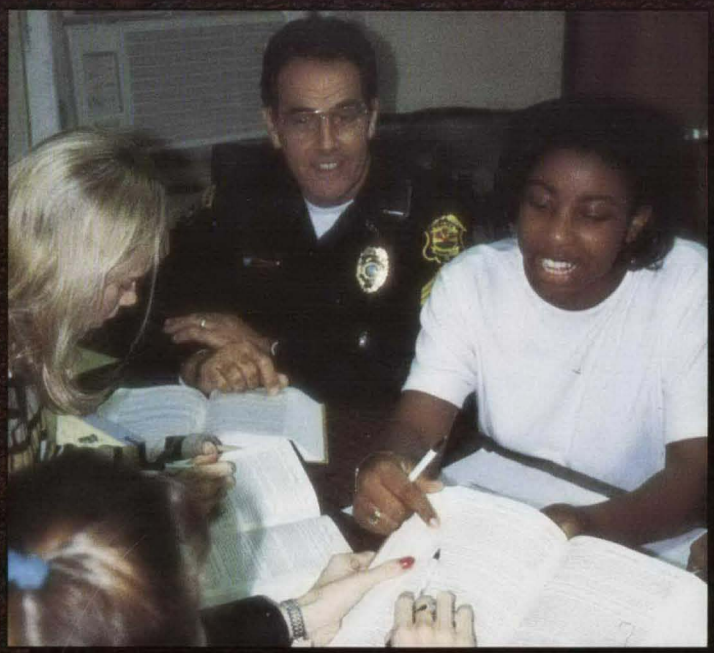
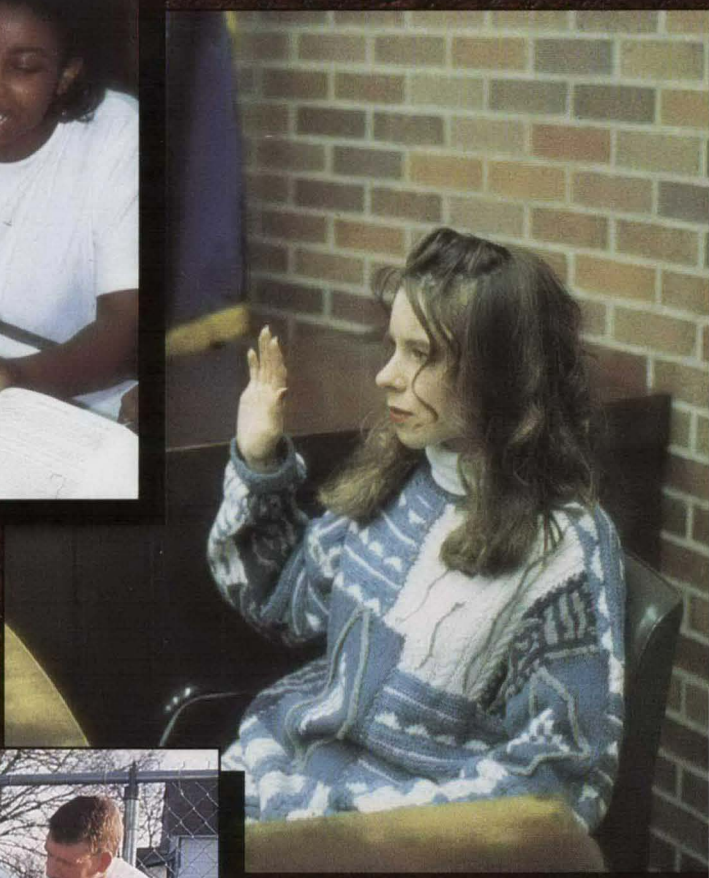
U.S. Department of Justice
Federal Bureau of Investigation

MARCH 1997

FBI Law Enforcement B·U·L·L·E·T·I·N





Youth Programs

March 1997
Volume 66
Number 3

**United States Department of Justice
Federal Bureau of Investigation
Washington, DC
20535-0001**

**Louis J. Freeh
Director**

Contributors' opinions and statements should not be considered an endorsement by the FBI for any policy, program, or service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget.

The *FBI Law Enforcement Bulletin* (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535-0001. Periodical postage paid at Washington, D.C., and additional mailing offices. Postmaster: Send address changes to *FBI Law Enforcement Bulletin*, Federal Bureau of Investigation, FBI Academy, Quantico, VA 22135.

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FBI Law Enforcement Bulletin

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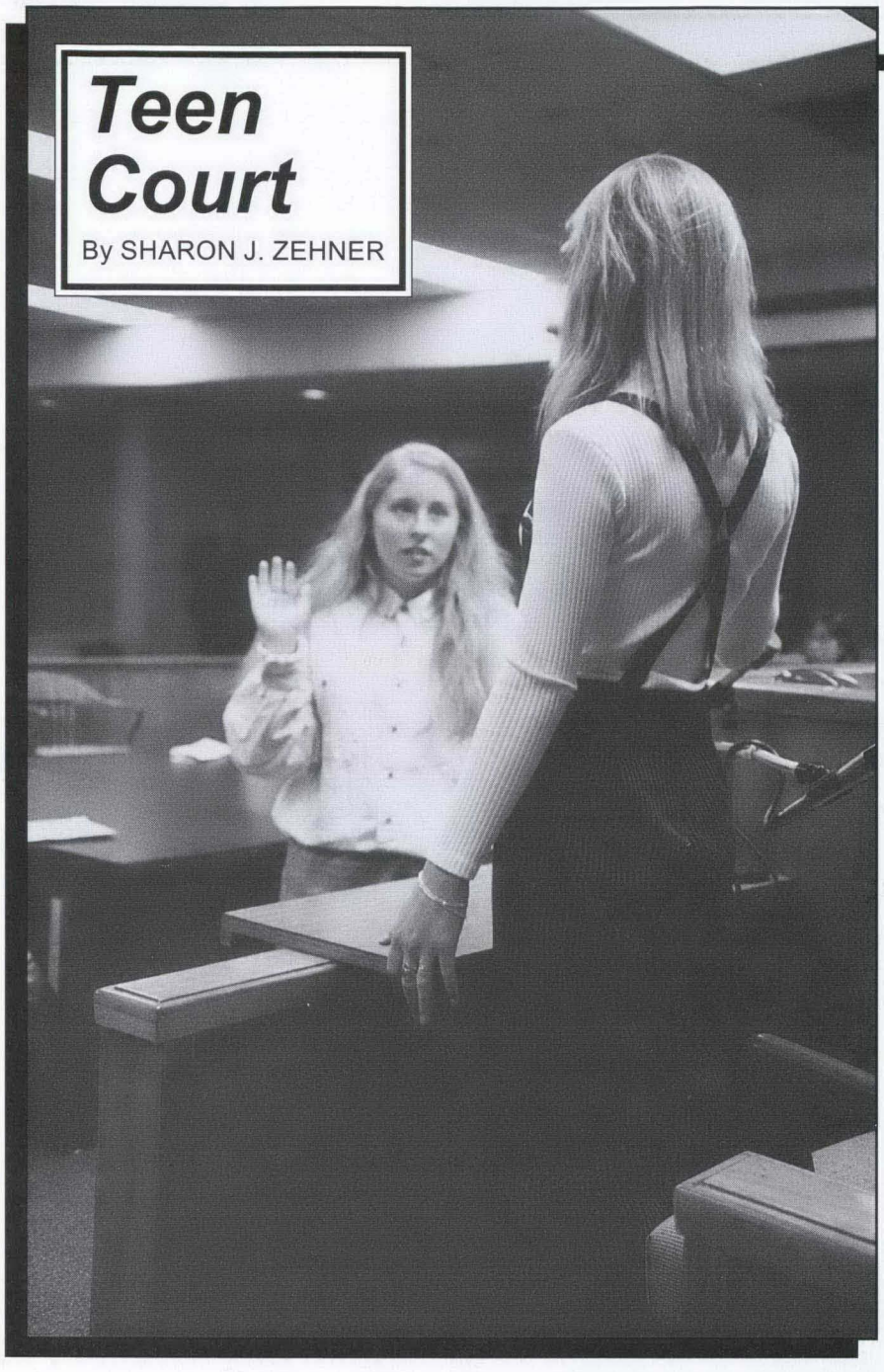
ISSN 0014-5688 USPS 383-310

Teen Court

By SHARON J. ZEHNER



Newspaper headlines and television broadcasts have chronicled the ominously sharp rise in juvenile crime that occurred during the past several years. While everyone agrees that rising levels of juvenile crime represent a serious threat to the quality of life in communities around the country, little consensus exists regarding the best way to respond to this profound problem.

The debate, no doubt, will continue for years to come. However, some promising programs already have proven effective in curtailing youth crime. Among these is Teen Court, a program that uses the undeniable power of peer pressure as a positive, rather than negative, force to help convince youthful troublemakers that crime yields serious consequences. Teen Court also provides law enforcement agencies a unique opportunity to help guide at-risk youths away from crime at a time when they are particularly impressionable.

In states where Teen Court is in place, youths who complete the program re-offend at a much lower rate than do youths tried and sentenced in juvenile courts.[1] The program also represents a cost-effective alternative to traditional court processing because Teen Court relies largely on volunteers. While Teen Court is not designed to replace municipal juvenile courts, it does offer a highly structured and effective means to guide some youths away from trouble by showing them that criminal activity has both immediate and long-term consequences.

Background

From its relatively inauspicious beginnings in rural Texas 20 years ago, Teen Court—also known as Youth Court and Peer Court in various parts of the country—has grown into a nationwide network of programs, each uniquely tailored to meet the needs of its hometown community. Today, 250 Teen Court programs exist in 30 states.

The central feature of the Teen Court approach is that youthful first-time offenders charged with a misdemeanor offense receive judgment from their peers. During Teen Court hearings, teenage volunteers

act as court clerks, bailiffs, and jurors, as well as attorneys for the prosecution and defense.

Defendants may receive a wide range of sentences, mirroring both the criminal and punitive sanctions handed down in juvenile and adult courts. Defendants must complete their sentences within 30 days. Those who do not meet the terms in this time frame are remanded to juvenile court.

Approximately 20 distinct Teen Court programs currently operate in the State of Florida. This article focuses on the program in Bay County, which includes Panama City and several smaller municipalities. Most of the features and principles discussed, however, apply to Teen Court programs in place throughout the country.

The Process

On any given Tuesday evening in Panama City, six or seven juvenile defendants nervously pace the hallways of the Juvenile Court Building as they await their Teen Court hearings. Inside the courtroom, the Teen Court director and her staff coordinate the activities of over 20 students volunteering for the evening. The student defense attorneys, all of whom are in high school, have just 1 hour to meet with their clients and prepare a defense strategy.

While the hands of the defense attorneys are somewhat tied—all Teen Court defendants must plead guilty in order to participate in the program—the student lawyers focus on their clients' character, grades, school behavior, attitude, and any mitigating circumstances that jurors should consider when they debate possible sentences. Across the hall, student prosecuting attorneys use the hour to prepare their cases. Volunteer adult attorneys roam among the prosecution and defense teams, offering advice as needed.

Meanwhile, the director's staff sits in the main courtroom, answering questions, collecting essays and apology letters from previous defendants, and selecting the juries for this evening's hearings. Each jury consists of student volunteers and defendants who are currently serving their sentences. An equitable mix of jurors is important, given the tendency of some defendant-jurors to impose harsh sentences on the defendants whom they judge. Student volunteers do not share that philosophy. Because a unanimous verdict is required before juries can stop deliberations, the jurors learn to compromise and build a consensus when arriving at a sentence.

Just before 5 p.m., the student attorneys, as well as their clients and parents, return to the main courtroom to await the arrival of the judge. A Bay County Administrative Juvenile Judge initiated the Bay County Teen Court program in Panama City several years ago. Today, this judge and several circuit and county judges volunteer to sit on the bench each week.

Announced by the bailiff, who is a member of the Bay County Sheriff's Explorer's Program, the judge leads the court through the Pledge of Allegiance and a moment of silence. All present then recite the Teen Court Oath of Confidentiality, pledging to "... keep secret all said proceedings" held in their presence. The sensitive nature of the cases discussed in Teen Court and the fact that the defendants are juveniles dictate that the oath be strictly enforced and adhered to by all volunteers and members of the program staff.

Ms. Zehner is the Director of Bay County Teen Court in Panama City, Florida.

"Teen Court combines elements of the criminal justice system with volunteers to address a pressing community problem."

From this point, the Teen Court session proceeds like any other court hearing. The bailiff swears in the members of the jury and announces the first case. Both sets of attorneys then make opening statements.

Following the statements and any initial appeals from the defense or prosecution teams, the student clerk swears in the defendant, who takes the stand. The prosecution and defense attorneys then question the defendant and can request the opportunity to cross-examine the defendant or redirect questions, following questioning from the opposing counsel. At the conclusion of the testimony, the attorneys make closing statements and sentencing recommendations. The judge then dismisses the jury, accompanied by an adult volunteer, to deliberate.

While in the jury room, the jury selects a foreperson who leads the jurors in a discussion of the evidence and facts presented by both sides. Simultaneously in the main courtroom, a second set of attorneys begins its case with another defendant. At the conclusion of the second hearing, the jury from the first hearing returns to the courtroom to deliver its sentence. As it does so, the jury from the second hearing is escorted out of the courtroom and the process begins anew.

Once the verdict has been delivered, the judge calls the defendant and the defendant's parents to the bench for instructions. The judge reminds the youth that participating in the Teen Court process is a privilege and that failure to complete the court's sanctions will result in the case being transferred to juvenile court. The judge then informs the parents that they are responsible for reporting all infractions to the Teen Court director.

Immediately after the courtroom proceeding, the juvenile and parents meet with uniformed officers from the Panama City Police Department's community services division, who explain the terms of the sanctions. These officers, trained in the intricacies of the Teen Court program, can answer specific questions concerning the terms of the sentencing contract.

> ***"...each youth must complete a 7-hour workday supervised by the Panama City Police Department's community services division."***

The officers develop deadlines for each of the juvenile's sanctions and provide the youth with a community service contract. Once the paperwork is signed, the family is released, and the juvenile's 30 days begin counting down.

Sanctions and Counseling

The Teen Court philosophy takes a two-track approach to sentencing. Defendants receive sanctions designed to punish their misdeeds. The program also mandates that defendants and their parents participate in counseling to help them understand the Teen Court process and appreciate the potentially far-reaching consequences of antisocial and criminal behavior.

Sanctions for criminal cases heard in Bay County Teen Court can range from a prescribed number of community service hours, to curfews, to monetary restitution for victims. In addition to any other sanction imposed, each youth must complete a 7-hour workday supervised by the Panama City Police Department's community services division. During these workdays, the juveniles complete a variety of tasks, ranging from cleaning playgrounds in local housing complexes to scrubbing bathrooms and floors at the building used for the police department's after-school program for underprivileged children.

Defendants primarily complete community service hours at several area middle and high school sites after school, 3 days a week, and on Saturdays. Youths have painted the inside and outside of two local high schools, cleared away rubble from a demolished building at the Humane Society, decorated a police department float for the annual Christmas parade, and sorted Christmas toys for needy children.

Each defendant also must serve on a jury, ensuring a constant pool of jurors for future defendants. As with all participants of the Teen Court program, defendant-jurors must observe a strict dress code—no shorts, message T-shirts, short skirts, etc.—and must remain inside the courtroom for the duration of the session.

If the defendant's sentence involves restitution of any type, payment must be made to the Teen Court office within 30 days of

sentencing. Typical restitution claims involve medical bills for battery victims and reimbursement for stolen goods.

Teen Court defendants also can be required to write letters of apology to their victims, as well as to their own parents. To strengthen the impact of this sentence, the youths often must deliver the apologies in person.

Defendants also can be sentenced to write detailed essays, up to 5 pages in length, on topics relating to the crimes they committed. A typical paper might be titled "How Stealing Affects the Economy." Defendants caught dealing drugs often are sentenced to write essays about drugs and the importance of resisting peer pressure.

Youths placed on curfew or house arrest must be available to answer random telephone calls from the Teen Court director. Juveniles on house arrest may leave their homes only to go to school, work, church, or court, unless physically accompanied by a parent.

All families must attend a 3-hour session with the staff of Anchorage Children's Home, one of the county's social service agencies. The counseling session focuses on helping families understand, and cope with, the Teen Court process. At the conclusion of the mandatory session, the defendants and their parents view a videotape titled *Life Inside*. The video provides a realistic view of life in correctional institutions and features narration by inmates sentenced to state prisons for drug convictions or violent felonies.

Defendants then tour a local jail. The video and brief onsite tours generally get the intended message across to younger, less-hardened defendants. For those who require a stronger message, Teen Court worked with the Bay County Sheriff's Office Boot Camp to accommodate a 2-hour tour of the facility.

> ***"Law enforcement officers receive notification of the sanctions imposed on the youths they referred to Teen Court."***

Defendants touring the boot camp spend the first hour walking through the facility and learning about the inmates' rigorous daily schedules. Afterwards, defendants line up in the dormitory area, where several drill instructors subject them to an hour of "in your face" shock incarceration. Previously supplied with notes detailing each defendant's behavior and attitude problems, the volunteer instructors seek to break down the youths' defense systems. Nearly all defendants emerge from this exercise visibly upset, including street-smart teens who repeatedly declared themselves unreachable.

Monitoring

The director and an assistant monitor all active Teen Court cases on a daily basis. If a juvenile misses a deadline for community service hours or written sanctions, the director immediately issues a warning letter, giving the defendant 10 days to rectify the situation. Juveniles who do not comply with the terms of the warning have their Teen Court cases closed and referred to juvenile court. Likewise, defendants placed on house arrest or given a curfew remain subject to random calls from the Teen Court director for the duration of their sentences.

Violators are immediately removed from the Teen Court program and their cases referred to juvenile court. The same is true for defendants who fail random drug tests.

Law enforcement officers receive notification of the sanctions imposed on the youths they referred to Teen Court. The Teen Court office elicits officers' opinions regarding the sentences imposed and asks the officers to provide a monthly critique of the program. The office also advises officers when a referred defendant completes the program or when a juvenile is removed for noncompliance.

Results

At the conclusion of their 30-day allotment to fulfill the terms of their sentences, juveniles have either completed the program or have been removed from it. Those who complete the program are invited to the Teen Court office to destroy their referring affidavits and can resume their lives without a criminal record.

Approximately 40 percent of the defendants who complete Bay County's program accept the stand-

ing invitation to return to the program as court volunteers. Those who do not complete the program hear from the Florida Department of Juvenile Justice regarding an impending appearance in juvenile court.

Nationally, nearly 95 percent of the juveniles accepted into Teen Court complete the program and do not re-offend within a 12-month period.[2] Bay County's figures mirror the national success rate with more than 90 percent of juveniles referred completing the program and less than 10 percent of defendants re-offending within the 12-month, postcompletion tracking period.[3]

Low recidivism rates are matched by the fiscal soundness of Teen Court. Typically, communities spend about $3,000 to process a child through the juvenile court system, from arrest to probation. On average, it costs less than $300 to process a child through Teen Court.

Although low recidivism rates and cost-effectiveness make Teen Court a viable supplement to the existing juvenile court system in many communities, the real measure of success is the degree to which the lives of defendants are changed by the Teen Court process. While completing their sentences, defendants often bring notes to the Teen Court office, written by appreciative teachers and school administrators, commending the students for their good behavior and improved grades. For many of the students, these notes represent the first successes of their young lives. Just a taste of genuine praise is all many of these youths need to help convince them to make serious life-enhancing decisions about their attitudes and behavior.

Parents of former defendants also voice overwhelming support for the program. In Bay County, the Teen Court office mails parents an evaluation form when their child has completed his or her prescribed sanctions. In recent surveys, 78 percent of responding parents rate the program "very effective," compared to 14 percent who rate the program "somewhat effective." Only eight percent of the respondents report that the program did not help their child.

Cooperation

Teen Court cannot operate successfully in a vacuum. A partnership among law enforcement, the judiciary, and the school system must exist for Teen Court to work as it is designed.

To ensure a quality partnership from the outset, the judge who initiated the Bay County program began with a volunteer board of directors comprised of stakeholders in juvenile justice issues from throughout the community. Currently, the Teen Court board consists of attorneys, business people, teachers, law enforcement officers, and concerned citizens, as well as representatives from the state attorney's office and the Florida Department of Juvenile Justice.

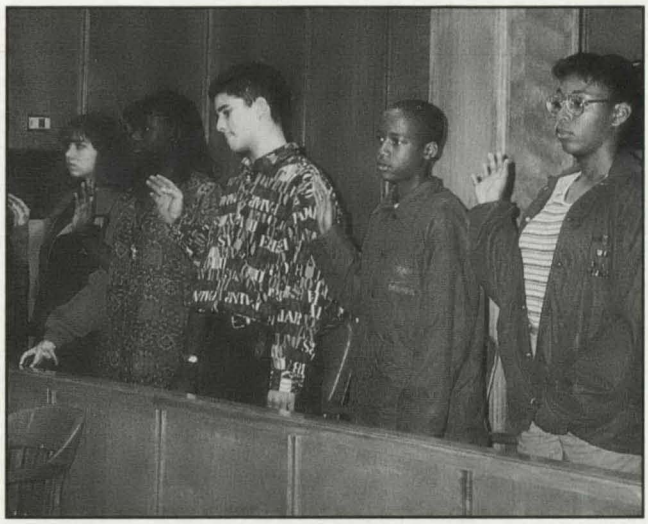
The Law Enforcement Role

For local law enforcement officers in Bay County, cooperation with Teen Court is a rewarding

Referral Criteria

In Bay County, juveniles can be referred to Teen Court by a law enforcement officer, school resource officer, school administrator, juvenile judge, state attorney, or representative of the Department of Juvenile Justice. To qualify for the Teen Court program, a juvenile must:

- Be between the ages of 11 and 16
- Be charged with a misdemeanor
- Not have a prior record
- Pay restitution for any stolen property not returned to victims
- Admit guilt and, with the consent of a parent or guardian, waive the right to a speedy trial.



Sanctions

All defendants in Bay County, Florida, Teen Court must:

- Participate in 1 to 4 Teen Court juries
- Perform 10 to 50 hours of community service
- Pay financial restitution to victims

In addition, sanctions could include one or any combination of the following:

- Apology letters to victims and parents
- Essays, up to 5 pages long, relating to the crime
- A curfew of 5 p.m. for up to 30 days
- House arrest for up to 30 days
- A tour of the Bay County Jail
- A tour of the Bay County Sheriff's Office Boot Camp
- Drug and alcohol counseling
- Driver's license suspension

experience. Involvement with Teen Court furthers agencies' community policing efforts, while it gives officers the opportunity to be part of a solution to juvenile crime.

Currently, all officers in the Panama City Police Department receive basic instruction about the Teen Court program. Personnel from all units—including detective squads—are encouraged to refer first-time juvenile offenders who meet the program's requirements to Teen Court.

Officers in the department's community services division, as well as school resource officers from the Bay County Sheriff's Department, receive more specialized training concerning the terms of Teen Court contracts. Upon observing several Teen Court trials, the officers and deputies can then begin guiding defendants through the intricacies of their individual contracts. After reviewing the contract terms with defendants and their parents, the law enforcement officers act as informal mentors, periodically checking with the defendants to ensure they are working to complete their sentences.

Since its inception in May 1994, the Bay County Teen Court program has been embraced by local law enforcement administrators and line officers alike. Administrators value the opportunity it provides for the area's young people to see law enforcement in a positive, rather than negative, light. By having the option of referring first-time offenders to Teen Court instead of juvenile court, officers can give youthful wrongdoers a chance to make amends—and help guide them through the process—without

saddling them with a juvenile record.

By interacting with the defendants as they fulfill their community service hours, officers have a chance to serve as positive role models for at-risk young people. Often, this constructive interaction proves enough to convince troubled youths that law enforcement officers are not out to get them. More important, some of the defendants adopt more positive outlooks as a direct result of interaction with the officers. For law enforcement officers conditioned to seeing negative outcomes, few results could be as rewarding as seeing young people turn their lives around and turn their backs on lives of crime.

Direct Referral

The Bay County Teen Court is one of the few in the State of Florida that receives cases through direct referrals from law enforcement officers. The direct referral system calls for officers in the field to judge the suitability of a particular juvenile for the program.

If the officer believes that a young person is a first offender, then the officer can refer the case directly to the Teen Court office, bypassing the juvenile justice system entirely. Once the child has been transported to the jail and fingerprinted—if the offense warrants this process—the youth's case file, including the affidavit, witness statements, etc., is placed in a box at the police department. The Teen Court office checks this box daily.

The director also checks with the Department of Juvenile Justice to ensure that the juvenile is, in fact, a first-time offender. Youths who qualify for the program are sent an appointment letter putting the Teen Court process into motion.

Often, defendants appear in court within 3 weeks of their arrest. The brief waiting period is particularly helpful when sentencing very young offenders who have a tendency to forget why they are being punished.

> ***"Low recidivism rates are matched by the fiscal soundness of Teen Court."***

Referral of youths to Teen Court reduces the workload of the overburdened Department of Juvenile Justice. The Bay County program reduces the juvenile court caseload by more than 250 cases a year. Diverting first-time offenders charged with misdemeanors to Teen Court enables the department's case managers to work more closely with multiple offenders and those youths charged with felonies.

The direct referral system also helps reduce duplication of services because only one intake interview is conducted. If the Teen Court director discovers that a juvenile referred to the program is not a first-time offender, the youth's original affidavit simply is forwarded to the Department of Juvenile Justice and the standard juvenile court process is put into motion.

Conclusion

The rising level of criminal activity committed by young people is a complex problem, fueled by many contributing factors. Institutions working alone—whether schools, law enforcement, or the courts—will have limited impact in addressing the problem. Yet, together, they can make a difference. Communities that develop an integrated approach to resolving the issues that surround youth crime enhance their chances of reducing juvenile crime levels.

Teen Court combines elements of the criminal justice system with volunteers to address a pressing community problem. The program succeeds for two reasons. It uses peer pressure to reinforce the negative consequences of crime, and it creates a structured environment for law enforcement, the courts, and the community to intervene before first-time offenders become hardened criminals. While Teen Court cannot replace juvenile court, communities searching for solutions to the vexing problem of youth crime might find that it offers a valuable complement to the existing approach to juvenile justice.✦

Endnotes

[1] Tracy Godwin, with David Steinhart and Betsy Fulton, "Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs," in partnership with the U.S. Department of Justice, the U.S. Department of Transportation, and the American Probation and Parole Association, (Washington, DC: U.S. Government Printing Office, 1996).

[2] Ibid.

[3] Ibid. However, it should be noted that juveniles referred to juvenile courts have committed more serious crimes than defendants referred to Teen Court.

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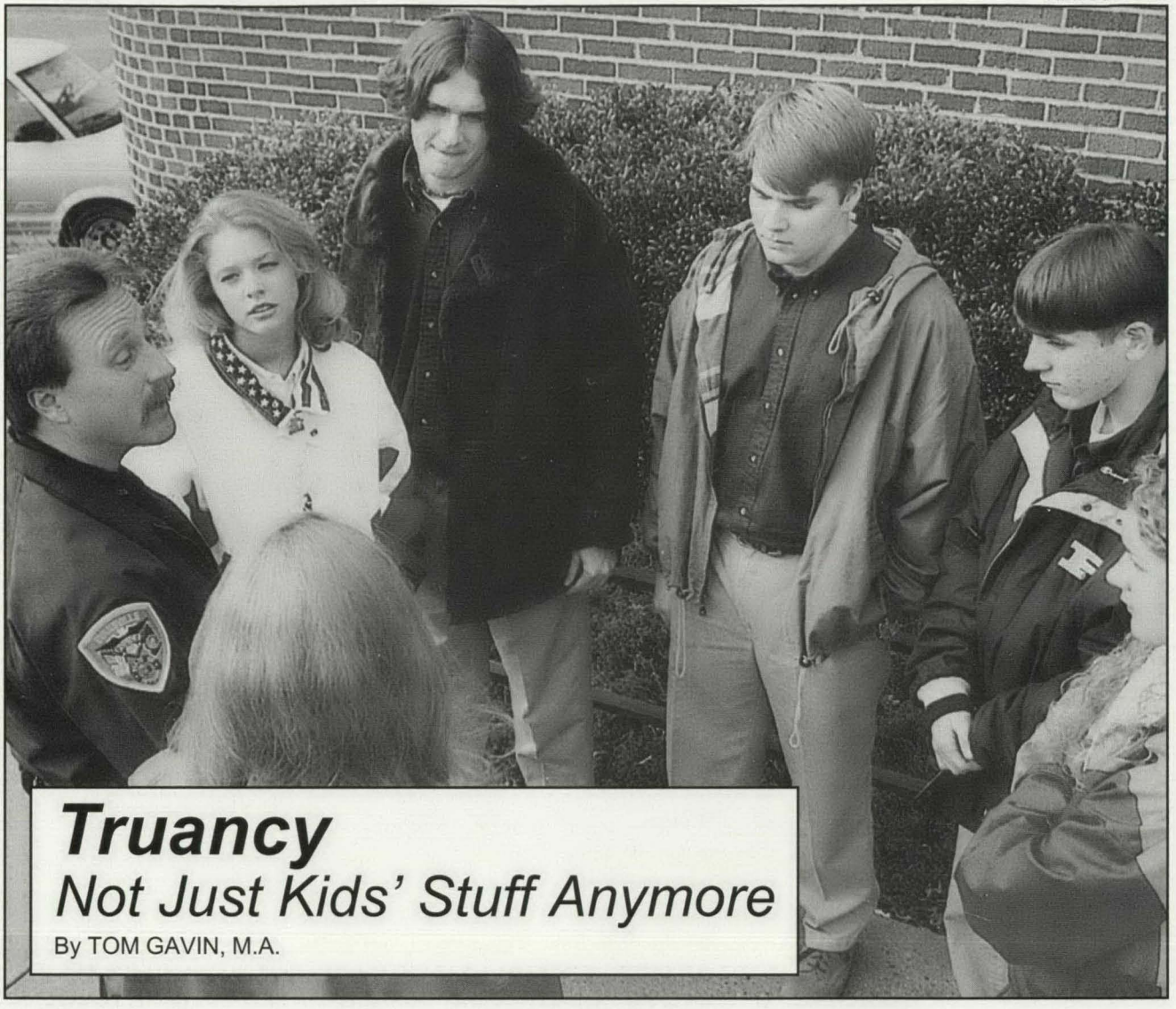


Truancy
Not Just Kids' Stuff Anymore

By TOM GAVIN, M.A.

To many, the word *truancy* conjures memories of stern-faced truant officers stalking hapless youngsters who skipped school to go fishing or to sneak into a neighborhood movie theater. Even today, many law enforcement administrators consider young people's skipping school such a low priority that they rarely give it a second thought. If asked about the problem, patrol officers often respond by saying they are too busy rushing to burglary and robbery calls to worry about kids skipping school. Therein lies the problem. In many cases, the truants *are* the burglars and the robbers.

When St. Petersburg, Florida, experienced a dramatic increase in residential burglaries, crime analysis revealed that, as in other communities, juveniles constituted a significant number of the burglary arrests. In response, the St. Petersburg Police Department began to explore the relationship between truancy and delinquency. This article summarizes that research and the strategies that St. Petersburg and other communities have developed to reduce the opportunities for juveniles to commit crime.

THE LINK BETWEEN TRUANCY AND DELINQUENCY

As early as the 1800s, social reformers recognized the link between truancy and delinquency. In discussing the rise in urban crime that accompanied the Industrial

Revolution, a judge of the day cited the relationship:

> ...where children are suffered to grow up without any moral culture, and what is worse, amidst scenes of drunkenness, debauchery, and other crime...there is seldom a case of a juvenile offender in which I am not well satisfied that the parents, or person having the child in charge, is most blamable—they take no pains to make him attend school.[1]

A 19th-century reform school superintendent who tabulated the bad habits of the young men placed in his charge noted that being truant was second only to lying as a recurring behavioral trait of the young men sentenced to the reformatory.[2]

By 1915, social scientists had labeled truancy the "kindergarten of crime." One early criminologist noted that in cases brought to the court on other grounds, nearly a quarter of the young male offenders showed a history of truancy. In nearly all of these cases, truancy represented the earliest offense.[3]

In 1942, a pair of researchers conducted a detailed study of delinquency patterns in Chicago. When they later mapped out rates for truancy within the Chicago area, they found that the frequency of delinquent behavior closely matched the incidents of truancy. As Shaw and McKay refined their "cultural transmission theory," they identified a very strong correlation between truancy and delinquency.[4]

A 1979 study of 258 adult recidivists revealed that 78 percent of the inmates showed truancy as the first entry on their arrest records. An additional 67 percent of the rest admitted being truant but not being charged with the offense.[5]

Later, in a 1988 study titled *Court Careers of Juvenile Offenders*, researchers reviewed the court records of nearly 70,000 juvenile offenders. Researchers concluded that for the purpose of predicting future criminality, the most likely juvenile recidivists were those whose first referrals involved truancy, burglary, motor vehicle theft, or robbery.[6]

TRUANCY INTERDICTION

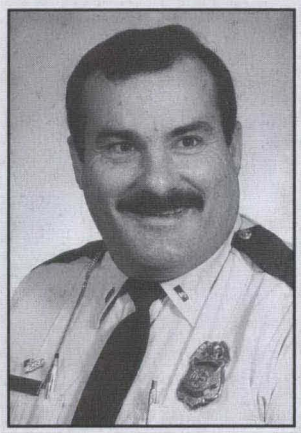
To counter the various short- and long-term effects of truancy, a number of law enforcement agencies across the country have developed truancy interdiction programs. Although direct cause-and-effect relationships may be difficult to establish, for the most part, the programs appear to have produced impressive results in the area of crime reduction.

After implementing a truancy interdiction program, the Inglewood, California, Police Department recorded a 32 percent reduction in daylight residential burglaries, a 64 percent drop in vehicle burglaries, and a 36 percent decrease in strong-arm robberies, citywide.[7] Another interdiction effort in California, implemented jointly by law enforcement agencies in Chula Vista, Imperial Beach, and National City, yielded similar reductions in daytime burglaries.

Nationwide, the vast majority of truancy interdiction efforts produced significant reductions in crimes traditionally associated with juvenile offenders. In fact, when analyzing various interdiction programs employed in communities around the country, St. Petersburg police officials found only one interdiction initiative that failed to produce a noticeable reduction in criminal activity.[8]

Encouraged by the success of these various truancy interdiction

"...interdiction, combined with parental involvement and school counseling, can help stop truant behavior...."



Lieutenant Gavin serves with the St. Petersburg, Florida, Police Department.

programs, the St. Petersburg Police Department decided to implement a truancy interdiction effort. The ultimate goal of the initiative was to involve parents with keeping kids in school, thereby reducing the opportunities for youths to get into trouble. When developing the interdiction program, police personnel analyzed existing efforts in various communities in order to craft an approach that met the specific needs of St. Petersburg.

DEVELOPING AN INTERDICTION PROGRAM

As implemented by most law enforcement agencies, truancy interdiction involves two separate functions—picking up truants and returning them to school through the involvement of their parents or guardians. From an operational perspective, interdiction raises two initial questions for a police department: "Who is going to be responsible for the interdiction?" and "What will the department do with the students once they have been picked up?"

The answer to the first question is simple—uniformed patrol officers. Basic patrol procedures call for zone officers to know what is going on within their areas—who belongs there and who does not. Who better to interdict truants than the personnel charged with responsibility for a given geographic area? Of course, this does not preclude the involvement of other personnel in interdiction efforts. Juvenile officers, school resource officers, and detectives also should be encouraged to stop and investigate school-aged children who are out and about during the school day.

The question of what to do with truants once officers have taken them into custody is a bit more complicated. In some smaller communities—where truant children generally are found within close proximity of school grounds—officers simply return truants to the school. In larger jurisdictions, however, such an approach might involve a protracted absence of officers from their assigned duty areas. In St. Petersburg, because of cross-city busing and a densely populated urban environment, delivering a truant to school could consume well over an hour of an officer's duty shift.

> ***"...the vast majority of truancy interdiction efforts produced significant reductions in crimes traditionally associated with juvenile offenders."***

St. Petersburg police officials saw such an approach as an unacceptable option, not only because it placed inordinate demands on officers' time, but also because having officers return truant children to school would not actively involve parents. Taking their cue from programs developed in other communities of similar size, St. Petersburg officials decided that establishing a centralized truancy center represented a better alternative. Remanding truant children to the center until their parents pick them up and return them to school not only reduces the demands placed on patrol officers' time but also ensures that parents take an active role in addressing their children's truant behavior.

The Truancy Center

The truancy center is staffed by a receiving officer or juvenile detective who contacts the school and the parents of truants brought in by patrol officers. The receiving officer also assumes responsibility for the youths until they are turned over to a parent or guardian, thereby freeing officers to return to patrol quickly.

The planners' primary operational goal was to keep the interdiction process simple. Administrators knew that if officers were required to jump through hoops, then few truants would be picked up. So they advised patrol officers to make their reports very brief ("two-liners") when the officers remand truants to the center. In turn, the receiving officer attempts to get patrol officers back into service within 5 minutes.

After assuming responsibility for a truant, the receiving officer determines what school the student attends. Because the police department developed the interdiction program with the cooperation of the local school district, the officer can refer to a list of predetermined contact persons at each school.

After informing school personnel that a particular child is in custody, the receiving officer obtains the student's recent attendance history and an emergency contact

telephone number. The emergency contact number—often included on a child's clinic card—proves especially helpful in those cases where children do not know where their parents work other than "in an office" or "downtown." The officer then calls the parents to inform them that their child has been picked up for truancy and that they are responsible for returning the child to school.

Involving the Parents

Having a record of students' attendance histories helps the juvenile detective discuss the issue of truancy with parents when they pick up their children. Some parents arrive with the attitude that truancy is a minor indiscretion not really worth the attention of the police. Armed with information about the child's attendance record, the detective can offer a quick rebuttal if the child does, in fact, have a problem making it to school on a regular basis. Confronted with the truth, parents often express shock that the school had failed to notify them, even though the problem had become chronic.

The success of the interdiction effort partly rests with the assertive posture of the receiving officer in dealing with parents. Upon being informed that their child has been placed in custody for truancy, most parents respond quickly, eager to resolve the situation. However, a disappointing few behave as if the entire issue is a bother, and they attempt to rationalize any number of reasons why they cannot come to pick up their child. When parents respond by claiming that they do not have access to a car, the officer suggests that they call a taxi, take the bus, or ask a friend or family member to drive them to the truancy center. The officer also reminds parents that the law requires them to have their child in school and that failure to do so is a criminal act.

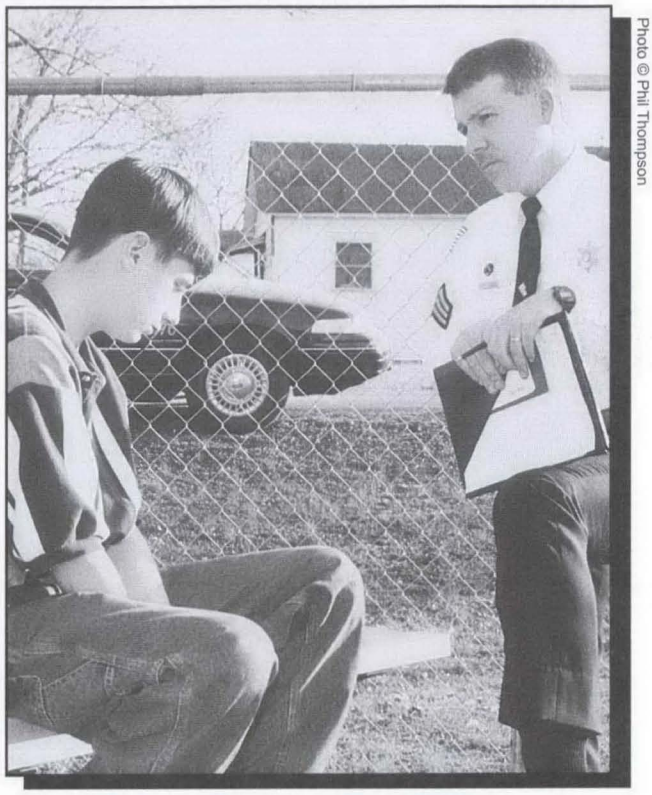


Photo © Phil Thompson

In a small number of cases, parents claim that they simply cannot leave work. In those instances, the receiving officer asks to speak with their supervisor. When asked why a supervisor is being involved, the officer explains in carefully worded language that the supervisor will be advised of "...a family emergency involving the St. Petersburg Police Department that will require that the employee be released from work for approximately 1 hour to resolve the problem." Needless to say, these parents frequently decide to respond without getting their supervisor involved.

Likewise, the receiving officer may be told that the parent will be unavailable to receive any personal telephone calls until a regularly scheduled break time. However, no employer has denied access to a parent once the identity of the caller has been established.

When dealing with a particularly recalcitrant parent, the receiving officer may decide to deliver the child to the parent's place of employment. At this point, the parent must explain to the boss why their child is at the worksite. Though effective, this last resort tactic is rarely employed—less than once for every 400 truants. The vast majority of parents respond quickly and want to work with the police and the school to resolve the problem before it evolves into something worse.

Interviewing the Truants

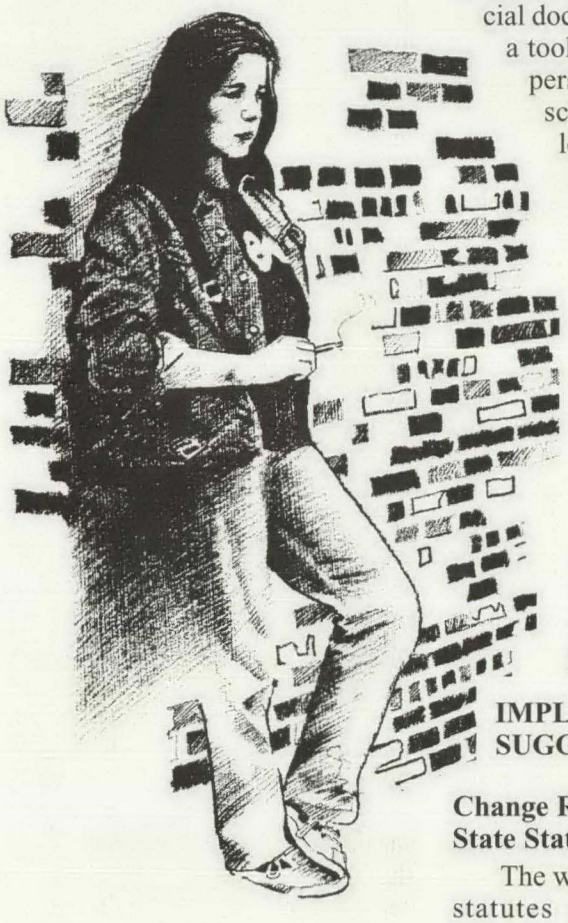
While parents are enroute to the truancy center, a juvenile detective interviews the children about their truancy and counsels them about the importance of education. Although the majority of students explain that they "just didn't feel like going to school," detectives have identified cases of sexual abuse, and on one occasion, intervened to help a child who was at imminent

risk for suicide. In addition, some children picked up for truancy have explained during interviews that their parents lacked money for school clothes. In these instances, detectives referred the family to the appropriate social service agency.

Returning Students to School

When parents arrive at the truancy center, the receiving officer briefs them on where and why the police picked up their child. The officer presents parents with a letter signed by the chief of police and the school superintendent underscoring the importance of ensuring that children go to school, as well as a copy of the state statute mandating school attendance. This statute sets forth the penalties for parents whose children do not attend school. The officer also gives parents the names and telephone numbers of community agencies that specialize in assisting with family problems.

Finally, the officer provides parents with a referral slip, complete with the name of the specific contact person at the child's school. While the slip indicates that it is needed for readmittance to school and has all the trappings of an official document, it is in fact simply a tool to ensure that the parent personally takes the child to school instead of merely leaving the truancy center and ordering the child back to school. Because the receiving officer notified the school that the child was in custody, school administrators and guidance counselors are prepared to greet the arriving parent and child. Often, school personnel use this opportunity to have a conference with the parent about the child's attendance and other problems.



IMPLEMENTATION SUGGESTIONS

Change Restrictive State Statutes

The wording of individual state statutes regarding compulsory school attendance will have significant impact on attempts to interdict truants. Unfortunately, law enforcement agencies often must work within narrowly defined statutes when developing an interdiction program. Agencies can and should work with state legislatures to broaden overly restrictive statutes. In the short term, however, police administrators can be creative in adapting interdiction programs to meet the specific wording contained in state statutes.

When St. Petersburg initiated its interdiction program, Florida statutes mandated that law enforcement officers physically return truants to school. As noted earlier, the size of the city and the school district made this an untenable option for the police department. Therefore, to reconcile department needs with the limitations imposed by state statute, police administrators established the truancy center as an off-campus "alternative-to-suspension program" located at a Police Athletic League (PAL) facility. Because the classroom was staffed by a school teacher in addition to the receiving officer, the department could argue successfully that the site constituted a school.

The police department later convinced the legislature to modify the statute so that truant students could be taken to a truancy center approved by the school superintendent "...for the purpose of counseling and referring the child back to school."[8] Currently, the approved center is located in the youth resources section of the police department.

When confronted with especially narrow or unhelpful statutes,

police administrators can work with their local legislative delegation to address the problem. Given the public preoccupation with issues of crime and safety, most legislators want to be perceived as strong law-and-order candidates who respond positively to the needs expressed by law enforcement professionals. And, because the proposed changes would not affect state coffers, legislators might be even more inclined to help.

Work With the School District

While police departments usually can work around restrictive state statutes, successfully launching an interdiction program largely depends on the level of cooperation provided by the school superintendent. Just as in law enforcement agencies, policy and authority run from the top down in school district bureaucracies; therefore, a program endorsed by the superintendent has vastly improved chances for success.

In St. Petersburg, the police department and the school district collaborated from the outset to develop the interdiction program. Thus, planners could work out most of the specific procedures that ultimately make or break such an effort before the program became operational. Planners not only identified contact persons at each school but also informed support personnel (such as school secretaries) what information the police would require to return interdicted students to school as quickly as possible.

In addition, by working from the top down, planners identified school board employees who could act as troubleshooters for any unusual problems encountered. On occasion, officers picked up students who had been suspended and ordered not to return to school until they brought their parents in for a conference. This practice, which effectively placed students on indefinite suspension, violated both school board policies and state law. At the police department's urging, school board troubleshooters placed this issue on the board's agenda and helped to correct it.

> ***"...statutes regarding compulsory school attendance will have significant impact on attempts to interdict truants."***

Work With Other Agencies

The police department also regularly reviews lists of juveniles on probation. Officers who staff the truancy center notify a juvenile's caseworker if the juvenile is picked up for truancy.

In the first months of the interdiction effort in St. Petersburg, officers were surprised by the relatively high number of elementary school children found walking the streets during school hours. When analysis revealed that 15 percent of the city's truant population came from the elementary school level, the police department obtained a list of social workers in each school who could begin immediate intervention in these cases. Departments that implement a truancy interdiction effort should develop a comprehensive list of social service agencies that can provide timely assistance to such families.

PROMOTING THE PROGRAM

Recognizing that the support of patrol officers represents the single most important factor in the success of the interdiction effort, planners in St. Petersburg worked to integrate the program into the daily operations of the patrol division. Ideally, an interdiction effort should constitute an integral component of a police department's comprehensive community policing strategy. However, to encourage "stat' driven" officers to search actively for truants, planners arranged for officers to receive credit on their daily reports for taking truants into custody.

In addition, department administrators compile a weekly report that allows district commanders to see how many truants the officers in their district pick up as compared to other districts. The report also tracks year-to-date data so that commanders can assess long-term trends. Commanders whose districts register abnormally low interdiction rates while maintaining normal to high daytime burglary rates may be called on to explain the dearth of interdictions in their districts.

To enhance the overall value of the program, administrators also

integrated the interdiction effort into other department operations. Each week, administrators provide burglary detectives with a list of truants and the locations where they had been picked up. This provides an immediate pool of potential suspects for detectives in the event any residential burglaries occurred in the area around the site of the truancy stop.

CONCLUSION

No one suggests that truancy interdiction represents a panacea for resolving the many complex issues surrounding juvenile delinquency. But in many cases, interdiction, combined with parental involvement and school counseling, can help stop truant behavior before it leads to more serious problems.

The alarming rise in juvenile crime during the past decade has prompted many communities to initiate school-based programs to educate youths on such dangers as gangs and drugs. However, these programs—not to mention the regular instruction that schools provide—are of little value if children do not show up for class to benefit from them. Further, studies and analyses of crime and truancy rates in communities around the country confirm that today's truants commit a significant proportion of daytime crimes. An aggressive interdiction program puts kids on notice that the community will not allow them to skip school.

Aside from serving as an excellent crime prevention program, truancy interdiction also serves as a strong preventive measure against students dropping out of school altogether. By intervening early, parents and educators can identify underlying problems and take the corrective actions necessary to keep children in school.

For law enforcement, a well-executed truancy interdiction effort serves both short- and long-term goals. By keeping youths off the streets, the police can reduce crime today. And by encouraging youths to stay in school, the police can help reduce dropout rates and prevent more serious criminal activity tomorrow. ✦

Endnotes

[1] M. Katz, *The Irony of Early School Reform* (Cambridge: Harvard University Press, 1968).

[2] Ibid.

[3] M.J. Tyerman, *Truancy* (London: University of London Press, Ltd, 1968).

[4] C.R. Shaw and H.D. McKay, *Juvenile Delinquency and Urban Areas* (Chicago: University of Chicago Press, 1942).

[5] C. Vedder, *Juvenile Offenders* (Springfield: Illinois Press, 1979).

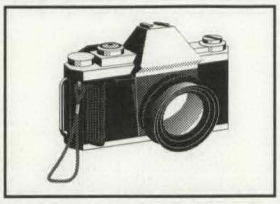
[6] H. Snyder, *Court Careers of Juvenile Offenders* (Pittsburgh, PA: National Center for Juvenile Justice, 1988).

[7] J.T. Rouzan, Jr. and L. Knowles, "A Streamlined Truancy Program That Really Works," *The Police Chief*, vol. 54, no. 1, 44-45.

[8] An analysis of the School Task Force Program implemented by the Houston, Texas, Police Department revealed that "...the reported Part I crime rates remained constant when compared to statistics from the same time period and the same area prior to program implementation." J.R. Martin, A.D. Schulze, and M. Valdez, "Taking Aim at Truancy," *FBI Law Enforcement Bulletin*, May 1988, 8-12.

[9] Florida State Statute 39.421(1b).

Wanted: Photographs

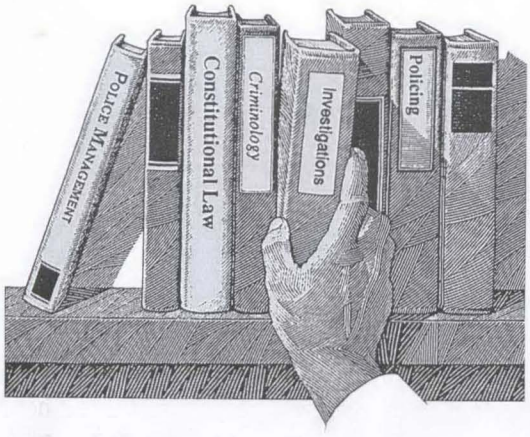


The *Bulletin* staff is always on the lookout for dynamic, law enforcement-related photos for possible publication in the magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the various tasks law enforcement personnel perform.

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

John Ott, Art Director,
FBI Law Enforcement Bulletin, Law Enforcement Communication Unit, FBI Academy, Quantico, VA 22135.

Book Review



Investigating Computer Crime *by Franklin Clark and Ken Deliberto, CRC Press, Boca Raton, Florida, 1996.*

To a very large extent, modern society has become dependent on computers. Individuals in all walks of life, from Wall Street investors to farmers, now use computers to perform their jobs more quickly and efficiently.

Unfortunately, however, computers are not just the tools of law-abiding citizens. Increasingly, they are being used to commit crimes. In recent years, computers have become tools of choice for not only white-collar criminals but also for a growing number of violent offenders, such as drug traffickers and child molesters. Law enforcement agencies must develop the expertise necessary to confront these increasingly hi-tech criminals.

Investigating Computer Crime covers many of the topics with which law enforcement agencies must become familiar. The coauthors, both experienced criminal investigators with considerable backgrounds in computers, provide a wealth of information in a clear and concise manner.

They describe, in detail, the different types of computer systems and hardware that investigators might encounter, from mainframes and personal computers to "home style" systems frequently used by computer crackers. The authors devote one particularly timely chapter to discussing the different network systems currently in use and some of the problems associated with detecting and investigating crimes committed on these systems.

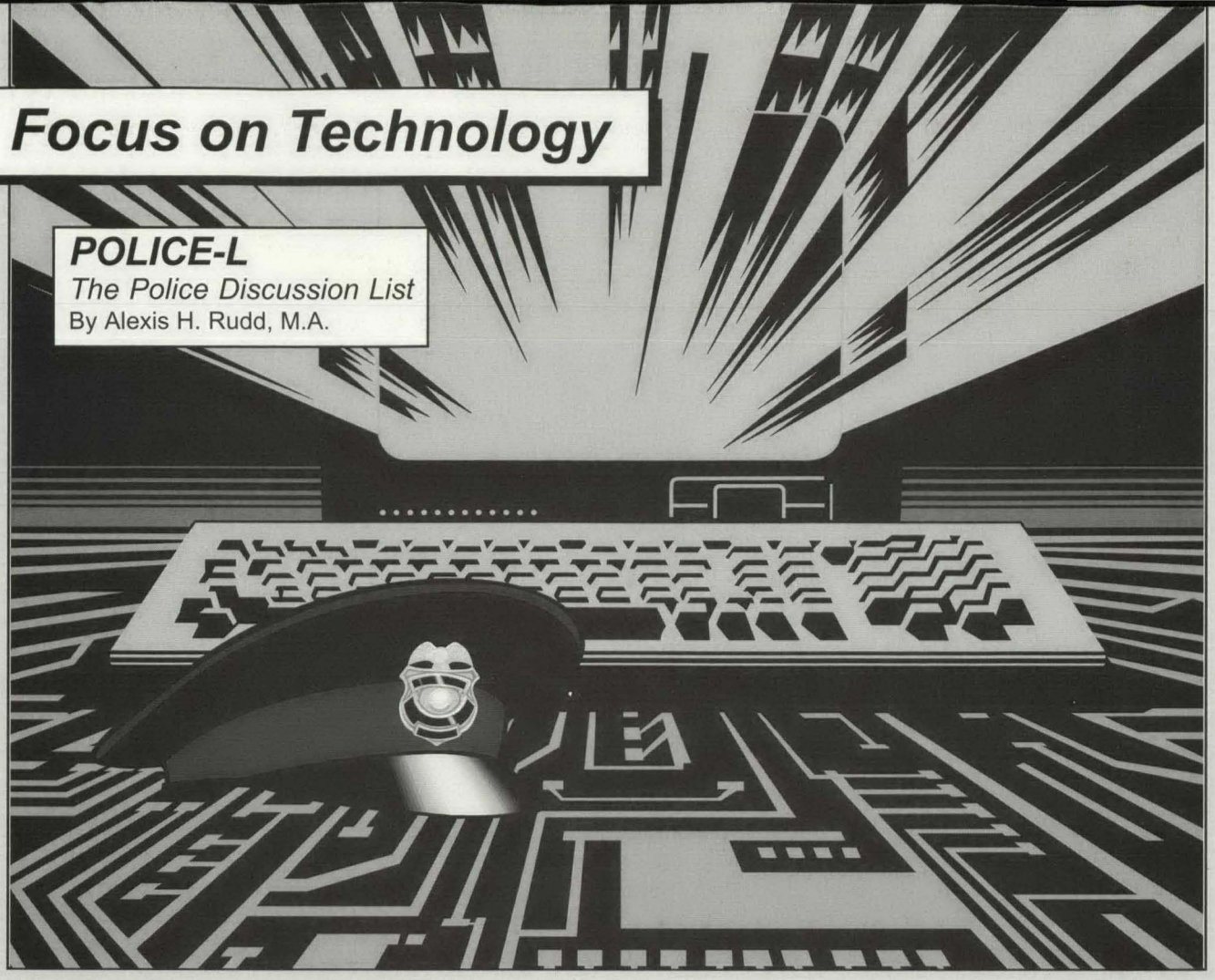
Other chapters discuss serving search warrants in cases involving computers, safeguarding computer evidence, and ensuring a proper chain of command for computer evidence. In these chapters, the authors provide an excellent overview of computer seizures and advocate a team approach when law enforcement agencies serve warrants calling for the confiscation of computer equipment. In addition, they provide helpful sample search warrants that can be used for the seizure of computer-related evidence.

The authors also include insightful discussions of emerging technological issues. One such chapter deals with encryption, while another offers suggestions for investigating underground bulletin board systems.

Still, the authors of *Computer Crime* recognize that computer technology changes too rapidly to be addressed comprehensively in a book. So, they not only recommend that investigators constantly seek out competent, qualified instructors in this area, but they also provide a useful directory of notables in the field. Law enforcement personnel will find *Investigating Computer Crime* a good first step in learning to deal with computer-related criminal activity.

Reviewed by
Arthur L. Bowker, M.A.
Investigator
Office of Labor Management Standards
U.S. Department of Labor
Cleveland, Ohio

Focus on Technology



POLICE-L

The Police Discussion List

By Alexis H. Rudd, M.A.

Imagine what could happen if law enforcement officers from around the world could communicate with one another quickly and easily. They could consult with their peers about emerging crime problems, effective policing techniques, the best equipment, up-to-date training, and thorny management issues.

The Internet has made such communication possible. In recent years, electronic mail (e-mail) has had a dramatic effect on how ordinary people communicate with one another, and officers have been as drawn to it as any other segment of the population. Those who have backed their colleagues numerous times in the field now are assisting them in cyberspace, sharing experiences, research, opinions, and contacts.

The relatively recent increase in the use of the Internet reflects a broadening of Internet demographics. No longer the exclusive domain of college students and technological whiz-kids, the "net" has become accessible to anyone since the advent of home computers, commercial online services, and a proliferation of local Internet service providers.

Police officers have seized the moment; more and more of them are finding their way online off-duty and on their own time. Many also are taking advantage of the opportunity for professional growth that the Internet offers.

One such opportunity developed during meetings with library staff at the John Jay College of Criminal Justice and the administration of the computer center of the City University of New York (CUNY). In the fall of 1994, they agreed to sponsor a new law enforcement resource on the Internet. John Jay College offered a computer account and the CUNY computer center provided the necessary hardware and software resources.[1] In November of that year, The Police

Discussion List, POLICE-L, appeared, and it has grown steadily ever since.

What It Is

POLICE-L is an e-mail-based forum for nonreal-time communication over the Internet. Any current or former law enforcement officer who has an e-mail address capable of sending and receiving mail on the Internet may subscribe.

It works this way. A list member sends an e-mail message to the list address. The message, in turn, is distributed to all the list's subscribers. If someone responds to the message, the reply, too, is distributed to everyone on the list.[2] In this manner, discussions ensue.

Because what is sent, or "posted," is distributed to the entire list membership, everyone benefits from the exchanges, even if they do not actively participate. Additionally, all posts are archived, enabling list members to search for and retrieve any prior post. The list archives have proven to be one of the main attractions, allowing subscribers to search for information on specific topics previously discussed on the list.

> **"POLICE-L was founded on the basic premise that professionalism in policing should be a goal, and the exchange of information with peers is a necessary component of achieving that goal."**

What It Is Not

One way to understand the concept of POLICE-L (and similar discussion lists) is to understand what it is not. The popular media often focus on the Internet's more colorful features. As a result, in the minds of some people, the World Wide Web has become synonymous with the Internet. In reality, the World Wide Web, a multimedia information format, is but one of several utilities available on the Internet. There are a host of others, including those that allow users to converse, or "chat," in real time using keyboards or their voices.

Newsgroups, sometimes known as Usenet or NetNews, are very popular, and resemble discussion lists in that users post messages that are distributed and then read later. Unlike discussion lists, though, newsgroups do not require users to subscribe, nor is access easily restricted.

POLICE-L is neither a site on the World Wide Web nor a Usenet newsgroup. Posts to POLICE-L arrive daily, and monitoring the list is as easy as reading e-mail.

Why It Was Created

Most police agencies in the United States employ a very small number of officers. Although job-related information is available to these employees through in-service training, magazines, books, and videotapes, relatively few opportunities exist for direct contact with other practitioners outside their local areas. Chances to compare and contrast practices and procedures usually are scant and infrequent.

POLICE-L was founded on the basic premise that professionalism in policing should be a goal, and the exchange of information with peers is a necessary component of achieving that goal. The list owner[3] created POLICE-L to make such exchanges universally available to law enforcement officers at all levels of policing.

Who Subscribes

Only sworn law enforcement officers, including retired, reserve, and auxiliary officers, may subscribe to POLICE-L. Personnel from the largest municipal and state agencies to the smallest rural departments have joined the list. All ranks from chief to rookie patrol officer are represented. Federal agents and military police officers, as well as former officers who now serve academia and the private sector, also subscribe. The list owner verifies the law enforcement status of all new subscribers prior to their admission.

The diversity of list membership has resulted in contacts that otherwise might not have been made. Not only have officers reached out to one another for some unofficial help on cases, but real friendships have developed. Occasionally, officers in different

countries are surprised by the procedures used by, or restrictions imposed on, colleagues elsewhere, and everyone learns from the variety of perspectives and experiences offered.

Perhaps more important, line officers and upper-level managers have the opportunity to exchange views. The participants in these discussions often work in different agencies, and the relative anonymity eliminates the political considerations that might hamper such communication within a workplace. As a result, line officers are exposed to some of the motives and rationales behind managerial decision-making processes. Upper-level managers are reminded that the environment in which their officers work, and which they help shape, affects the officers' perspectives, morale, and productivity.

"POLICE-L members themselves dictate what gets discussed on the list."

POLICE-L membership is geographically diverse as well. The vast majority of the list's subscribers, approximately 90 percent, reside in the United States, and all states are represented. In addition, because the Internet is a worldwide network of networks, list members also hail from a number of other countries, representing every continent except Antarctica. As the Internet extends its reach and becomes more readily accessible to those in other countries, international participation on POLICE-L likely will increase.

What Is Discussed

POLICE-L members themselves dictate what gets discussed on the list. Topics have ranged widely and have included commentary on local events, sharing of personal techniques, discussions of legislation and its impact on the criminal justice system, and much more. There is no explicit requirement that discussions be police-related, though members usually stick to law enforcement themes. When a topic arises, it is not unusual for subscribers who are police instructors or experts in the area to join the conversation and offer their expertise. Many members devote a great deal of thought and, often, research to their contributions to the list. The exposure to differing viewpoints reminds list members that law enforcement officers do not think with a single mind nor speak with a single voice.

In addition to fostering routine conversation, POLICE-L serves as a clearinghouse for information requests. List members seek help or guidance with local issues that might have been addressed by others already. For example, a small southern department sought an evaluation form to assess its supervisors' performance. A subscriber from a European police association sought details of legislation in other countries designed to address the crime of stalking. A university officer in a western state, scheduled to testify before his state's assembly regarding a bill he authored, wanted to know what to expect. An officer from a small department in the Midwest was looking to start a bicycle patrol and wanted advice on the best way to begin. The chief of an agency on the East Coast sought experiences to help him decide whether and with what nonlethal weapons to arm his plainclothes personnel. All of these requests received responses, either on the list or directly to the subscribers concerned.

List members also are involved in various projects of general interest to law enforcement, and POLICE-L gives them a way to spread the word. For instance, members routinely announce training courses and professional conferences. Several police union or association representatives subscribe, and they occasionally have used the list to notify officers of pending legislation. Subscribers involved with police-related organizations have posted to introduce those organizations and recruit members. Even an occasional job announcement makes its way to the list.

How To Subscribe

Subscribing to POLICE-L is a two-part process. First, an interested officer must compose e-mail to *LISTSERV@CUNYVM.CUNY.EDU*. The subject line can say anything (or nothing), but the main body of the text must contain the single line:

SUB POLICE-L FirstName LastName.

LISTSERV automatically will send directions for the second part.

The second portion of the subscription process involves mailing the list owner a short letter and photocopy of documentation verifying the intended subscriber's current or former law enforcement status. This procedure successfully deters fraudulent applications and keeps the list restricted to law enforcement.

Conclusion

POLICE-L is not the only electronic forum for police professionals, but it is unique in its delivery, general appeal, and international composition. As with many such resources, POLICE-L has a well-developed sense of "electronic community," in which "users can freely exchange information that otherwise might not be available, or would be too time-consuming to obtain through conventional channels."[4] This sense of community enables police professionals to "debate ideas, share data, publish their work, identify areas of agreement, and find solutions to common problems."[5]

Technology has made the world a smaller place. Through the Police Discussion List, officers from departments throughout the world can take their place in the global law enforcement community.✦

Endnotes

[1] POLICE-L is managed using LISTSERV list management software running on an IBM 3090 mainframe computer. For more information about LISTSERV, visit *http://www.lsoft.com/* on the World Wide Web.

[2] Replies also can be addressed specifically to the person who posted the message, without going through the list. Members usually reserve personal responses for topics outside the realm of general list interest.

[3] The author is the list owner for POLICE-L, with the assistance of associate list owner T.A. Sunderland, a lieutenant in the New York City Auxiliary Police and doctoral candidate at John Jay College of Criminal Justice. The list owners can be reached via e-mail at *POLICE-L-Request@CUNYVM.CUNY.EDU.*

[4] Seth F. Jacobs, "On-Line Criminal Justice Resources," *JCJE: Journal of Criminal Justice Education,* Fall 1995, 260.

[5] Ibid.

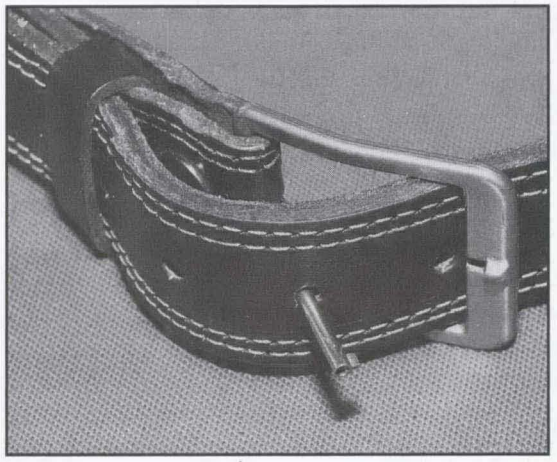
Officer Rudd serves in the Orange, Connecticut, Department of Police Services and is the list owner for POLICE-L.

Bulletin Alert

Concealed Handcuff Key

This concealed handcuff key easily could be overlooked during post-arrest pat downs. The key, made of heat-treated stainless steel, is compatible with all standard series handcuffs. It is professionally manufactured and available through product catalogues.✦

Submitted by Peter Lewis, the Security Guard Force supervisor at the U.S. Embassy in Bonn, Germany.



New Vision
Criminal Justice Education for Students

By CHARLES N. WILSON, M.S.

In the fall of 1990, a committee of educators in central New York State developed an innovative model to enhance the senior-year experience for area high school students. Unlike traditional occupational programs, this new model would be neither job-specific nor college-preparatory in nature. Rather, it would provide a comprehensive overview of a wide band of career tracks within a chosen profession.

The educators designed curricula for three different career paths—allied health, business management, and criminal justice. In September of the following year, the Onondaga-Cortland-Madison Board of Cooperative Education Services launched the New Vision Criminal Justice Program, the first career training program of its type in the country.

THE PROGRAM

The New Vision Criminal Justice Program is an interdisciplinary immersion model that takes high school seniors out of the traditional school setting and places them in the working world. It is designed to provide high school students with an enhanced understanding of the criminal justice system and law enforcement.

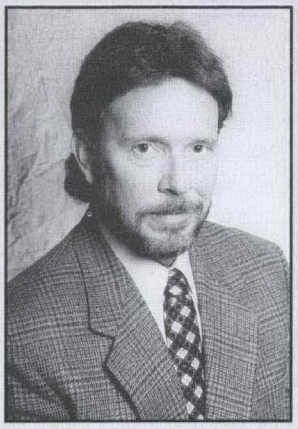
Traditionally, law enforcement career development programs rely on sending officers into the high schools. The New Vision program takes the opposite approach; it brings the school to the law enforcement setting, where participating students spend the majority of their senior year.

New Vision Classroom

Through an agreement with the participating school districts, the Onondaga County Sheriff's Department (OCSD) donated office space

in its downtown Syracuse headquarters to serve as the New Vision classroom. In addition to attending regular classes at OCSD headquarters, students spend portions of selected days in city, county, and federal courts, the district and U.S. attorney's offices, the local FBI office, the Syracuse Police Department, the Onondaga County Department of Probation, and the offices of a variety of other criminal justice service providers. Students observe major trials, attend public safety hearings, and participate in a broad spectrum of other activities that cannot be replicated in a traditional classroom setting.

> ***"The New Vision Criminal Justice Program ...takes high school seniors out of the traditional school setting and places them in the working world."***



Mr. Wilson, a former officer with the DeWitt, New York, Police Department, is the coordinator for the New Vision Criminal Justice Program in Syracuse, New York.

The New Vision Model

New Vision instructors attempt to reinforce and expand upon the educational background the seniors bring to the program by assigning projects that require them to synthesize data from various disciplines and relate the information to everyday life. In recent class reports, for instance, students were asked to compare and contrast community-versus-institutional corrections and to defend a position in a debate over whether crime causes poverty or poverty causes crime. These issues, like so many aspects of social science and criminal justice, provide the students with ample opportunities to explore budgetary and financial matters, as well as how the legislative, executive, and judicial branches approach such topics.

The New Vision curriculum relies on an integrated approach to classroom instruction but is flexible enough so that regular adjustments do not infringe on the program's effectiveness. Focal points of the curriculum extend to basic criminological theory, as well as in-depth study of the law enforcement function and the judicial and legislative branches of government. The curriculum also covers corrections, general security and private investigations, the coordination between a variety of human service providers, and a series of special topics that impact the criminal justice system as a whole.

The program coordinator generally schedules coverage of these special topics toward the end of the school year, after students have received appropriate exposure to the enforcement, judicial, and correctional aspects of the system. These special topics range from the death penalty, to the war on drugs, to privatization, and other contemporary law enforcement issues.

In addition, more than 60 guest speakers are invited to address the class during the school year. Because a major program tenet calls for students to explore different perspectives to common questions, speakers are chosen for their diversity and the different approaches they bring to key issues.

For example, the formation of a citizen review board in the City of Syracuse has sparked considerable public debate. To allow the students to form their own *educated* opinions, representatives from the Police Benevolent Association, the American Civil Liberties Union, the police department's internal affairs unit, and the review board itself, as well as a local prosecutor and a defense attorney, were invited to present their views to the class. Combined with reading and writing assignments, the presentations helped the students frame the issue and arrive at their own conclusions. At the same time, hearing and appreciating different perspectives on a given issue help the students further develop their own critical thinking skills.

Students also participate in a variety of short-term internships, or shadowing experiences. The students ride along with the Onondaga

County Sheriff's Department, the Syracuse Police Department, and other area law enforcement agencies. They also spend time becoming familiar with the various divisions of the sheriff's department.

During a given school year, students have the opportunity to participate in at least 30 internships, ranging from spending a morning with a probation or parole officer to spending a day with a court reporter. Due to time restrictions, students must complete many of these outside experiences after regular school hours, which is indicative of these students' motivation and desire to learn. Over the course of a year, most students participate in as many out-of-class opportunities as possible.

Students also complete a variety of public service projects. Activities range from participating in an annual Christmas DWI display at a local shopping mall to regularly assisting DARE officers during visits to area middle schools. The students speak with the fifth- and sixth-graders about drugs and the transition to high school. They also frequently play the role of McGruff, The Crime Dog, with sheriff's deputies at public functions and participate in a variety of role-playing exercises at the police academy.

As part of the integrated study philosophy, the students take part in numerous field trips during the school year. These trips include excursions to prisons, the area 911 center, and the county police academy. In addition, the students participate in fund-raising efforts to pay for an end-of-the-year trip to the FBI Academy in Quantico, Virginia. While in the Washington, DC, area, the students also tour Capitol Hill, the Supreme Court, the Law Enforcement Officers Memorial, and other sites of interest.

On a day-to-day basis, the classroom component of the program resembles a college-level seminar where discussion is the primary objective. Students spend the first half-hour of each school day reading the local newspaper and discussing current events dealing with criminal justice topics.

> ***"...the New Vision Program offers...a deeper understanding and more realistic perspective of the challenges facing the criminal justice system."***

Academically, the students complete daily reading and writing assignments. They also conduct group presentations and complete book reports and position papers. During the school year, each student completes two individual research projects, and the class as a whole completes one major research project.

This team effort involves developing a hypothesis and test instrument, conducting an in-depth literature review, analyzing the data, and drafting a final report. Schools and law enforcement agencies throughout central New York receive copies of the reports, which have dealt with such issues as school violence and teen attitudes toward the police. The latter project was adapted into a well-received local cable television special in 1994.

In addition to taking a comprehensive final examination, the students develop professional portfolios. The portfolios not only serve as viable and contemporary means of assessing the students, but they also provide a way for students to personalize what they have learned and accomplished during the year while giving them a way to showcase their accomplishments to prospective college recruiters or employers. At year's end, students defend their portfolios before a panel of criminal justice professionals.

Application and Selection Process

The application procedure for the New Vision Program compares to the college application process. Members of the program staff, as well as current and former New Vision students, make annual presentations to junior-year students in the component schools between January and March. Interested students contact their guidance counselors to discuss the eligibility requirements. Candidates then complete a formal application and essay to provide program managers with an academic and personal profile, as well as with an opportunity to assess each applicant's writing skills. In mid-May, candidates submit transcripts and letters of recommendation. Throughout the process, they are encouraged to visit the program site.

Students who meet all requirements are formally accepted into the program before the end of their junior year. Generally, a maximum of 30 students are accepted into the program each year, traditionally with a 50-50 mix of boys and girls. In June each year, incoming New Vision students and their parents attend a pre-fall orientation at OCSD headquarters.

A Glimpse At the Future

At the beginning of each school year, approximately 70 percent of the students express interest in pursuing careers in law enforcement at the municipal, county, state, or federal level. Fifteen percent are interested in a career in corrections, while the remainder are undecided or express interest in private security, human services, or in different aspects of the legal profession.

By year's end, a portion of the students change their minds. While some decide to pursue a different criminal justice career track, others decide that a criminal justice career is not for them.

Allowing students to get a realistic picture of the criminal justice system in action and enabling them to fine-tune their career plans while in high school benefits the students as well as the profession. Students will be able to make informed decisions about alternate careers and will not waste time and effort pursuing a career path in an area that ultimately will prove unfulfilling to them.

Whether they pursue a career in criminal justice or not, the students will possess a heightened awareness of the intricacies of the criminal justice system, making them more informed citizens. The program benefits the criminal justice system by exposing interested young people to the realities of a career in criminal justice and diverting those youths who may have held a false impression of what such a career involves.

Student Eligibility Requirements

To qualify for the New Vision Criminal Justice Program, a student must:

- Be a high school senior from an Onondaga-Cortland-Madison BOCES component district
- Have at least a B average
- Demonstrate an interest and desire to learn about the criminal justice system
- Exhibit a high level of responsibility and maturity. This includes the ability to work as a team member as well as individually
- Have met graduation requirements
- Be conscientious and highly motivated to succeed.

Funding

In New York state, many school districts in specific geographic areas join together in voluntary, cooperative associations called Boards of Cooperative Educational Services (BOCES). These boards enable the component districts to secure educational or business services more economically than individual districts could procure by themselves. Each participating district then purchases seats in BOCES program offerings.

In 1996, the New Vision Criminal Justice Program cost approximately $3,400 per seat (for each participating student). This cost translates to roughly one-half that of traditional occupational training programs offered by the Onondaga-Cortland-Madison board. Because the sheriff's department provides a classroom free-of-charge, most of the program costs go toward materials—periodicals, videos, and textbooks. To date, the greatest expenditure has been the acquisition of a classroom-based multimedia computer, used to provide students with access to the Internet.

POST-GRADUATION

Recently, program managers finalized a formal agreement with the State University of New York at Onondaga Community College, where many of the students continue their education. A final grade of 80 percent or higher on the New Vision Program automatically is transferred to the university, which then waives its introductory criminal justice course requirement in lieu of the New Vision experience.

The year 1996 proved to be pivotal for many former New Vision students. Those from the first class who decided to pursue 4-year degrees began graduating from colleges and universities in May and now have embarked on their careers. Many have chosen to pursue careers in criminal justice. Some former students have opted for 2-year degrees and are planning to take civil service exams. Other New Vision graduates currently work in the criminal justice or human services fields while they await their civil service test results. A few have gone into the military where they currently serve in military police units.

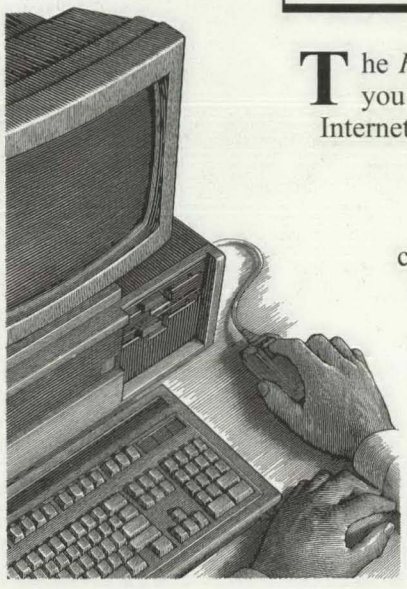
CONCLUSION

Just as law enforcement agencies around the country have embraced more community-oriented policing philosophies, a comparable revolution is taking place in academic settings as educators strive to make education more relevant to student and societal needs. The New Vision model uses contemporary integrated learning techniques as it immerses students in a challenging and stimulating environment, where learning takes place on many levels.

The unique program provides young people who have an interest in criminal justice with an opportunity to see how the system works before they pursue their educations or embark on careers. For many students, the experience helps them focus their criminal justice career plans. For others, the experience prompts them to rethink their goals altogether.

Whether or not graduates pursue a career in the criminal justice field, the New Vision Program offers a deeper understanding and more realistic perspective of the challenges facing the criminal justice system. By doing so, it helps prepare youth to act as positive forces in their communities, whatever their career goals may be. ✦

The *Bulletin's* Internet Address



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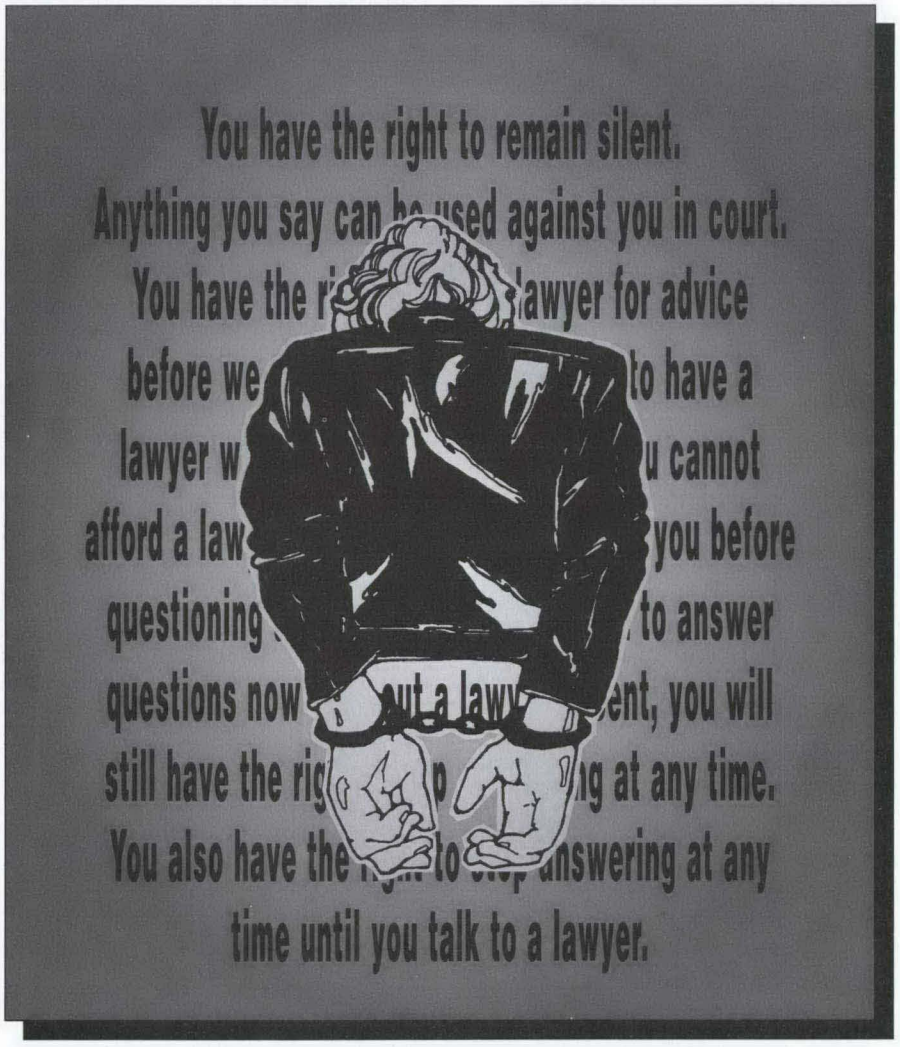
Beyond Miranda

By EDWARD M. HENDRIE, J.D.

In 1966, the U. S. Supreme Court handed down its landmark decision in *Miranda* v. *Arizona*.[1] This article reviews *Miranda* and discusses some important developments since that decision.

First, the article addresses the degree to which a statement taken in violation of *Miranda* can be used for impeachment purposes and whether evidence derived from a *Miranda* violation is admissible. It then looks at the extent to which *Miranda* applies to undercover police interrogation and whether *Miranda* warnings are required prior to routine booking questions. Next, the article comments on the development of the so-called "public safety" exception and whether police may continue to interrogate a suspect after he makes an equivocal request for a lawyer. Finally, it examines a statutory substitute for *Miranda* that has yet to receive constitutional review by the Supreme Court.



The *Miranda* Decision

At approximately 8:30 p.m. on November 27, 1962, a young woman left the First National Bank of Arizona after attending night classes. A male suspect robbed the woman of $8 at knife-point after forcing his way into her car.[2] Four months later, the same suspect abducted an 18-year-old girl at knife-point and, after tying her hands and feet, drove to a secluded area of the desert and raped her.[3]

On March 13, 1963, police arrested 23-year-old Ernesto Arthur Miranda as a suspect in the two crimes. Miranda had a prior arrest record for armed robbery and a juvenile record for, among other things, attempted rape, assault, and burglary. Both victims viewed corporeal lineups and identified Miranda as their attacker. The police questioned Miranda, and he confessed to both crimes. He signed a confession to the rape that included a typed paragraph explaining that the statement was made voluntarily without threats or promises of immunity and that he had full knowledge of his rights and

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> ***"The Supreme Court has... carved out many exceptions to the Miranda exclusionary rule."***

understood that the statement could be used against him.[4]

Ultimately, the Supreme Court reversed Miranda's conviction and ordered that the confession in the rape case be suppressed. The Court ruled that "an individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and have the lawyer with him during interrogation...[that he has] the right to remain silent and that anything stated can be used in evidence against him...that if he is indigent a lawyer will be appointed to represent him."[5] The Court reasoned that all custodial police interrogations are inherently coercive and could never result in a voluntary statement in the absence of a knowing, intelligent, and voluntary waiver of the rights enumerated in the *Miranda* warnings.

The *Miranda* decision was a departure from the established law in the area of police interrogation. Prior to *Miranda*, a confession would be suppressed only if a court determined it resulted from some actual coercion, threat, or promise. Under *Miranda*, the Supreme Court established an irrebuttable presumption that a statement is involuntary if it is taken during custodial interrogation without a waiver of the so-called *Miranda* warnings.[6] A statement taken in violation of *Miranda* would result in the suppression of the statement, even though the statement was otherwise voluntary and not the result of coercion of any kind. In fact, in the *Miranda* decision, the Supreme Court acknowledged that Ernesto Miranda was not subjected to any coercion that would render his statement involuntary in traditional terms.[7]

The *Miranda* requirements apply only when a suspect is both in custody and subjected to interrogation. For purposes of *Miranda,* "custody" is defined as an arrest or significant deprivation of freedom equivalent to an arrest.[8] "Interrogation," under *Miranda,* is defined as words or actions likely to elicit an incriminating response from an average suspect.[9]

If the suspect asserts the right to silence, an officer must honor the suspect's assertion and stop the interrogation. However, the officer may reinitiate contact and obtain a valid waiver after a reasonable period of time.[10] On the other hand, if a suspect asserts the right to an attorney, questioning must cease and may only be recommenced if the defendant reinitiates communication with the officer.[11]

Impeachment

Subsequent U.S. Supreme Court decisions have limited the *Miranda* exclusionary rule. Five years after *Miranda,* the Supreme Court decided *Harris* v. *New York.*[12] With only two of the five justices in the original *Miranda* majority still on the Court, the Supreme Court held that a statement taken in violation of *Miranda* could be used to impeach the credibility of a defendant at trial.

The police in *Harris* failed to advise the defendant of his right to counsel prior to custodial interrogation, which was a violation of *Miranda.* The prosecution did not use the statement during the case in chief. However, when the defendant took the stand, he contradicted his postarrest statement.

The Supreme Court approved of the prosecution using the postarrest statement to impeach the defendant during cross-examination, because the Court was not going to allow the defendant to use the *Miranda* decision as a license to commit perjury. Interestingly, the Court observed that the defendant made "no claim that the statements

made to the police were coerced or involuntary."[13] This statement by the Supreme Court was a signal that the Court was prepared to abandon the position that statements made by a suspect during custodial interrogation are presumptively involuntary. That presumption was the reason given for requiring *Miranda* warnings in the first place.

In another case, *Oregon* v. *Haas*,[14] the Supreme Court followed the precedent in *Harris* and ruled that a defendant's statement may be used to impeach the defendant, even if that statement was taken after the defendent requested an attorney during the custodial interrogation. The *Haas* Court distinguished the *Miranda* presumption of involuntariness from actual involuntariness and stated that if, "...in a given case, the officers conduct amounts to abuse, that case, like those involving coercion or duress, may be taken care of when it arises measured by the traditional standards for evaluating voluntariness and trustworthiness."[15] A statement that is in fact involuntary is inadmissible for any purpose including impeachment.[16]

In *Doyle* v. *Ohio*,[17] two suspects elected to remain silent after they had been told by police during *Miranda* warnings that they had a right to remain silent. The Supreme Court ruled that it was a due process violation to use their silence to impeach them during their respective trials. The Court reasoned that the *Miranda* warnings carry the implicit promise that if suspects remain silent, that silence will not be used against them.[18]

The Supreme Court thought it unfair to penalize the defendants by allowing their silence to be used to impeach them, after they had relied upon the assurances of the police that they had a right to remain silent. However, if the defendants in *Doyle* had not been told by police that they had a right to remain silent, there would have been no due process violation if their silence was subsequently used to impeach their credibility. Under those circumstances, their silence would not have been induced by the implicit promise in the *Miranda* warnings that their silence would not be used against them.[19]

> ***"...a statement taken in violation of Miranda could be used to impeach the credibility of a defendant at trial."***

Evidence Derived from a *Miranda* Violation

In *Michigan* v. *Tucker*,[20] the Supreme Court held that a witness may testify at trial, even though the defendant identified that person as a witness in a statement taken in violation of *Miranda*. Prior to Tucker's custodial interrogation, the police advised him of the *Miranda* warnings, except the right to appointed counsel. The Court determined that derivative evidence, such as the witness' identity, may be suppressed, but only if the police obtained it by infringing on the defendant's constitutional rights.

The Court distinguished between a violation of the Fifth Amendment right against compelled self-incrimination and a violation of the prophylactic rules in *Miranda*. The Court stated that the Fifth Amendment was drafted in order to guard against genuine compulsion, which involves an element of coercion.[21]

The police in *Tucker* did not coerce the defendant to make the statement and, therefore, did not violate his Fifth Amendment right against compelled self-incrimination.[22] The police did, however, violate the rules of the *Miranda* decision. The *Tucker* Court made clear that *Miranda* warnings are not, themselves, rights protected by the Constitution, but are merely measures formulated by the Court to ensure that the right against compelled self-incrimination is protected.[23]

In *Oregon* v. *Elstad*,[24] the Supreme Court ruled that when a suspect makes a voluntary statement without being advised of his *Miranda* warnings, the Fifth Amendment Self-Incrimination Clause does not require the suppression of a subsequent statement made by that suspect, provided that the police comply with *Miranda* when taking the second statement. In *Elstad*, the police arrested the defendant, Michael Elstad, for burglary. When one of the officers sat down with Elstad to explain that he thought Elstad was involved in the burglary, Elstad responded by saying, "Yes, I was there."[25] The police

did not advise Elstad of his *Miranda* warnings until after he had been transported to the sheriff's department, 1 hour later. He then waived his *Miranda* rights and confessed to the burglary.

The Court suppressed the first statement because police took it in violation of *Miranda*. Elstad claimed that because he had "let the cat out of the bag" during the first unwarned interrogation, the second statement also should be suppressed. He argued that the second statement was the tainted fruit of the poisonous tree, because his prior unwarned statement exerted a coercive impact on his later admissions and that the *Miranda* warnings did not purge that taint.

Supreme Court precedent has established that a prior coerced statement may result in the suppression of a subsequent statement, if it is determined that the coercive influence of the first statement carried over to the second statement.[26] In *Elstad*, however, the Supreme Court ruled that "[t]he failure of police to administer *Miranda* warnings does not mean that the statements received have actually been coerced...."[27]

The Court distinguished between voluntary unwarned admissions and statements that result from actual police coercion. This distinction highlighted the Supreme Court's apparent abandonment of the *Miranda* doctrine that custodial interrogations are inherently coercive. The Court viewed Elstad's first statement as having resulted from a noncoercive *Miranda* violation rather than a constitutional violation.

The *Elstad* Court made it clear that where there is a noncoercive *Miranda* violation, the remedy is limited to the suppression of the unwarned statement. A voluntary statement taken in violation of *Miranda* does not carry with it any taint that would affect the admissibility of evidence derived from that statement.

> ***"...noncoercive ploys that merely mislead or lull suspects who are in custody into a false sense of security are not a violation of Miranda...."***

Undercover Police Interrogation

In *Illinois* v. *Perkins*,[28] two police informants posed as inmates in order to elicit evidence of the defendant's involvement in a murder. One of the informants questioned the defendant, who responded by making a statement implicating himself in the murder. The Supreme Court held that the inherently coercive atmosphere presumed to exist during custodial police interrogation is not present when the suspect does not know he is talking with the police or an agent of the police.

The *Perkins* Court overturned the Illinois Appellate Court's order suppressing the statement and ruled that it is not necessary to obtain a *Miranda* waiver under such circumstances. The Court stated that when a suspect has no reason to believe that the listeners have official power over him, then it cannot be said that the resulting statement is caused by some implicit coercion stemming from the suspect expecting the listeners to affect his future treatment. The Court further stated that confessions remain a proper element of police interrogation, and noncoercive ploys that merely mislead or lull suspects who are in custody into a false sense of security are not a violation of *Miranda* or the Self-Incrimination Clause.[29]

Routine Booking Questions

In *Pennsylvania* v. *Muniz*,[30] police arrested the defendant for drunk driving. The defendant slurred his responses to unwarned booking questions, which elicited routine biographical information—name, address, height, weight, eye color, date of birth, and current age. Even though the police obtained the slurred responses during custodial police interrogation, eight of the nine Supreme Court justices ruled that the responses were admissible, despite the failure of the police to obtain a *Miranda* waiver.

The eight justices, however, did not agree on the reasons why *Miranda* was not required. Four justices argued that an exception should be carved out when routine booking questions are asked, because booking questions are not ordinarily intended to elicit information for investigative purposes. The other four justices believed that it was not necessary to determine if the slurred responses fell within a routine booking questions exception to *Miranda*. They considered

the *Miranda* rule as a formula to protect a person's Fifth Amendment right against compelled self-incrimination, which involves testimonial evidence. The responses to the booking questions were incriminating not because of the testimonial substance of what the defendant said, but because the slurred speech was nontestimonial evidence of intoxication.

One of the unwarned questions the officer asked the defendant was if he knew the year of his sixth birthday. The defendant was unable to answer that question. A majority of the Court found that question was a violation of *Miranda* because it was designed to elicit incriminating testimonial evidence and was beyond the scope of routine booking questions.

The Public Safety Exception

Three dissenting justices in *Miranda* argued that requiring warnings prior to custodial interrogation would deter suspects from confessing.[31] In *New York* v. *Quarles*,[32] the Supreme Court majority decided that police are not required to give *Miranda* warnings when the immediate safety of the public hangs in the balance, because the Court believed that those warnings tend to deter a suspect from making a statement.[33] The *Quarles* Court proceeded to carve out the public safety exception to the *Miranda* rule.

In *Quarles,* a woman told two police officers on road patrol that she had just been raped at gunpoint. The woman also told the officers that the suspect had just entered a nearby supermarket. While his partner radioed for assistance, one of the officers entered the market. The officer immediately saw a suspect matching the description given by the victim. As soon as the suspect, Benjamin Quarles, saw the uniformed officer, he ran toward the rear of the store. The officer drew his gun and pursued Quarles.

Ultimately, the officer apprehended Quarles. When the officer frisked Quarles, he found that he was wearing an empty shoulder holster. The officer, without advising Quarles of the *Miranda* warnings, immediately questioned him about the location of the gun. Quarles nodded toward some empty cartons and told the officer "the gun is over there."[34] Despite the fact that Quarles was in custody at the time of the interrogation, the Court held that the statement was admissible as a public safety exception to the *Miranda* ruling.

Equivocal Requests For Counsel

Judicial concern regarding the detrimental effects of the *Miranda* requirements on law enforcement may have contributed to the Supreme Court's loosening of the *Miranda* strictures in *Davis* v. *United States*.[35] In *Davis,* the Court ruled that a suspect must make an unequivocal request for a lawyer in order to effectively assert his *Miranda* right to counsel, despite the government's burden of proving the suspect made a knowing, intelligent, and voluntary waiver of his *Miranda* rights. The *Davis* Court distinguished between the Sixth Amendment right to counsel, which attaches only at the initiation of adversarial judicial proceedings and each critical stage thereafter, and the *Miranda* right to counsel, which is not constitutionally mandated and only attaches during custodial interrogation.

In *Davis*, Naval Investigative Service (NIS) agents investigating a murder obtained both oral and written *Miranda* waivers from the defendant. After being interviewed for approximately 90 minutes, the defendant said: "Maybe I should talk to a lawyer."[36] After asking some clarifying questions, the NIS agents continued to interrogate Davis.

The Court ruled that the defendent's statement was not sufficiently unequivocal to constitute an assertion of his *Miranda* right to counsel. Moreover, the *Davis* Court emphasized that if a suspect makes an equivocal request for a lawyer, it is not necessary for the police to ask clarifying questions in an attempt to decipher

the suspect's intentions. If the suspect intends to assert his *Miranda* right to counsel, that assertion must be clear and unequivocal.

Congressional Response to *Miranda*

In *Miranda*, the Supreme Court stated that Congress and the states are free to develop their own safeguards to replace the rules set forth in *Miranda*, so long as they are as effective as *Miranda* in protecting a suspect's right against compelled self-incrimination.[37] In 1968, Congress accepted this invitation by enacting 18 U.S.C. §3501 as part of Title II of the Omnibus Crime Control and Safe Streets Act.

Subject only to Constitutional limitations, Congress has supreme authority to prescribe rules for the admission or exclusion of evidence in federal courts.[38] Congress enacted §3501 to displace *Miranda* and reinstate the voluntariness test.[39] In a concurring opinion in *Davis*, Justice Scalia asserted that when an issue involving the voluntariness of a custodial confession in a federal case is next brought before the Supreme Court, the decision should not be based on *Miranda* but instead on 18 U.S.C. §3501.[40]

Section 3501 does not presume, as did the *Miranda* Court, that police custody is inherently coercive. Unlike *Miranda,* §3501 does not require that a suspect make a knowing, intelligent, and voluntary waiver of certain enumerated rights. Instead, §3501 provides that a federal court must look at the totality of the circumstances in determining if a statement is voluntary, and that if "the trial judge determines that the confession was voluntarily made it shall be admitted in evidence...."[41] The statute requires that all voluntary confessions be admitted into evidence in federal prosecutions and limits the effect of the presence or absence of warnings to being merely one factor for federal courts to consider in determining whether the confession was voluntary.

> ***"Voluntariness remains the constitutional standard that must be met when obtaining a statement from a suspect."***

Provided they are constitutional, statutes enacted by Congress are the supreme law of the land.[42] The U.S. Supreme Court is the final arbiter of whether a federal statute is constitutional. However, the constitutionality of §3501, as it relates to custodial interrogation, is an issue that has never been brought before the Supreme Court. In addition, §3501 has received only limited support in the lower federal courts.[43] In *Davis,* the majority refused to consider implementing §3501, because the Department of Justice expressly declined to take a position on the statute's applicability.[44]

Conclusion

The Supreme Court has implicitly abandoned the underlying principle of the *Miranda* decision—that custodial police interrogation is inherently coercive—and has carved out many exceptions to the *Miranda* exclusionary rule. Consequently, a violation of the *Miranda* ruling does not necessarily mean that the resulting statement will be inadmissible. The Supreme Court has made it clear that the *Miranda* warnings are not constitutionally required but are only prophylactic rules designed to protect a suspect's right against compelled self-incrimination. Voluntariness remains the constitutional standard that must be met when obtaining a statement from a suspect.

Nonetheless, law enforcement agencies should consult with legal counsel to ensure that investigative practices conform to the requirements set forth by the Supreme Court in *Miranda* and other precedent. Should a voluntary statement be obtained in violation of the *Miranda* ruling, through inadvertence or otherwise, this article sets forth legal authority that law enforcement may assert in salvaging at least some use for the resulting voluntary statement. ✦

Endnotes

[1]384 U.S. 436 (1966).

[2]*Arizona* v. *Miranda*, 98 Ariz. 11,__, 401 P.2d 716, 717-18 (1965).

[3]*Arizona* v. *Miranda*, 98 Ariz. 18,__, 401 P.2d 721, 722-23 (1965).

[4]*Miranda* v. *Arizona*, 384 U.S. 436, 492 (1966).

[5]*Id.* at 471.

[6]The government has the burden of proving by a preponderance of the evidence that the suspect made a knowing, intelligent, and voluntary waiver of the rights contained in the *Miranda* warnings prior to being subjected to custodial interrogation. *Colorado* v. *Connelly*, 479 U.S. 157, 168 (1986).

[7] *Miranda*, 384 U.S. at 457.

[8]*California* v. *Beheler*, 463 U.S. 1121 (1983) (per curiam); *Orozco* v. *Texas*, 394 U.S. 324 (1969). The custody test is an objective test that looks to whether a reasonable person in the suspect's shoes would feel free to leave. The unexpressed subjective intent of a police officer to arrest a suspect is irrelevant to the issue of whether a suspect is in custody under *Miranda*. *Stansbury* v. *California*, _ U.S._, 114 S. Ct. 1526, 1529-30 (1994) (per curiam).

[9]*Rhode Island v. Innis*, 446 U.S. 291 (1980).

[10]*Michigan* v. *Mosley*, 423 U.S. 96 (1975).

[11]*Edwards* v. *Arizona*, 451 U.S. 477 (1981); *see also Wyrick* v. *Fields*, 459 U.S. 42 (1982).

[12]401 U.S. 222, (1971).

[13]*Id.* at 224.

[14]420 U.S. 714, (1975).

[15]*Id.* at 723.

[16]*Mincey* v. *Arizona*, 437 U.S. 385, 397-98 (1977) (Introduction of an involuntary statement into evidence to impeach the defendant is a denial of due process.).

[17]426 U.S. 610 (1976).

[18]*See also*, *New Jersey* v. *Portash*, 440 U.S. 450, 459-60 (1979) (Use of grand jury testimony to impeach the defendant at trial violates the 5th and 14th Amendment right against compelled self-incrimination where the grand jury testimony resulted from a guarantee of use immunity.).

[19]*See Jenkins* v. *Arizona*, 447 U.S. 231 (1980).

[20]417 U.S. 433 (1974).

[21]*Id.* at 448.

[22]*Id.* at 444.

[23]*Id.*

[24]470 U.S. 298 (1985)

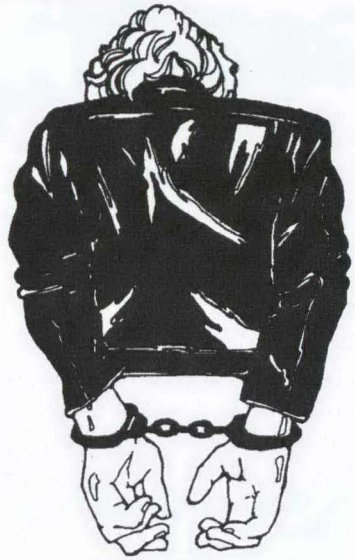
[25]*Id.* at 301.

[26]*Id.* at 310, citing *Clewis* v. *Texas*, 386 U.S. 707 (1967).

[27]470 U.S. at 310.

[28]496 U.S. 292 (1990).

[29]*Id.* at 297-98. One should be mindful, however, of Sixth Amendment restrictions placed on undercover police interrogations. The Sixth Amendment right to counsel attaches at the inception of adversarial judicial proceedings and at every subsequent critical stage of the prosecution, including when being interrogated by the police or appearing at a corporeal lineup. *See Massiah* v. *United States,* 377 U.S. 201 (1964) and *United States* v. *Wade,* 388 U.S. 218 (1967). The Sixth Amendment right to counsel only attaches to those specific formal charges brought against the defendant. *McNeil* v. *Wisconsin,* 501 U.S. 171 (1991). Police cannot deliberately elicit an incriminating response from a suspect after attachment of the Sixth Amendment right to counsel without first obtaining a waiver. *Miranda* type warnings are sufficient to obtain a waiver of a suspects' right to counsel. *Patterson* v. *Illinois,* 487 U.S. 285 (1988). If a suspect has invoked his right to counsel, an officer may not reinitiate contact with the suspect regarding the specific charges for which formal judicial proceedings have begun. *Michigan* v. *Jackson,* 475 U.S. 625 (1986). However, a valid waiver may be obtained if the defendant initiates communications with the officer. Officers may not use informants to deliberately elicit an incriminating statement after the 6th Amendment right to counsel has attached. *United States* v. *Henry,* 447 U.S. 264 (1980). An informant, however, may be used as a mere listening post. In addition, Department of Justice (DOJ) regulations govern the circumstances under which DOJ attorneys may communicate directly or indirectly with persons known to be represented by counsel in the course of law enforcement investigations and proceedings. 28 C. F. R. §§3377.1-77.2.



[30]496 U.S. 582 (1990).

[31]384 U.S. 436, 516 (Harlan, J., joined by Stewart and White, JJ., dissenting).

[32]467 U.S. 649 (1984).

[33] *Id.* at 656-57. Empirical evidence supports the position of the *Quarles* Court. While statements that are suppressed due to a violation of *Miranda* are the clearest examples of the cost of the *Miranda* ruling, *Miranda* warnings themselves tend to deter a suspect from giving a statement. Professor Paul G. Cassell, in his article *Miranda's Social Costs: An Empirical Reassessment*, 90 NORTHWESTERN L. J. 387 (1996), examined numerous studies that analyzed the deterrent effect of *Miranda* warnings. He set forth convincing evidence which established that compliance with *Miranda* has had a severe impact on the effectiveness of law enforcement. Professor Cassell's research revealed that approximately 79,000 property crimes, 42,000 drug cases, 6,500 robbery cases, 1,400 forcible rape cases, and 880 murder and non-negligent homicide cases went unprosecuted in 1993 alone due to suspects being deterred from making a statement after being given their *Miranda* warnings.

He found that there were also indirect costs due to cases plea bargained to lesser charges. Professor Cassell reviewed a 1994 study that indicated that 30.6% of suspects successfully questioned pled to the charged offense, whereas only 15.4% of suspects who invoked their *Miranda* rights pled to the charged offense. In addition, he discovered that *Miranda* has a more significant effect on the most serious offenses. For example, one study cited by Professor Cassell revealed that, while the overall confession rate dropped 16.9% after the *Miranda* ruling, the confession rate dropped 27.3% in homicide cases and dropped 25.7% in robbery cases. It should be noted that the police department in that study did in fact give *Miranda* equivalent warnings prior to the *Miranda* decision, but weaved them into the conversation rather than giving them at the outset of the interrogation. Apparently, requiring a waiver prior to the onset of interrogation has a material impact on the effectiveness of police questioning.

[34]*Id.* at 652.

[35]512 U.S. 452, 114 S. Ct. 2350, 2354 (1994).

[36]*Id.* at 2353.

[37]384 U.S. at 490.

[38]U.S. CONST. art. III. *See Palermo* v. *United States*, 360 U.S. 343, 353 n.11 (1959); *see also, United States* v. *National City Lines*, 334 U.S. 573, 588-89 (1947).

[39]*See United States* v. *Barry*, 518 F.2d 342, 347 (2d Cir. 1975) which quoted the Report of the Senate Committee on the Judiciary, U.S. Code Cong. and Admin. News pp. 2112, 2124 and 2132, that stated that the major purpose of 18 U.S.C. §3501 was to prevent "'the rigid mechanical exclusion' from evidence of *voluntary* confessions solely because the police had not complied with what the committee called the 'inflexible requirements of the

majority opinion in the *Miranda* case.'" (emphasis in the original).

[40]512 U.S. 452, 114 S. Ct. at 2357 (Salia, J., concurring)

[41]18 U.S.C. § 3501 (a).

[42]U.S. CONST. art. VI.

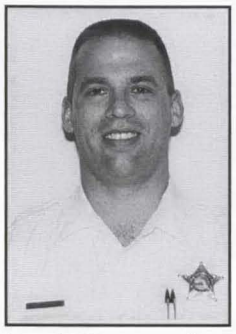
[43]The U.S. Court of Appeals for the 10th Circuit is the only court to address directly a constitutional challenge to §3501. In *United States* v. *Crocker*, 510 F.2d 1129 (10th Cir. 1975), the court ruled that §3501, is in fact, constitutional and approved of the trial court applying the statute instead of *Miranda* in deciding to admit into evidence the defendant's confession. Other courts have refused to apply §3501 when the government has raised the issue. *E.g., Ailsworth* v. *United States*, 448 F.2d 439, 441 (9th Cir. 1971) (The court expressly declined to decide whether § 3501 was applicable. The court, instead, decided that the *Miranda* violation in that case was not reversible error.); *United States* v. *Vigo*, 487 F.2d 295, 299 (2d Cir. 1973) (The court found that the defendant's statement was voluntary under the Fifth Amendment and in compliance with *Miranda,* despite the fact that the federal agent neglected to inform the defendant that anything he said could be used against him. The court found that it was unnecessary to reach the question of the applicability of §3501 and refused to apply the statute.). In *Davis* v. *United States,* the Supreme Court quoted from *United States* v. *Alverez-Sanchez,* 511 U. S. 350, 114 S. Ct. 1599, 1600 (1994) where the *Alverez-Sanchez* Court stated that 18 U.S.C. §3501 is "the statute governing the admissibility of confessions in federal prosecutions." 114 S. Ct. at 2354 n *. However, the quote in *Davis* is merely dicta because the *Alverez-Sanchez* Court was not deciding whether to apply §3501 in lieu of *Miranda,* and the *Davis* Court refused to address the issue of the applicability of §3501.

[44]114 S. Ct. at 2354 n *. *See* The Department of Justice Office of Legal Policy, *Report to the Attorney General on the Law of Pretrial Interrogation* (February 12, 1986), wherein the former DOJ Office of Legal Policy examined the history of pretrial interrogation and the *Miranda* decision. The Office of Legal Policy viewed 18 U.S.C. §3501 as overturning the *Miranda* decision and restoring the pre-*Miranda* voluntariness standard. The report advocated asserting §3501 as a direct challenge to *Miranda,* but the Department of Justice has not yet taken a position on that recommendation.

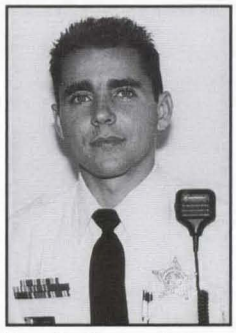
Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

The Bulletin Notes

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



Deputy Greenwood



Deputy Hernandez

Deputies Grant Greenwood and Raul Hernandez of the Monroe County, Florida, Sheriff's Office responded to the report of a house fire on one of the Florida Keys. Upon arriving at the scene, the deputies learned from neighbors that people remained trapped in the home. The deputies quickly entered the burning residence, located an elderly woman and her daughter, and carried the two women outside. Both victims were transported by rescue units to an area hospital, where the mother subsequently died of smoke inhalation. The daughter was airlifted to another medical facility, where she received extensive treatment for burns and smoke inhalation. She eventually recovered and was released. Deputies Greenwood and Hernandez were treated for smoke inhalation and released.

Trooper Hunter

Within minutes of receiving a report of a vehicle being driven erratically, Trooper Matthew Hunter of the Pennsylvania State Police located the vehicle and pulled it over. As Trooper Hunter approached the vehicle, the driver suddenly exited with a drawn pistol and began firing. Trooper Hunter immediately took cover, first behind the passenger's side of the assailant's vehicle and then behind his patrol car, where he returned fire with his service revolver. Upon realizing that passing motorists were in the line of fire, Trooper Hunter maneuvered into his vehicle and backed it about 50 feet to a point offering greater safety and a better line of fire. After contacting the station for backup, Trooper Hunter removed a shotgun from the back seat, exited his vehicle and again returned fire, fatally wounding the assailant.

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

U.S. Department of Justice
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535-0001

Periodical
Postage and Fees Paid
Federal Bureau of Investigation
ISSN 0014-5688

Official Business
Penalty for Private Use $300

Patch Call

The North Slope Borough, Alaska, Department of Public Safety patch features a Bowhead whale, a rainbow, and a mother polar bear protecting her young. The polar bears represent the borough's concern for the welfare of its people and their culture. The whale is a symbol of the local Inupiaq people's livelihood, while the rainbow represents the colorful Northern Lights.

The patch of the Windsor, Colorado, Police Department depicts the town's scenic beauty, including a view of the Colorado Mountains in the background.