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FBI

Law Enforcement Bulletin



Taking Aim at Truancy

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FBI

Law Enforcement Bulletin

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Truancy officers work with all age groups in an effort to promote goodwill throughout the entire school system. (See article p. 8.)

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Preparing Written Guidelines

"One of the critical elements that lead to the effective and efficient operation of any organization is written guidelines that establish the parameters for the behavior of its members."

By

JAMES H. AUTEN

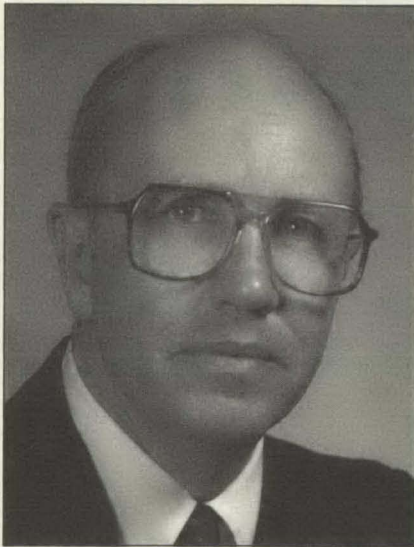
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One of the characteristics of most police departments in the United States is the existence of written documents that outline the mission of the organization and the manner in which members of the organization are to accomplish that mission. Whether these documents are called policy and procedure, rules and regulations, general or special orders, standard operating procedures, etc., they purport to contain the guidance necessary for organizational members to carry out successfully the day-to-day operations of the agency. Some police organizations, being the bureaucratic beings that they are, have gone to great lengths to detail specifically what is and what is not acceptable conduct on the part of em-

ployees. Others have opted for a more generalized form of written guidance, leaving much of the actual "street" decisionmaking to the discretion of individual officers.

A law enforcement administrator with a sense of moral responsibility will quickly recognize his or her obligation to the citizens of the community to develop and implement formal written guidelines that will guide the conduct of organizational members in the performance of their duties, especially those duties that by their nature have the potential for placing the lives and property of citizens in jeopardy. Concurrently, the same law enforcement administrator should also realize a moral obliga-

tion to the members of the organization to communicate their expectations explicitly, and those of the community, concerning how the law enforcement function will be accomplished. To do otherwise is to simply leave employees "in the dark" in the expectation that they will intuitively divine the proper and expected course of action in the performance of their duties. The exercise of discretion on the part of individual police officers cannot and should not be severely constrained or eliminated in this process; however, the exercise of discretionary power should not be left totally to the judgment of individual police officers. Discretion must be reasonably exercised within the parameters of the expectations of the community, the



Clifford W. Van Meter
Director
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courts, the legislature, and the organization itself. The responsible law enforcement administrator must establish these parameters through the development and implementation of formal written guidelines for all organizational personnel.

General Considerations

In attempting to develop these necessary formal written guidelines, the law enforcement administrator should keep in mind several general considerations from the beginning. The first is to remember that guidelines cannot be written to cover all aspects of the law enforcement function in the community. Because of the great variety of interpersonal situations police officers encounter in their daily activities, it is virtually impossible to anticipate all the factors that can become involved in the decisionmaking processes officers use to resolve them. Attempting to develop written guidelines that will adequately cover all possible contingencies is not only impossible but also undesirable. If an administrator were able to develop written guidelines to cover all possible situations, then the vital element of officer discretion would be lost and the personal touch so necessary to doing the job effectively would disappear. The people-centered problems police officers encounter daily require individually tailored solutions which are only possible if an officer has discretion in seeking those solutions.

Next, the written guidelines must be realistic in terms of the world that the police officer encounters daily. Guidelines that cannot be successfully applied to real-life situations will soon be ignored in favor of approaches that

work. Properly prepared written guidelines should provide guidance to officers that will lead them to perform their varied tasks in a manner that reflects generally accepted police practices—generally accepted in the sense that given a specific situation, it would be expected that police officers all across the United States would respond in a particular manner.

Most of the solutions police officers employ in resolving particular situations will easily fall into the category of generally accepted police practices. However, some solutions will occasionally fall outside this realm because the officer is ignorant of the acceptable solution or deliberately chooses not to use it. It is for these officers that written guidelines are most intended. This does not mean that there is a pat “book” solution for every possible situation an officer can encounter, but it does mean that there are generally agreed upon limits to police behavior. Generally accepted police practices are subject to modification in light of specific community expectations, the expectations of those who make and interpret the law, and the expectations of the law enforcement administrator who is responsible for developing written guidelines. In the final analysis, effective written guidelines must be workable in the real world and conform to community, legal, and departmental expectations.

In attempting to develop workable written guidelines, the law enforcement administrator must also remember that the line between guidelines written for the purpose of “covering” the agency (CYA) and those prepared for the pur-

"Attempting to develop written guidelines that will adequately cover all possible contingencies is not only impossible but also undesirable."

pose of providing meaningful guidance to officers is a thin one indeed. In this era of rapidly increasing litigation against units of local government, and especially police departments and their employees, the trend seems to be clearly in the direction of preparing written guidelines for the purpose of CYA.

From the perspective of the law enforcement administrator and the people that employ them, this is an understandable approach to adopt. However, when written guidelines are prepared with CYA as the ultimate goal, a number of negative consequences accrue. First in attempting to avoid, or "cover," all possible suit situations, there is the propensity to attempt to make the written guidelines all-inclusive. The negative consequences in attempting to do this should be all too obvious; it cannot be accomplished and the resultant guidelines will most likely be unworkable. It is a situation of either "going by the book" or having someone "throw the book" at the officer in spite of the fact that the "book" approach does not work.

Second, CYA-written guidelines tend to be very negative in their orientation. Implicit in this approach is the message to officers that they are not capable of properly performing even the most menial of law enforcement tasks without guidance from above. All the "shall not, will not" statements usually contained in guidelines of this type clearly convey the message that officers are children who cannot be trusted to take the appropriate action when called upon to do so. That is an extremely negative approach when considering the awesome authority, and concurrent public trust, that is granted to police officers in this country.

Guidelines of this type also tend to be very transparent in terms of their real intent. Officers quickly realize that these guidelines were written to "cover" the agency and not themselves. They soon realize that if anything "bad" happens while performing duties covered by the guidelines, they will be all alone sitting out on the "liability limb" as the department watches, or perhaps assists, a lawyer with a saw in hand. Written guidelines implementing a CYA approach clearly give the law enforcement administrator facing a lawsuit because of the actions of a subordinate the opportunity to say, "I told them not to do that." However, this built-in deniability factor, which is so obvious to all, serves to widen the already-existing gap between "administration" and the "workers" which, in turn, impedes the effective and efficient operation of the organization.

When police officers realize the real intent of CYA-written guidelines (which usually does not take very long) and their inapplicability to real-world problems, their response is both understandable and predictable. They are expected to resolve satisfactorily law enforcement-related problems, yet the "book" provides unworkable solutions. As a result, the officer is caught in a "Catch-22" situation—attempt to apply the "book" solution to the dissatisfaction of all involved, or forget what the "book" says and attempt to resolve the problem in a workable manner and risk incurring the wrath of those who wrote the "book." Like it or not, most street police officers will probably opt for the latter approach, since they are the ones who will have to face the immediate consequences inherent in the "book"

solution. And, when they are forced to deviate from the "book," it is a sure bet they will be practicing their own version of CYA as they do so. Every time officers are forced to use this approach for solving "street" problems, the perception that "book" writers have no idea of what is happening on the street is reinforced and the gap between "administration" and the "workers" broadens just a little bit more.

All of the foregoing negative consequences arising from written guidelines with a CYA orientation should not be interpreted to mean that there is no need for a law enforcement administrator to regulate the conduct of subordinate personnel. In the final analysis, all written guidelines attempt to regulate or guide the on-the-job, and to some extent the off-the-job, conduct of police officers.

One of the keys in developing written guidelines that can be realistically applied to the real world is the manner in which they are actually written. Words are loaded with meaning, both positive and negative, for both the sender and receiver. Words and phrases that connote a negative meaning can easily be transformed into ones with a positive meaning with just a little thought; "shall not" can easily become "shall" or "should," etc. It is just as easy to be positive as it is to be negative in communicating thoughts, intentions, expectations, etc. How written guidelines are actually constructed, the words and phrases used, is a significant element in determining the extent to which voluntary compliance from subordinates is obtained. One can either suggest reasonable, practical approaches, or one can "lay down the law." It is all in how it is said.

"Attempting to develop meaningful written guidelines without obtaining the input of those whose job performance is directly influenced by their existence . . . is an exercise in futility."

One characteristic of most written guidelines is the tendency to include what can best be described as "glittering generalities," phrases that sound nice but have little meaning in the practical sense. Phrases such as "If in the best judgment of the officer . . ." or "If an unreasonable hazard exists . . ." are common in written guidelines and their implicit means is usually "Do what you think is best and we will let you know later if you made the proper decision." Some law enforcement administrators include such phrases as a latent means for the exercise of individual officer judgment and others include them to set a "trap" for officers in the event something "bad" happens. One can bet that if the administrator is sued because of the actions of a subordinate, he or she will not view the officer's judgment as being the "best" or the hazard as being "unreasonable." Phrases such as these can be included in written guidelines if the intent is to selectively allow individual officer discretion and flexibility, and if they are "fleshed out" with specific examples of what constitutes an "unreasonable hazard" or the "best judgment" of the officer.

In the discretion-laden world of the street police officer, there is the expectation that they will make judgments and resultant decisions. They must evaluate situations in terms of the hazards present, the law, the expectations of the community and the department, and the appropriateness of possible solutions. To do so, they must have some conceptual framework within which to operate. Well-prepared written guidelines should exist to provide this conceptual framework, but they are only part of the process. An officer's conceptual framework for making decisions

must also be founded in the experience and training that lead him or her to consider acceptable alternatives in terms of action. For example, in the case of pursuit driving, the proper training would tell an officer that running a red light without at least slowing down while in pursuit of a speeder is an unacceptable alternative because of the hazard presented to other motorists. Without the appropriate training, or unless the officer has previously collided with another vehicle in similar circumstances, peer pressure, self-perception, and perceived organizational expectations could cause the officer to deem running the red light as an appropriate action. Any written guidelines that ask police officers to make critical decisions in split-second, crisis-filled situations when they have not been provided with the training and knowledge required to make such decisions would seem to border on negligence on the part of the policymaker.

Developing Written Guidelines

As should be deduced from the foregoing, the process of developing written guidelines is one of the most critical undertakings upon which a law enforcement administrator can embark. Once written guidelines have been prepared and disseminated, they are there for all to see and scrutinize; the organization has taken a stand and delineated its "way" of doing things. Once an organization takes this step of publicly exposing its "way" of operating, it also runs the risk of the guidelines taking on a "life" of their own. Responses to proposed changes in the written guidelines usually take on the all-to-common

"We've always done it that way" statement that accompanies resistance to change.

Once written guidelines are in place, it is possible to change the content and meaning of the statements, but it is very difficult to change the behavior of individuals, if the statements being altered have been longstanding and practiced. In a very real sense, the development of written guidelines can create a "monster" that can plague the administrator for years to come unless the total process has been extremely well thought out.

The development of written guidelines must be preceded by the development of organizational goals and objectives, for without them there is no framework against which to structure the written guidelines. It is like trying to construct a house without a foundation. Written guidelines taking the form of policy statements directly relate to the goals of the organization and those taking the form of procedure directly relate to the objectives. This process of developing written guidelines is part of the overall planning process in the organization in that they explain how the organization is going to carry out future activities. Unless an organization has developed a complete set of goals and objectives, it is going to have a very difficult time developing a comprehensive set of written guidelines for its personnel.

As an example of this critical interrelationship between organizational goals and objectives and written guidelines, consider the following:

Department Goal: To improve traffic safety in the community through the consistent and impartial enforcement of existing traffic laws.

Department Objective: To reduce the number of traffic collisions in the community by 10 percent by December 31, 1988, when compared to the same period during the previous year.

Department Policy: It is the intent of the _____ Police

Department to achieve an optimum level of traffic safety in the community through the consistent and impartial enforcement of the existing traffic laws. It is neither possible nor desirable for officers to attempt to enforce all the existing traffic laws all the time. In deciding which traffic laws to enforce, officers should remember that voluntary compliance with the existing traffic laws on the part of motorists is the ultimate goal of our traffic law enforcement efforts. In carrying out their traffic law enforcement responsibilities, officers should always keep this voluntary compliance goal in mind when determining the appropriateness of various forms of enforcement action. In deciding upon the most appropriate form of enforcement action for a given traffic law violation officers should consider the seriousness of the violation, i.e., the danger presented to others by its commission; the time of day and the volume of other traffic present; the existing weather conditions; the frequency of the violation as a collision-producing factor in the overall collision experience of the community; and the location at which the violation occurred.

Without going into the specific procedures that would need to be devel-

oped to carry out this policy statement, it is nonetheless obvious that procedures would need to be developed for carrying out the following traffic law enforcement-related tasks:

- 1) Safely conducting vehicle stops,
- 2) Selective traffic law enforcement,
- 3) Issuing traffic tickets,
- 4) Use of verbal and written warnings,
- 5) Documentation of traffic law enforcement activities,
- 6) Communications, and
- 7) Traffic collision investigation and reporting.

Ultimately, the proper implementation of the procedure developed, particularly those pertaining to selective traffic law enforcement, will result in attaining the objective.

Having developed departmental goals and objectives, the process of developing written guidelines continues with identifying those areas in which the application of written guidelines will be most appropriate. As mentioned previously, written guidelines cannot be developed to embrace completely all aspects of the law enforcement function within a community. In some instances, general policy statements will have to suffice to set the overall organizational philosophy with the expectation that they will encompass the performance of tasks not included in specific procedure statements. In other instances of task performance, especially those involving actions which could place the lives and property of citizens and/or officers in jeopardy, specific written guidelines need to be developed. Also, legal requirements will most likely dictate the development of detailed guidelines. In other words, since written guidelines

cannot be all-encompassing, priorities have to be established.

Another critical aspect in this process of establishing priorities and actually developing the written guidelines pertain to who is involved in the process. Ultimately, the development, communication, implementation, and compliance with the written guidelines to a large extent revolves around the manner in which they are created. Unfortunately, more often than not, they are created in what can approximate an organizational vacuum. Attempting to develop meaningful written guidelines without obtaining the input of those whose job performance is directly influenced by their existence, and upon whose voluntary compliance their ultimate success rests, is an exercise in futility. From a pragmatic standpoint, the resultant written guidelines are most likely to be applicable if the practitioners are directly involved in their development. It should come as no surprise that when subordinate personnel are presented with a "fiat from above," they will likely resist and subvert the intentions of the policymaker. Understanding and probable voluntary compliance come from meaningful communications and dialogue concerning the issues involved; the policymaker needs to seek out and thoughtfully consider the input of those most directly affected by the proposed written guidelines. Anything else will probably result in compliance only as necessary. In addition, were this input-seeking process to be followed on a regular basis whenever possible, it is likely that much of the friction that exists between organizational administrators/managers and employee labor organizations could be reduced or eliminated.

“... organizational written guidelines must reflect the changes in the environment that surrounds the law enforcement operation. . . .”

The next step in the process of developing written guidelines will quite likely be the most time-consuming and difficult for it involves actually writing the statements. During the initial phase of this step in the process, time can be saved if other police organizations are solicited for samples of their written guidelines for the areas under consideration; there is no need to keep reinventing the wheel. They may not exactly fit the needs of the department, but at least they can be a starting point if one does not exist. In drafting statements during this stage, the law enforcement administrator would be well-advised to keep in mind the following:

- 1) Guidelines must be workable in the real world of law enforcement.
- 2) The overall tone should be positive.
- 3) They must conform to existing legal requirements and court decisions.
- 4) Individual officer discretion should be allowed and encouraged whenever possible.
- 5) Guidelines should reflect the expectations of the community and the department.
- 6) Negative statements in the form of absolute prohibitions or required conduct should be limited to those instances where possible errors in officer judgment cannot be tolerated.
- 7) They should include, to the extent possible, specific examples of acceptable officer behavior.
- 8) The use of “glittering generalities” should be avoided

as much as possible. Where their use is required, they must be defined in terms of actual law enforcement operations.

- 9) The likelihood of misinterpretation always exists; therefore, the language should be as clear and concise as possible.
- 10) The distinction between policies and procedures must be maintained.
- 11) The appropriate and necessary input is solicited and thoughtfully considered.

Finally, it is most likely that this phase in the process of developing written guidelines will require preparing many drafts and revisions to arrive at the most acceptable product. It is a process that requires the ultimate patience and understanding of all involved, but considering the long-term implications of the finished product, it is well worth the time and effort expended.

Once the written guidelines have been put into their final form, the next, but not final, step is to disseminate the finished product to all organizational personnel. Because of the importance of the document to the overall success of the organization, and because of potential liability considerations, it is important that the receipt of the materials by individual members of the organization be documented. The question of whether a member of the organization actually received a copy of the document should never arise or be an issue in legal proceedings. Likewise, the issue of whether organizational members read and understand the contents of

the document should never arise if the proper steps are taken. Simply distributing the materials and trusting that individual members of the organization will attach the intended meaning to words or phrases, no matter how carefully thought out the materials, presumes that everyone's thought processes follow the same patterns and that can be a grievous mistake.

A law enforcement administrator can never be certain that written guidelines will be universally understood by members of the organization. However, certain strategies can enhance the desired level of comprehension. Supervisory personnel should receive detailed briefings concerning the written guidelines so they may conduct inservice training sessions with their subordinates. If they have been involved in the development process, as they should have been, then this briefing can be limited to ensuring that there is mutual understanding among the supervisors as to the specific intent of the materials. That they have conducted the needed inservice training with their subordinates should be a matter of record as should the attendance of their subordinates. If the written guidelines, particularly procedure statements, require levels of task performance not previously required, or include the performance of heretofore unrequired skills or the possession of knowledge not previously acquired, then it is imperative that the organization ensure that the proper training is received by all affected personnel and documented. Obviously, procedures cannot be followed if personnel do not have the skills or knowledge required to do so.

The final step in the development of written guidelines is an on-going

process. It consists of the continual and regular evaluation of existing written guidelines to determine their applicability to the environment that presently exists. Laws change or are modified through court decisions. New procedures or techniques pertaining to law enforcement tasks and operations are emerging all the time. What are generally accepted police practices today may not be so tomorrow. Research activities reveal better approaches to both the management of police organizations and the application of crime control strategies and tactics. One of the constants in the world we live in is the process of change, and organizational written guidelines must reflect the changes in the environment that surrounds the law enforcement operation—an outcome that will only occur if organizational written guidelines are subject to regular evaluation and revision.

Summary

One of the critical elements that lead to the effective and efficient operation of any organization is written guidelines that establish the parameters for the behavior of its members. Organizational personnel cannot be expected to intuitively divine how an administrator expects them to behave, nor can they necessarily grasp the "big picture" within which the organization must function. Written guidelines can help to bridge the gap that often exists between how others expect officers to do their jobs and how they go about fulfilling the law enforcement function within a community without an understanding of those expectations. In preparing meaningful written guidelines for an organization, the law enforcement administrator should keep the following considerations in mind:

1) Organizational goals and objectives must be developed.

- 2) Organizational goals and objectives must be examined to identify where the development of written guidelines will facilitate their attainment.
- 3) Prepare written guidelines after ensuring that the appropriate input is sought and considered.
- 4) Distribute written guidelines to all organizational personnel.
- 5) Conduct the training necessary to ensure that the intent of the written guidelines is understood and that the requisite skills and knowledge are acquired.
- 6) Evaluate and revise written guidelines regularly to ensure that they reflect the conditions current in the environment in which the law enforcement task must be carried out.

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Knockout Cap

Currently on the market is a cap in which approximately $\frac{1}{2}$ lb of fine lead can be concealed in the rear sweatband. If grasped by the peak and swung like a blackjack, this cap is capable of causing severe bodily harm. The illustration at right depicts the three available logos.

Courtesy of Ohio Department of Natural Resources



Taking Aim at Truancy

"[The School Task Force Program] of the Houston Police Department [combats] juvenile crime by taking aim at truancy and the numerous problems associated with it."

By
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and
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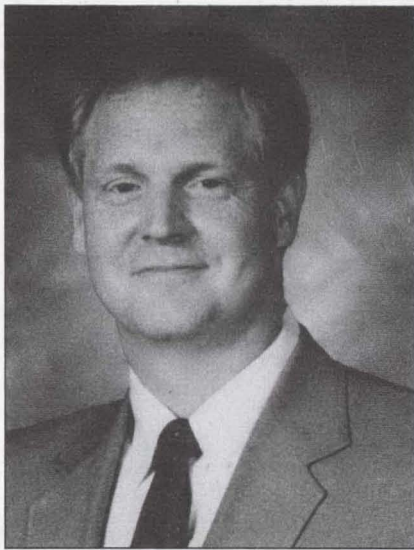
The problems of juvenile crime and crimes against juveniles are areas that few police departments have been able to address adequately. For the most part, juvenile divisions are tasked with so many responsibilities that they can seldom respond to the concerns of neighborhood schools. This article outlines the efforts of the Houston Police Department to combat juvenile crime by taking aim at truancy and the numerous problems associated with it.

It was hypothesized that a small squad of officers trained and dedicated to the ideals of a safe school campus and surrounding neighborhoods could and would affect the opportunity and occurrence of juvenile-related criminal activity. It was also hoped such a program could affect the number of students dropping out of school every year.

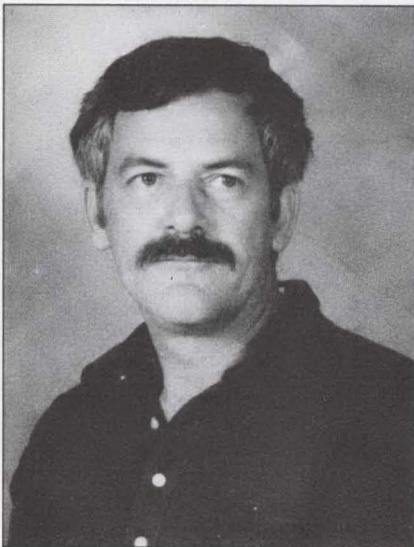
In response to these concerns and ideas, a sergeant working in the North Shepherd Patrol Division was assigned the responsibility of drafting an initial proposal and an operational outline for the creation of a School Task Force Program. To guide the performance of the program, goals were established to:

- 1) Encourage juveniles to remain in a structured environment by making every effort to return truants to the classroom;
- 2) Improve the communications among all agencies working with juveniles, whether their purpose is education, administration, enforcement, or correction;
- 3) Reduce the opportunity for the adult offender to "prey" on the juvenile (encompasses selling of narcotics, sexually graphic materials, inhalants, and alcohol which contribute to the delinquency of juveniles by involving them in criminal activity);
- 4) Facilitate long-term, positive attitude changes in the juvenile community regarding the perception of the role of the police; and
- 5) Reduce the incidents of juvenile-related criminal activity (as a victim or perpetrator), including burglary, assault, rapes, robberies, criminal mischief, auto thefts, and traffic violations.

With these goals as the foundation, the program began on an experimental basis in February 1985.



Sergeant Martin



Sergeant Schulze

Prior to actual implementation, the North Shepherd Patrol Division sergeant met with the director of security for the Houston Independent School District, since the success of the program depended, in part, on the support of the school district's law enforcement personnel. This contact was fruitful in that it established liaison with the security department, whereby officers could discuss the relative merits of the program as well as any unexpected problems that surfaced.

The sergeant also spent a considerable amount of time meeting with the principals and assistant principals of each of the affected schools. Again, at these sessions, the sergeant discussed the basic goals of the program, the responsibilities of the officers, and their relationship to the management activities of the school. Generally, all of the administrators were receptive to the program, with each of them sharing a variety of concerns with the sergeant. Among these concerns were the need to resolve the problems associated with trespassers, various types of disturbances, the temptation offered by game-rooms, handling truants, and conducting apprehensions on campus.

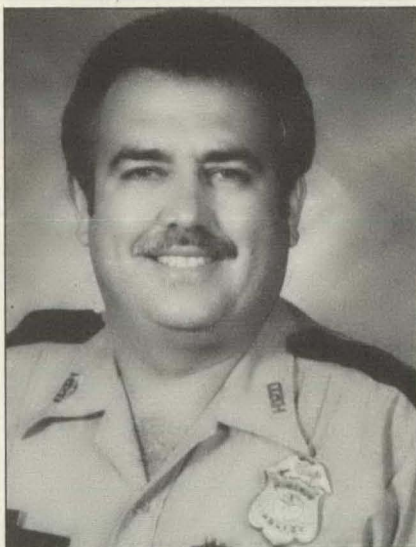
Each assistant principal was designated as the school's liaison to the police department, so that officers responsible for a particular school would know whom to contact in the event they were in need of assistance. With this arrangement, principals could still monitor the activities of task force personnel while actually being relieved of truancy and security problems.

Officially, the experimental program began on February 1, 1985, and

concluded on May 31, 1985. The officers made a total of 1,449 arrests, of which 498 were for truancy. Apprehensions were made for, but were not limited to, the sale and delivery of narcotics, public intoxication, trespassing, disrupting classes, theft, burglary, criminal mischief, resisting arrest, unauthorized use of a motor vehicle, aggravated assault, simple assault, disorderly conduct, arson, and possession of narcotics, alcohol by a minor, narcotics paraphernalia, and weapons. Based on the overall success, a decision was made to expand the program.

The expansion of the School Task Force Program occurred prior to the start of the 1985/1986 school year. Expansion was limited to three additional divisions (the pilot program continued as originally designed). The purpose for not expanding the program throughout the city was twofold. First, since the pilot program was run on an experimental basis, there was some concern over the ability to replicate the program on a large scale. Second, the supporting agencies were not sure they could handle the increased workload. Demands placed upon the Juvenile Division, Harris County Youth Services, Harris County Juvenile Probation, and all of the newly affected schools were sure to put a strain on existing workloads and use of facilities.

The expanded school task force consisted of 27 officers and 4 sergeants. Each of the four divisions had a sergeant and a number of officers assigned to administer the program at targeted schools within their divisional boundaries.



Sergeant Valdez



Chief Brown

The officers assigned to the school task force were volunteers who were selected on the basis of their desire and willingness to participate in the program. Their primary responsibilities were to maintain high visibility in and around the middle schools and high schools.

General responsibilities were developed to identify how officers would spend their time during each tour of duty. In cooperation with school officials and school district security coordinators, officers maintained a proactive patrol on and around the campuses.

Officers would also conduct constant "sweeps" or "roundups" of truants around the schools and handle calls from attendance clerks who provided information on those students who had attendance problems. Particular attention was given to convenience stores, gamerooms, parks, shopping malls, abandoned businesses and/or residences, and wooded areas.

In addition, officers became involved with the students and their parents through the Professional Teacher's Organization and individual counseling sessions when requested. Maintaining high visibility on school campuses provided the students the opportunity to establish rapport with task force squad members and/or beat officers.

Particular attention was also given to businesses that were selling or displaying sexually oriented material to minors or selling narcotics paraphernalia, alcohol, inhalants, and cigarettes to minors. These establishments, including bookstores, gamerooms, convenience stores, etc., disrupted school activities by enticing students off campus which

resulted in students engaging in criminal activities. Officers were also able to enforce violations of occupancy laws, health code violations, and tax stamp violations on video games, pinball machines, and juke boxes within these establishments. The amount of time spent by officers in any one area depended on the existence and frequency of these problems as identified at individual schools.

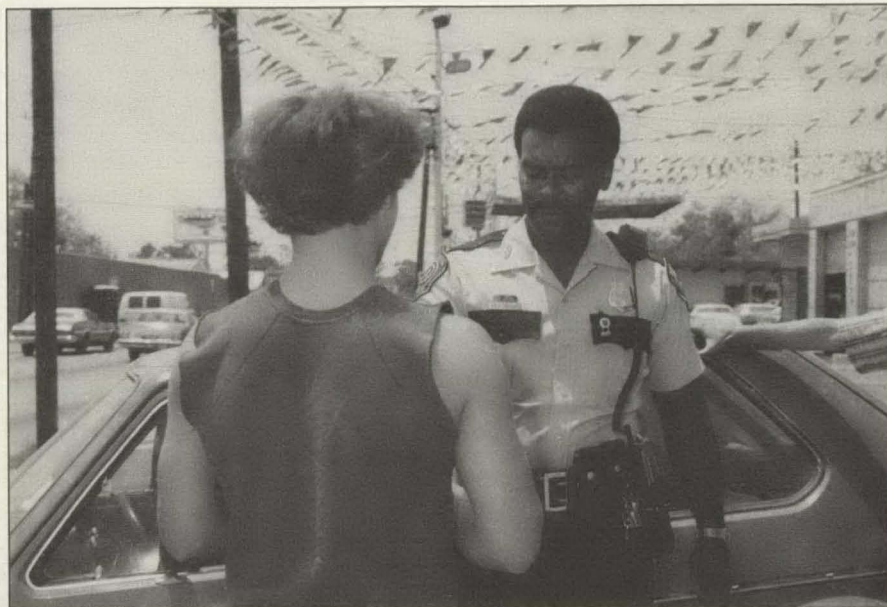
As a general rule, task force officers perform the same type of tasks irrespective of their assigned station. The officers usually work their assignment in uniform and attend roll call with the regular beat officers. The emphasis on certain tasks varies according to the different types of schools and the socioeconomic makeup of the surrounding neighborhoods. Both the officers and the supervisors of the program realized the program was not just limited to strictly performing enforcement activities. For example, some officers became involved in strengthening their relationships with the students by making presentations in the school and/or attendance at extra-curricular activities, such as student/faculty sports games.

Establishing good rapport with school officials and the students was equally important in that it enhanced the exchange of information beneficial to both parties. Herein lies one of the primary reasons for including this type of responsibility within the concept of neighborhood-oriented policing.

In order to obtain a comprehensive assessment of the expanded program from September 1985, through May 1986, two types of data were collected

"In cooperation with school officials and school district security coordinators, officers maintained a proactive patrol on and around the campuses."

Exchanging information with students is a critical responsibility of the task force officers.



and examined—the results of a pre/post-survey questionnaire and the recorded arrest activity data of the police personnel involved in the program. Both survey questionnaires were distributed to a random sample of 1,000 teachers and administrators before and after the school year began. The pre-survey return rate was 83%, the post-survey return rate was 70%. The results of the survey indicated such relevant perceptions as:

- Program awareness improved among the respondents during the tenure of the program;
- There was a genuine desire on behalf of the respondents to become involved in reducing truancy rates;
- Approximately 50 percent of the respondents believed the truancy

program did not reduce the truancy rate, as recorded through absentee statistics. The police department was unable to obtain absentee statistics, as school district administrators stated they could not provide department personnel with the statistics requested. Therefore, it was impossible to verify the perception of the respondents. However, it should be noted over 3,000 truants were apprehended and returned to the schools during the course of the 1985/1986 school year;

- Respondents felt secure while on school grounds;
- Respondents were of the opinion that most students respected the law. And those who agreed with idea that they could do more to

enhance that respect increased from 77% to 83% between the two rating periods.

- Although the respondents believed the program was a success, the level of success on the post-test measure was lower (80%) than the pre-test measure expectations (93%); and
- Surprisingly, almost half of the respondents indicated a lack of concern regarding the nature of the rapport established between the officers and the students.

Overall, the survey responses were very favorable toward the program. In spite of the initial concern, the receptiveness of school personnel to officer involvement exceeded all expectations. In numerous instances, relationships were mutually supportive to the

"[The School Task Force Program] serves to strengthen community ties with the Houston Police Department which, in turn, improves the perception of safety within the neighborhoods. . . ."

extent school officials considered the task force officers as "their police officers."

A review of the arrest and activity data for the same time period (September 1985, to May 1986) revealed many interesting findings:

- Officers involved in the program worked approximately 30,000 hours, at the cost of \$429,000. It should be noted this cost reflects the officers' normal salaries. Actual additional salary expenditures came to only \$1,300 for overtime;
- During this period, a total of 17,633 activities were conducted by the officers, resulting in 8,360 arrests, stemming from the handling of over 4,500 juveniles; and
- A total of 1,038 misdemeanors and 144 felony arrests were recorded by the officers; yet, of the Part I crimes, only minor reductions were found in 18% of the beats for burglaries and 21% of the beats for thefts.

There was a consensus among the task force sergeants that the program did not have a significant impact on reducing overall reported Part I criminal offenses. Despite the fact that a total of 3,774 truant apprehensions were made, 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. The perception that juveniles were primarily responsible for a large portion of the criminal activity has become highly questionable, particularly during school hours when the task

force operated. Because the number of schools far exceeded the number of officers available for intensified service, it became impossible for an adequate number of apprehensions to be made. This suggests that a higher concentration of officers could result in a larger number of juvenile apprehensions, with the resulting impact on the crime rate. Despite not being able to significantly reduce felony and misdemeanor criminal activity in the targeted areas, the officers uncovered a wide range of activities requiring their attention which, heretofore, went unreported.

A number of recommendations were made concerning citywide expansion of the program. These included deploying personnel on the basis of student-to-officer ratios, separating the duties of task force officers from other types of duties, increasing the availability of equipment, and standardizing apprehension and detection procedures. With the majority of these recommendations accepted, the school task force was expanded to provide service to the entire City of Houston.

The degree of success of the program must be viewed from several different aspects. The number of juvenile-related apprehensions substantially exceeded the juvenile arrest figures attained prior to implementation of the program. Although there were not significant decreases in any of the major crime categories that could be correlated to the program, there were *some* decreases. The areas targeted for the program experienced no significant increase in Part I crimes. Police visibility has been enhanced. Officer/student relationships are no longer just antagonistic; friendships have been formed.

Once the program had become well-established in the targeted schools, the problems created by disreputable businesses in and around the school decreased through the use of more effective law enforcement tactics. Calls for service increased, primarily due to school administrators, teachers, and parents discovering that the task force officers could provide a wealth of services to them. The task force officers are now being called on to assist in counseling sessions, to share information about different programs, and to resolve a multitude of other police-related problems.

Through their dedication, the officers have established a reputation of caring for what happens to the students, which is frequently reciprocated by the students. Students and teachers now feel safer while at the schools, and officers have been told parents now have more confidence in the safety of the school campus.

Incidents regarding adult offenders' involvement with students now receive an immediate, thorough investigation, frequently resulting in arrests. From the aspect of the increased real and perceived safety of the students, plus all of the other noted benefits, the program is regarded as a resounding success by the participating officers and supervisors. It serves as an educational tool for school administrators, the parents, and the students. It also serves to strengthen community ties with the Houston Police Department which, in turn, improves the perception of safety within the neighborhoods throughout the City of Houston.

FBI

Internal Auditing

An Action Plan For Excellence

"...the entire process of internal auditing serves to evaluate the efficiency and effectiveness of all activity within the department...."

By
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Over the past few years, the administration, management, and activity of law enforcement agencies have come increasingly under public scrutiny. Public pressure to reduce crime in the community, while maintaining a cost-effective posture, necessitates sound, yet innovative, approaches to management and management controls. In most communities, while public safety budgets continue to shrink, police administrators continue to be held accountable for maintaining a certain level of service. Clearly, these administrators must achieve maximum effectiveness and efficiency by allocating existing resources to meet the rising need for police services. To make the critical policy decisions that affect the law enforcement effort within their communities, police administrators must have accurate, timely, and relevant

data at their disposal. One way they can obtain this data is to have in place an internal auditing or quality assurance program. The purpose of this article is to enlighten readers about the usefulness of a quality assurance program within their agencies.

History

No one truly knows when or who conducted the first audit, but evidence suggests that early civilizations performed some review and inspection on the status and accountability of their equipment and personnel.¹ The auditing process has changed from what it was to the Samaritans and the Ancient Egyptians or for that matter, from what was practiced in the earlier part of this century. Agencies used to examine accounts and records to detect fraud; their primary purpose now is to express an

opinion on the "fairness" of the presentation of financial statements.² Gen. George Washington maintained a journal and ledger that he presented to the Continental Congress for an accounting of funds during the Revolutionary War.³ The railroads in the latter 19th century were among the first enterprises to regularly require audits and inspections of their vast property holdings.⁴

Within this century, auditing has become a matter of paramount importance. The standard denotation of auditing is one of checking and verifying the financial and accounting records of organizations. Since most law enforcement agencies do not deal regularly with significant amounts of financial data, this article will focus on the operational areas, referred to as "operational auditing." This type of auditing deals with tests of compliance as they



Special Agent Viadero

relate to the internal operating controls of a department. Auditors may employ the terms "operational auditing," "quality assurance," and "internal auditing" interchangeably when dealing with operational reviews. They use these phrases to change the older views of some law enforcement officials who tend to associate the term "inspection" with an internal affairs function. "Internal controls" are nothing more than "management controls," and they include operational as well as financial areas.

Background

Most audits are statutory under the 1933 and 1934 Security Acts for private sector enterprises and the Budget and Accounting Procedures Act of 1950, which requires each governmental department and agency head to establish and maintain adequate systems of internal control. Several offshoots and modifications to this act have appeared through the years. Today, organizations are faced with the Federal Managers Financial Integrity Act (the Integrity Act), which requires Federal managers, for the first time, to establish continuous processes for evaluating, improving, and reporting on the internal control and accounting systems for which they are responsible.⁵

As a guide to examining the internal auditing functions, we will use the *Standards For The Professional Practice of Internal Auditing* (the standards), recommended by the Institute of Internal Auditors. All organizations use these standards as a yardstick by which to evaluate the operation of an inspection or quality assurance unit.

Auditors use the Integrity Act and the standards as benchmarks to explore the rationale for obtaining volun-

tary compliance and developing a team-player attitude among personnel. Voluntary compliance with departmental guidelines and procedures represents their ultimate goal. Auditors, then, determine if an organization's internal operating controls are in place and if they work. They accomplish this by involving all levels of operating personnel in the quality assurance process and by providing an arena for motivation to gain employment participation. Participating employees assist the audit staff in identifying operational deficiencies. Thus, both the manager and the organization benefit by involving all employees in the audit process.

Historically, police agencies conduct inspections only as "post-events" (see chart A) or reactions to particular external reviews. The internal audit process suggested here stresses proaction or the "prevention" of an event. When conducted properly, internal auditing is viewed as being helpful to all members within the organization. It is founded on a review of operations, coupled with a report of its results. Basically, it seeks to answer the following questions:

- 1) Are internal controls in place?
- 2) Are they working?
- 3) If they are not operating as designed, why?

Perhaps the controls, as implemented, were too restrictive or too general. Perhaps the organization needs to remove a particular control because it is obsolete or severely abused.

The proactive posture resides at the core of internal operating reviews. These reviews can be called internal audits, operating examinations, quality assurance reviews, or inspections, and

"...both the manager and the organization benefit by involving all employees in the audit process."

these various terms will be used synonymously throughout the article. The police administrator or police chief must view the standards as an independent appraisal requirement to use as a management tool for the benefit of the agency. Since the entire process of internal auditing serves to evaluate the efficiency and effectiveness of all activity within the department, all agency members should learn to think of internal auditors as members of the team.

Internal Auditing Process

A preliminary step in the audit process is to develop the team-player atmosphere. This involves changing some of the terminology associated with the audit, such as referring to the unit under review as the client. By doing this, auditors begin to change bad perceptions and lessen the propensity for an adverse relationship. I recommend that organizations take the following

steps to prepare for and conduct a review:

- 1) Conduct a pre-engagement interview with the client's management;
- 2) Send a notice of engagement to the client's management approximately 3 to 4 weeks before commencing the review;
- 3) Deliver the audit program and interrogations;
- 4) Conduct the examination;
- 5) Brief the client when finished; and,
- 6) Prepare the audit report.

This approach allows the client to participate in the inspection process. This process consists of the three-element approach, that is, a) audit program, b) interrogatory, and c) internal controls questionnaire (ICQ).

All internal controls questionnaires are structured so that all questions are

answered "yes" or "no," with a separate column for comments. These instruments (ICQ's) cover each operational function separately. For example, in the area of organizational structure, chart B is a typical questionnaire.

The questionnaire helps managers appraise the overall "at risk" assessment. In line with this, it helps for managers to think in terms of self-assessment when dealing with internal/management controls. The Integrity Act recommends that managers use the following questions to guide them when completing this questionnaire:

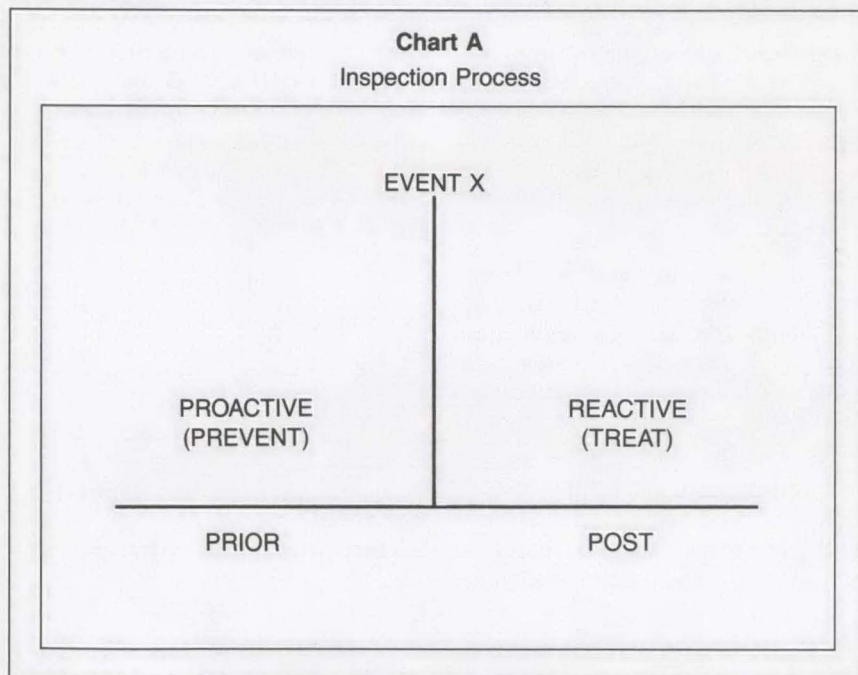
- 1) What do I do?
- 2) What can go wrong in what I do?
- 3) How do I prevent it from going wrong?
- 4) How do I fix it?
- 5) What is my timetable for fixing it?

By using such a self-assessment, the manager will begin to participate in the process, and hopefully, form a favorable opinion of the inspection function.

Once they complete the self-assessment, all management officials should meet with the quality assurance unit to discuss the results of this instrument. Areas of ambiguity or points of contention concerning the responding members should surface during this meeting. Afterwards, the inspectors should begin to evaluate the process, bearing in mind that the objective of such a review is to assist all levels within the organization with their performance.

Standards for Quality Control Review

Properly establishing and using an inspections staff requires a careful ex-



"Independence and objectivity are extremely crucial to the overall mission of the inspections staff."

Chart B
Municipal Police Department
Internal Control Questionnaire

<u>QUESTION</u>	<u>YES</u>	<u>NO</u>	<u>COMMENTS</u>
A. Organizational Structure			
1. Does/do the organizational unit(s) have: clearly written objectives			
2. Is/are the organizational unit(s):			
a. part of a centralized authority structure?			
b. sufficiently flexible to accommodate change?			
c. held accountable for allocated resources?			
d. held accountable for operational results?			

cannot make unbiased or professional judgments, they should notify their superiors and request a different audit assignment.

Independence and objectivity are extremely crucial to the overall mission of the inspections staff. For example, if an inspections unit reports to a deputy chief of administration who controls all support and nonline functions, can the inspections unit make independent or objective judgments in this situation? To whom would the auditors report an embezzlement or defalcation? Who would evaluate such a report? In the instant matter, the deputy for administration would. For this reason, the inspections unit should be removed from the administrative division in the chain of command and report instead to the chief of police. In an organizational reporting structure, this can save many dollars when an independent firm (CPA) or high-level governmental inspections unit, such as the State comptroller or General Accounting Office (GAO), conducts an external review of operations. Placing the inspections unit under the supervision of the chief allows these outside accountants to develop and place a higher degree of trust in the audit staff. This possibly could reduce certain review procedures which, in turn, will result in cost savings to the department.

ecution of the inspection process. To insure this, the auditors must refer to the standards, which include:

- 1) The independence of the inspections staff for the activities reviewed and for the objectivity of the inspectors,
- 2) The professional proficiency of the inspectors and the professional care they should exercise;
- 3) The scope of the inspection;
- 4) The performance of the inspection; and
- 5) The management of the inspections staff.⁶

Each of the above standards has equal weight; hence, I will explain each as a part of the whole.

Independence

"The Inspections Staff should be independent of the activities they review. This allows the inspector to render an impartial and unbiased opinion of the function examined. This can be achieved through organizational status and objectivity."⁷

Organizational Status

The inspections staff succeeds only with management's support. The staff should report to a level high enough in the organization to authorize and allow the unit's independence. (See chart C.)

Objectivity

Objectivity is a mental attitude that inspectors must maintain during their review. It requires inspectors to realize that if placed in situations in which they

Professional Proficiency and Due Care

"Assignment to the Inspections Staff should be predicated on necessary skills, knowledge, and collective discipline, including the inspector's ability to use communication skills, assertiveness techniques, and listening and problem-solving skills."⁸ An inspector also may need to be qualified in ac-

counting, statistics, and electronic data processing, and most importantly, to be intimately acquainted with agency rules and procedures. This knowledge is fundamental to recognizing the existence of current or potential operational deficiencies.

Due professional care implies that the auditor will exercise competence and reasonable care and that when he suspects an error, he will followup and report his findings to an appropriate level of authority. Due care also refers to the inspector's attentiveness to established operating controls and whether the auditee substantially has complied with them.

The Scope of the Inspection

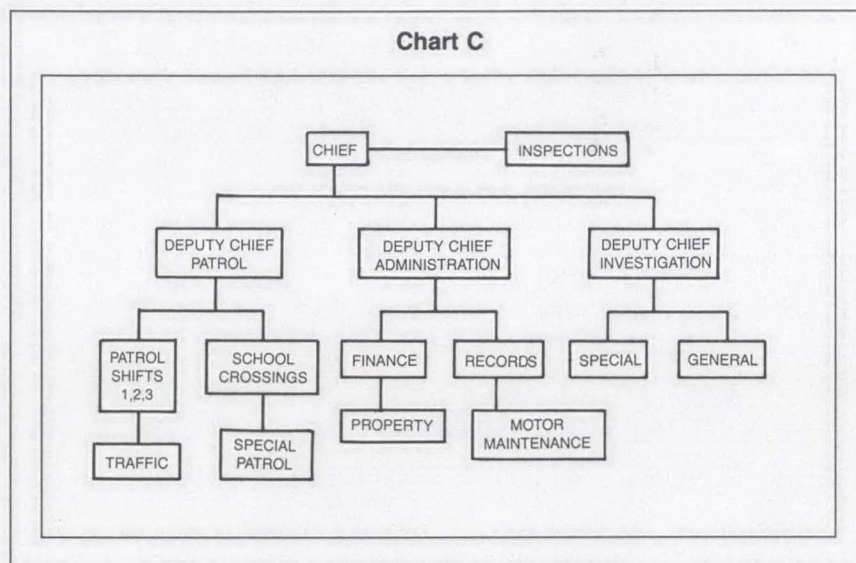
"As a general rule, this Standard relates to evaluation, adequacy and effectiveness of the agency's internal operating controls."⁹ This is crucial, since external auditors must analyze the scope of the review. This examination should ensure that the agency carries out its objectives and goals economically and efficiently.

This standard specifies that the objectives of internal controls are to insure:

- The reliability and integrity of information;
- Compliance with policies, plans, procedures, laws, and regulations;
- Safeguards of assets;
- Economical and efficient use of resources; and
- The accomplishment of established objectives and goals for operations or programs.

The Performance of the Inspection

Basically, this standard relates to planning the audit, collecting and eval-



uating information, reporting the findings, and following up.¹⁰

Planning the inspection includes deciding on the scope and objectives of the audit and on the resources necessary for its completion. This includes a pre-inspection visit to observe a client in order to become familiar with the client's activities and areas that may need special attention.

Collecting and evaluating information relates to the area of evidential matter and working papers.¹¹ As a rule, auditors must collect sufficient data to support the audit's findings. The key here is whether another auditor, given the same background, will reach the same conclusion as the auditor who conducts the examination.

Reporting the findings includes a written report of audit findings and recommendations. However, before transmitting the written report, auditors should present an oral report or "exit briefing" so the client encounters no surprises with the written report. This

serves to develop a team-player atmosphere and assists in achieving voluntary compliance.

Followup refers to performing post-engagement activities, i.e., after the auditee receives the report and the inspections staff reviews his response, inspectors should allow the client ample time to correct noted deficiencies. Then, the inspectors should return and sample previously noted deficiencies for correction. They do this most properly through a process known as "sampling for error" (attribute sampling.)

When dealing with inspection performance, it helps for inspections units to create a flow chart of the client's activities and use the chart as a guide and checklist. (See chart D.)

Management of the Inspections Staff

"Management of the Inspections Staff differs from other units within the department regarding the establishment of a time-budget for each client."¹² This budget is crucial since members

"...the overall goal of the audit is to strengthen any weak controls to better meet the objectives and responsibilities of the department."

of the inspections staff generally are few, and they must use their time economically and efficiently to better serve the entire department. The inspections unit's managers must constantly review

and update audit programs and the scope of each engagement.

The central theme throughout this process is one of "voluntary compliance," not punishment or investigation.

Once again, I recommend the three-element approach—the audit program, the interrogatory, and the internal control questionnaire (ICQ).

The audit program outlines the purpose and authority for areas inspected and references other audit areas and procedures inspected. Once auditors write the program, they rarely need to change it. They modify it as necessary through the interrogatory and ICQ.

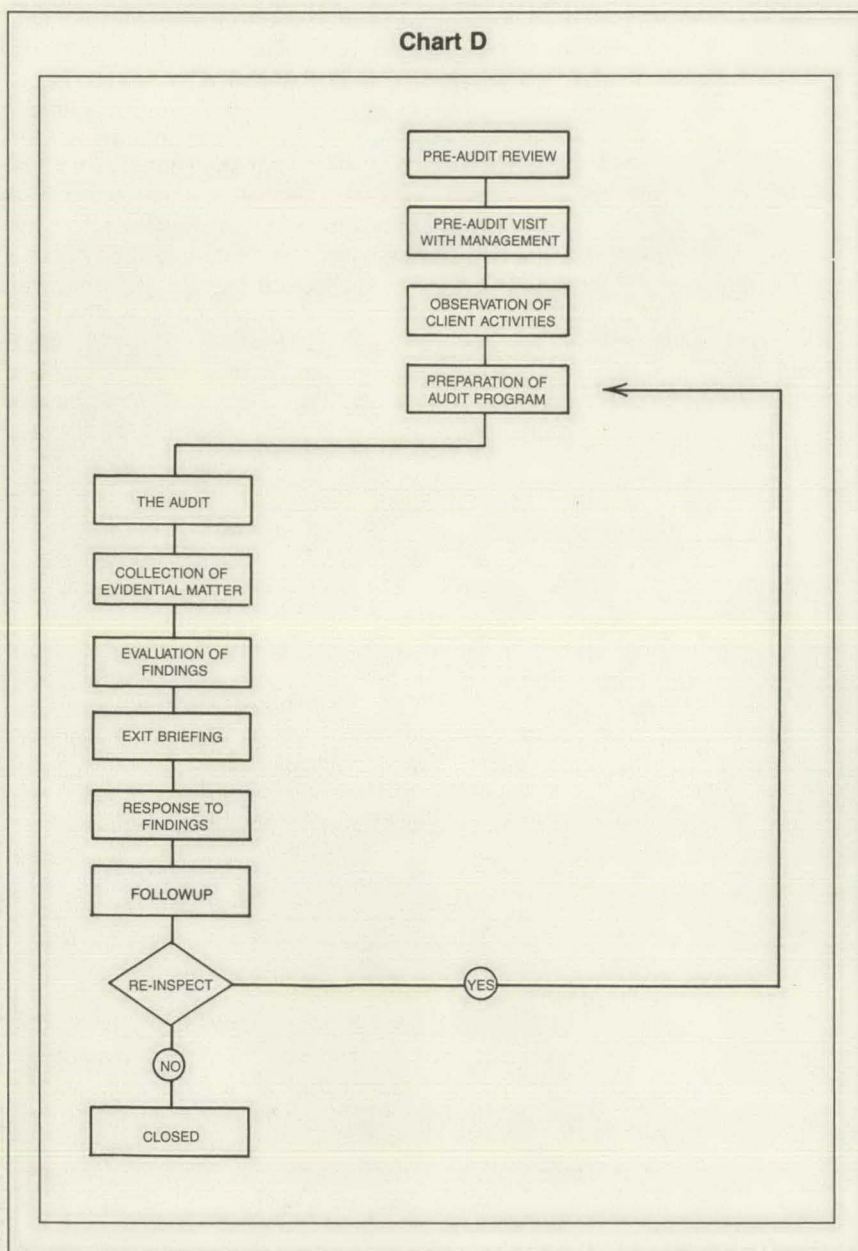
The auditors should send the interrogatory to the client approximately 3 to 5 weeks prior to the inspection. Generally, it consists of a series of broad questions relating to the audit program, such as "Who updates the unusual-disorder plan?" "Where is it maintained?" and "What is the date of last revision of this plan?" Finding the answers to these questions could take an auditor several mandays to locate. The client's completion of this form represents the incipient phase of voluntary compliance.

Approaching an audit through the use of an interrogatory leads clients to believe that they are participating in the audit process. It also reminds the client to check and update items referenced on this form. It serves as a guide to the various areas the auditors will review. It directly benefits the audit staff by reducing the time it takes to satisfy the routine and administrative aspects of the review.

The inspector completes the internal control questionnaire (ICQ) during his review. Auditors should design the ICQ so that each question has only a "yes" or "no" answer. This design makes all negative responses stand out, which facilitates followup under a supervisory review process.

The ICQ is an integral part of the working papers auditors use to reach

Chart D



an overall evaluation of a client's operations. As such, it can be tailored to the needs of individual clients and updated and changed as necessary. The ICQ provides the inspector with a guide to audit performance, much like a road map. It does not prohibit the auditor from investigating an item that comes to his attention, but it does ensure a degree of consistency and reliability in audit performance.

The three-element approach allows the client and management to gain congruity through mutual participation. This structure bolsters the sense of voluntary compliance. Clients benefit by having the opportunity to pre-inspect the areas the auditors intend to review and assisting the inspections staff by completing the interrogatories. The client can correct deficiencies prior to the review of operations. Thus, voluntary compliance is accomplished.

The questions that guide the philosophy of the inspections are:

- 1) Do we care if operational deficiencies are corrected just prior to an inspection? or
- 2) Is our purpose to surprise the client and locate and report all discovered deficiencies?

The correct answer to both is "no." By affording the client the opportunity to review the operation through the interrogatory, you develop the team-player atmosphere. All too often, organizations have associated inspection matters with the internal affairs process or with a more negative implication. This attitude has stemmed from totally unannounced or unguided efforts to identify deficiencies, which represents the "gotcha" syndrome. Now, instead of promoting voluntary compliance, the auditors create an adverse relationship or a lose-lose situation.

The three-step approach, on the other hand, permits the client's management to cooperate with the investigators who review the management controls. After all, the overall goal of the audit is to strengthen any weak controls to better meet the objectives and responsibilities of the department.

The Chicago Police Department adopted the above process in 1985.¹³ The Auditing and Internal Controls Division (AICD), managed by a commander, perform the operational reviews. The staff is composed of approximately 15 inspectors who are considered exempt personnel appointed from the rank of lieutenant. This division conducts operational reviews of all patrols and detective commands on an 18-month cycle. The entire automated process begins with a formal notification (engagement letter) of an audit approximately 4 weeks prior to review, followed by the interrogatory, and then pre-engagement interview with the auditee's management. The inspection itself is budgeted for 1 week and includes an exit interview with client management. The inspection is completed in such a short time through the use of internal control questionnaires, which insure a systematic and rational review of operations. The AICD then sends a report that cites specific findings and recommendations to auditee management, generally within 1 week of the audit. This gives the client timely feedback, in a basic outline form, from which to formulate corrective action.

The Chicago Police Department has automated the entire three-element approach on a personal computer, allowing for modifications as needed. This is why they can render the audit report in such a short time frame. They estimate that the automated three-element approach saves them in excess of 80 percent of the time they previously

spent conducting audits and preparing reports. The result has been the increased quantity and quality of work produced to better serve all levels of the department.¹⁴

Realistically, police administrators can no longer confine the inspection process to gathering and summarizing day-to-day operating information on organizational activities. The audit information should include information for the development and control of administrative plans, as well as for the formulation and implementation of organizational strategies. Administrative information systems and internal auditing systems that collect, analyze, and distribute strategic information must now be considered as important as any other element in an organization's decisionmaking process. It is up to you to decide whether to continue under the present method or use the three-element approach and enjoy the results such participation can offer.

FBI

Footnotes

¹Leo Herbert, *Auditing the Performance of Management* (Belmont, CA: Lifetime Learning Publications, 1979), p.3.

²*Ibid.*

³Lawrence B. Sawyer, *How to Perform An Operations Audit* (Altamonte Springs, FL: The Institute of Internal Auditors, Inc., 1979), p. 1.

⁴*Ibid.*, p. 2.

⁵"Forty-Second Report by the Committee on Government Operations," 99th Congress, 2d sess., AR 99-744, August 5, 1986, USGPO, 1986, p. 1.

⁶*Standards for the Professional Practice of Internal Auditing* (Altamonte, FL: The Institute of Internal Auditors, Inc., 1981), p. 2.

⁷*Ibid.*, pp. 100-101.

⁸*Ibid.*, pp. 200-201.

⁹*Ibid.*, pp. 300-301.

¹⁰*Ibid.*, pp. 400-401.

¹¹"Codification of Statements of Auditing Standards," 326.01-.23, American Institute of Certified Public Accountants, 1986, pp. 119-124.

¹²Supra note 6, pp. 500-501.

¹³Interview with Com. Paul Tasch, Commanding Officer, Auditing and Internal Control Division, Chicago Police Department, Chicago, IL, August 1986. For readers interested in an indepth description of the inspection process discussed in this article, a report will be forthcoming in late 1988. Copies will be available from the author at the FBI Academy.

¹⁴*Ibid.*

Inservice Training For Law Enforcement Personnel

"If you believe that acquiring and providing inservice training presents problems, consider for a moment the problems a lack of training could produce."

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Several years ago, a highway patrol officer was assigned to a remote section of the State after successfully completing basic training. His agency had a take-home vehicle policy. After several months, the patrol vehicle's engine failed. The engine was totally ruined. The diagnosis: No oil in the crankcase.

The agency initiated disciplinary action against the officer, which resulted in dismissal. He appealed and was reinstated. The appeal board's ruling in favor of the officer was based on a single premise: At no point in time had the officer been instructed to insure that there was oil in the patrol vehicle's crankcase.

Most police managers are painfully aware of the veracity of this story or know of similar incidents. This story underlines one very important point: Inadequate training of personnel can create serious problems for police managers, officers, and the public and must be addressed.

Establishing Training Priorities

The paramount concern in establishing inservice training priorities, of course, is preserving the lives and welfare of law enforcement personnel and

the public. This is, more often than not, intertwined with the second level of training priorities—the effective and efficient use of equipment and resources.

The third, and final, level is training engineered to further the smooth operation of the law enforcement program. The volume of training at the third level often exceeds that of the first and second, simply because of the relative ease with which it can be presented.

Procuring Training

While most of us have had to deal with budgetary constraints and mounting administrative concerns, we have watched our profession grow increasingly more technical, thus requiring an ever-widening scope of training in order to effectively serve the needs of society. A source of state-of-the-art training in virtually every avenue of law enforcement can be found somewhere, but it is often too expensive and causes depletion of available manpower to an unacceptable degree.

In attempting to establish or maintain a budget, many managers are forced into a position of having to cut training funds in order to meet normal operational demands. This situation



Mr. Smith

seemingly creates a dilemma, but it actually serves to shift the focus to more novel approaches to training. Acquiring sound training is limited solely by a manager's imagination and resourcefulness.

Availability of Training

A limited training budget, or even the lack of such funds, does not necessarily present an obstacle. A resourceful manager does not need to look very far for a good source of training.

In a 10-officer department, there is, in all likelihood, at least 1 officer who has a particular area of expertise or a skill which is job applicable and can be taught to other members of the department. This resource should be tapped.

It is conceivable that the person who repairs and maintains radios is also knowledgeable in radio communication procedures. Ask that person to train your officers.

The high school coach might well be versed in strength training or defensive tactics. Invite the coach to provide training to your officers. Or, consider approaching an English teacher at a local school to help officers improve their report writing skills.

Be alert for training being offered in neighboring jurisdictions. A very sound, comprehensive inservice training program can often be established by using local personnel and resources.

Availability of Training Aids

One of the most effective training scenarios I have experienced centered on a successful hostage rescue situation. The props for the scenario consisted of a dimly lit barn, several sawhorses, and a portable tape recorder

with a prerecorded tape. The officers undergoing the training were equipped with a flashlight, service-issued two-way radios, and service-issued weapons. The total cost of the training aids was the price of a blank cassette tape.

Laser guns and computers can certainly be valuable training tools, but less sophisticated training aids can be just as effective. They are readily available and can be employed with a minimum cash outlay.

Selecting a Training Contractor

When training needs mandate that an outside source be contracted, the police manager must become a frugal consumer. A myriad of contract trainers exist—nonprofit organizations, profit organizations, retired and active law enforcement training officers, technicians who are recognized as experts in their fields. The selection is almost endless. The vast majority of these vendors are solid, reputable, and totally dedicated to the improved level of law enforcement.

Most vendors are convinced, understandably and perhaps justifiably, that their concept or technique is the best way to approach their particular area of expertise. Which do you choose?

One question which should be asked is, "Which one can train my trainer?" A desirable fiscal posture to assume in this situation is one which allows you to expend funds only once for the training of an officer who will, in turn, train others. If funds will be needed for followup consultation/evaluation fees, establish this arrangement during the initial stages of the contract negotiations.

The "train the trainer" concept costs the department a minimum in initial cost outlay for the contractor and

"Resources should be expended on training that is, quite simply, job specific."

places the manager in a position of solid control for man-hours allotted to training in a particular field. A stable balance can be achieved between enforcement operations versus training. From a more-refined, cost-effective position, it takes into account the possibility of the trained officer leaving the department. It is much less expensive to send another officer through the same training process than to recycle the entire force through the training.

Frequency of Training

A department's personnel is its most valuable asset. To insure your investment, determine the average annual rate of attrition and convert this number into a percentage of total authorized positions. Double that percentage to arrive at the minimum percentage of the force which should receive some type of training at least semiannually. This has a cumulative effect and will raise the department's level of training exponentially.

The residual dividends will be manifested through the enhanced confidence and morale of the officers. Keep in mind that this formula provides a minimum figure. In the rare event that the department experiences zero attrition, use an artificial percentage of 10-percent attrition.

Type of Training

Resources should be expended on training that is, quite simply, job specific. Once the enforcement needs of the community have been isolated, training targets become more readily identifiable. If the community has not experienced an armed robbery in 10 years but has incorporated a portion of

a major highway where motor vehicle accidents are prevalent, enforcement priorities become obvious and will dictate the type of training which should be provided.

There are common pitfalls which should be avoided when selecting the type of training, namely, "new wave" training and gadgets. Often, a technique or a piece of equipment is found to be ineffective through prolonged use or by research and testing. The secret here is to let someone else pay for the testing. Reputable publications and the "grapevine" serve to keep the astute manager current on which techniques and equipment have been proven effective.

Often, police managers send an officer to a training session simply for the inherent prestige attached to completing the course. Even with the most lavish training budget, resources could be used more effectively elsewhere. If your department does not have a computer and does not anticipate the acquisition of one, it serves little purpose to send an officer to a recognized computer school, other than to enhance his/her marketability. Closely examine the training curriculum prior to making a decision.

When training does become available, considerable thought should be given to the criteria used in officer selection. It is wise to be selective. Some officers are unsuited for certain types of training.

Measuring the Effectiveness of Training

This can be a nebulous area. Your initial assessment of training provided can be determined through critiques of the course by attending officers. These

critiques are valuable and can be used to improve future training. A police manager might even consider monitoring the training personally. The long-term impact of the training, however, often cannot be measured.

However, there are certain steps which can be taken to assist in determining training priorities. During a debriefing of an officer following an incident, for example, include certain questions. "Do you believe that the training you received in this area helped you to respond appropriately"? "Do you believe that training/further training in this area would be of value to you in the future if confronted with a similar situation"?

Keep in mind that any training must somehow be reinforced if it is to have value. The reinforcement may take the form of repeated on-the-job usage. Or, it might be in the form of refresher or followup training. This is especially true in areas involving psychomotor skills. The necessity of repeated training in a particular skill should not necessarily be used as an indicator as to the value of the initial training.

Conclusion

A myriad of problems confront the police manager. However, a sound training program can be used to alleviate some of these problems. A police manager should recognize the need for training and be alert for sources of instruction. Don't become guilty of the "if it isn't broken, don't fix it" syndrome. Plan and budget to train. If you believe that acquiring and providing inservice training presents problems, consider for a moment the problems a lack of training could produce.

FBI

Legal Issues of Pursuit Driving

"[The duty placed] on all law enforcement officers to operate their vehicles with a due regard for the safety of others . . . can best be accomplished through sound policy development, realistic training, and effective supervision."

By
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Quantico, VA*

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

The purpose of this article is to discuss the legal issues involved in police vehicular pursuits and identify the factors that should be considered by law enforcement organizations in policy development, training, and supervision of pursuit situations. High-speed pursuit driving often poses a greater risk to innocent citizens than police use of a deadly weapon. One author suggests that a motor vehicle can constitute the deadliest weapon in a police department's arsenal and that "when a police

officer engages in a high-speed chase in a high-powered police car, that vehicle becomes a potential deadly weapon."¹ The hazards inherent in a vehicular pursuit to officers, suspects, and other motorists must be balanced against the need for immediate apprehension.

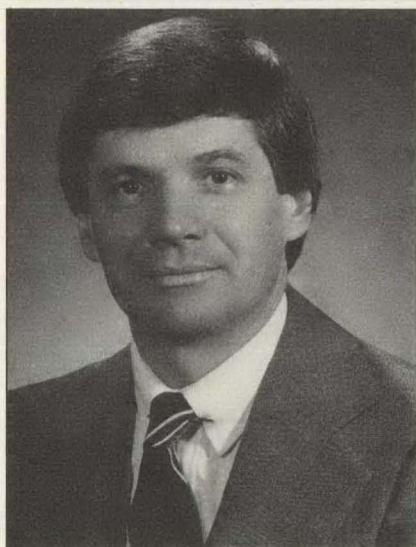
Despite some differences in State laws, the basis for most pursuit-related liability is negligence.² Pursuit litigation usually focuses on whether the police acted prudently and reasonably under the circumstances. Most State laws provide that police drivers operating a pursuit vehicle are under a legal duty to drive with due regard for the safety of others and may be liable for the consequences of their negligent or reckless conduct.

The first section of this article discusses some general principles of lia-

bility applicable to police pursuits, including: (1) Duty owed, (2) proximate cause, (3) immunity, (4) Federal Civil Rights Act, (5) suits by injured officers, and (6) criminal prosecutions. The second section discusses eight factors that determine liability in a particular pursuit situation. The final section discusses departmental responsibility for liability reduction in the areas of (1) policy development, (2) training, (3) supervision, and (4) evaluation and documentation.

GENERAL PRINCIPLES OF LIABILITY

The legal theory underlying most pursuit-related lawsuits is that the police were *negligent* in conducting a pursuit. A negligence action is based on proof of the following four elements: (1) The officer owed the injured party a *duty* not to engage in certain conduct,



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(2) the officer's actions violated that duty, (3) the officer's negligent conduct was the *proximate cause* of the accident, and (4) the suing party suffered actual and provable damages.³ Negligence litigation focuses on the alleged failure of an officer to exercise reasonable care under the circumstances.

Duty Owed

Courts must first determine the duty owed in a pursuit situation by examining the officer's conduct in light of relevant laws and department regulations. As a general matter, police have no duty to refrain from chasing a criminal suspect even when the risk of harm to the public arising from the chase is foreseeable, and the suspect is being chased for a misdemeanor.⁴ In *Smith v. City of West Point*,⁵ the court stated that police "... are under no duty to allow motorized suspects a leisurely escape."⁶ However, police do have a duty of care with respect to the manner in which they conduct a pursuit. This duty is derived from State statutes, court decisions defining reasonable care, and departmental pursuit policies.

Statutes in most jurisdictions confer a special status on police and other authorized emergency vehicles exempting them from certain traffic regulations, such as speed limits, traffic signals, and the right of way.⁷ Statutes exempting emergency vehicles from ordinary traffic regulations generally make the privilege conditional upon: (1) The existence of an actual emergency, (2) use of adequate warning devices, and (3) the continued exercise of due care for the safety of others. Whether a governmental unit or its officers may be held liable depends in large part on the

construction of such statutes. As a general rule, police drivers are not liable for negligence as a matter of law solely because they disregard a traffic regulation during an authorized emergency run. However, these statutes provide no protection against liability for an officer's reckless driving. Drivers of emergency police vehicles have a statutory duty to drive with due regard for the safety of others.

Court decisions defining the reasonable care standard constitute a second source from which to derive a duty owed by police pursuit drivers. Most courts have translated the reasonable care standard into a duty to drive with the care which a reasonable prudent officer would exercise in the discharge of official duties of a like nature.⁸ Reasonable care is a relative term depending on the exigencies of the situation and the degree of care and vigilance which the circumstances reasonably dictate.

A third source from which to derive a duty owed by police pursuit drivers is department policy. A law enforcement organization's policies, procedures, and training material concerning high-speed pursuits are generally admissible as evidence in lawsuits against the department or its officers for the negligent operation of a pursuit vehicle.⁹ For example, in order to ascertain the standard of care applicable to a particular pursuit situation, a court could admit into evidence a police department regulation defining the proper speeds at which police cars responding to emergency calls were supposed to enter intersections when proceeding against red traffic signals. Depending on the jurisdiction involved, departmental pur-

"Drivers of . . . police vehicles have a statutory duty to drive with due regard for the safety of others."

suit policies may be merely a guideline to assist juries in determining the reasonableness of pursuit conduct, or they may actually constitute a duty owed, the violation of which would be negligence.

Proximate Cause

Liability must be based on proof that police conduct in breaching a duty owed was the proximate cause of a pursuit-related accident. Proximate cause is difficult to establish in cases involving the intervening negligence of other drivers, such as where a fleeing motorist collides with an innocent person. In such cases, some courts impose liability on the police if the accident was a foreseeable consequence of police negligence.¹⁰ For example, if police pursue without activating their lights and siren and an innocent citizen enters an intersection without being warned of the pursuit and collides with the pursued vehicle, the police may be liable because the accident was the proximate and foreseeable result of their failure to adequately warn other drivers of the pursuit. In *Nelson v. City of Chester, Ill.*,¹¹ it was held that the city's breach of its duty to properly train its police officers in high-speed pursuit might be found to be the proximate cause of the pursued driver's death, notwithstanding the contributing negligence of the pursued driver.

However, the majority view is that the police are not liable for accidents caused by the intervening negligence of fleeing violators. In *Dent v. City of Dallas*,¹² the court held that the police violated no legal duty to arrest or apprehend a fleeing motorist who subsequently collided with an innocent cit-

izen, because the sole proximate cause of the accident was the suspect's negligent conduct in fleeing and not the officer's conduct in electing to pursue and that "courts will not make police officers the insurers for the conduct of the suspects they pursue."¹³ When a pursuit-related accident involves the fleeing motorist and not the police, most courts conclude that the proximate cause was not the manner in which the police conducted the pursuit but rather the manner in which the pursued driver negligently operated his vehicle.¹⁴

Immunity

Legal barriers to civil actions such as immunity have been removed in many jurisdictions by a combination of legislation and judicial decisions, even though the extent of immunity continues to vary.¹⁵ Statutes in most States have limited sovereign immunity to discretionary as opposed to ministerial decisions. Accordingly, the decision to pursue is viewed as discretionary, rendering the public entity immune, but the manner of pursuit is a ministerial decision for which there is no general grant of immunity. *Rhodes v. Lamar*¹⁶ used this bifurcated approach to hold that the decision to institute a pursuit is a discretionary decision for which a sheriff enjoyed sovereign immunity, but liability was not precluded if the pursuit was conducted in a manner that violated a reasonable duty of care.¹⁷

It should be noted that the extent that immunity will bar pursuit-related litigation varies in different jurisdictions and often depends on whether police conduct is deemed negligent or reckless.¹⁸ Moreover, some jurisdictions

provide that the purchase of liability insurance waives the protection of immunity to the extent of the insurance coverage.¹⁹ In the final analysis, the extent of immunity in a particular jurisdiction can only be determined by carefully reviewing applicable State laws and relevant court decisions, a task beyond the scope of this article.

Federal Civil Rights Act

Pursuit-related liability under the Federal Civil Rights Act, 42 U.S.C. 1983, requires proof that an officer's conduct violated a constitutionally protected right.²⁰ In *Cannon v. Taylor*,²¹ the U.S. Court of Appeals for the 11th Circuit concluded that "a person injured in an automobile accident caused by the negligent, or even grossly negligent, operation of a motor vehicle by a policeman acting in the line of duty has no Section 1983 cause of action for violation of a federal right."²² Automobile negligence actions are grist for the State law mill, but they do not rise to the level of a constitutional deprivation.²³ The common thread running through the cases is that negligent conduct during a pursuit does not suffice to trigger jurisdiction under 1983.²⁴

Courts also reject 1983 suits based on a claim that the decision to pursue was an illegal seizure under the fourth amendment. In *Galas v. McKee*,²⁵ a pursued driver crashed and brought a 1983 action to recover for his injuries. The court held that the police decision to continue the pursuit at high speeds was not an unreasonable seizure because no seizure had in fact occurred; a vehicular pursuit does not constitute a completed seizure by physical force or show of authority.²⁶

"Liability must be based on proof that police conduct in breaching a duty owed was the proximate cause of a pursuit-related accident."

However, certain techniques employed by police during a pursuit may raise constitutional issues cognizable under 1983. For example, in *Jamieson By and Through Jamieson v. Shaw*,²⁷ the court held that the constitutionally permissible use of force standard set forth by the Supreme Court in *Tennessee v. Garner*²⁸ was violated when a passenger in a fleeing vehicle was hurt when the vehicle hit a so-called dead-man roadblock after officers allegedly shined a bright light into the driver's eyes as the vehicle approached the roadblock. In *Brower v. County of Inyo*,²⁹ a high-speed pursuit over 20 miles ended when the fleeing suspect was killed when his vehicle hit a tractor-trailer which police had placed across the road as a roadblock. The court held that police use of a roadblock could constitute a constitutional violation of substantive due process if it was designed as an intentional deathtrap where the approaching driver does not have a clear option to stop because the roadblock is concealed around a curve or inadequately illuminated.

Suits by Injured Officers

The extent to which police officers can sue a fleeing motorist or other citizen for injuries incurred during a pursuit varies in different jurisdictions but generally requires proof that the person sued either failed to yield to an authorized emergency vehicle, was responsible for instigating the pursuit by choosing to disregard an officer's request to stop, or was negligent in allowing his vehicle to be stolen, such as leaving keys in the ignition. Some suits are barred by the so-called "fireman's

rule," which precludes recovery for a firefighter or policeman when the cause of action is based on the same conduct that initially created the need for the police response. Under this rule, officers who voluntarily confront the hazards of vehicular pursuits for which they are specifically compensated are sometimes barred from suing the fleeing motorist for his negligent or reckless conduct.³⁰ The "fireman's rule" may not bar an officer's lawsuit in jurisdictions that have statutes specifically designed to protect officers in pursuit situations. For example, in *City of Redlands v. Sorensen*,³¹ the court held that a police officer could recover for his injuries from the driver of a speeding vehicle who violated a statutory obligation to stop in response to the red lights and siren on the police vehicle. In *Gail v. Clark*,³² a Wisconsin officer who suffered severe injuries in an accident with a fleeing motorist recovered on a negligence theory from the motorist and a convenience store that sold him beer. In *Humphrey v. Coleman*,³³ an Oregon court ruled that an officer injured in a high-speed chase can recover, if the fleeing motorist should have reasonably foreseen that his conduct in refusing to stop would likely result in the officer having an accident.

Criminal Prosecutions

States provide for various criminal sanctions, ranging from misdemeanor to felony, for individuals who instigate a pursuit by fleeing from the police.³⁴ A fleeing motorist is also subject to enhanced criminal prosecution if a pursuing officer or other person is killed or injured during a pursuit. For example, in *Commonwealth v. Berggron*,³⁵ the

court held that a fleeing motorist could be convicted of negligent homicide for the death of an officer during a high-speed chase. The officer was in a marked cruiser with warning devices activated and tragically skidded and hit a tree while pursuing the defendant. The court held that the officer's pursuit was a foreseeable consequence of the defendant's conduct in fleeing and was the proximate cause of the officer's death.³⁶

Police officers are also subject to criminal prosecution for their conduct during a pursuit. In *State v. Simpson*,³⁷ a pursuing officer was convicted of reckless driving for attempting to pass in a "no passing" zone in reckless disregard for the safety of others. Police officers may be authorized to disregard certain traffic regulations during a pursuit, but they cannot recklessly endanger the safety of others by relying on the fact other motorists will always yield the right of way to an emergency vehicle.

FACTORS DETERMINING LIABILITY

Pursuit-related litigation usually involves an inquiry into whether the manner in which the pursuit was conducted was reasonable under the circumstances of that case. The various factors that determine liability are nothing more than common sense considerations of whether and how to pursue. Each pursuit situation is different and requires a particularized assessment. Set forth below is a brief discussion of eight factors that most frequently determine the extent of pursuit-related liability. Law enforcement organizations should carefully consider these factors in de-

veloping pursuit policies and training programs.

Purpose of Pursuit

This factor relates to the need or reason for a pursuit. Does the purpose of the pursuit warrant the risks involved? What is the nature and seriousness of the suspected offense? Is the fleeing motorist suspected of committing a serious crime or only a misdemeanor? Is the motorist already operating his vehicle in a reckless and life-threatening manner or has he only committed a minor traffic violation? Is there a need for immediate apprehension or has the suspect been identified so that he could be apprehended at a later time?

Driving Conditions

This factor involves a general assessment of equipment, weather, roadway and traffic conditions, and the experience and personal ability of the drivers involved. Considering the performance characteristics and general state of repair of the police vehicles involved, are they capable of traveling safely at a high rate of speed? Have the pursuit vehicles been inspected to ensure that they do not have dangerously worn shocks, tires, or brakes that grab during hard braking? Weather conditions that may affect visibility should be considered, such as bright sun or fog that make it difficult for other motorists to see the flashing warning lights on an approaching police vehicle. Is the roadway wet and conducive to hydroplaning or otherwise slippery due to ice or possibly a combination of hot weather and oil? Is the pursuit area congested with vehicular traffic and pedestrians or is

traffic density light, making it reasonable to assume that other vehicles or pedestrians will hear the warning signals of an approaching police vehicle and yield the right of way. The personal abilities of the drivers depend on their prior experience and training in pursuit driving, their familiarity with the area and roads involved, and any physical or emotional limitations, such as fatigue and reduced psychomotor coordination or visual acuity due to sickness or medication.

Use of Warning Devices

The use of adequate visual and audible warning devices, such as flashing lights and siren, is not only a statutory mandate for most pursuit situations but also assures to the greatest extent possible that other vehicles and pedestrians are alerted to approaching emergency vehicles and to the need to yield the right of way. Overreliance on warning devices to clear the way for pursuit vehicles is problematic, because many drivers are visually distracted or drive with their windows up or radio playing and are not aware of approaching emergency vehicles. Many departments prohibit unmarked vehicles not equipped with emergency lights and siren from participating in a high-speed pursuit. If a particular emergency, such as a crime in progress, requires a so-called "silent run" and the nonuse of the siren and lights, police drivers should be instructed to make appropriate adjustments in driving speed and other driving procedures.

Excessive Speed

Whether a particular speed is excessive depends on the purpose of

the pursuit, driving conditions, and personal ability of a police driver to control and effectively maneuver his vehicle. Speed when crossing an intersection against a light or sign is an especially critical consideration, since statistics suggest that most pursuit-related collisions occur at intersections.³⁸ Liability may be based on the failure to sufficiently decrease speed when approaching an intersection so that a complete stop can be made to avoid a collision.

Disobeying Traffic Laws

Pursuit vehicles are statutorily obligated to use due care for the safety of others when disobeying traffic laws, such as operating a vehicle on the wrong side of the road, passing on the right, going the wrong way on a one-way street, passing in a "no passing" zone, or proceeding against a traffic signal. These dangerous and high-risk driving maneuvers must be cautiously executed because police are generally held liable for any resulting accidents.³⁹

Roadblocks

Special care is required when using roadblocks to ensure that innocent persons are not placed in a position of danger and that the fleeing motorist is afforded a reasonable opportunity to stop safely.⁴⁰ To reduce the risk of liability, it is recommended that roadblocks only be used when authorized by a supervisor and only as a last resort to apprehend a fleeing motorist who is wanted for a violent felony and who constitutes an immediate and serious threat. The roadblock should be placed in a highly visible area to give approaching drivers ample time to stop,

"... it is not a valid defense against departmental liability to argue that a breach of a duty to train officers in pursuit driving was due to inadequate resources or a lack of training facilities."

motorists can be warned of the roadblock by appropriately placed lights and flares, and a police dispatcher should communicate to other officers the need to direct innocent citizens away from the location of the roadblock.

Use of Force

In some cases, it may be appropriate for police to use force during a pursuit by means of either a firearm or stopping techniques such as ramming, bumping, boxing, or a so-called spike strip which punctures the tires on the pursued vehicle. Such use of force should only be used when authorized by a supervisor and only in circumstances where such force is clearly authorized by law and departmental policy.

Continuation of the Pursuit

The decision to continue a pursuit in a reckless manner can create liability. A pursuit should be terminated when the hazards of continuing outweigh the benefits and purpose for the pursuit. The pursuit should be terminated when the level of danger created by the pursuit outweighs the necessity for immediate apprehension. If it is reasonable to conclude that the fleeing motorist will not voluntarily stop and that there is no realistic way to stopping him without recklessly endangering others, the pursuit should be terminated because the risks are greater than the government's interest in pursuing. Dangerous pursuits should be terminated where the fleeing suspect has been identified and there is no continuing need for immediate apprehension. Because some officers may be reluctant to terminate a pursuit out of fear that fellow officers will view the voluntary termination as an act

of cowardice or timidity, it is advisable for departments to place the responsibility for supervising and terminating a pursuit on supervisory personnel not directly involved in the pursuit. Continuation of the pursuit across jurisdictional boundaries is a related factor to consider. Many States have so-called "fresh pursuit" statutes which authorize officers from foreign jurisdictions to enter and continue to pursue, but only if the officer believes that the fleeing motorist committed a felony in the foreign jurisdiction.⁴¹

DEPARTMENTAL RESPONSIBILITY FOR LIABILITY REDUCTION

To reduce the risks and liability associated with vehicular pursuits, law enforcement organizations must carefully evaluate their pursuit policy, training, supervision, and post-incident evaluation. Liability reduction is accomplished through sound management controls and a reduction in the number of pursuit-related accidents.

Policy Development

The function of a well-written pursuit policy is to state the department's objectives, establish some ground rules for the exercise of discretion, and educate officers as to specific factors they should consider when actually conducting a vehicular pursuit. Where feasible, a comprehensive policy statement should give content to terms like "reasonable" and "reckless" and provide officers with more particularized guidance. There is no model pursuit policy; instead, a policy should be tailored to a department's operational needs, geographical peculiarities, and training capabilities. A written policy also provides a basis for holding offi-

cers accountable for their pursuit-related conduct.

Legal commentators continue to debate the relative merits and disadvantages of a written departmental policy concerning vehicular pursuits.⁴² In *Dodge v. Stine*,⁴³ the U.S. Court of Appeals for the Seventh Circuit noted that the decision whether to formulate a written pursuit policy and what the form and content of that policy should be is a discretionary act for which the department is immune from liability. Nonetheless, most experts recommend that law enforcement organizations adopt written pursuit policies that impose specific controls on the operation of pursuit vehicles, despite the fact empirical research has not established a conclusive correlation between the number of pursuit-related accidents and the existence of a written policy.⁴⁴ One expert points out that the absence of a strong and convincing policy on police pursuits forces officers to react intuitively, which may increase the likelihood of unnecessary accidents and liability.⁴⁵

Training

Lack of adequate training may contribute to many pursuit-related accidents. The natural tendency for many police drivers is to become emotionally involved and lose some perspective during a pursuit; they are also required to drive different police vehicles with unique handling characteristics under various road and weather conditions. It is easy to lose control of a vehicle that is driven beyond its or the driver's capabilities, and law enforcement organizations can be held liable for failing to provide adequate driver training to prepare officers to safely handle vehicles

in pursuit situations.⁴⁶ The extent and type of training required depend on a department's operational needs and objectives. A minimal level of cost-effective training can be accomplished by emphasizing defensive driving techniques and carefully instructing officers about departmental pursuit policies and relevant State regulations concerning the operation of emergency vehicles. More sophisticated training might include emergency vehicle operation courses that provide officers with a working knowledge of their skill limitations through practical driving experience in locked skid and skid recovery techniques and high-speed cornering and braking. While the type of training required depends on a department's operational needs, it is not a valid defense against departmental liability to argue that a breach of a duty to train officers in pursuit driving was due to inadequate resources or a lack of training facilities.⁴⁷

Supervision

Police departments are responsible for providing adequate supervision of officers involved in a pursuit. Experts who have studied the emotionalism and psychology associated with pursuits recommend that as soon as possible after a pursuit has been initiated, an officer not involved in any of the pursuit vehicles be tasked with the responsibility for supervising the pursuit.⁴⁸ An officer not immediately involved is in a better position to oversee objectively the pursuit and decide whether the pursuit should continue and under what circumstances. The supervisor should track the location of the pursuit, designate the primary and secondary pursuit vehicles, and maintain tight controls on

the desire of other officers to get involved or parallel the action. Effective communication between the pursuing vehicles and the supervisor is essential. The failure to transmit information concerning the location of a pursuit or the condition of the pursued driver may contribute to a subsequent accident.

Evaluation and Documentation

Law enforcement organizations should provide for an ongoing process of evaluation and documentation of pursuit-related incidents. All pursuits, including those successfully terminated without an accident, should be routinely critiqued to determine whether departmental policy was followed and the extent to which any policy modification, training enhancement, or other remedial action is warranted. A thorough after-the-fact investigation of a pursuit-related accident should include the activities of officers not directly involved in the accident who may be implicated as witnesses in subsequent litigation. Pursuit-related litigation is often initiated years after an incident, and departments can only refute allegations of negligence if they maintain contemporaneous documentation of the accident investigation and other records relevant to pursuit training and supervision. A formal monitoring mechanism, such as a pursuit-incident review board, provides managers with a basis for holding officers accountable for their pursuit-related conduct and provides the means to periodically reevaluate the effectiveness of pursuit policies and training programs.

CONCLUSION

Vehicular pursuits are an inherently dangerous but necessary part of law

enforcement's obligation to promote law and order in our society. Unfortunately, some accidents are unavoidable, and some pursuit-related liability is probably an inevitable consequence of law enforcement responsibilities. The law places a duty on all law enforcement officers to operate their vehicles with a due regard for the safety of others. That mandate can best be accomplished through sound policy development, realistic training, and effective supervision.

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Footnotes

- ¹Alpert and Anderson, "The Most Deadly Force: Police Pursuits," 3 Justice Quarterly 1 (March 1986).
- ²See Farber, "Negligent Vehicular Police Chase," 41 Am. Jr. Proof of Facts 2d 79.
- ³See Zevitz, "Police Civil Liability and the Law of High Speed Pursuit," 70 Marquette L. Rev. 237 (1987).
- ⁴Jackson v. Olson, 712 P.2d 128 (Or. App. 1985).
- ⁵475 So.2d 816 (Miss. 1985).
- ⁶*Id.* at 818.
- ⁷See generally Annotation, "Emergency Vehicle Accidents," 24 Am. Jr. Proof of Facts 599.
- ⁸See generally Annotation, "Liability of Governmental Unit or Its Officers for Injury to Innocent Occupant of Moving Vehicle as a Result of Police Chase," 4 A.L.R. 4th 865. See also, *Breck v. Cortez*, 490 N.E.2d 88 (Ill. App. 1986).
- ⁹See generally Annotation, "Municipal Corporation's Safety Rules or Regulations as Admissible in Evidence in Action by Private Party Against Municipal Corporation or Its Officers or Employees for Negligent Operation of Vehicle," 82 A.L.R. 1285.
- ¹⁰See *Fiser v. City of Ann Arbor*, 339 N.W.2d 413 (Mich. 1983).
- ¹¹733 S.W.2d 28 (Mo. App. 1987).
- ¹²729 S.W.2d 114 (Tex. App. 1986).
- ¹³*Id.* at 117.
- ¹⁴See *Oberkramer v. City of Ellisville*, 706 S.W.2d 440 (Mo. 1986); *Sammor v. Mayor and Aldermen of Savannah*, 335 S.E.2d 434 (Ga. App. 1985); *Thorton v. Shore*, 666 P.2d 655 (Kan. 1983).
- ¹⁵For a general discussion of immunity, see Carlin, "High-Speed Pursuits: Police Officer and Municipal Liability for Accidents Involving the Pursued and an Innocent Third Party," 16 Seton Hall L. Rev. 101 (1986).
- ¹⁶490 So.2d 1061 (Fla. App. 1986).
- ¹⁷*Id.* at 1062.
- ¹⁸For example, in *Indiana State Police v. Swaggerty*, 507 N.E.2d 649 (Ind. App. 1987), the court held that under Indiana law, officers and their departments had no immunity for their pursuit-related negligence. In *Biscoe v. Arlington County*, 438 F.2d 1352 (D.C. Cir. 1984), Virginia's sovereign immunity did not bar liability for a pursuit which extended into another jurisdiction, because the officer's conduct was deemed ministerial and violative

“Law enforcement organizations should provide for an ongoing process of evaluation and documentation of pursuit-related incidents.”

of a reasonable duty of care. In *Laco v. City of Chicago*, 507 N.E.2d 64 (Ill. 1987), the court ruled that under Illinois law, an officer is not liable for pursuit-related conduct, unless such conduct constitutes willful and wanton negligence. In *Wood v. City of Linden*, 526 A.2d 1093 (N.J. 1987), the court held that under New Jersey law, an officer is immunized from pursuit-related liability for negligence if he acted in good faith but that deliberately ramming a fleeing vehicle occupied by a passenger may be reckless, thus denying the officer immunity.

¹⁹See, e.g., *Martin v. Georgia Dept. of Public Safety*, 357 S.E.2d 569 (Ga. 1987).

²⁰42 U.S.C. 1983 provides in relevant part: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.”

²¹782 F.2d 947 (11th Cir. 1986).

²²*Id.* at 950.

²³*Id.*

²⁴See, *Allen v. Cook*, 668 F.Supp. 1460 (W.D. Okla. 1987).

²⁵801 F.2d 200 (6th Cir. 1986); see also, *Jones v.*

Sherrill, 827 F.2d 1102 (6th Cir. 1987).

²⁶*Id.* at 203-4.

²⁷772 F.2d 1205 (5th Cir. 1985).

²⁸105 S.Ct. 1964 (1985). The Supreme Court held that the use of deadly force to apprehend an unarmed fleeing felon was an unreasonable seizure which violated the fourth amendment.

²⁹817 F.2d 540 (9th Cir. 1987). In *City of Miami v. Harris*, 490 So.2d 69 (Fla. App. 1985), the court held that a city can be liable under 1983 for a pursuit policy that is adopted with a reckless disregard of whether such policy would cause loss of life without due process.

³⁰A discussion of the rationale for the “fireman’s rule” can be found in *Hubbard v. Boelt*, 620 P.2d 156 (Cal. 1980).

³¹176 Cal. App. 3d 202 (1985).

³²410 N.W.2d 662 (Iowa 1987).

³³739 P.2d 1081 (Or. App. 1987). Moreover, the fleeing motorist may be denied recovery of insurance benefits for his injuries. See, e.g., *Serio v. Allstate Ins. Co.*, 509 A.2d 273 (N.J. 1986).

³⁴For example, the State of Washington provides that any driver who willfully refuses to immediately stop or who drives with a reckless disregard for others while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to stop, shall be guilty of a class C felony. *State v. Malone*, 724 P.2d 364 (Wash. 1986).

³⁵496 N.E.2d 660 (Mass. 1986).

³⁶In *State v. Mounce*, 721 P.2d 661 (Ariz. App. 1986), it was held that prosecution for unlawful flight from a pursuing officer was not barred by double jeopardy by the suspect’s prior guilty plea to a charge of reckless driving.

³⁷732 P.2d 788 (Kan. App. 1987).

³⁸A discussion of prior empirical studies regarding pursuits is set forth in Alpert, *supra* note 1.

³⁹See *supra* note 3.

⁴⁰See Annotation, “Municipal or state liability for injuries resulting from police roadblocks or commandeering of private vehicles,” 19 A.L.R. 4th 937.

⁴¹See Note, “State v. Harding: Municipal Police Authority and the Fresh Pursuit Statute,” 39 Maine L. Rev. 509 (1987).

⁴²See, e.g., Freedman, “Restrictions Urged on Police Pursuits,” 8 National L. J. 3 (1986); and Territo, “Citizen Safety: Key Element in Police Pursuit Policy,” Trial (Aug. 1982).

⁴³739 F.2d 1279 (7th Cir. 1984).

⁴⁴See articles cited *supra* notes 1, 3, and 42.

⁴⁵See *supra* note 1, at pg. 6.

⁴⁶See, e.g., *Nelson v. City of Chester, Ill.*, 733 S.W.2d 28 (Mo. App. 1987); *Biscoe v. Arlington County*, 738 F.2d 1352 (D.C. Cir. 1984).

⁴⁷*Id.*

⁴⁸See articles cited *supra* note 44.

FBI Law Enforcement Bulletin Article Submissions

The purpose of this journal is to promote an exchange of professional information among the various components of the criminal justice system.

Guidelines have been established to assist those interested in submitting articles to the *FBI Law Enforcement Bulletin*. Following these guidelines will ensure prompt consideration of all manuscripts submitted to the *Bulletin*.

AUTHOR—The exact wording of the desired byline, including any advanced degrees, and the current business mailing address of the author, or authors, should accompany manuscripts submitted to the *Bulletin*.

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Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1964 and 1967

Vasile Suceveanu.

W; born 5-7-41; Romania; 5'-10"; 145 lbs; slender bld; light brn hair; hazel eyes; fair comp; occ-coal miner, electrician, farm worker, porter.

Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

POPO16PIPO19PMPPIPII

Fingerprint Classification:

16 O 28 W OOI
L 24 W MII

I.O. 4331

Social Security Number Used: 097-40-3917

FBI No. 407 684 G

Caution

Suceveanu is being sought for murder by handguns committed during holdup. He reportedly has stated that he will not be taken alive. Consider extremely dangerous.



Right thumbprint



Photograph taken 1969

Leo Frederick Burt,

W; born 4-18-48; Darby, PA (not supported by birth records); 5'11" to 6'; 185 lbs; muscular bld; brn hair, hazel eyes; med comp; occ-laborer, watchman; remarks: Reportedly wears a mustache and beard, hair worn long in back.

Wanted by FBI for SABOTAGE; DESTRUCTION OF GOVERNMENT PROPERTY; CONSPIRACY

NCIC Classification:

PO540909121155TT0514

Fingerprint Classification:

4 O 1 R 12
S 17 Rt

I.O. 4399

Social Security Number Used: 189-40-9409

FBI No. 506 563 H

Caution

Burt is being sought in connection with the destruction by explosives of a building in which one person was killed and several injured. Consider dangerous.



Right index fingerprint



Photographs taken 1968 and 1969

George Ernesto Lopez,

also known as Lyon Bonny, Juan Gomez, John Martin Solano. W; born 12-5-49; New Orleans, LA; 5'9" to 5'10"; 145 to 155 lbs; med bld; blk hair; brn eyes; med comp; occ-laborer.

Wanted by FBI for INTERSTATE FLIGHT-MURDER, ASSAULT WITH INTENT TO COMMIT MURDER, BURGLARY

NCIC Classification:

DOPO18COPO160413PODI

Fingerprint Classification:

18 O 26 W OOO Ref: 18
M 22 U IOO 22

I.O. 4352

FBI No. 527 954 G

Caution

Lopez should be considered armed and dangerous.



Left index fingerprint

WANTED BY THE FBI



Photographs taken 1980 and 1982

Cheri Laverne Dalton,

also known as Nehanda Abiodun, Betty Carter, Betty W. Carter, Cheri Cotton, Laverne Cheri Dalton, Betty Jackson, Nehanda Obafemi, "Flame," "Lamb Chops," "Red," and others. B; born 6-29-50 (not supported by birth records); 4-28-52; 6-29-59; New York, NY (not supported by birth records); 5'6" to 5'10"; 125 to 130 lbs; slender bld; black (dyed red) hair; brn eyes; light comp; occ-detoxification therapist, accupuncturist, writer; remarks: Reportedly uses cocaine heavily; scars and marks: Visible freckles over bridge of nose and cheek bone area of face. Wanted by FBI for RACKETEERING; RACKETEERING CONSPIRACY; ARMED BANK ROBBERY; HOBBS ACT-COMMERCIAL INSTITUTION; OBSTRUCTION OF CRIMINAL INVESTIGATION

I.O. 5046

Social Security Number Used: 054-40-7429
FBI No. 80 317 AA1

Caution

Dalton is being sought in connection with an armored car robbery which resulted in the killing of two police officers and one guard and the wounding of one officer and two guards. Dalton is known to associate with revolutionary organizations which have a propensity for criminal activity and violence against law enforcement officers. Dalton should be considered armed and dangerous.



Right thumbprint
Best obtainable print



Photographs taken 1984

John Hampton Boston,

also known as Sampson Baker, John M. Boston, John Matthew Boston, Sam John Boston, Samson Boston, Gaylor Grayhart, Sam Grayhart, Sampson Hampton, Ronald Smith, "Sweet," and others. B; born 6-12-44; Columbia, SC; 5'10"; 210 lbs; hvy bld; blk hair; brn eyes; med comp; occ-chauffeur, used car salesman; remarks: Has pierced left ear. Enjoys automobile repair, photography, writing poetry, and customizing vans. Reportedly a heavy user of cocaine; scars and marks: 1/2-inch scar over left elbow, 1/2-inch scar on third finger of right hand; tattoo of "Stella" on left forearm.

Wanted by FBI for INTERSTATE FLIGHT-MURDER; ASSAULT WITH INTENT TO KILL; ROBBERY

NCIC Classification:

PMPIPOCO14PICIP114

Fingerprint Classification:

18	M	31	W	IOO	14
	I	28	W	I	I

I.O. 5044

Social Security Numbers Used: 075-34-9582; 129-44-1660; 356-40-9582; 356-40-7582

FBI No. 28 135 E

Caution

Boston has been convicted of bank robbery, robbery, grand larceny, criminal possession of a weapon, and criminal possession of stolen property. He is currently being sought in connection with a drug-related "rip-off" murder and the attempted murder of another individual. He is reportedly armed with automatic weapons. Boston is a reported user of marijuana and cocaine. He should be considered armed and extremely dangerous and approached with extreme caution.



Left middle fingerprint



Photographs taken 1985 and 1986

John Edward Stevens,

also known as Steven Allen Anderson, Steven Banks, Randolph Harrison, Ronald House, Mark Nikkila, Clint Poindexter, Jeffrey Stella, John Stevens, William C. Wessendorf, and others. W; born 5-22-53 (true date of birth); 6-28-51; 1-27-52; New York, NY; 5'11"; 200 lbs; stocky bld; brn hair; brn eyes; olive comp; occ-bookkeeper, taxi and limousine driver; remarks: He is a habitual gambler, whose favorite game is blackjack, he is reportedly a skilled blackjack player; frequents gambling casinos. He allegedly associates with homosexuals and individuals who have undergone sex-change operations. He speaks with a noticeable New York City accent; scars and marks: Scar down center of forehead ending at bridge of nose; tattoo of interlocking hearts with arrow and names "John" and "Kiva" (names now blocked out) on upper right arm. Wanted by FBI for BANK ROBBERY

NCIC Classification:

PI03010405DIAAAA0207

Fingerprint Classification:

3	I	5	U	5
	I	17	Aa	

I.O. 5052

Social Security Numbers Used: 536-72-3418; 574-31-8206; 574-32-6616; 574-32-6617; 576-32-4515

FBI No. 981 007 G

Caution

Stevens is being sought for a series of armed bank robberies in which a handgun has been used. He should be considered armed, dangerous, and an escape risk.



Left little fingerprint

Interesting Comparison

An impression sometimes dramatically changes appearance as result of scarring. The impressions being presented are identical; however, the scarred impression which is shown on the right has the appearance of a whorl-type pattern, whereas the impression appearing on the left was obtained prior to scarring and was classified as a loop pattern with a ridge count of 15.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name _____

Title _____

Address _____

City _____

State _____

Zip _____

Washington, D.C. 20535

Official Business
Penalty for Private Use \$300
Address Correction Requested

The Bulletin Notes

On September 10, 1986, Officer Gary Herrick of the Chico, CA, Police Department responded to a knife fight call. When he arrived at the scene, Officer Herrick found the victim suffering from a slash wound to the throat and a second wound to the abdomen. After immediately placing a call for an ambulance, Officer Herrick performed first aid on the victim, restricting the flow of blood from the wounds and saving the victim's life. The Bulletin is pleased to join Officer Herrick's superiors in commending his lifesaving actions.



Officer Herrick
