



May 1989

FBI

Law Enforcement Bulletin



Also In This Issue:
Investigative Cooperation
Courtroom Testimony
Reducing Violence

National Peace Officers Memorial Day

Contents

May 1989, Volume 58, Number 5

Features

- 1 **Director's Message**
- 2 **Investigative Cooperation—St. Louis Style**
By Lawrence B. Layton and Robert G. Lowery, Sr.
- 7 **Maximizing Your Courtroom Testimony**
By B. Marc Mogil
- 10 **The FBI's National Stolen Art File**
By Alice S. Cole
- 13 **The Aftermath of Line-of-Duty Death**
By Suzie Sawyer
- 18 **Police/Citizen Violence Reduction Project**
By James J. Fyfe
- 26 **The Admissibility of Evidence
Located In Searches by Private Persons**
By Austin A. Andersen

Departments

- 9 **Focus**
- 16 **The Bulletin Reports**
- 24 **Book Reviews**
- 32 **Wanted by the FBI**

FBI

Law Enforcement Bulletin

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

William S. Sessions, Director

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

Published by the Office of Public Affairs,
Milt Ahlerich, *Assistant Director*

Editor—Stephen D. Gladis

Managing Editor—Kathryn E. Sulewski

Art Director—John E. Ott

Production Manager—David C. Maynard

The Cover: The son of a slain police officer pays tribute to his father at the National Peace Officers Memorial Day Service.

The FBI Law Enforcement Bulletin (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 10th and Pennsylvania Ave., N.W., Washington, DC 20535. Second-Class postage paid at Washington, DC. Postmaster: Send address changes to Federal Bureau of Investigation, FBI Law Enforcement Bulletin, Washington, DC 20535.



Director's Message

Remembering Our Fallen Heroes

May 1st is Law Day U.S.A.—a day on which this Nation focuses on the crucial role of law in our society. Since its origin 32 years ago, Law Day has provided those of us in law enforcement the opportunity to encourage citizen support of the principles and practices of American law and justice. It also sets aside a time for us to reaffirm our pledge to uphold the Constitution while enforcing the law. Law Day 1989 continues this tradition.

The modern-day challenges of our profession are tremendous. Daily, law enforcement officers confront those who would seek to destroy this country by undermining its rule of law. The drug barons, the terrorists, the organized criminals place no value on the rights and freedom of others that law enforcement strives to protect. Yet, officers face each challenge freely and unselfishly, just as they swore to do when they took the oath of office.

Sadly, however, many of our fellow officers have paid the ultimate price in the performance of their duties. They gave their lives, sacrificing themselves for the good of others, and for the most part, they died as unsung heroes. But their sacrifices should never go unrecognized by the citizens whom they died to protect. President John F. Kennedy realized this when he designated May 15th as "Peace Officers Memorial Day" and designated the week within which it falls as Police Week. By setting aside a time to honor our fallen comrades in death, President Kennedy gave this great Nation a chance to also recognize those who continue to enforce its laws and protect its freedom.

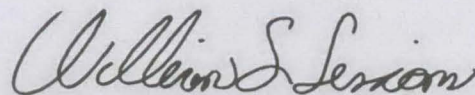
Another step taken to honor those who have died in the line of duty and to acknowledge the continued service and sacrifice of all law enforcement officers is the Law Enforcement Officers Memorial, an

effort I wholeheartedly support. The memorial, which will be built in Washington, DC, will stand as an everlasting tribute to the nearly 30,000 law enforcement officers who have been killed on duty in the history of the United States, including 38 FBI Special Agents.

The killing of a police officer is a heinous crime, and last year alone, 156 law enforcement officers were killed in the United States. This is a sad reflection on this Nation, but to let even one perpetrator go unapprehended is even more disheartening.

The FBI has always offered its technical and scientific services to help solve police killings. With the passage of the Anti-Drug Abuse Act of 1988, however, our legal authority has been expanded. While the FBI had no specific jurisdiction in police killings, in the absence of a Federal violation, we can now investigate killings of State and local officers when requested to do so by the head of the agency employing the victim officer. Guidelines delineating our responsibilities are being formulated by the Department of Justice and will be forthcoming.

It is only through the dedicated and selfless efforts of the men and women who wear the badge that this country has remained strong and free. We must continue to face the challenges of the future with the same conviction and fervor shown in the past by our fallen comrades. And, inspired by President Lincoln in his Gettysburg Address, we must "... resolve that the dead shall not have died in vain...."



William S. Sessions
Director



Investigative Cooperation St. Louis Style

By
LAWRENCE B. LAYTON

*Chief of Police
Dellwood, MO
and*

COL. ROBERT G. LOWERY, SR.

*Chief of Police
Florissant, MO*

Police services in the St. Louis metropolitan area are among the most fragmented in the United States. The metropolitan area, with the City of St. Louis as its hub, expands both east and west of the Mississippi River to include four counties in Missouri and three counties in Illinois. The region encompasses a mixture of urban, suburban, and rural areas.

St. Louis County alone contains 62 municipal police departments, as well as a countywide department. As crime problems began to spread from the city to the suburbs and then to the rural areas, law enforcement officials in the region saw the need for a cooperative effort to combat crime more effectively and efficiently.

Small municipalities are rarely staffed or equipped to suffi-



ciently conduct the saturation-type of investigation required by major crimes. These cases generally lead investigators through multiple jurisdictions, as they seek witnesses, evidence, and suspects. Thus, pooling resources is a logical solution to the problem of investigating major crimes.

This article traces the formation and development of the Greater St. Louis Major Case

Squad and then discusses how the squad operates.

Formation and Development of the Squad

In 1965, a group of law enforcement officials from the St. Louis area met with Kansas City, MO, Police Chief Clarence M. Kelley. Kelley, who later became Director of the Federal Bureau of Investigation, had formed a special squad in the Kansas City region to handle serious crimes in areas that lacked the resources to conduct major investigations on their own. The Kansas City squad brought under one command the best investigative talent of all the area police jurisdictions.

Returning from Kansas City encouraged and enthusiastic, the St. Louis group subsequently formed what is now known as the Major Case Squad of the Greater St. Louis Area. The geographic areas covered include the City of St. Louis; St. Louis, Jefferson, Franklin and St. Charles Counties in Missouri; and Madison, St. Clair and Monroe Counties in Illinois. The squad is comprised of nearly 300 member officers from 76 police jurisdictions.

Since its formation in 1965, the Major Case Squad of Greater St. Louis has been requested to investigate 145 crimes—144 murders and 1 brutal case of rape—which represents the most cases investigated by any similar squad in the country. The squad also boasts an 87-percent clearance rate, a rate particularly significant in light of the fact that the squad tackles only those cases which are “wide open.” Also, the intensity of the squad’s investiga-

tions usually results in many other crimes being solved.

The squad does not investigate leads on crimes not related to its case, but turns over such information to the agency responsible for investigating those crimes. For purposes of jurisdiction, the State of Missouri has enacted a statute authorizing statewide police powers for any Major Case Squad officer working an active case. The State of Illinois has similar legislation covering personnel from the Greater St. Louis Major Case Squad.

Squad Administration

The Major Case Squad of the Greater St. Louis Area is governed by a Board of Directors comprised of representatives of the participating law enforcement agencies and non-law enforcement personnel who are appointed by the Board of Directors. This board determines all major policies and establishes all necessary principles and procedures of the squad. The board makes final decisions on personnel problems and goals of the membership. It also appoints various command and supervisory officers, screens applicants for membership and maintains the authority to appoint and remove members.

Membership

Membership in the squad is restricted to full-time, salaried, commissioned law enforcement officers, who belong to a participating law enforcement agency. Participating agencies are required to pay the regular salary of their officers “on loan” to the squad. Members of the Board of Directors and the highest ranking



Chief Layton



Colonel Lowery

commander of an agency (police chief or sheriff) may not be an investigative member of the squad.

Membership is predicated on knowledge of investigative techniques, ability to secure citizen cooperation, skill in report writing and willingness to function as a team member. Members may serve only with the knowledge and consent of the chief law enforcement officer of their agencies. Those selected must accept assignments as given, follow prescribed procedures and offer the same energy and enthusiasm to their Major Case Squad supervisor as they would their own.

Training

Members of the Major Case Squad are trained so that they will be able to handle any facet of an investigation. New members may possibly receive on-the-spot training, but will later be given training comparable to that provided others. Members are sent to seminars, and when possible, there is an annual retraining session which is attended by all participating agencies.

Supervision

An overall squad commander is in charge of the field officers of the Major Case Squad, and there are two Chief Deputy Commanders—one in Missouri and one in Illinois. Also, a number of Deputy Commanders from each State supervise the in-progress cases when they occur. A personnel officer and several deputy personnel officers keep abreast of current

and activated personnel. The personnel officers attempt to dispense the assignments so that all members, in turn, are activated for cases. In each case, a personnel officer and report officer will be assigned to assist the commander or deputy commander-in-charge of the investigation.

As previously stated, the supervisory officers are appointed by the Board of Directors. Other than the commander, the personnel officer, report officer, and all officers working on a case are assigned as investigators, regardless of rank or position within their departments.

The commander and deputy commanders of the Major Case Squad must be experienced detectives. They must be skilled in directing a criminal investigation and managing personnel. The commander or deputy commander of a particular case will be in complete charge of the investigation, in conjunction with the officer-in-charge from the requesting agency.

Activating the Squad

After obtaining all necessary and pertinent information from the requesting agency, the commander must get approval from four board members before activating the squad. He must then decide how many investigators to assign to the investigation and supervise the actual crime scene search. The commander is responsible for preserving and identifying evidence, directing the investigators, and ensuring that the crime scene is properly processed by identification personnel.

If a serious crime falls within the jurisdiction of a member agency and circumstances indicate that outside help is needed, a ranking officer of the member law enforcement agency must call the Major Case Squad Command Post and request assistance. After verifying the authenticity of the request and obtaining briefing information as to the nature of the crime, the command post officer will contact the Major Case Squad commander or deputy commander next in line to handle a case and furnish him with the information. He will then petition the board members to activate the squad. Any request for assistance from the squad must come as soon as possible after the requesting agency learns of the crime. Except under the most unusual circumstances, a request received more than 4 hours after the discovery of the crime will be sufficient grounds to withhold squad assistance.

The ranking officer of the law enforcement agency requesting the assistance of the Major Case Squad, or any full-time, salaried commissioned officer of that agency designated by him, will be the officer-in-charge of the investigation. However, his authority shall remain strictly over his usual jurisdiction and not over the Major Case Squad personnel. He will act as an advisor to the commander or deputy commander of the squad who, in turn, will keep the officer-in-charge fully informed of all plans, leads and results of the investigation.

Support

The requesting agency must provide maintenance and vehicle repair, including gas and oil, for officers working on the case. It must arrange for communication facilities and establish a liaison with criminal investigative laboratories, or other public or private firms, which can aid in the investigation. The requesting agency also must arrange and provide meals for the investigators.

A typical activation of the Major Case Squad is for a period of 5 days, unless unusual circumstances require the squad for a longer period of time. In that case, the squad commander will request a continuance from the Board of Directors. If granted, the continuance is usually on a day-to-day basis. The commander can operate with a full squad or a reduced squad at that time. At the end of the 5-day period, or at a time when the commander deems that all leads have been exhausted, the

In an effort to lessen the burden of the cooperating police departments, the personnel officer of the Major Case Squad will usually call only one investigator from each department being used in that particular case, although a maximum of two members may be requested from larger departments. Generally, officers activated for a particular investigation will number between 15–25. However, more have been used at times when, for example, the investigation covers a large area.

Resources and Equipment

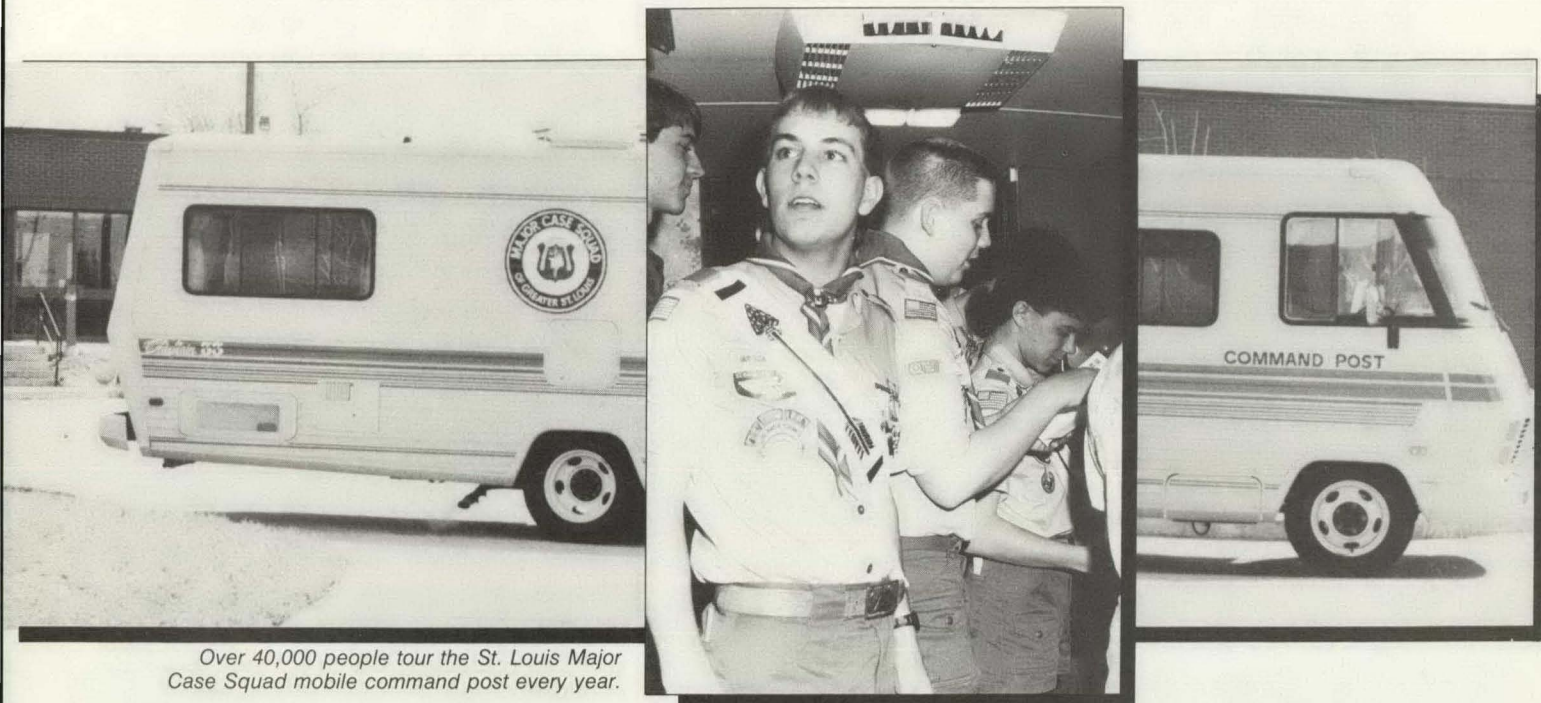
For the first 15 years of its existence, the Major Case Squad of Greater St. Louis operated largely without adequate quarters and equipment. Squad members had been forced to use their own equipment and sometimes their own vehicles to investigate cases.

In 1980, the Board of Directors initiated a campaign to enlist the support of civic and business

“
... law enforcement must develop effective cooperative strategies to keep pace with its responsibilities.
”

case will then revert back to the requesting agency. The report and all pertinent records will also be turned over to the agency. If new leads are later developed and those leads are going to require more manpower than the agency has at its disposal, the Board of Directors can be petitioned to reactivate the squad.

leaders of the St. Louis area to help the squad become more modern and professional. The squad began to acquire much-needed equipment, such as electric typewriters, audio/video recording gear, telephones, VHS radios and even a van which was converted into an office on wheels.



Over 40,000 people tour the St. Louis Major Case Squad mobile command post every year.

In 1984, plans were formulated to acquire a mobile command post vehicle for the squad. *Mobile* was the key word because the squad functions throughout an area of 4,500 square miles. A recreational vehicle dealers association promoted a program to gather funds to purchase such a vehicle. Subsequently, a 33-foot motor home was donated, which represented a significant benefit to the Major Case Squad. The vehicle was modified and converted into a mobile office and command post. It has an interview room and storage space for the squad's equipment. It is self-contained with an onboard water supply and electrical generating system, a furnace, air conditioning system and bathroom.

Finally, a field computer terminal was added to the recrea-

tional vehicle which formed a link with the entire region, as well as the National Crime Information Center (NCIC) network. The vehicle is displayed annually at the recreational vehicle show at the

“... pooling resources is a logical solution to the problem of investigating major crimes.”

convention center in St. Louis. More than 40,000 people tour the vehicle and talk with representatives of the squad. The visitors also learn more about the men and women who volunteer their time and efforts for the community.

The new mobile command post vehicle is more than a mere office on wheels. It serves as tangible evidence of the cooperation which exists between law enforcement and the civic and business community in the St. Louis area.

Conclusion

In this age of expanding responsibilities, mobile criminals and multijurisdictional areas, law enforcement must develop effective cooperative strategies to keep pace with its responsibilities. The St. Louis Area Major Case Squad represents a cooperative strategy—one geared to place the best equipment, resources and expertise available at the scene of a major crime. Such ventures require only the collective will of law enforcement leaders to take the first step—cooperation.

FBI

Maximizing Your Courtroom Testimony

What is the most crucial part of the criminal justice process? Obviously, this question could raise a myriad of answers. Some would argue the investigation; others, the apprehension of the suspect. My response is the testimony given in a court of law to secure a conviction. For no matter how much effort is expended in case preparation, the failure of the jury to believe the law enforcement witness can and will lead to a partial or total defeat.

In my career as a trial attorney and the presiding officer of many trials, distinct factors have influenced repeatedly the outcome of jury trials. Some variables the law enforcement witness has little or no control over, such as the conduct or abilities of counsel or rulings by the bench. However, there are other factors the witness can and must understand, and attempt to control, in order to provide maximum effectiveness in the courtroom.

Let's begin by examining the "typical" jury. In all probability, they have had little or no exposure to the criminal justice system. Much of their knowledge comes from a nebulous combination of

newspaper reporting, prime-time television, and what little they can comprehend from the pretrial instructions given by the court and counsel.

During the trial, the members of the jury try to make sense out of what may well be a confusing legal battle of both fact and wits between the prosecution and defense counsel. This usually happens during "high visibility" trials that generate extensive media coverage. In any case, jurors become quite sensitized to every aspect and implication of the trial.

Also, depending on the geographic location and socioeconomic status of the panel, disparate feelings toward law enforcement may exist even before any evidence is introduced. Therefore, it is your job as a witness to ensure that the facts presented tell a complete story and that your delivery of these facts make your testimony appear more credible.

ON THE STAND

The job of the law enforcement witness on the stand is to answer questions posed by the prosecution and the defense. It is how you react, as much as what

By
HON. B. MARC MOGIL, J.D.
*District Court Judge
Nassau County
Hempstead, NY*

“ ... how you react, as much as what you say, ... will greatly affect the outcome of the trial. ”



Judge Mogil

you say, that will greatly affect the outcome of the trial. Studies regarding courtroom psychology (aside from my own analysis and experience) point to several factors that play an important role in what the human mind consciously or unconsciously chooses to believe. These factors include general body language (both on and off the wit-

“

One of the most important and tangible courses of conduct ... is ... to maintain eye contact with someone constantly....

”

ness stand), eye contact with various parties and jurors, voice tone and general presentation, use of certain “trigger” words, defense mechanisms to vigorous cross-examination or even baiting, and the jury’s perception of memorized or scripted responses. Thus, certain suggestions may prove useful to law enforcement witnesses when testifying in court.

NONVERBAL COMMUNICATION

Body Language

Be conscious that there are certain cultural, and even universal signals, that you may be unintentionally sending out during testimony. For example, arms crossed in front of the body often suggest negative or contrary feelings. Or, putting a hand in front of your mouth, i.e., a repeated “cough” or an itch on the nose, convey that what is being said is contrary to one’s true feelings or even the truth. Therefore, a conscious effort at on-stand posture, not sending unwanted “messages,” may have a lasting effect on your case.

Eye Contact

One of the most important and tangible courses of conduct that can be undertaken is for the law enforcement officer to maintain eye contact with someone constantly—the court, the attorney, or the jury, one by one. Don’t look into your lap or off into the distance. Many jurors

have indicated to me at the end of the trial that they found a particular witness more credible because he or she “looked right at us.” But be careful on this point. What you perceive to be a polite glance may be deemed a rude gaze bordering on the evasive.

Voice and Tone

It would be highly naive and simplistic on my part to attempt to advise or instruct a peace officer to maintain a polite tone during courtroom appearances. Such conduct is assumed from a professional. Yet, some individuals often overlook the ability to use the voice to impart psychologically more than just facts.

Monotoned presentations are far less effective than presentations which contain variations in volume, speed of delivery, injection of polite smiles or scowls, as appropriate. So, too, are so-called “trigger” words which, although used out of nervousness or attempts to insure politeness, may convey evasive or uncertain responses.

Trigger Words

What are “trigger” words? They are words that trigger the jury to believe a response is less than definitive. For example, instead of answering a question with a clear “yes,” the witness begins with “I believe,” or “I’ll try to explain,” or “to the best of my recollection.” Skillful defense counsel will often ask questions of law enforcement officers almost to force sentences beginning with these phrases, because most are aware of the psychological implications. This is especially so if the exchange becomes heated, or if the government’s witness is in a position of being baited. It is in this type of exchange that the witness must be careful. Don’t deviate from what you intended to impart to the jury. Remember, it is not you against defense counsel, but you *with* the jury. Always. No exceptions. Getting even or attempting to “give back what you get” in a courtroom can be fatal.

Scripted Recitals

Perhaps the most useful observation one can offer a witness, especially one testifying for the prosecution in a criminal trial, is to know your facts so well that you do not need to remember in exact words the course of events being described. Nothing, and I mean nothing, will turn off a jury faster than their perception that the officer is being coached with a specific script of testimony. Every competent counsel will prepare witnesses thoroughly. However, that preparation should not include, or leave room to permit, absolute reliance on scripted legal jargon or “cop” talk. Excessive use of such verbiage will almost certainly cause jurors to believe they are being set up by someone

who is seeking to "sell" them on something that may not be as pat as would be believed.

Rely on your prosecutor, but be conscious that scripted testimony can be damaging. For example, not long ago in my courtroom, a police officer was asked to describe a disputed car chase which allegedly covered over 4 miles. The officer related the event in perhaps 3 minutes. Defense counsel then ceremoniously and slowly pulled from his attache case a transcript of a prior deposition on the same matter and quoted the same officer's testimony *verbatim*. He then ended his rather short cross-examination with the comment, "Nicely done, officer." Although he had not shaken the *substantive* testimony one iota, he had effectively destroyed the credibility of the officer with the now smiling and nodding jury. After the trial, the jurors commented to me that they believed the officer had rehearsed his testimony. They also believed that since he needed to memorize his version, then there must have been some flaw or fabrication in it. End of prosecution—a very rapid "not guilty" verdict.

CONCLUSION

Each time a law enforcement witness enters a courtroom is a challenge. It is fraught with danger to the prosecution's case, since it is always they who have to establish the burden of proof beyond a reasonable doubt. Thus, it is the thinking law enforcement officer, educated to the subtle tones of human nature and psychology in a courtroom, who will present the most compelling reason for ultimate success—the conviction of the guilty. **FBI**

Law Enforcement Officers Memorial

Ceremonies on the site of the future Law Enforcement Officers Memorial will mark the start of Police Week in Washington, DC. This is a time when communities throughout this Nation honor those law enforcement officers killed in the line of duty and those who continue to enforce the law and protect its freedom.

President John F. Kennedy recognized the dedicated and selfless efforts of police officers when he designated May 15th as Peace Officers Memorial Day and designated the week within which it falls as Police Week. His effort to pay tribute to all law enforcement officers will be taken one step further with the building of the Law Enforcement Officers Memorial.

The memorial will serve as a lasting tribute to all slain officers and will recognize the service and sacrifice of those who serve. The design will feature a polished granite wall bearing the names of fallen officers. Each year the list will grow as names are added.

Law enforcement personnel across the country have joined in the effort to raise funds for this memorial. FBI Director William S. Sessions and former Attorney General Edwin Meese took part in a radiothon at a local Washington, DC, radio station that raised \$52,000. FBI National Academy classes have pledged

their customary legacy to the memorial fund, and the FBINA Associates recently gave \$5,000. Through a payroll deduction drive, the New York City Patrolmen's Benevolent Association and the New York City Detectives Endowment Association raised over \$400,000 and \$60,000, respectively. In Maryland, law enforcement leaders devised a "Cop-to-Cop" plan where every officer donated \$10 to the fund or \$120,000, and \$5,000, surplus money from a reward offered for the apprehension and conviction of a "cop killer," was donated by the Los Angeles Police Protective League. A deputy sheriff individually contributed \$5,000 to the fund.

To date \$2.5 million has been raised by corporations, law enforcement groups, and over 220,000 individuals for construction of the memorial, which has an estimated completion cost of \$5 million. **FBI**





The FBI's National Stolen Art File

By
ALICE S. COLE
*Writer/Editor
Office of Public Affairs
Federal Bureau of Investigation
Washington, DC*

The FBI Laboratory in Washington, DC, received a phone call from the Phoenix FBI office. A local Phoenix law enforcement agency had recovered two paintings, and in an effort to find the rightful owner, a search was made through the FBI's computerized National Stolen Art File (NSAF). During the search, the computer matched the descriptions of the recovered art with descriptions of two paintings which were stolen from the Art Fund Gallery in Washington, DC.

The Phoenix Office was advised of the matches. With this

information, along with information developed during the case, FBI Agents arrested a 37-year-old man the next day in connection with the theft of these two paintings, worth approximately \$35,000. This is just one example in which the National Stolen Art File provided valuable information which lead to the recovery of stolen art.

Today, art theft is increasing at an alarming rate, resulting in great personal, cultural and monetary losses. Art theft creates a great historical and creative abyss and can also rob a country of its national pride. However, art theft



Far left: An FBI Laboratory examiner retrieves a laser video disc image from the photograph of a stolen painting and displays it on a screen for comparison purposes.

Left: A laser video disc image is prepared from a photograph of a stolen painting.

Even after art is stolen, several factors can obstruct its recovery. Owners of valuable art objects, for example, usually cannot supply law enforcement with an accurate description of their stolen art work. In addition, investigators, lacking knowledge about the art object's history or the artist, can hinder their own investigations. Art objects also, characteristically, carry no identification numbers, which would enable them to be traced back to

“
Today, art theft is increasing at an alarming rate....
”

the owners if found. Another problem in recovering stolen art objects is that in the past, only the reporting agency usually kept records of the stolen items. This allowed art thieves and dealers to freely criss-cross jurisdictions without being discovered.

Solution: The National Stolen Art File

To combat art theft and its personal, cultural and monetary losses, the FBI implemented the NSAF in the Laboratory Division in May 1979. The NSAF has evolved into a vast computerized index of both stolen and recovered

is also accompanied by realistic, tangible losses. Currently, approximately \$50 million worth of art work is stolen in the United States each year, and worldwide, over \$1 billion worth of art is stolen.

Recovering lost or stolen art works is a formidable task. To aid in this endeavor, the FBI established a computer system—The National Stolen Art File (NSAF)—to help law enforcement

agencies resolve this ever-increasing problem.

Problem: Art Theft

Today, many people are investing in art to protect themselves against inflation. However, many galleries and residences lack the necessary security measures to adequately protect their art objects. As a result, art has become even more appealing to the would-be art thief.

art reported by local law enforcement agencies. It consists of data and photographs of art objects in which origin and ownership is not known or in question.

However, in order to enter information regarding a particular art object into the NSAF, certain criteria must be met. First, only art which is a two- or three-dimensional object created by, or created under the direction of, an individual considered by the art community to be an artist or designer will be considered for search or entry into the system. Second, only paintings, prints, and sculpture valued at \$2,000 or more will be considered for an NSAF search or entry. Finally, inquiries into the system will be made only if requested by law enforcement agencies in support of a criminal investigation. The FBI cannot accept inquiries from private or commercial agencies in connection with civil matters.

The FBI's NSAF can provide valuable investigative assistance. However, the contributing agencies must verify all information and only they, or a court of law, should decide legal ownership.

NSAF: The Process

To take advantage of the NSAF, contributing law enforcement agencies must submit a photograph of the art object with a completed Stolen Art Data Sheet (FD-531) to the FBI Laboratory in Washington, DC. This form is available at all FBI field offices. As a matter of practice, all art objects, which come under the investigative control of law enforcement agencies or those in which ownership is questioned,

should be searched through the NSAF.

When the Stolen Art Data Sheet and photo arrive at the FBI Laboratory, the information on the data sheet is encoded into the NSAF computer. In this computer system, the art object is listed by the artist's name, by its title and by its description if the artist's and/or title is unknown. A search is also made through the recovered art file which is on an interfaced optical disk. The search will then retrieve images of art objects which can be viewed on a monitor.

“
**Currently,
approximately \$50
million worth of art
work is stolen in the
United States each
year....**
”

For example, when the FBI received the information from the Phoenix FBI office concerning the two recovered paintings, the information was first encoded into the NSAF computer system. The FBI then ran a search through the recovered art file, which is on an interfaced optical disc. In this case, the computer matched the descriptions of these two recovered paintings with two paintings previously reported stolen by the Art Fund Gallery in Washington, DC. Since these paintings were matched with the proper owner, the information regarding them was removed from

the NSAF and the Phoenix office was immediately notified.

However, if the computer had not matched these two paintings with any art objects already encoded into the system, the data would be placed in the recovered portion of the NSAF for future searches.

If a stolen art object is recovered, the law enforcement agencies should mark the "recovered" block of the Stolen Art Data Sheet and return it with a photograph to the FBI Laboratory. The art object will then be removed from the NSAF.

To keep the data up to date, the FBI Laboratory also validates this information once a year by sending computer listings to the contributing agencies. The agencies then update the information, if necessary, and return it to FBI Headquarters.

Conclusion

Currently, the FBI has nearly 5,000 art objects in the NSAF and intends to expand the NSAF's capabilities and to refine the coding procedures to improve the system's speed and accuracy. The National Stolen Art File can provide law enforcement with a valuable tool to combat art theft. And, the FBI welcomes your participation and any suggestions you may have to improve its effectiveness. Please direct your inquiries to:

National Stolen Art File
Laboratory Division
Document Section
FBIHQ
Washington, DC 20535
(202) 324-4434

FBI



The Aftermath of Line-of-Duty Death

By

SUZIE SAWYER

Executive Director

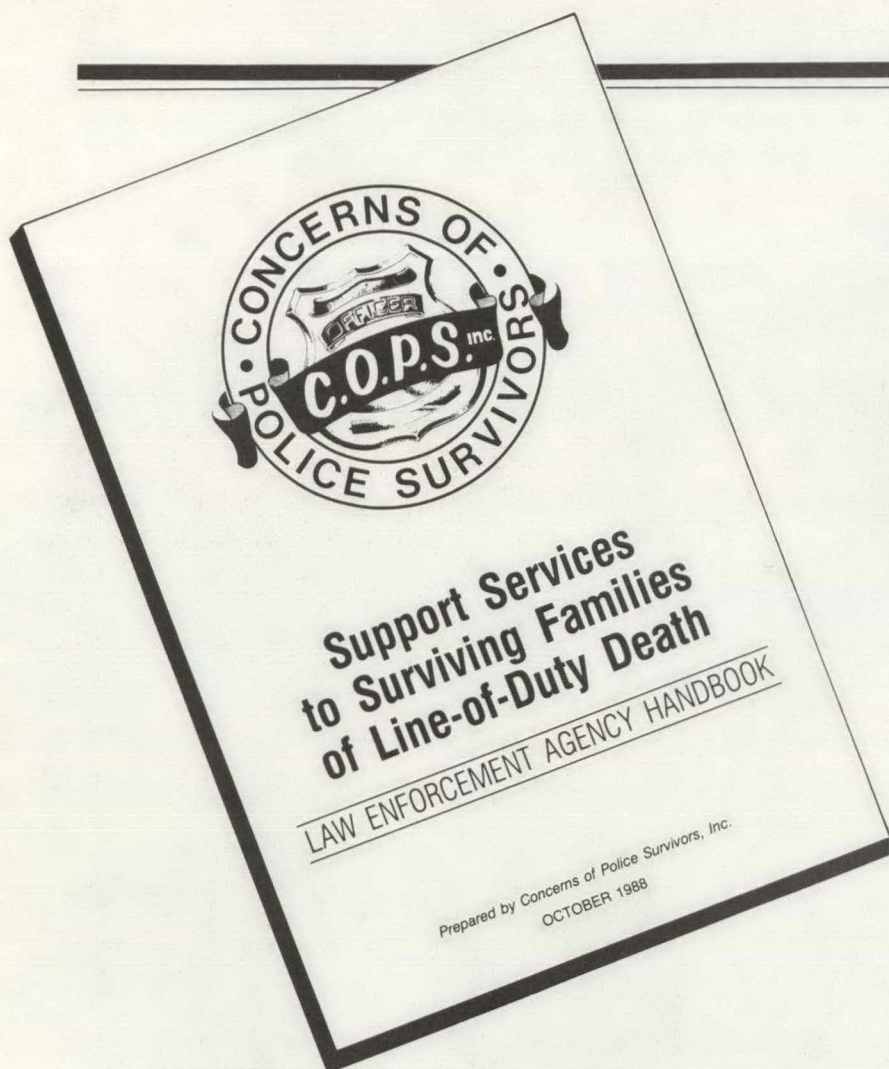
*Concerns of Police Survivors, Inc.
Brandywine, MD*

On May 14, 1983, 10 young widows gathered to talk about the tragedies that had enveloped them. Their life dreams were shattered the previous year when their police officer husbands had been killed in the line of duty. The initial meeting of this small group was the birth of Concerns of Police Survivors, Inc. (COPS), a national peer-support, self-help group

which focuses on the emotional and other support needs of law enforcement families, friends, and co-workers who have lost a loved one in the line of duty.

"The time we shared that day was the best thing that had happened in my life since Bob's [Officer Robert Bolton, Eau Claire, WI] death. We realized we all felt abandoned by our departments, had thoughts of suicide, and were terribly concerned with

how we could help our own children when we, too, were hurting so badly. A few of us had to battle for every benefit that was rightfully ours," stated Lynne Bolton BeBeau, who became COPS first president. She also noted, "We then approached the planners of the National Peace Officers' Memorial Day Service, the Fraternal Order of Police Ladies Auxiliary, with the idea of holding a grief



seminar for the other police survivors we were sure would join our ranks.”

Exactly 1 year later, approximately 110 police survivors from across the Nation attended the first National Police Survivors’ Seminar. During this 1-day event, survivors stated emphatically that they needed their own national organization to focus on areas of concern to their families. They wanted to make all law enforcement agencies aware of their needs. Specifically, these survivors stressed that continuing support for the surviving family was vitally important to their emo-

tional well-being. In this regard, they wanted departments to take a more-active role in securing benefits for the surviving family and in providing psychological counseling by mental health professionals. It was also important to them that the departments keep the memories of the fallen heroes alive and to see the surviving family members as valuable assets to the department and law enforcement as a whole.

In 1985, with a grant from the National Institute of Justice, COPS set out to do three things: 1) Survey survivors regarding their emotional reaction to the line-of-

duty death, to evaluate the department’s response, and to comment on areas that needed to be addressed; 2) survey law enforcement agencies that had an officer killed in the line of duty to measure their “preparedness” to handle such incidents; 3) transform COPS into a national organization to help surviving families. The

“

... (COPS) ... focuses on the emotional and other support needs of law enforcement families, friends, and co-workers who have lost a loved one in the line of duty.

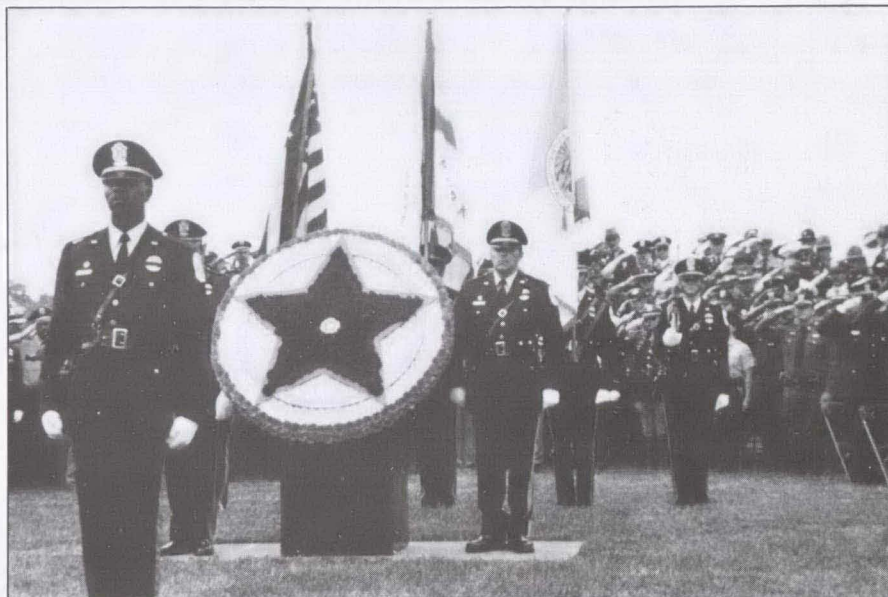
”

most powerful finding to come from the research was that a survivor’s level of distress is affected by the department’s response to the tragedy. Taking this statement and combining it with other research findings¹ and comments of the survivors themselves, a handbook was published for law enforcement agencies.

This handbook, “Support Services to Surviving Families of Line-of-Duty Death,” is invaluable to those agencies that need to revise or develop general orders addressing line-of-duty death. Sgt. Harvey Radney, Special Activities Section of the Chicago, IL, Police Department hailed it as “... a bible for law enforcement agencies faced with the awesome responsibility of this most delicate task.” Dep. Robert A. Fuller, coordinator of the Peer-Support Team of the Adams County, CO, Sheriff’s Office, noted, “After having

heard the COPS presentation at a conference, we set about educating our department on what needed to be done should such a tragedy ever occur in our department. Unfortunately, soon after issuing new general orders, one of our sergeants went down in a felonious action. We were so thankful that we had prepared for this tragedy. Using the handbook to develop our policy, we were able to avoid making terrible errors with the surviving family that could have seriously affected their recovery."

However, COPS' major activity since 1985 continues to be the National Police Survivors' Seminars held every May 13th and 14th, just prior to the National Peace Officers' Memorial Day Service in Washington, DC. Last year, 425 police survivors attended indepth sessions covering such topics as "Coping With Grief," "Grief and Addiction," and "Helping Children Cope With Grief," to name a few. One



reactions to an abnormal situation." The sessions are open not only to widows and widowers but also to surviving parents, siblings, children, significant others, and coworkers. The goal is to have participants return home with a better understanding of the grief process and the fact that time limits should not be set for their

before groups to inform them of the various pitfalls and shortcomings that many of them have experienced. Each of these presentations seeks to make departments aware of how important it is to be prepared to deal with a line-of-duty death.

This year, during National Police Week, survivors of over 160 law enforcement officers who made the supreme sacrifice for the law enforcement profession will gather in the Nation's Capital to attend the COPS seminars and the National Peace Officers' Memorial Day Service on May 15th. They will come to Washington, DC, wounded, hurt, and unable to understand the emotional traumas they are experiencing. Yet hopefully, when they leave the city, they will leave with a better understanding of the grief process, realizing they are not alone and knowing that there is support for them within the COPS organization.

FBI

“Surviving family members ... [seek] to make departments aware of how important it is to be prepared to deal with a line-of-duty death.”

awareness session, "Oh God, She's Forgetting Him," was directed to parents of fallen officers whose widows must go on with life.

At these seminars, police psychologists, grief specialists, drug/alcohol counselors, victim assistance professionals, and other mental health professionals are involved in making survivors aware that all their physical and emotional symptoms are "normal

recovery process. Another benefit is the lasting friendships that are established with those who are also contending with the sudden, often violent, death of a loved one.

COPS actively carries its message to all law enforcement organizations which are truly interested in making things better for the surviving families of law enforcement's fallen officers. Surviving family members speak

Footnote

Frances A. Stillman, Concerns of Police Survivors, Inc., "Line-of-Duty Deaths: Survivor and Department Responses," Grant 85-IJ-CX-0012, National Institute of Justice.

The Bulletin Reports

Murder Victimization

Newborn nonwhite males are nearly five times more likely to become murder victims during their lifetimes than the overall U.S. population, according to the FBI's Uniform Crime Reporting Program. Based on 1987 data, Americans overall have a 1 out of 177 chance of being murdered, while the probability is 1 of 38 for nonwhite males. White females are the least likely to become murder victims, 1 of 437 during the course of their lifetimes.

The probability of falling victim to murder remains relatively stable from birth through age 25, when the victimization rate peaks. At age 25, a person has a 1 out of 239 chance of murder victimization in the rest of his or her lifetime. By age 40, the remaining lifetime chance, if no distinction is made for race or sex, is 1 out of 453, substantially lower than at birth or at age 25. The probability of murder victimization continues to decline with age.

(Source: Press release, March 1989, Uniform Crime Reporting Program, Federal Bureau of Investigation, Washington, DC 20535)

State and Local Agencies Profiled

The Bureau of Justice Statistics (BJS) has issued a bulletin entitled "Profile of State and Local Law Enforcement Agencies—1987," which presents the findings of an extensive survey of the Nation's State and local law enforcement agencies. The data include the size of the populations served by the typical police or sheriff's department, their levels of employment and spending, their various functions, average salary levels for uniformed officers, and other matters relating to management and personnel.

The survey was based on a nationally representative sample of 3,054 law enforcement agencies in the United States, including all 49 State police agencies (Hawaii has no State agency), all local agencies with 135 or more sworn employees, and a sample of the remainder. The survey's response rate was 95 percent.

Major findings include:

- Sworn personnel in local police agencies were 85.4% white (non-Hispanic), 9.3% black, and 4.5% Hispanic; for sheriffs' departments, the proportions were 86.6% white, 8.3% black, and 4.3% Hispanic; for State police, 88.7% white, 6.5% black, and 3.8% Hispanic.

- An estimated 12.5% of the sworn employees in sheriffs'

departments were female, compared to 7.6% in local police agencies and 4.2% in State police agencies.

- About 24% of local police employees were civilians. In sheriffs' departments and State police agencies, this figure was even higher, about 32% in each.

- Local police agencies, sheriffs' departments, and State police agencies collectively employed 757,508 persons during fiscal year 1987 (including 555,364 sworn officers and had operating and capital expenses totaling more than \$28 billion.

- All State police agencies and almost all local police (99.7%) and sheriffs' departments (97.5%) with 135 or more sworn police personnel required new officer recruits to have at least a high school diploma. About 10% of State and local police agencies and about 6% of sheriffs' departments required at least some college education.

Copies of the bulletin may be obtained from the *Justice Statistics Clearinghouse, National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, 1-800-732-3277; Maryland and Washington, DC, metropolitan area callers: (301) 251-5500.*

COPS Handbook

With the assistance of several law enforcement officials and survivors of officers killed in the line of duty, Concerns of Police Survivors, Inc. (COPS), has published a handbook to assist law enforcement agencies and family members to deal with the trauma of such deaths. The handbook, "Support Services to Surviving Families of Line-of-Duty Death," addresses the many issues that besiege the families of slain officers and their agencies following the tragedy. COPS has developed specific guidelines that

cover not only the tangible procedural issues but also the intangible ones, such as emotional support and counseling. These guidelines can serve as a reference guide when handling survivors or may be used to develop or revise general orders addressing line-of-duty deaths.

The handbook is available free of charge, upon request. Inquiries should be directed to: *Concerns of Police Survivors, Inc., 16921 Croom Road, Brandywine, MD 20613, (301) 888-2264.*

Lack of Resources, Drug Epidemic, Hinder Police Efforts

A 2-year study by the Criminal Justice Section of the American Bar Association (ABA) found that the criminal justice system is "starved" for resources and that a lack of adequate funding, not constitutional safeguards, is hindering law enforcement. In the report, "Criminal Justice in Crisis," most criminal justice professionals surveyed identified lack of resources as the major obstacle to effective law enforcement. The report concludes, "As currently funded, the criminal justice system cannot provide the quality of justice that the public legitimately expects and that the people working within the system wish to deliver."

The study also warns that conventional law enforcement methods are not controlling the Nation's drug epidemic and calls for the development of new

national, State, and local strategies to combat drug abuse. The police, prosecutors, and judges have been unsuccessful in making a significant impact on the drug problem in the country, which is already severe and growing worse. Immediate action must be taken "... to rethink our strategies for dealing with drugs."

The information gathered in the study came from a review of major criminal justice studies, an extensive telephone survey of criminal justice professionals, and hearings conducted around the country with witnesses from all parts of the criminal justice system.

Copies of the study are available at no cost from the *American Bar Association, Order Fulfillment, 750 North Lake Shore Drive, Chicago, IL 60611, (312) 988-5555.*

Juvenile Justice

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) confronts the changing needs and problems of juveniles across the Nation by striving to reduce juvenile crime and improve the juvenile justice system. During fiscal year 1987, OJJDP implemented new procedures to ensure their activities were comprehensive and proactive. *Achievements and Challenges*, OJJDP's 1987 Annual Report, describes the Office's achievements in eight important areas: Drugs, serious juvenile crime, missing and exploited children, schools, families, juvenile gangs, improving the juvenile justice system, and formula grants. The report not only provides research results to practitioners and policymakers but also a comprehensive examination of OJJDP's activities, programs, services, and focus.

For more information, contact: *Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Washington, DC 20531* or the *Juvenile Justice Clearinghouse, 1-800-638-8736.*

The Bulletin Reports, a compendium of criminal justice studies, reports, and project findings, is edited by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin, Room 7659, J. Edgar Hoover Building, 10th & Penn. Ave., NW, Washington, DC 20535.* (NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

Police/Citizen Violence Reduction Project

By
JAMES J. FYFE, Ph.D.
*Professor and Chair
Department of Justice
Law and Society
The American University
Washington, DC*



Every day, police officers throughout the United States respond to calls that have the potential for violent encounters with citizens. The police usually deal with these situations skillfully; only on rare occasions do such confrontations result in injury or bloodshed.

Yet, potentially violent situations (PVs) are a "fact of life" for police officers. For this reason, the Metro-Dade Police Department (MDPD) commissioned the Police Foundation to conduct a police/citizen violence reduction project. This 2-year experiment attempted to:

- 1) Identify principles and techniques useful in averting and minimizing violence between police and citizens,
- 2) Build these principles and techniques into a training course, and
- 3) Evaluate the training course's effect on officers' conduct and what happened at PVs.

This article describes the project and summarizes its major findings and implications.

POTENTIALLY VIOLENT SITUATIONS

PVs are probably the most challenging and stressful aspect of policing. Officers must continually balance their emotions between constant preparation for an attack that never comes and risking injury caused by a lackadaisical approach. For example, they know that the vast majority of traffic violators never contemplate forcible resistance. Yet, every traffic stop has the potential for being a violent encounter.

Clearly, it is important that officers be highly skilled at resolving PVs. Poorly handled incidents can result in citizen and police injuries and death, in community distrust of police, in civil liability, and at the extreme, in riots that lead to further death and destruction. Unfortunately, in many police agencies, success in dealing with potential violence is treated as the result of a mystical sixth sense rather than as a professional skill that can be taught and learned. To verify this assertion, review a police department manual. If it is like most, it contains lengthy direction on how to complete a crime report, but says little about what to do when responding to a call reporting a bank robbery.

To Train or Not To Train

The most frequent excuse given for not attempting to better direct frontline officers is to say that no two police situations are precisely alike. To this, many add that it is virtually impossible to

prescribe principles that can be realistically applied in the field. Instead, this argument continues, the best way to prepare officers is to ask them to hurry to the scene, size up the situation as quickly as possible, and trust that experience and common sense will lead them to take the appropriate course of action. Unfortunately, split-second decisions are far more likely to be wrong than ones thought out. Consequently, officers' actions resulting from split-second decisions should not be judged harshly, if it is subsequently determined they were not the correct course to take. It would be unfair to do so, especially if such decisions were made without meaningful guidance.

The fact that no two situations are alike is true of much police work, but it is not *unique* to policing. Personnel in every emergency service must make quick, irreversible decisions about peoples' lives and safety while facing infinitely varying problems.

“Potentially violent situations are probably the most challenging and stressful aspect of policing.”



Dr. Fyfe

Yet, each service has developed training and tactics to cope with them. Further, police work itself provides a stunning example negating the "no-two-situations-are alike" argument. Consider law enforcement's success in developing and applying sophisticated procedures to hostage situations.

Another argument holds that time spent developing tactical principles and guidelines is time wasted, unless one can be assured that the product will be completely foolproof. Truly a naive argument. No profession has guidelines that absolutely guarantee the success of frontline decisions. Rather, established guidelines define professional standards and provide a means of accountability for field personnel. In short, other emergency service professions have enhanced their abilities by developing standards, thus making life safer and easier for their members.

The Project

The first step was to assemble a task force of veteran patrol officers, investigators, commanders, supervisors, community relations personnel, Special Response Team members, and trainers. Their task was to analyze police/citizen confrontations and attempt to develop guidelines to be used by officers when confronted with a potentially violent situation.

To begin, the task force focused their analysis on four stages:

- *Unassigned Patrol Time*, during which officers enjoy opportunities to learn about the people on their beats and about the places in which they are

likely to be sent to defuse potential violence.

- *Approach and Preparation*, the time span between which the officer becomes aware of PVs and the actual face-to-face confrontation with the citizen(s) involved.
- *Contact*, the point of actual confrontation and interaction with citizens, and
- *Resolution*, the eventual disposition of PVs.

“**There must be a proper balance between officers' respect for ... citizens and the need to employ appropriate violence-reduction tactics.**”

Individually, and as a group, members of the task force analyzed records of police/citizen encounters. They found that violence and citizen dissatisfaction were most frequent in four types of PVs:

- *Routine traffic stops*,
- *High-risk vehicle stops*, in which motorists are suspected of offenses other than traffic violations or driving while intoxicated,
- *Reports of suspected crimes in progress*, including field interrogations of suspicious persons, and
- *Disputes*.

Police Foundation observers then rode on patrol with a random sample of MDPD officers (the demonstration group) in three of the busiest patrol districts (referred to as "A," "B," and "C"). During 502, 8-hour tours, they recorded officers' and citizens' actions in 1,148 PVs. At the same time, an MDPD staff was designing an intensive 3-day role-play training program based on violence reduction skills and techniques previously identified.

After the demonstration group participated in this training, project observations resumed. Data were collected on 375 additional tours of duty of the demonstration group and their untrained colleagues (the control group), during which there were 994 more encounters. These data were then analyzed to identify training effects and any other findings with policy implications for the MDPD and for policing in general.

MAJOR FINDINGS

Police/Citizen Violence

The great majority of PVs studied involved neither violence nor the use of force by police. Attempts to assault officers occurred in 1 of 100 PVs. Assaults were most common when officers attempted to stop suspicious or wanted vehicles (6% of high-risk vehicle stops) or when officers encountered subjects at the scenes of reported crimes in progress (4%). Only 1 in 1,051 motorists attacked police physically during routine traffic stops. In only 12% of all encounters did police use force greater than firm voice commands, and no officer fired any shots during the 877-day observation period.

Injuries

Injuries were infrequent at PVs. Of the 10 officers sustaining injuries in the 2,142 events observed, 5 were hurt while responding to suspected crimes in progress (only 1 required hospital treatment). Most of the injuries suffered by citizens (40 injuries, 1 fatality) were inflicted by other parties to the disputes rather than by police.

Local Effects

Training effectiveness varied considerably among the three study districts. This can probably be attributed to differences in external working environments and managerial cultures.

In District A, the commander and supervisors encouraged a comparatively hardline style of policing. And, they made it known that they were skeptical of

the project and its goals. Subsequently, during training, District A officers refrained from volunteering for demonstrations, refused to do more than they had to, and increased their adherence to "the book." Although encouraged to become more familiar with their beats and to become better known to citizens, trained District A officers initiated fewer conversations with citizens and explored

MDPD Violence Reduction Training Program

The MDPD Violence Reduction Training Program evolved after a review of police-citizen confrontation cases. The review was conducted to determine what types of situations lead to citizen dissatisfaction and violence between citizens and the police. The review identified the following sources:

- 1) Routine Traffic Stops,
- 2) High-Risk and Felony Traffic Stops,
- 3) Neighbor Disputes,
- 4) In-Progress Burglaries,
- 5) Customer Disputes, and
- 6) Domestic Disputes

From this, the MDPD developed a training program to reduce violence between citizens and the police.

The violence reduction training program consists of six role-play exercises. Incorporated into these exercises are "decision points" identified during the case

review. This provides participants with the opportunity to decide what course of action to take. Each exercise can have various outcomes, depending in part on the officer's tactics and the appropriate application of interpersonal skills at critical points in the contact. In only one-half of the situations is deadly force a factor.

The 3-day program, which takes place at the department's "survival city" (a mock city street with six buildings), begins with a randomly selected group of officers participating in the exercises. The officers wear laser vests and use laser-system revolvers.

Professional actors portray citizens in these role-play scenarios. These actors are instructed to respond naturally to the officers' actions. Later, they provide feedback on their perceived treatment during the interaction. Frequently, these actors note that officers could have

treated them more as "a person," even though they handled the situation with technical and tactical correctness.

Trained staff members critique the officers from a tactical point of view. A careful balance between positive feedback and constructive criticism is maintained. During the critiques, terms such as "wrong," "incorrect," "inappropriate," etc., are avoided. Instead, emphasis is placed on the potential consequences of unprofessional behavior and on the alternatives that could have been used to reduce the likelihood of violence while resolving the situation.

The exercises are video taped to avoid officer/staff conflict over the way a particular incident was handled. The videos show the interpersonal skills and tactics used by the officers and allow for class discussion, and if appropriate, self-appraisal.

less often such off-street locations as parks, parking lots, commercial loading areas, and the interiors of major buildings. Conversely, trained District A officers closely followed the military-style tactics they had been encouraged to use in approaching PVs.

In District B, the most violent and crime-ridden of the study districts, the 3-day training program had mixed and insignificant results. In all probability, this was because the training failed to overcome officers' prevailing sentiment—their most important lessons are learned in the street, not in the classroom. This is not at all unusual in busy, inner-city police jurisdictions.

In District C, the most suburban, most prosperous, and least violent of the three districts, training was most effective in enhancing officers' use of unassigned time. Also, the commander and

Unassigned Patrol Time

One of the reasons training was effective in increasing District C officers' use of unassigned time is that there was much room for improvement, as there was in the other two districts. In nearly 46% of the tours observed, officers did not begin conversations with people who were not violators, suspects, or subjects of calls for service. Only 9% spoke to more than three such citizens during their workdays. Only one-half drove patrol cars beyond the curbs to inspect parks, parking lots, storage yards, and warehouse and factory loading areas. And, officers exited their cars in only 11 percent of these tours to learn about the interiors of large buildings or other premises on their beats.

If this operating style is also true nationwide, administrators should emphasize that information-

officers' conduct or police/citizen interaction. Far from disappointing, this finding is a tribute to MDPD's prior training programs. Officers observed in the study almost always handled contacts with citizens correctly long before this program began.

On the other hand, the data suggest that some officers were not assertive enough during potentially violent encounters with citizens. This study measured officers' efforts to defuse potential violence through activities that put potential adversaries in positions that precluded attacks on police. In crimes in progress, high-risk vehicle stops, and to a lesser degree, disputes, many officers tended to be underassertive in situations in which it was clearly appropriate to take charge.

There is no way to know whether or how much observers' presence may have inhibited or encouraged officers' assertiveness. Still, if this tendency is also true of officers in other departments, tactical and violence-reduction policies and training should be reviewed.

There must be a proper balance between officers' respect for the integrity and privacy of citizens and the need to employ appropriate violence-reduction tactics. Through departmental policy and training, officers should become aware that they will be held closely accountable for basing their actions on articulable information and for having taken reasonable steps to acquire such information. At the same time, because of policy and training,

“

... training can make quantifiable differences in the way officers deal with ... potential violence.

”

his staff encouraged this activity strongly. On the other hand, training had no measurable effect on approaches to PVs in District C. Officers had probably learned through experience that adhering to carefully prescribed tactics made little difference, given their comparatively mild work environment.

seeking activities have value beyond community relations. As the project task force suggested, police officers looking for a burglar in a large, darkened commercial building are at an advantage if they are already familiar with the layout.

Contact with Citizens in PVs

Generally, program training had little apparent effect on of-

officers should have no doubt that the issue of community relations is a secondary concern when they have articulable reason to believe that they are, or are about to be, in contact with dangerous people.

Resolving PVs

Program training had positive effects on the manner in which PVs were resolved. The training apparently increased officers' abilities to resolve disputes without making arrests for the frequent "contempt of cop" charge of disorderly conduct. In addition, trained officers who responded to reported crimes in progress remained calm more often than control officers.

False Alarms

False reports of burglary ranked second among potentially violent situations. This was a major problem in both Districts A and B, where more than 90 percent of all reports of burglaries were false alarms. In District C, 229 of 230 reports of burglary in progress involved defective equipment (220) or accidental trips (9).

Gender, Ethnicity, and Police/Citizen Violence

This study also examined questions related to gender and ethnicity. With one exception, there were no significant differences between male and female officers on any aspect of performance or responsiveness to training. The exception, however, is noteworthy. Male officers stopped female traffic violators about four times as often as female officers did. It is difficult to explain this disparity. There was no evidence

in the data that male officers unnecessarily stopped female drivers, nor was there any indication that female officers refrained from stopping female drivers who had committed traffic violations.

The study's major finding that relates to race and ethnicity deals with the civility of routine traffic stops, the most frequent

**“
... cautious
approaches to PVs
can reduce
injuries ... and
police/citizen friction
and violence.
”**

PV. Regardless of racial and ethnic pairings (white officer/black motorist, black officer/white motorist, etc.), interracial nonarrest traffic stops generally were twice as likely as intraracial ones to involve some degree of force. This most often consisted of only firm voice commands rather than actual physical contact. However, some force was used in nearly 1 in 5 nonarrest interracial vehicle stops, but in fewer than 1 in 10 stops involving officers of the same racial or ethnic groups.

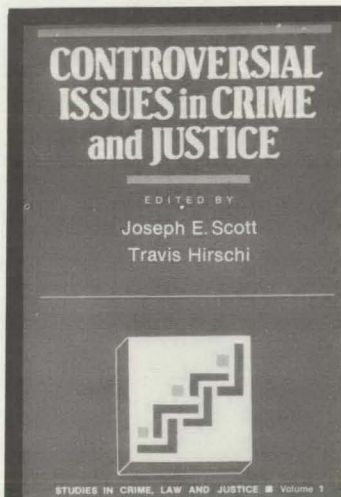
There are indications that officers' forcefulness was more often necessary and justified in interracial traffic stops than in intraracial ones. Overall, for example, about 1 in 10 motorists immediately complied with the officer's signal to pull to the side of the road. This is understandable

distracted and others hope the police are after someone else. However, when black officers in this study attempted to stop Hispanic violators, 3 in 10 either ignored the signal or claimed not to have noticed the lights and sirens. When this occurred, many of the black officers were forceful and commanding, rather than being merely persuasive, when interacting with Hispanic motorists. Similarly, black motorists stopped by white officers were "obviously annoyed and demeaning" or "openly hostile and disrespectful" four times as often as white traffic violators. Again, and regardless of the ethnic combination of those involved in the incident, motorists who started conversations with officers in demeaning or hostile tones typically generated police responses that were commanding and forceful rather than gentle and persuasive.

CONCLUSION

The data collected and analyzed in this project teach some real lessons. Probably most important is that training can make quantifiable differences in the way officers deal with the most challenging aspects of their work, especially in their approaches to potential violence. This is critical because more cautious approaches to PVs can reduce injuries to officers and to citizens and reduce police/citizen friction and violence.

FBI



Controversial Issues in Crime and Justice, Edited by Joseph E. Scott and Travis Hirschi, Sage Publications, Newbury Park, CA, 1988.

This book consists of a series of articles that examine issues for police, the courts, and corrections. The editors' stated purpose is not to present contrasting viewpoints, but rather to discuss the controversial issues with precision. From this point, the process of finding solutions can begin.

The first section of the book deals with three issues that impact on all three aspects of the criminal justice system: Medicare fraud, the relationship between pornography and rape, and organized crime. While each type of crime is discussed separately, there is an underlying theme that examines the relationships among who is a criminal, what con-

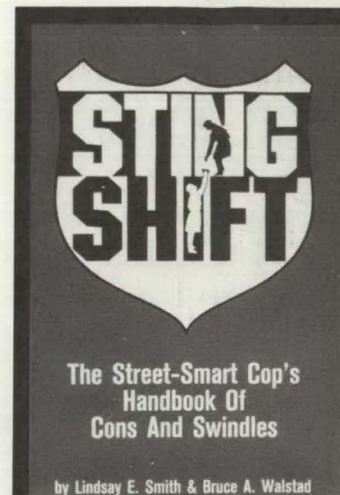
stitutes criminal activity, and how society encourages the growth of criminal activities.

Another section specifically addresses police shootings and the use of police sting operations to deal with stolen property. Each article examines police power and how managers may effectively regulate this power. For example, some may consider Klocker's article on sting operations to be controversial, but it clearly defines the issues involved with regard to the limits of proactive policing.

The two articles concerning the courts deal with the insanity defense and wrongful convictions. While the insanity defense is an issue that periodically raises havoc with our perception of fairness, wrongful convictions are a problem which goes directly to the heart of our American system of jurisprudence.

Each of the four remaining articles pertains to various aspects of corrections. Areas specifically addressed include prison overcrowding, alternatives to incarceration and selective incapacitation. While corrections issues are clearly enumerated, the authors do not offer any hope for major solutions in the near future.

Reviewed by
SA John C. LeDoux, Ed.D
Economic and Financial
Crimes Training Unit
FBI Academy
Quantico, VA



STING SHIFT: The Street-Smart Cop's Handbook of Cons and Swindles, by Lindsay E. Smith and Bruce A. Walstad, Street-Smart Communications, Littleton, CO, 1989.

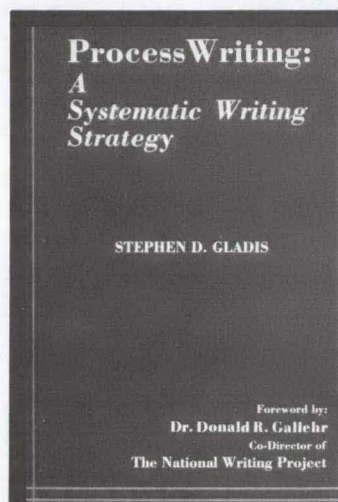
At one time or another, we have all fallen victim to a con—the crooked turn of a card, a simple bar trick, or the hawk of a “carny” to win the big teddy bear. Many of these cons seem relatively “harmless”; yet, many are devastating to those who have lost their life savings. The authors of this book intended to “provide general background information on con games, swindles and other forms of cheating.” They accomplished this by uncovering cons such as the “Endless Chain,” a simple bar scam which uses any closed chain; carnival gaffs; classical swindles like the “Pigeon Drop and Bank Examiner”; as well as ploys used by short-

change artists, pickpockets, Gypsies, fortune tellers and satanic cults.

STING SHIFT is a valuable guide to law enforcement officers investigating cons. Smith and Walstad lay the basic groundwork for understanding the "how and whys" of con artists. Chief John J. Millner, Elmhurst, IL, Police Department, noted in the foreword, "...this reference work can enhance the investigative abilities of an officer handling such incidents." After studying this guide, officers will be armed with the knowledge to interview victims and suspects intelligently. One caution, however, reading *STING SHIFT* will not transform the officer into an instant expert in cons and swindles. Officers need firsthand experience to fully understand the finer points of cons and scams.

With this book, and a little practical experience, law enforcement may be able to shift the "sting" from the victim to the con artist. However, as the authors point out, "...they are not conning themselves into thinking that this book, in the hands of law enforcement officials across the country, will make a serious dent in the cons and swindles that are going down everyday."

Reviewed by
SA Arthur R. Eberhart
Laboratory Division
FBI Headquarters
Washington, DC



ProcessWriting: A Systematic Writing Strategy, by Stephen D. Gladis, Human Resources Development Press, Inc., Amherst, MA, 1989.

Effective and successful writing has long been recognized as the cornerstone of effective communication; yet, the process of writing has been largely ignored and misunderstood. In law enforcement, for example, effective writing is inhibited by repeated events documented on preprinted forms that require little thought, imagination, or skill. In many ways, writing in law enforcement is an assumed skill that receives little attention in training but one that is frequently criticized because police officers are taught through experience to be somewhat mechanical and unemotional. In short, the *routine* of writing is its own worst enemy.

ProcessWriting: A Systematic Writing Strategy provides a realistic approach to writing that combines common sense princi-

ples with easily understood and applied tasks. It underscores the fundamental purpose of writing by defining it not as a task of repetition, but rather as a mental and physical process that can be used to immediately improve the technique and skill of those in educational, professional, and personal environments where writing is necessary and important. Effectively explored are the processes of collecting and connecting information, organizing notes, writing and revising a draft, and ensuring the writing is pertinent, concise, understandable, and readable. From the development of an idea to final editing, the book covers 10 steps, with each step building on the previous one, and each chapter ending with a self-help workshop consisting of writing objectives and exercises.

The author clearly understands and appreciates the diversity in individual skill and presents his work not in the abstract, but in a format that is flexible enough to be used individually or with instruction in recruit, inservice, and remedial training programs. The utility of this instruction might well rest in the notion that while writing in law enforcement is generally invisible to the public, its contribution to the overall effectiveness of an organization cannot be ignored.

Reviewed by
Capt. David P. Baker
Commander
Traffic Enforcement Branch
Special Operations Division
Metropolitan Police Department
Washington, DC

The Admissibility of Evidence Located in Searches by Private Persons

By
AUSTIN A. ANDERSEN
Special Agent
Legal Counsel Division
FBI Academy
Quantico, VA

Part I of this article discussed certain aspects of the so-called *Burdeau* rule,³⁷ which makes the fourth amendment inapplicable to searches conducted by private parties. Based on this constitutional immunity, the U.S. Supreme Court allowed evidence illegally obtained from the defendant in a search by private detectives to be used against him in a criminal prosecution. Following the *Burdeau* decision in 1921, frequent litigation concerning the limitations and scope of the rule has helped to define its parameters as follows:

- (1) If the private party does not seize and remove the evidence after an illegal entry, the police officer may not make a re-entry to retrieve the evidence absent a warrant or recognized exception to the warrant requirement;
- (2) A police officer who asks or orders a private person to

conduct a search makes that party an agent of the government and the resulting search one that is subject to the restraints of the fourth amendment; and

- (3) Care must be taken to avoid expanding a private party search beyond its original scope and exploring aspects of the privately seized evidence which retain legitimate privacy interests.

Part II of this article discusses court decisions that address the following three issues that relate to the original *Burdeau* rule: (1) Searches by nonpolice government employees, (2) the qualifications of a "private" party as opposed to an "official" person, and (3) the effect of the *Burdeau* rule on the illegal interception of communications by private parties.

Searches by Governmental Employees Who Are Not Police Officers

The issue of whether searches are private when made by public employees who are not law enforcement officers was confronted by the Supreme Court in *New Jersey v. T.L.O.*³⁸ When a New Jersey high school teacher discovered T.L.O. and another 14-year-old girl smoking cigarettes in the lavatory, the teacher brought them to the assistant principal, who questioned the girls and obtained a confession from T.L.O.'s companion, but not from T.L.O. The assistant principal invited T.L.O. into his office, where he demanded her purse. During the ensuing search, he found cigarettes, rolling paper, marijuana, a customer list, and a letter implicating T.L.O. in marijuana distribution. The State argued that the framers of the fourth amendment intended it to regulate searches and seizures carried out by law enforcement officers and not by other government employees. The Supreme Court disagreed, holding that the fourth amendment applies to all governmental action, including that of public school officials. The Court noted past decisions holding that building inspectors,³⁹ Occupational Safety and Health Act inspectors,⁴⁰ and firemen were subject to the fourth amendment.⁴¹

Having ruled that the search of T.L.O. by the assistant principal was governed by the fourth amendment, the Court next determined whether that search was reasonable. Using a balancing test which weighed the school children's legitimate expectation of privacy against the school's need

Special Agent Andersen

“**...government employees—whether they are police officers or not—are governed by the requirements of the fourth amendment.**”



to maintain an environment where learning can take place, the Court decided that neither a search warrant nor probable cause were required. Instead, the Court held that a search by a public school official will be justified upon a showing of “reasonable grounds” for suspecting the student of violating either the school rules or the criminal law. Additionally, the search must be conducted in a reasonable manner, judged by the totality of circumstances, to include the age and sex of the student and the intensiveness of the search.

In another recent Supreme Court case, *O'Connor v. Ortega*,⁴² a physician alleged his constitutional rights were violated by an unlawful search of his office by hospital officials in California. The physician, Dr. Ortega, was on administrative leave from the Napa State Hospital while an investigation was being conducted concerning allegations of sexual harassment, financial irregularities, and inappropriate disciplinary

action against a resident. While Dr. Ortega was absent, Dr. O'Connor arranged for a search by hospital personnel of Ortega's office, in which personal papers were located that were later used against him in an administrative hearing. The Court found that the workplace search by a State hospital administrator was governmental rather than private conduct. Despite the fact that privacy in some areas of the workplace may be diminished, the Court found there was a reasonable expectation of privacy in Dr. Ortega's desk and filing cabinet. However, the Court rejected as impractical a requirement for a warrant or probable cause to allow entry by an employer into such areas for a work-related purpose. Instead, workplace searches must satisfy the standard of reasonableness in terms of justification, scope, and methods used.

Justification for a third type of nonpolice search by government officials was articulated by the Supreme Court in *Griffin v.*

Wisconsin.⁴³ A probation officer searched the home of a probationer following the receipt of an uncorroborated police tip that the probationer had a weapon. The Court upheld the search, citing the special needs of the probation system as a rationale to dispense with the probable cause and warrant requirements and replace them with a reduced standard of "reasonable grounds" to search. An additional justification for this reduced standard is the distinction between the intentions of the police in investigating criminal activity and those of a probation officer who is often motivated by a concern for "the welfare of the probationer."⁴⁴

T.L.O., *O'Connor*, and *Griffin* confirm that all government employees — whether they are police officers or not — are governed by the requirements of the fourth amendment. These cases indicate, however, that the standard for testing the reasonableness

them. The scope of the search must also be logically related to the reasons for its initiation.⁴⁶ These Supreme Court cases suggest a compromise: Government employees who are not law enforcement officers cannot act as private parties when conducting searches and seizures; however, by complying with the reasonableness standard of the fourth amendment, they will be excepted from the general rule which invalidates searches conducted without a warrant.

Even though the Supreme Court ruled that the searches conducted in *T.L.O.*, *O'Connor*, and *Griffin* were governmental because the persons conducting the searches were public employees subject to fourth amendment guidelines, searches by employees of private organizations are considered private for purposes of the *Burdeau* rule. In *National Collegiate Athletic Association v. Tarkanian*,⁴⁷ the Court decided that

nization having quasi-public functions could, by engaging in conduct which would be unconstitutional if performed by an employee of the government, obtain evidence of criminal activity which would be admissible in court under the *Burdeau* rule as a product of a private party search.

Distinguishing Between Searches Conducted by Private Parties and Agents of the Government

The *Tarkanian* case illustrates the difficulty in deciding when a private party search becomes governmental in instances where the private party has in some respect assumed the role of the State by performing functions often associated with the government. It is evident that varying fact situations make predictability difficult in Supreme Court decisions which held that the State of Pennsylvania's conferral of a monopoly on a private corporation does not make it one which is acting under color of law;⁴⁸ a private physician, who contracted with a State prison to attend to inmates' medical needs, is a State actor;⁴⁹ and a public defender compensated by the State acts in a private capacity when representing a client in conflict with the State.⁵⁰ These rulings suggest that perhaps the most unsettled area of the law concerning private party searches involves the determination of who is and who is not a private party. As a general rule, privately motivated conduct by individuals such as bondsmen,⁵¹ store detectives, and other commercially retained security officials are excepted from fourth amendment coverage under the *Burdeau* rule.⁵²

“
... care must be taken to avoid
expanding a private party search beyond its
original scope....
”

of the search by a civil employee of the government can be less stringent than the standard for a law enforcement officer.⁴⁵ *T.L.O.* and *O'Connor* indicate that it is impractical for civilian governmental employees in the school and workplace to obtain warrants or develop probable cause and that the legality of such searches should depend on whether there are reasonable grounds to conduct

regulatory decisions made by employees of the National Collegiate Athletic Association (NCAA) were not governmental because: (1) The government was not the source of the NCAA rules, (2) the NCAA rules were never adopted by the government, and (3) membership in the NCAA was not mandatory. *Tarkanian* offers some support for the argument that employees of a large private orga-

However, legal commentators⁵³ and court decisions⁵⁴ suggest that the private search doctrine should not apply to the searches of private police who serve both the interests of their employer and the public. The security officer who routinely conducts searches for evidence differs from the private party engaged in a single searching incident because the former is likely to be deterred from illegal activity by the exclusionary rule while the latter is not. Factors which suggest fourth amendment application to private security officers are: (1) Obtaining criminal prosecutions as a deterrent to the theft or destruction of an employee's property,⁵⁵ (2) routine collection of evidence to be used by the police in criminal prosecutions,⁵⁶ (3) the assumption of peacekeeping duties to the exclusion of a regular police force,⁵⁷ and (4) laws or ordinances conferring special police status to security personnel.⁵⁸ Under any of the above situations, the admissibility of any evidence obtained as a result of a search by a security officer may depend on whether those searches violated the U.S. Constitution.⁵⁹

Another factor indicating the applicability of the fourth amendment to searches by privately employed security officers occurs when the employee is an off-duty police officer. In such cases, the courts assess whether the officer is in uniform, whether he retains the power of arrest if he uncovers wrongdoing, whether his police department considers him on call 24 hours a day, and whether the police department had any input concerning the private hiring.⁶⁰ In the final analysis, most courts hold that the fourth amendment applies

to the off-duty officer who is privately employed as a security official.⁶¹ This view is supported by the police officer's imputed knowledge of criminal procedure, as well as his continuing responsibility for peacekeeping in the community.

A final category involving the distinction between a searching

“

... a wrongful search or seizure conducted by a private party does not implicate the fourth amendment nor does it deprive the government of the right to use such evidence.

”

party's private or public identity is that of the government employee who conducts a search outside the scope of his employment. In a recent Kansas case,⁶² a U.S. Postal Service special delivery messenger opened a package entrusted to him for delivery because he suspected that it contained cocaine. His purpose for opening the package, however, was not to police the mail system but instead to satisfy his own urge to use the cocaine. After sampling the contents, the messenger decided to surrender the package and the unused portion of the cocaine to the FBI. It was argued successfully that this was a private search even though it was conducted by a Federal employee during work hours. The court reasoned that the messenger was acting outside the scope of his employment when he broke open the package for personal reasons rather than in fulfillment of any official duty.

Interception of Communications by Private Parties

In general, nonconsensual warrantless interceptions by both private parties and government agents have been made illegal by Federal legislation located at Title 18, U.S. Code, §§2510-2520. Section 2515 prohibits the use in evidence of the contents of any

communication illegally intercepted as follows:

“Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.”⁶³

Section 2515 clearly supersedes the *Burdeau* decision, insofar as that case might apply to private parties who illegally overhear communications.

An important exception, however, is contained in 18 U.S.C., Section 2511(2)(a)(i), which allows a limited type of private party search by employees of telephone companies:

"It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier ... to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is necessary incident to the rendition of his services or to the protection of the rights or property of the carrier of such communication: *provided* that said communication common carrier shall not utilize service observing or random monitoring except for mechanical or service quality control checks."⁶⁴

In cases involving the use of devices designed to avoid long distance telephone charges, the courts have generally found interceptions by telephone employees admissible in court, as long as they were not instigated by the police, were reasonably related to the services or property rights of

Although Federal law forbids the introduction as evidence of illegally intercepted wire or oral communications, one State court allowed such information to be used by police as a stepping stone in the development of probable cause. In *People v. Warner*,⁶⁷ a Lansing, MI, motel clerk connected an outside call to the defendant's room from her switchboard. Momentarily distracted by another event, the clerk left the line open and heard a voice say, "I've got drugs." When the police were notified, they stood outside the defendant's room, where they overheard drug-oriented conversation and sounds. They gained entry to the room and located sufficient evidence in plain view to establish probable cause for an arrest. The Michigan Court of Appeals held that the illegally monitored telephone conversation was not requested by the police and did not taint evidence located in the ensuing investigation.

however, as long as the private party's intrusion is self-motivated. The fruits of a private search may be delivered to the police in person or anonymously, or police may retrieve evidence from a private searcher if that individual has control or custody of the evidence and the retrieval will not intrude into an area where there is a reasonable expectation of privacy.

Officers must carefully avoid expanding the scope of an antecedent private search into areas where privacy interests may remain. It is clear, however, that on-site field tests can be conducted to determine if evidence is a controlled substance. Because of the divergence of opinion concerning whether police can conduct warrantless laboratory testing of evidence received from private party searches, it is recommended that a search warrant be obtained in instances where an expectation of privacy may remain in the evidence to be tested. An additional warrant is not needed, however, to conduct laboratory tests of evidence obtained by the police not from a private party but through other lawful means.

The fourth amendment is applicable not only to law enforcement officers but also to all employees of the government. The standard of reasonableness, however, for searches by civil authorities is reasonable grounds, a level of proof which appears to be virtually identical to reasonable suspicion. Although searches by such authorities are not held to the probable cause standard, it is advisable for government administrators to formulate written policy concerning inspections or searches in schools, hospitals, and

“
... **nonconsensual warrantless interceptions by both private parties and government agents have been made illegal by Federal legislation.** ...
”

the communications carrier, and were conducted in a manner that minimizes the intrusion upon privacy.⁶⁵ For example, the Court of Appeals for the Eighth Circuit found that it was reasonable for the Southwestern Bell Telephone Company in Little Rock, AR, to monitor only the first 1 or 2 minutes of each call to obtain the names of persons called by a subscriber believed to be using a "black box" to subvert toll billing.⁶⁶

Conclusion

To review, a wrongful search or seizure conducted by a private party does not implicate the fourth amendment nor does it deprive the government of the right to use such evidence. However, law enforcement officers cannot instigate or participate in such private searches, and they cannot stand by and observe an unlawful search while it is occurring. They may passively stand by a lawful search,

other public workspaces.⁶⁸ It is also recommended that security personnel who are off-duty police officers and privately employed individuals who perform some public function in the course of their corporate duties should consider adopting procedures that conform to the strictures of the fourth amendment.

FBI

Footnotes

³⁷*Burdeau v. McDowell*, 256 U.S. 465 (1921).

³⁸105 S.Ct. 733 (1985).

³⁹*Camara v. Municipal Court*, 387 U.S. 523 (1967).

⁴⁰*Marshall v. Baslow's Inc.*, 436 U.S. 307 (1978).

⁴¹*Michigan v. Tyler*, 436 U.S. 499 (1978).

⁴²107 S.Ct. 1442 (1987).

⁴³107 S.Ct. 3164 (1987).

⁴⁴*Id.* at 3169.

⁴⁵In their discussions of searches by government employees who are not law enforcement officers, the Court in the *T.L.O.*, *O'Connor*, and *Griffin* cases requires "reasonable grounds" (*T.L.O.*, 105 S.Ct. at 744; *O'Connor*, 107 S.Ct. at 1503; *Griffin*, 107 S.Ct. at 3164) to conduct a search that will not violate the reasonableness standard of the fourth amendment. In *T.L.O.* the Court refers to both "reasonable suspicion" (*T.L.O.*, 105 S.Ct. at 745) and "reasonable grounds" (*T.L.O.*, 105 S.Ct. at 744), implying that the standards are interchangeable. These cases do not explicitly state whether the burden of proof is higher or different for reasonable grounds than for reasonable suspicion. In *O'Connor*, however, there is an implication that the reasonable grounds standard for the civilian government search does not rise to the level of the reasonable suspicion standard commonly used by the police officer. (*O'Connor*, 107 S.Ct. at 1503.) It can be inferred from the above cases that the reasonable grounds standard is either equal to or lesser than the reasonable suspicion standard. It follows, then, that the law enforcement officer can safely adhere to the familiar standard of reasonable suspicion when evaluating evidence obtained as a result of a governmental search by government personnel who are not police officers.

⁴⁶*T.L.O.*, 105 S.Ct. at 740-43.

⁴⁷109 S.Ct. 454 (1988). After being suspended for violations of NCAA rules, Jerry Tarkanian, the basketball coach of the University of Nevada, Las Vegas, argued that the NCAA, an unincorporated association consisting of approximately 960 public and private universities and colleges, acts like a government when it imposes sanctions that affect member institutions' employees. If the association's actions are governmental in nature, then constitutional safeguards, due process rights in this case, should apply. The Court disagreed, holding that the suspension of a college

“ Officers must carefully avoid expanding the scope of an antecedent private search into areas where privacy interests may remain. ”

employee by the NCAA was neither "state action" nor was it performed under color of State law.

⁴⁸*Jackson v. Metropolitan Edison Co.*, 419 U.S. 345 (1975).

⁴⁹*West v. Atkins*, 101 L.Ed.2d 40 (1988).

⁵⁰*Polk County v. Dodson*, 454 U.S. 312 (1981).

⁵¹See Insp. Charles A. Donelan, "The Bondsman's Right to Arrest," *FBI Law Enforcement Bulletin*, December 1972, pp. 25-28.

⁵²Wayne R. LaFave, *Search and Seizure, A Treatise on the Fourth Amendment*, Second Edition, section 1.8(d), p. 198 [hereinafter cited as LaFave].

⁵³LaFave, p. 201.

⁵⁴See e.g., *State v. Keyser*, 369 A.2d 224 (1977).

⁵⁵See e.g., *People v. Zelinski*, 594 P.2d 1000 (1979).

⁵⁶LaFave, p. 201.

⁵⁷*Marsh v. Alabama*, 326 U.S. 501 (1946); *Amalgamated Food Employees Union v. Logan Valley Plaza*, 391 U.S. 308 (1968).

⁵⁸See e.g., *Alston v. United States*, 518 A.2d 439 (D.C. App. 1986).

⁵⁹In addition, it is always vital to consult applicable case law and State legislation concerning retail theft, bondsmen, private investigators, and security personnel, as regulations may vary widely from jurisdiction to jurisdiction. See *People v. Ornelas*, 253 Cal. Rptr. 165 (1988), for an instance in which a State law making a merchant holding a private party for arrest by the police a State actor is overruled because the California State constitution requires that questions about exclusion of evidence be resolved under Federal law (*Burdeau v. McDowell*).

⁶⁰See e.g., *Traver v. Meshriy*, 627 F.2d 934 (9th Cir. 1980).

⁶¹See e.g., *State v. Wilkerson*, 367 So.2d 319 (La. 1979); *People v. Smith*, 368 N.Y.S.2d 954 (1975); *State v. Muegge*, 360 S.E.2d 216 (W. Va. 1987); *Ex Parte Kennedy*, 486 So.2d 493 (Ala. 1986); *United States v. Dansberry*, 500 F.Supp. 140 (N.D. Ill. 1980). For minority view, see e.g., *Commonwealth v. Leone*, 435 N.E.2d 1036 (1982); *United States v. McGreevy*, 652 F.2d 849 (9th Cir. 1981).

⁶²*Smith v. United States*, 810 F.2d 969 (10th Cir. 1987).

⁶³18 U.S.C. §2515.

⁶⁴18 U.S.C. §2511(2)(a)(i).

⁶⁵See e.g., *United States v. Clegg*, 509 F.2d 605 (5th Cir. 1975); *People v. Mahoney*, 122 Cal. Rptr. 174 (1975); *United States v. Auler*, 539 F.2d 642 (7th Cir. 1976).

⁶⁶*United States v. Harvey*, 540 F.2d 1345 (1976).

⁶⁷237 N.W.2d 284 (Mich. Ct. App. 1975); see also, *United States v. Savage*, 564 F.2d 728 (5th Cir. 1977), for similar holding.

⁶⁸See Daniel L. Schofield, S.J.D., "Fourth Amendment Rights of Law Enforcement Employees Against Searches of Their Workspace," *FBI Law Enforcement Bulletin*, July 1987, for fourth amendment protection against searches of the workspace of public employees.

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.

Wanted by the FBI

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 1986

Pedro Luis Estrada,

also known as Pablo Estrada, Pedro Pistola Estrada, Pete Estrada, Pedro Epstrade, Pedro L. Estrade, Junior Rivera, Pablo Rivera, Pete Rivera, "Moe," "Pistola," and others.

W; born 11-17-63 (true date of birth); 11-11-62; Brooklyn, NY; 5'10" to 6"; 160 lbs; muscular bld; brn hair; brn eyes; light comp; occ-cab driver, construction worker, licensed professional fighter; remarks: May be wearing beard, goatee and mustache. He may be accompanied by his infant son and girlfriend, Desiree Morales. She is described as a white Hispanic female, born August 13, 1968, 5'4", Social Security Number Used 127-64-5262.

Wanted by FBI for INTERSTATE FLIGHT-MURDER

NCIC Classification:

PM0108PO121253TTCI14

Fingerprint Classification:

1	M	9	U	12
	M	18	R	t

I.O. 5060

Social Security Numbers Used:
091-64-3735; 091-54-2725; 091-64-3738;
091-54-3735

FBI No. 169 342 EA9

Caution

Estrada, a known drug dealer and a former professional fighter, is being sought in connection with a drug-related double murder in the Bronx, NY. Estrada is also wanted for questioning in another drug-related double murder in Brooklyn, NY. He may be armed with a .45-caliber machine gun and should be considered armed and extremely dangerous.



Left ring fingerprint



Photographs taken 1987

Glen Stewart Godwin,

also known as Michael Carmen, Glen Godwin, Glen S. Godwin, Dennis H. McWilliams, Dennis Harold McWilliams.

W; born 6-26-58 (true date of birth); 7-6-46; Miami, FL; 6'; 170 lbs; med bld; blk hair; green eyes; med comp; occ-self-employed in a tool supply business, mechanic, construction worker; remarks: Godwin may be accompanied by his wife, Shelly Rose Deleeuw Godwin, white female, born 6-8-64, in Lebanon, OR, 5'6", 135 lbs, brn hair, brn eyes, Social Security Number Used: 531-64-7807. Shelly Godwin is also wanted by law enforcement authorities. Glen Godwin is wanted by FBI for INTERSTATE FLIGHT-MURDER; ESCAPE

NCIC Classification:

16051106061456090605

Fingerprint Classification:

16	M	1	U	IOI	6
	M	1	R	III	

I.O. 5055

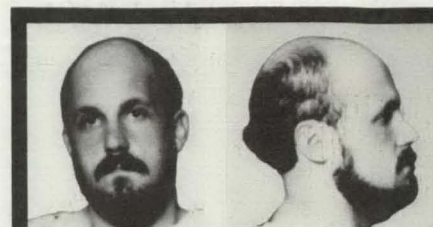
Social Security Number Used: 556-04-0624
FBI No. 167 296 HAO

Caution

Godwin, who is being sought as a prison escapee, was at the time of escape serving a lengthy sentence for murder. He is believed to be armed with handguns and a .9 millimeter rifle. Consider Godwin armed, dangerous, a drug user, and an escape risk.



Right index fingerprint



Photographs taken 1986

John Paul Aleshe,

also known as John Aleshe, John N. Aleshe, John P. Aleshe, John Aleshi, John Paul Aleshi, John Alushi.

W; born 5-27-58; Las Vegas, NV; 5'11" to 6'; 190 to 230 lbs; med bld; blk (balding) hair; brn eyes; light comp; occ-computer software expert; remarks: He has been involved in numerous schemes to defraud computer companies of software and hardware. He may have lost weight and may be using a toupee to cover his baldness. scars and marks: Left index finger amputated.

Wanted by FBI for INTERSTATE FLIGHT-ATTEMPTED CAPITAL MURDER

NCIC Classification:

16PI08121008XX090411

Fingerprint Classification:

16	M	17	W	III	10	Ref:	17
	S	3	W	III			1

I.O. 5061

Social Security Numbers Used:
530-40-0957; 446-68-9568; 449-68-3142
FBI No. 735 538 W5

Caution

Aleshe is being sought in connection with the attempted capital murder of a police officer. In addition, he is wanted by local Texas authorities for possession of controlled substances, theft of property, and theft of computer software, and in Colorado for unlawful issuance of bad checks. Consider armed and extremely dangerous.



Right ring fingerprint

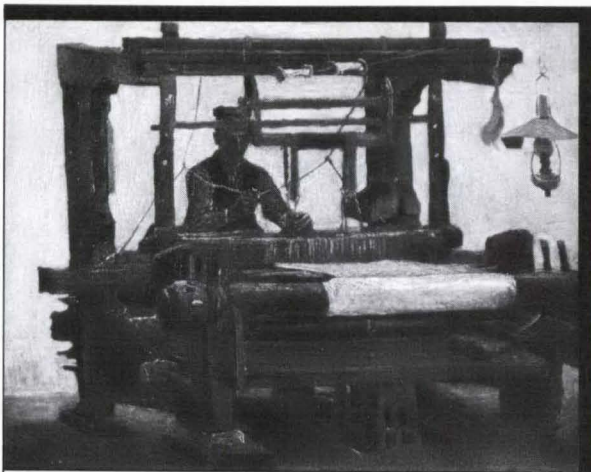
Major Art Theft

On December 12, 1988, three Vincent Van Gogh paintings were stolen from the Kroeller-Mueller Museum in Otterlo, The Netherlands. The stolen paintings are titled "The Potato Eaters," "Dried Sunflowers," and "Weaver's Interior."

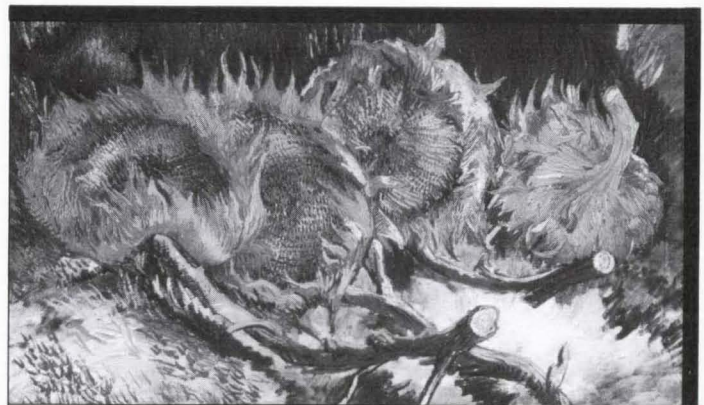
Any information concerning this theft should be directed to the FBI, Brooklyn-Queens, NY, telephone (718) 459-3140 or FTS 661-1590. Refer to their file number 87A-87049. You may also contact the National Stolen Art File, FBI Laboratory, Washington, DC, telephone (202) 324-4434 or FTS 324-4434.



The Potato Eaters



Weaver's Interior



Dried Sunflowers

Washington, D.C. 20535

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

The Bulletin Notes

Det. Richard A. Kaufman of the Nassau County, NY, Police Department and his partner were transporting a prisoner when they came upon the scene of an automobile accident. While his partner secured the police car and prisoner, Detective Kaufman radioed for help and began attempts to rescue the two occupants from the burning vehicle.

Although the driver, a 20-year-old male, was pinned by the wreckage, Detective Kaufman was able to pull him far enough out of the vehicle to prevent him from suffocating from the smoke. Detective Kaufman then broke out the rear window of the automobile and crawled inside to dislodge the unconscious passenger, an 18-year-old female,



who was trapped under the dashboard. After dragging the young woman from the car, Detective Kaufman renewed his attempts to free the driver, whose legs were now beginning to

burn. The driver was eventually freed by volunteer firemen who arrived at the scene.

Detective Kaufman suffered cuts on his hands and was also treated for smoke inhalation at a local hospital. Although the driver and the passenger received serious injuries, they are both alive and recovering as

a result of Detective Kaufman's heroic actions. The *Bulletin* is pleased to join in recognizing Detective Kaufman's courageous and life-saving actions.