 U.S. 197 (1903); *Dorr v. United States*, 195 U.S. 138 (1904); *Balzac v. Porto Rico*, 258 U.S. 298 (1922).

<sup>21</sup> *Verdugo-Urquidez*, *supra* note 11, at p. 1060, quoting from *Kastigar v. United States*, 406 U.S. 441 (1972).

<sup>22</sup> *Verdugo-Urquidez*, *id.*, quoting from *United States v. Calandra*, 414 U.S. 338 (1974).

<sup>23</sup> *Brulay v. United States*, 383 F.2d 345 (9th Cir.), *cert. denied*, 389 U.S. 986 (1967). See also, *United States v. Yunis*, 859 F.2d 953 (D.C.Cir. 1988).

<sup>24</sup> The recognized sources under international law for criminal statutes that affect the world community have traditionally been the following five principles of jurisdiction: 1) Location of the offense; 2) nationality of the victim; 3) nationality of the offender; 4) protection of governmental functions; and 5) universally repugnant crimes, such as piracy. For discussion, see Empson, "The Application of Criminal Law to Acts Committed Outside the Jurisdiction," 6 *American Criminal Law Quarterly* 32 (1967); and Petersen, "The Extraterritorial Effect of Federal Criminal Statutes: Offenses Directed at Members of Congress," 6 *Hastings International and Comparative Law Review* 773 (1983).

<sup>25</sup> *Verdugo*, *supra* note 11, at pp. 1068-69.

<sup>26</sup> One reason for doing so may be reflected in *United States v. Bowman*, 67 L.Ed. 2d 145, 151 (1922), in which the Court finds authority to criminalize certain extraterritorial acts "because of the right of the government to defend itself against obstruction or fraud, wherever perpetrated."

<sup>27</sup> *Verdugo-Urquidez*, *supra* note 11, p. 1069, n.4, quoting from *Ford v. United States*, 273 U.S. 595.

<sup>28</sup> See 21 U.S.C. §§ 853 and 881.

<sup>29</sup> See 18 U.S.C. §981 (a)(1)(A).

<sup>30</sup> See, e.g., 18 U.S.C. §981 (i) (1); 19 U.S.C. §1616a(c) (2); and 21 U.S.C. §881 (e) (1) (E).

<sup>31</sup> Upon request by the host country, U.S. officials, in matters of mutual interest, may engage in joint investigations, in which case efforts should be taken to ensure that evidence obtained will be admissible in the courts of both countries.

<sup>32</sup> Although informal, such cooperation should not be initiated by individual investigators; instead, coordination should be effected through appropriate agency channels or with the assistance of the Office of International Affairs, U.S. Department of Justice.

<sup>33</sup> For a discussion of grand jury secrecy and obstacles to sharing subpoenaed material with other agencies, see Andersen, "The Federal Grand Jury: Exceptions to the Rule of Secrecy," *FBI Law Enforcement Bulletin*, August 1990, pp. 26-31, and September 1990, pp. 27-32.

<sup>34</sup> 18 U.S.C. §§2510-2521.

<sup>35</sup> The statutory basis for authorizing the production of evidence for use in a foreign forum is 28 U.S.C. §1781 (transmittal of letter

rogatory or request) and 28 U.S.C. §1782 (assistance to foreign and international tribunals and to litigants before such tribunals).

<sup>36</sup> The United States has mutual legal assistance treaties with Anguilla, the Bahamas, the British Virgin Islands, Canada, the Cayman Islands, Italy, Mexico, Montserrat, the Netherlands, Switzerland, Turkey, and the Turks and Caicos Islands.

<sup>37</sup> For instance, the United States has an asset sharing agreement with Colombia, a drug forfeiture agreement with Hong Kong, and a drug trafficking agreement with the United Kingdom.

<sup>38</sup> Kesler, "Some Myths of United States Extradition Law," 76 *Geo. L.J.* 1441, 1489 (1988).

<sup>39</sup> Among the common obstacles to extradition and prosecution are the following: (1) The fugitive's country refuses to comply with extradition requests for its own nationals; (2) political offenses generally bar extradition; (3) the crime and punishment must match in the requesting and sending countries (dual criminality); and (4) once extradited, the fugitive may be tried only for those specific charges on which the extradition was based (doctrine of specialty).

<sup>40</sup> In addition to outstanding foreign process for a fugitive, provisional arrest warrants must be obtained for arrests in the United States. These warrants are issued by American judges pursuant to 18 U.S.C. §3184.

<sup>41</sup> *United States v. Caro-Quintero*, 745 F.Supp. 599 (C.D. Cal. 1990); *United States v. Alvarez-Machain*, 946 F.2d 1466 (9th Cir. 1991); *United States v. Verdugo-Urquidez*, 939 F.2d 1341 (9th Cir. 1991).

<sup>42</sup> Courts have viewed the effect of unilateral rendition on jurisdiction over the person from different perspectives. Compare, *Ker v. Illinois*, 119 U.S. 436 (1886) and *Frisbe v. Collins*, 342 U.S. 519 (1952) with *United States v. Toscanino*, 500 F.2d 267 (2d Cir. 1974), *United States v. Caro-Quintero*, 745 F.Supp. 599 (C.D. Cal. 1990), and *United States v. Verdugo-Urquidez*, 939 F.2d 1341 (9th Cir. 1991).

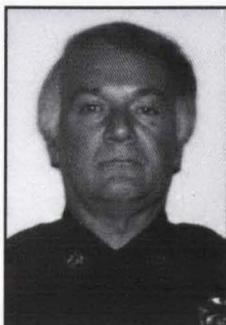
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*Law enforcement officers of other than Federal jurisdiction who are interested in this article should consult their legal advisor. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law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

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## *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 Jordan*



*Officer Artman*

Officer Donald J. Jordan and Officer Robert A. Artman of the Borough of Baldwin, Pennsylvania, Police Department responded to the report of an armed man who had taken a child hostage and barricaded himself in a residence. As the officers took positions near the house, the subject appeared on the back porch and fired two shots into the yard. He then told the psychiatric counselor with whom he'd been speaking by telephone that he intended to kill the first officer to arrive. However, Officers Jordan and Artman successfully talked the distraught man out of the house and convinced him to surrender his weapon without incident.



*Officer Frohock*



*Officer Anderson*

Officer Chuck Frohock and Officer Scott Anderson of the Town and Country, Missouri, Police Department were responsible for the arrest of two robbery and shooting suspects. While issuing a summons for a traffic offense, Officer Frohock heard a description over his police radio of two suspects who recently committed a shooting and robbery in a neighboring jurisdiction. Realizing that the subjects he stopped fit the descriptions of the men responsible for the crimes, Officer Frohock detained them and awaited assistance. When one of the suspects attempted to escape, Officer Anderson, who was just arriving at the scene, pursued and captured him. Both subjects were then placed into custody.

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