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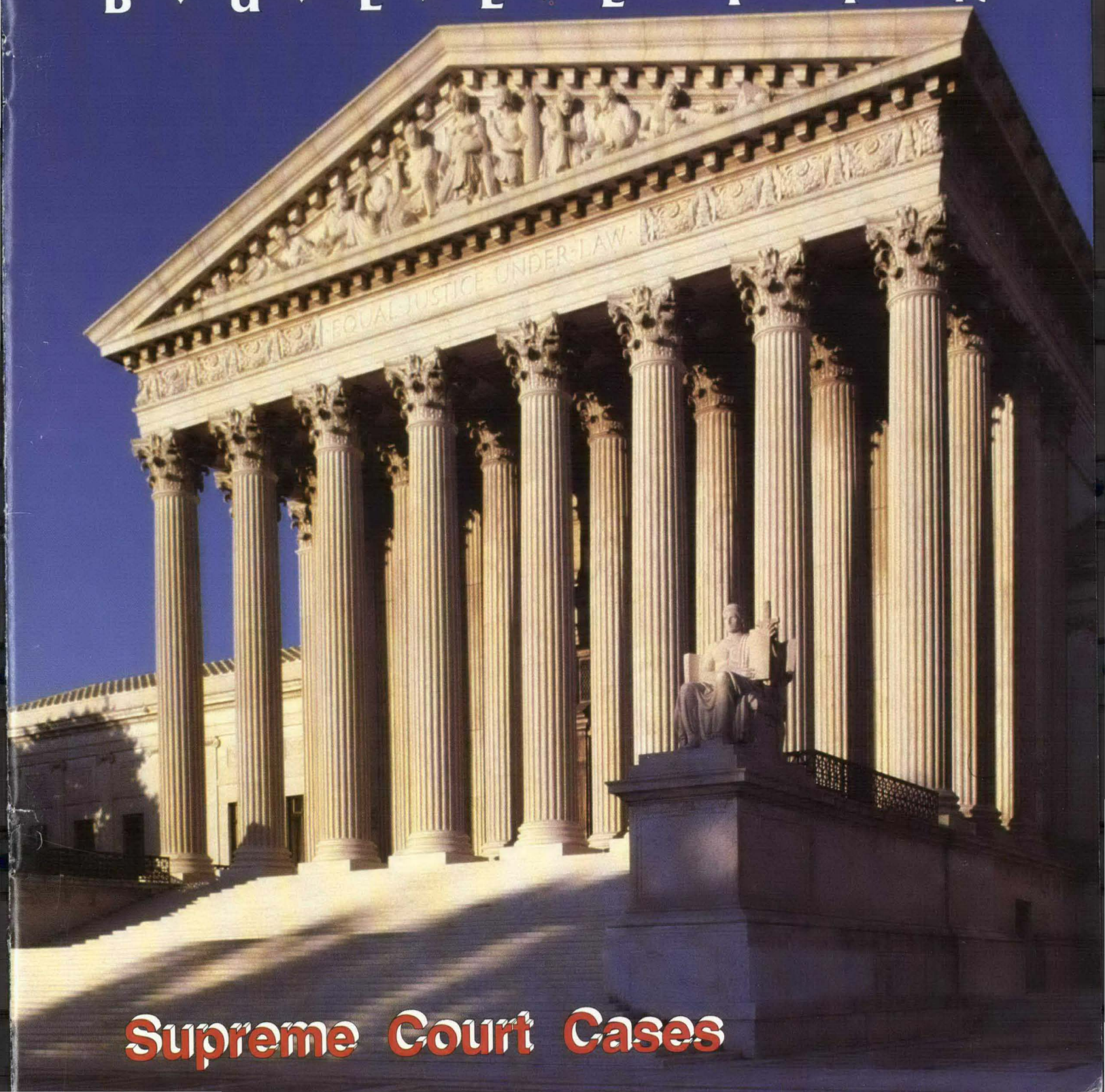

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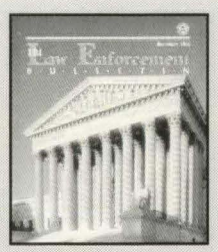

On the Cover: During the 1991-1992 term, the U.S. Supreme Court handed down several decisions of particular interest to law enforcement. See article p. 25. (Cover photo © Pete Saloutos, 1992, Tony Stone Worldwide.)

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Service Quality in Policing

By
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and
LAURIE A. FITZGERALD, Ph.D.

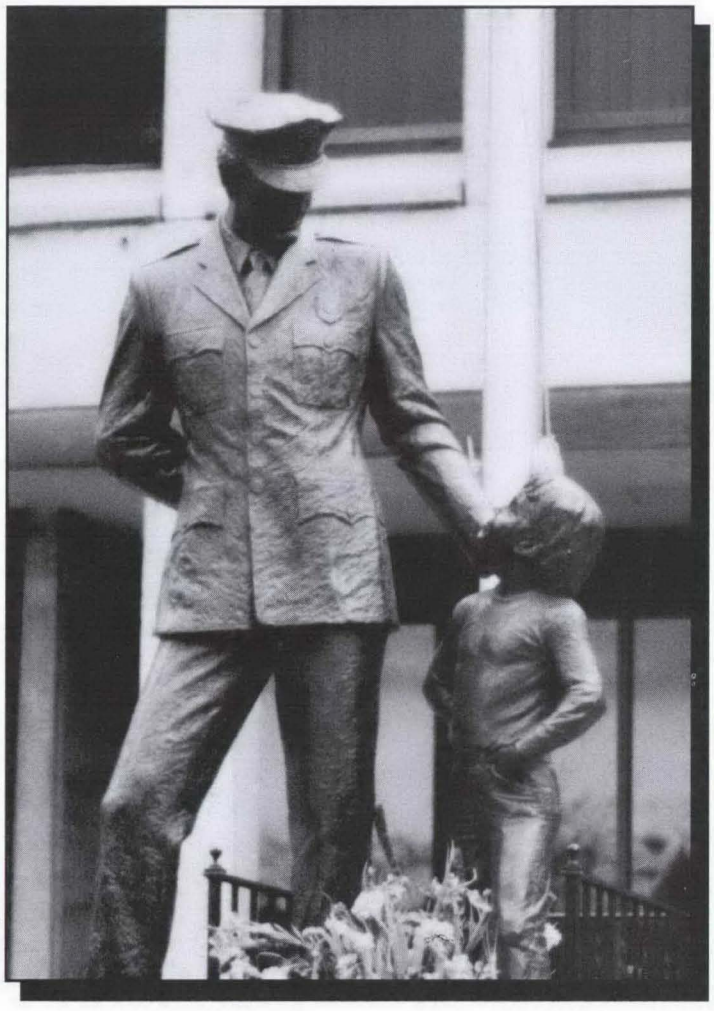


Photo by David J. Redding

A litany of reasons exists as to why government agencies do not enjoy a positive reputation for providing products and services. The lack of profit motive, which takes away the incentive to do any more than is necessary, is one reason given. Others include the absence of competition, which would inspire service quality and the efficient use of resources, or the belief that government agencies deal only with citizens, not real customers.

Indeed, until recently, government did enjoy the special status of being a monopoly and operated as the only game in town. Because of this, such concepts as profit, competition, customers, quality, or even the thought of going out of business did not seem to apply. Then came the quality revolution.

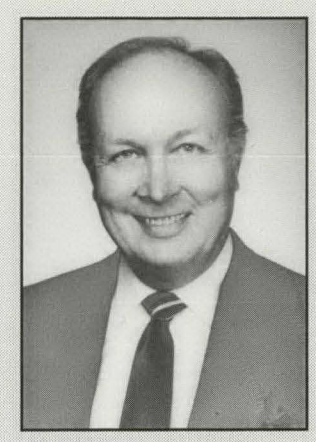
Since the early 1980s, a fervor for creating superior quality in both products and services has been spreading across the United States. Every form of organization, from multinational conglomerates to mom-and-pop shops, feels pressure to respond to the demands of a more articulate, knowledgeable, and increasingly unforgiving consumer.

Even the public sector, which thought itself to be invulnerable, faces the realities of a new and demanding marketplace. More and more, government agencies recognize that their constituents wield enormous power. Today, government suffers from a loss of respect and credibility, lack of financial support, and intolerance for error.

The Move Toward Service Quality

In 1987, a Presidential mandate directed every agency in the Federal Government to look for ways to improve the quality of products and services. Since then, several Federal agencies, including the Air Force Logistics Command and the Internal Revenue Service, have made enormous strides toward improving their operations.

State agencies, as well as those in large and small municipalities,[1] also contributed to the momentum for a startling transformation in how



Chief Galloway heads the Brighton, Colorado, Police Department.

Dr. Fitzgerald is a senior consultant for an international organizational design firm in Denver, Colorado.

government conducts its business. Slowly but surely, government joined its peers in private industry in the quality service movement.

As numerous local, State, and Federal organizations moved toward quality service, law enforcement was conspicuous by its absence. To date, few, if any, examples of innovative approaches to the improvement of the quality of police services are known, and those that have taken place haven't received wide exposure. Yet, there are certain steps that police agencies can take to start the process of quality improvement in police work.

The Police and Service Quality

There is little doubt that citizens' expectations of law enforcement services have changed. The public is no longer satisfied with what had been quite acceptable in the past—a modicum of protection from the criminal element in society.

Traditionally, the standard police motto "To serve and to protect" placed emphasis on the latter duty. Today, citizens expect far more of police agencies than simply the delivery of protective services.

Although protection is clearly a "must have" for most law-abiding citizens, there are a considerable number of items on the "nice to have" list, such as professional police behavior, respectful treatment, maintenance of human dignity, responsiveness, and value added to life. In addition, not only do the increasingly sophisticated taxpayers want to be treated well, but they also insist on maximum effectiveness and efficiency in the use of police resources.

An Approach to Service Quality

Most police administrators are aware of these higher-order expectations. They also recognize that if these expectations are to be met, police agencies must shift their frame of reference from social regulation and enforcing the law to the more subtle aspects of social facilitation. But what is lacking is an effective, expedient, and practical way to bring about this shift. One vehicle that can be used to reach this desired destination is total service quality (TSQ).

TSQ represents a fundamental change in how business is done and how resources are deployed. Once implemented, its only expense is the cost of routine operations.

But TSQ is also a "profit" generator. If implemented correctly, TSQ can identify cost-saving measures early.

TSQ: A Strategic Tool

TSQ is neither tactical nor programmatic. Rather, it is a strategic tool for establishing a new harmony between the intentions and operations of the police and the expectations and requirements of the public. In short, TSQ represents a new way of doing police work.

For TSQ to work, the values, roles, motivations, rewards, and intricate network of relationships that comprise law enforcement must be systematically and strategically transformed. TSQ represents a philosophy and a common set of beliefs and values designed to improve the success of a police department in satisfying the needs and expectations of the community. Furthermore, it is a system-wide determination to do everything administratively, technically, and interpersonally right the first time.

To understand total service quality, it is necessary to examine what each word represents to the overall strategy. "Total" means that each and every one of the department's members, regardless of rank, tenure, or status, is an active and willing participant in the delivery of superior quality services. It

also signifies a full commitment to customer satisfaction, which should be the top priority of the department.

The meaning of "service" in this context is customer-driven performance rather than the more common connotation of servitude. Karl Albrecht and Ron Zemke, experts in the art of science and service management, suggest that there are several "special realities" of service to consider in order to serve customers correctly.[2] Some of the more pertinent realities are found in table 1.

"Quality" is recognized as the antithesis of waste and errors, which places the greatest drain on police resources. Statisticians estimate that in the public sector, 30-45% of every budget dollar is virtually thrown away.[3] However, when a department enlists everyone in the war on waste, when everyone commits 100% of their efforts to error-free performance, monies otherwise expended on operational inefficiencies, internal investigations, and grievances and complaints, to name just a few examples, are freed up for use elsewhere. This equates to profit. Although public service agencies do not traditionally think in terms of profit, TSQ is a sound economic practice.

Service Quality Quotient

There are two critical factors in the quality quotient ($TSQ = Q_f \times Q_p$).[4] Q_f (quality in fact) is the degree to which a service is determined to be both efficient and effective. This determination is normally made by the supplier of the service. Q_p (quality in perception) is the degree to which the customer experiences satisfaction with the service provided. Because satisfaction depends on the customer's personal experience, only the customer is qualified to judge whether this aspect of quality exists.

If the customer does not experience satisfaction, then the service cannot be judged as having quality, regardless of the supplier's opinion. Even though customers may be incorrect about the facts, and they often are, only they can judge their level of satisfaction with the service. Therefore, when customers claim dissatisfaction, their reports must be accepted as the truth. For example, when a citizen registers an "attitude complaint" (an objection not to receiving a ticket but to the treatment received from the issuing officer), saying "I just didn't like the way the officer spoke to me," this customer's dissatisfaction with the service rendered is completely valid.

> ***"TSQ represents a fundamental change in how business is done and how resources are deployed."***

The relationship between the supplier's objective assessment of the quality and the customer's highly subjective appraisal of the degree of satisfaction experienced from the service are inseparable. Unless both are present, the service cannot be considered to have true quality. As intricately related as the two are, in the final analysis, the weight of judgment rests on the latter.

In police work, a particular task can be carried out with utmost precision and still fail to satisfy the recipient. As a consequence, the recipient forms a negative perception not only of the attending officer but also of the entire department, and perhaps even the profession. In such instances, total service quality has not been achieved. The objective of TSQ is to manage the customer's experience by efficiently and effectively satisfying real needs in order to develop a shared perception in the community that police officers are high-quality, value-adding service providers.

Making Service Quality a Way of Life

If TSQ is to become a way of life in a police department, three essential sources of support—technology, leadership, and design—must be ensured during implementation. An effective way to visualize these three essential sources of support for TSQ is to imagine an old-fashioned milking stool which, if properly constructed, can hold an amount of weight many times its own, although it has only three legs. However, if any one of these legs is weak or improperly placed, the stool collapses.

If TSQ is to have a chance of becoming "the way we do things around here" in a law enforcement agency, the three "legs" of technology, leadership, and design must be in place, and be equally strong. Technology, the first "leg" of TSQ, is the complete set of tools, techniques, skills, knowledge, and methods that together make it possible for service of the highest quality to be delivered to the customer. The importance of technology cannot be underestimated. Fortunately, it exists in abundance as a product of

scientific advancements made during the last decade.

The second "leg" of support is leadership. Unless people with power within the agency are willing to be evangelists directing the way toward police service quality, any attempt to eliminate "enforcement" attitudes and replace them with "service" commitments will fail. In other words, unless the people who control the resources and make the decisions within departments are totally committed to make TSQ a reality, it will never happen.

Leaders in successful TSQ transitions consistently display an almost religious zeal when it comes to quality and excellent service. They recognize that change will be difficult and that not everyone in their command will embrace it with enthusiasm. This is simply because many will need to learn how to see the job and themselves in a new and unfamiliar way. Therefore, strong and courageous leadership that is compassionate but firm in the commitment to TSQ is required.

The last, and perhaps the least appreciated, of the three "legs" in the realization of TSQ is design. The design of the organizational infrastructure—the network of people, facilities, systems, and information—that supports great service is paramount. A basic premise of design is that all organizations are perfectly designed to produce results. When the results are less than satisfactory, nothing less than an improvement in the design will produce more acceptable results. Attempts to change the results without addressing the underlying structures that generate them will be futile.

For example, the issue of steady depersonalization of the relationship between the police and the community continues to plague many metropolitan departments. The classic "answer" to the problem of alienation has been the adoption of public relations strategies. Unfortunately, this solution focuses more on eliminating the symptoms than on redesigning the underlying structure that gives rise to them. If the underlying structure is examined and treated, the problem could be eliminated.

Table 1
Realities of Service Work

- A service is produced and consumed at the moment of delivery. It can't be manufactured in advance.
- Service is delivered through the medium of human interaction; therefore, the customer is a co-producer.
- Service is produced wherever the customer is and delivered by people who are beyond the immediate control and influence of management.
- Providing service is emotional labor, not physical. Emotional "strength" is ever-more important than brawn.
- The quality and value of service are internal to the customer's personal experience. The customer, not the supplier, is the final judge of both.
- If the service is not performed properly, it cannot be "recalled." Reparations or apologies are the only means of recovery.

TSQ and the Brighton Police Department

When the transformation of the Brighton Police Department began in late 1985, TSQ was an unknown entity. Today, it is the way this police agency conducts its business.

By the mid-1980s, the police department had fallen out of favor with the town's citizens. Complaints were up, and officer morale was down. A lack of confidence in the police department resulted in strained police-community relations and a poor public image.

After a systematic assessment that involved gathering a mass of data through interviews and direct observation of street officers and supervisors as they conducted their routine activities, three primary causal issues became apparent. These issues were: 1) The department's flawed "world view" about people and police work that its officers felt compelled to adopt,

2) insufficient interpersonal communication skills, and 3) pervasive low self-esteem among officers that was exacerbated by the low regard in which they were held by the community.

After a thorough analysis of the findings and lengthy discussions of available alternatives, department administrators agreed that treating the symptoms while ignoring the problem would be futile. Therefore, they adopted a plan of action that targeted the following objectives:

1) To create a service mission that would pervade the department's culture

2) To develop and strengthen interpersonal communication skills of all personnel, and

3) To build the self-esteem and self-confidence of patrol officers to improve behavioral flexibility and tolerance in dealing with others.

Such changes in the culture maximized the gains made.

Adjusting the Police "World View"

The creation of a service mission called for a profound change in the existing world view. Policies were established that, although not popular at first, required the staff to look at their jobs differently. For example, if the service mission was to become a reality, the staff had to become experts in customer service.

To this end, the police agency initiated an ongoing training effort that systematically built up each officer's capacity to influence and relate to people encountered on the job in a positive manner. Thereafter, in all person-to-person contacts, the agency required officers to demonstrate service to the customer and to provide a mutually satisfying conclusion to each and every customer contact.

In addition, the department called for a "moratorium" on attitude complaints. Traditionally, when a complaint was registered with the department, it met with either a formal, internal investigation or an apathetic, "I'll look into it and get back to you" response from the supervisor on duty. The majority of investigations into attitude complaints were found to be inconclusive or management ruled in favor of the employee. This practice satisfied no one. Customers were informed that they and their perceptions were wrong, and the opportunity for the officer to learn new behavior was lost.

> ***"By embracing the goal of total service quality, the police department changed the way it does business...."***

The moratorium mandated that attitude complaints be directed to the officer for correction. If not corrected satisfactorily, additional action was taken, up to and including dismissal from the department. And, even though attitude complaints were no longer investigated, they were carefully documented with a view toward early discovery of negative individual patterns of behavior so that managers could take preventative and remedial actions.

Communication Skills

The language "sub-system" that reinforced the prevailing world view was also scrutinized. Terms and phrases, such as "response call" and "victim" were replaced with "service call" and "customer." Derogatory terms, such as "dirt bag," were discouraged after it became clear how such a label could be applied too easily to any customer being served. Also, citizens could perceive the label, even if it was unspoken, just by the officer's attitude toward them.

Even the department's motto "To serve and to protect" was replaced with "We are here to serve you." This motto is displayed on all department vehicles and adorns departmental business cards and stationery. Although service is regarded as a primary part of the police officer's job, this viewpoint had to be strongly championed in order to instill a sense of the service mission in each officer.

Officer Esteem

While progress was being made on addressing a faulty world view and interpersonal skills deficiencies through a balanced combination of training and officer development, the final objective, building self-esteem, was somewhat more challenging. Many in the department had developed an overbearing style that they presented as a way to convince others, and especially themselves, that they held themselves in high regard. The difficulty was that over time, this facade became habitual.

Table 2

Major Obstacles in Total Service Quality in Police Work

1. Perceiving customers as "problems"
2. Believing police are in a position of authority
3. Focusing on events rather than processes
4. Relying on protocol and political expediency
5. Failing to recognize dependence on the goodwill of the community
6. Preoccupation with short-term results
7. Inability to listen to the customer
8. Lack of "customer friendly" language
9. Staffed by "wrong" people
10. Inability to see police work as a business
11. Lack of leadership

Because this image interfered with the customer's perception of excellent service, the management team faced the possibility that some of the current staff could not be "rehabilitated." Recruitment and selection systems were needed that would infuse the department with service-oriented rather than enforcement-oriented personnel.

Therefore, over the past 6 years, the police department's commitment to total service quality can best be exemplified by the development of a "model cop" concept—the individual who best fits the expectations of the community for superior service. The model cop concept calls for the right combination of temperament, maturity, values, social skills, world view, and tolerance for human contact.

The fundamental belief underlying this notion is that a candidate with excellent interpersonal skills and an orientation to service can be trained to be a police officer. However, a recruit lacking the requisite skills and orientation cannot be trained to deliver good service, no matter how skilled they are in enforcing the law. Recognizing this, the police department initiated the process of engineering police officer jobs to work toward advocating customer needs.

Does TSQ Work in Policing?

Admittedly, TSQ was an "experiment" conducted within the Brighton Police Department over the past 6 years. Yet, as with any valid experimental research, the real proof of success could be measured only through statistical findings verifying that the officers were, in fact, customer service-oriented. The department's management agreed at the outset that sufficient and accurate data were required throughout the process so that success could be measured.

One element of data reviewed was the number of officer misconduct complaints. This review showed that internal investigations of complaints of officer misconduct dropped from 15 in 1985 to only 2 in 1990. In addition, attitude complaints were eliminated altogether.

Another statistic of particular significance dealt with employee turnover, which fell from 45% in 1985 to 0% in 1990. And, there were only two separations from service in the preceding 2 years, both due to termination.

One telling productivity measure is the average amount of free patrol time. Although the crime rate in Brighton has been flat or in a gradual decline since 1987, this measure dropped from 66% in 1984 to only 37% in 1990. This is a clear indication of increased community confidence in the police as a service provider rather than as an enforcement agency.

These measures can be accepted as proof that TSQ can and will work to restore fully the confidence of the community in police agencies throughout the country. However, the road to success is not without obstacles.

Major Barriers to TSQ

Three major barriers to success in the transition to TSQ became

evident in the Brighton Police Department, although many more may come to light in other police agencies. (See table 2.) First, the sheer inertia that resides in the police culture as a whole had to be overcome. This required a dismantling of the prevailing world view of police work. The deeply entrenched "old view" in Brighton was supplanted over time with a vision that focused on the customer and was driven by a commitment to customer satisfaction.

A second formidable obstacle was the seductiveness of short-term solutions. The Brighton management team realized that TSQ could not be institutionalized through training or policymaking alone. The real issues underlying the legendary ineffectiveness of police agencies in providing superior service to their customers would take time and persistence to resolve.

Finally, there was the question of the larger system of which the police department was a part. It became clear early in the process that the city organization influenced the transformation of the police department from an enforcement agency to a quality service provider. Depending on the values and vision of city management, the realization of TSQ in any department could either be impeded or supported. Brighton's police chief found himself spending more time than anticipated trying to convert the initial resistance to this new way of thinking.

Conclusion

Significant progress has been made to move the Brighton Police Department along the right path in the never-ending journey to excellence in police work. By embracing the goal of total service quality, the police department changed the way it does business in pursuit of unconditional customer and officer satisfaction.✦

Endnotes

[1] This includes the municipalities of Baltimore, Maryland; Phoenix, Arizona; Fort Collins, Colorado; Bellevue, Washington; and Asheville, North Carolina.

[2] Karl Albrecht and Ron Zemke, *Service America! Doing Business In The New Economy* (Homewood, Illinois: Dow-Jones Irwin, 1985).

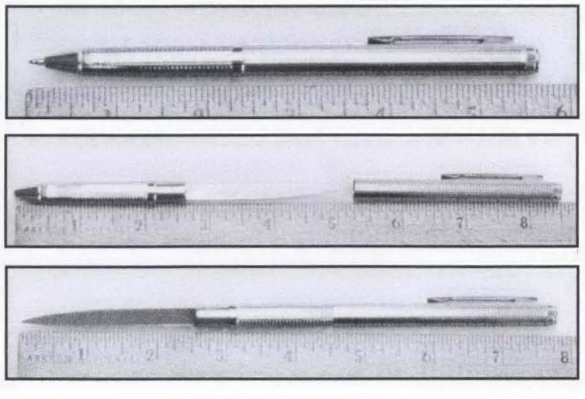
[3] A.C. Rosander, *The Quest for Quality in Services* (Milwaukee, Wisconsin: ASQC Quality Press, 1989).

[4] Patrick L. Townsend, *Commit To Quality* (New York: John Wiley & Sons, Inc., 1986).

Unusual Weapon

Hidden Knife

During a post-arrest search, an agent in the FBI's New York field division observed this pen clipped in the subject's shirt pocket. An examination of the pen revealed a hidden blade measuring 2 1/2 inches in length. To expose the blade, the top of the pen is simply removed and then placed on the other end to provide a handle for the knife. While this weapon poses a serious threat to law enforcement and corrections personnel, it could easily have been overlooked as an innocent writing instrument. ✦



Crime Data

Crime in the United States—1991

Crime statistics compiled by the FBI's Uniform Crime Reporting (UCR) Program show that last year, an estimated 14.9 million offenses were reported to the Nation's law enforcement agencies. The statistics, based on a Crime Index of selected violent and property offenses, represent an average of 5,898 crimes for each 100,000 U.S. inhabitants. Over 16,000 law enforcement agencies, covering 96 percent of the Nation's population, submitted data for 1991, which are published in the FBI's annual publication, *Crime in the United States.*

Crime Trends

Overall, crimes reported to law enforcement, as measured by the Index, rose 3 percent in 1991 over the 1990 total. For 5- and 10-year intervals, the 1991 Index total was 10 percent higher than in 1987 and 15 percent above the 1982 level.

Violent crime, collectively, increased 5 percent. Murder rose 5 percent, robbery was up 8 percent, and forcible rape and aggravated assault each increased 4 percent.

On the other hand, 1991 figures for property crime show a 2-percent increase. Burglary rose 3 percent; larceny-theft and motor vehicle theft, 2 percent each; and arson, 1 percent.

Regionally, the West and Midwest each registered a 4-percent increase in the total number of Crime Index offenses reported. The South recorded a 3-percent rise, while the Northeast showed a less-than-1-percent decline.

Cities, like the Nation as a whole, experienced a rise in crime of 3 percent. Suburban and rural counties recorded increases of 4 and 5 percent, respectively.

Crime Clearance

Law enforcement agencies nationwide cleared 21 percent of the reported Crime Index offenses. The clearance rate for violent crimes was 45 percent, while 18 percent of the property crimes were cleared. Clearance rates were highest for murder (67 percent) and lowest for burglary (13 percent).

Arrests

During 1991, law enforcement agencies made an estimated 14.2 million arrests for all criminal infractions other than traffic violations. The highest arrest counts were for driving under the influence (1.8 million), larceny-theft (1.6 million), and simple assault and drug abuse violations (1 million each). The arrest rate was 5,648 arrests per 100,000 inhabitants.

The total number of arrests decreased by 1 percent in 1991, as compared to the 1990 total. Of those arrested, 46 percent were under the age of 25, 81 percent were male, and 69 percent were white.

Violent Crimes

The total number of violent crimes (murder, forcible rape, robbery, and aggravated assault) reported to law enforcement in 1991 exceeded 1.9 million offenses, a rate of 758 for every 100,000 U.S. inhabitants. The 1991 total was the highest ever recorded, up 5 percent over 1990, 29 percent over 1987, and 45 percent over 1982. Data on weapons used show firearms were used in 31 percent of all murders, robberies, and aggravated assaults, collectively.

Murder—Murder counts reached an all-time high of 24,703 during 1991, for a rate of 10 per 100,000 inhabitants. Based on data received, males accounted for 78 percent of the murder victims, and 89 percent of the victims were 18 years old or older. Of every 100 victims, 50 were black, and 47 were white. Firearms were the weapons used in approximately 7 of every 10 murders.

Forcible Rape—Forcible rapes reported to law enforcement in 1991 totaled 106,593. In Uniform Crime Reports, the victims of forcible rape are always female, and in 1991, an estimated 83 of every 100,000 females in the country were reported rape victims.

Robbery—Law enforcement agencies recorded 687,732 robber-

ies in 1991. The estimated property loss in connection with this offense reached $562 million. In 1991, 40 percent of all robberies were committed through the use of strong-arm tactics and another 40 percent with firearms. A comparison of 1990 and 1991 robbery totals shows that those committed with firearms were up by 17 percent.

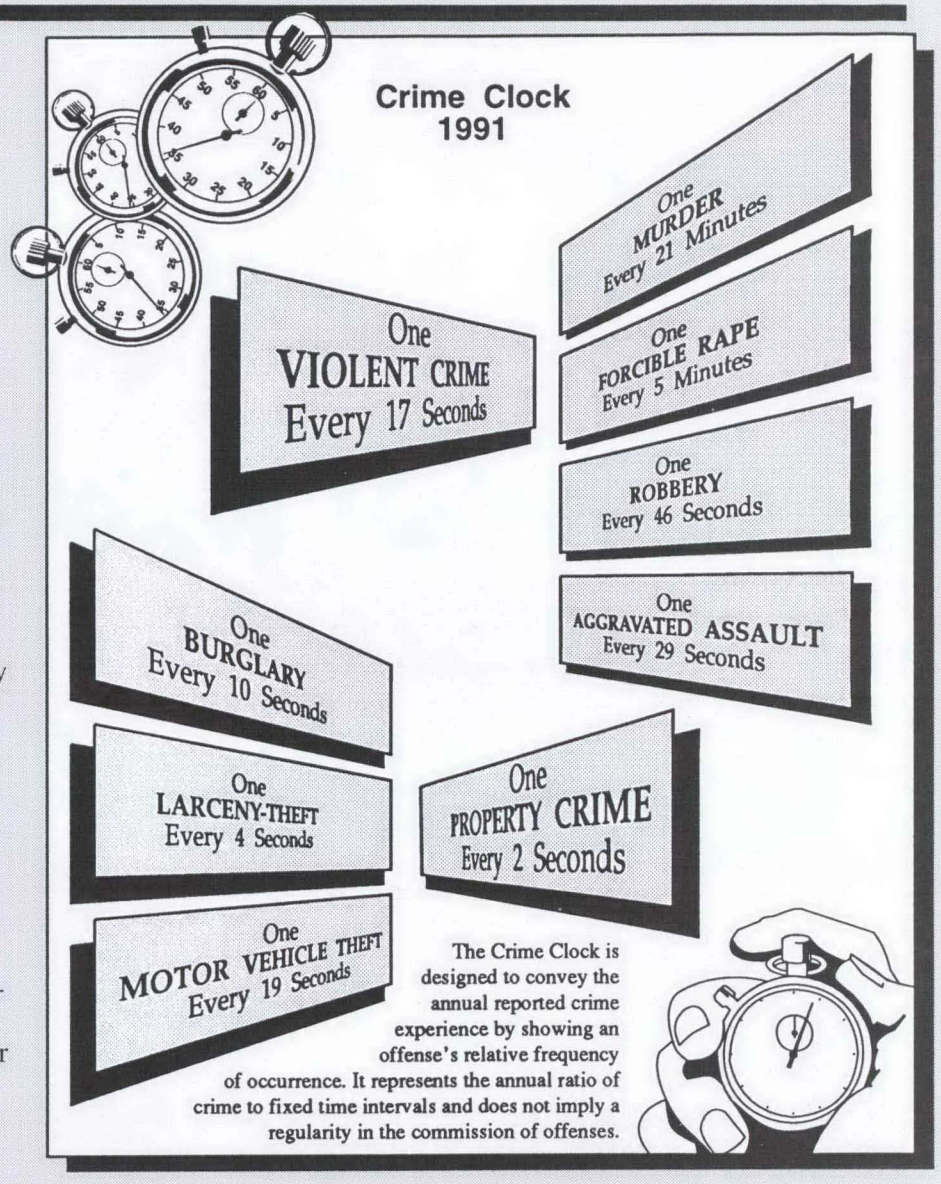
Aggravated Assault—Aggravated assaults, totaling 1,092,739, comprised 57 percent of the violent crimes committed in 1991. Blunt objects or other dangerous weapons were used in 31 percent of these offenses, while assaults by firearms accounted for 24 percent of the total.

Property Crime

The estimated property crime total in 1991 was 13 million, for an average of 5,140 offenses for every 100,000 inhabitants. Estimated total dollar losses due to property crimes (burglary, larceny-theft, and motor vehicle theft) reached $16.1 billion or $1,243 per reported offense.

Burglary—Over 3.2 million burglaries were reported in 1991, of which 2 of every 3 were of residences. Seventy percent of all burglaries involved forcible entry, and the offenses were evenly divided between day and night.

Larceny-Theft—Larceny-theft, at 8.1 million offenses, comprised 55 percent of the Crime Index total, with a national loss estimated at $3.9 billion. Thefts of motor vehicle parts, accessories, and contents made up the largest portion of reported larcenies—37 percent.



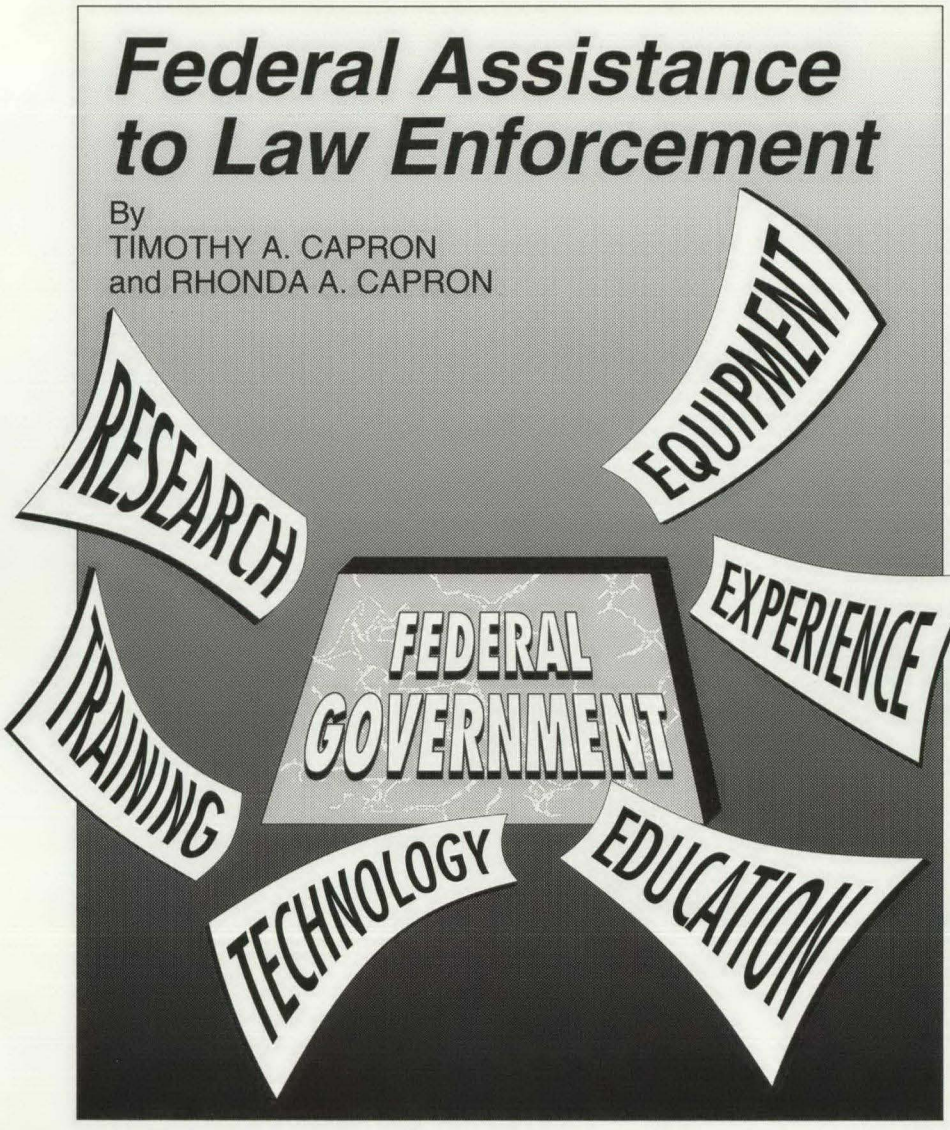
Motor Vehicle Theft—In 1991, 1.7 million motor vehicle thefts, or an average of 1 theft for every 117 registered motor vehicles, were reported. Automobiles accounted for 80 percent of all motor vehicles stolen.

Arson—The number of arsons reported in 1991 reached 99,784 incidents. As in previous years, arsonists most frequently targeted structures, which comprised 54 percent of the total. Of the arsons cleared during the year, 40 percent involved individuals under age 18, a higher percentage of juvenile involvement than for any other Index crime.✦

Source: Crime in the United States—1991, *Uniform Crime Reports, Federal Bureau of Investigation, Washington, DC.*

Federal Assistance to Law Enforcement

By
TIMOTHY A. CAPRON
and RHONDA A. CAPRON



Today, Federal laboratories, research facilities, and agencies cooperate with colleges and universities, State and local governments, and private businesses to promote the transfer of technology and the sharing of other resources. However, only a few criminal justice professionals tap this resource in search of solutions to existing law enforcement problems, perhaps because policing, and indeed the administration of justice, remains very decentralized, with over 19,000 law enforcement agencies of various kinds throughout the country.[1] Because these agencies face serious problems, such as shrinking budgets and reduced staff levels, it becomes even more imperative that law enforcement administrators explore the possibility of using available Federal research, databases, and resources to solve some of their problems.

Most criminal justice professionals contact the Department of Justice (DoJ) when they need Federal assistance. In fact, the Justice Assistance Act of 1984 created the Office of Justice Programs in order to coordinate the joint efforts of DoJ and State and local agencies. However, reduced resources may require the Federal Government to provide more assistance than it has in the past. Criminal justice professionals, in turn, must recognize and make use of this valuable asset.

The Federal Government already invests large amounts of money in research projects that could possibly render valuable information to other agencies. For example, over a 2-year period, the Government invested $16 billion in the Strategic Defense Initiative (SDI) Program for the research and development of new technology.[2] This figure represents the cost of only *one* program. In addition to receiving funds for such specific projects, many laboratories and agencies also receive annual appropriations that exceed some State and criminal justice agency budgets.

How can law enforcement agencies take advantage of these vast resources? They can begin by familiarizing themselves with applicable legislation. This article discusses legislation relevant to law enforcement agencies, as well as how to apply this legislation successfully.

LEGISLATION

Legislation exists to encourage Federal laboratories and agencies to share information, technology, and

even products. National Defense Authorization Bills and other Federal legislation deal specifically with technology transfer, some of which may impact on law enforcement. This legislation promotes the transfer of technology to benefit the U.S. economy. Examples include the Stevenson-Wydler Technology Innovation Act of 1980, the Bayh-Dole University and Small Business Patent Procedure Act of 1980, the National Cooperative Research Act of 1984, the Federal Technology Transfer Act of 1986, and the National Competitiveness Technology Transfer Act of 1989.

Universities and States can now work together with defense laboratories to establish forensic science departments. Also, Federal laboratories can lend both equipment and employees, who serve as instructors in the joint projects, and private individuals can now receive data on military technology. This, in turn, allows agencies to identify transferable technology that may prove helpful.[3]

In addition, there exists the Federal Laboratories Consortium for Technology Transfer (FLC), composed of more than 500 Federal laboratories and research centers. Divided into regions, the FLC has regional coordinators to locate laboratories, divisions, and other individuals who could assist inquiring agencies.

Both the FLC and the existing legislation promote cooperative ventures. For example, the California State Department of Justice recently opened a DNA crime lab in a collaborative agreement with a government-owned facility.[4] However, while these cooperative agreements provide avenues into the Federal system, agencies need to apply this legislation in specific areas that they might find helpful.

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SPECIFIC APPLICATIONS

Strategic Planning

Strategic planning provides overall guidance and direction to organizations, usually for a 10- to 15-year period. Criminal justice agencies benefit from long-range plans that pinpoint the agencies' goals, programs, and likely resources. Agencies should base their long-range plans on demographic projections, technological developments, etc. The process of developing an effective long-range plan can, however, be perplexing.

To begin, officials need to review plans written by Federal experts. These plans provide "how to" guidance and methodology, and they ensure that officials consider all major issues.

In some cases, reviewing long-range plans prepared for other agencies also reveals information relevant to law enforcement. For instance, a long-range plan developed for the Army revealed the following information that could also impact on law enforcement planning strategies:

- Technology improvements will continue at a fast pace. Law enforcement officials should ensure that their agencies have compatible computer systems that they can upgrade when necessary.
- The workforce of the future will grow slowly, become older, and will be comprised of more minority employees. Law enforcement officials should consider how these conditions may impact on training.
- Telecommunications is rapidly moving to the integration of

Manpower and Training Research Information System Research Categories

- Recruitment
- Selection/classification/assignment
- Training/education
- Instructional technology development
- Personnel measurement/evaluation
- Personnel management/administration
- Organizational development
- Manpower management
- Human performance measurement
- Human factors engineering
- Human resources data
- People-related research and development management

voice and data. Computers, phones, and fax machines will be combined into one piece of equipment that uses only one phone line.

- Users of information management systems will have increased capabilities and flexibility through artificial intelligence (officers may talk into computers that "learn" from past information), video teleconferencing (a witness from California may appear "live" at a trial in New York), and executive support systems that "look" for similar modus operandi in high-priority crimes and perhaps assist in pinpointing serial criminals.

Research

Before conducting research on a State or local level, law enforcement agencies need to review existing information. Many Federal agencies contribute government-sponsored research information to the National Technical Information Service (NTIS). While much of this information is very technical and specific to weapons systems, a great deal of the available research also relates to existing criminal justice problems.

Yet another important resource is the Department of Defense Technical Information Center's Manpower and Training Research Information System (MATRIS). MATRIS provides users with a directory that lists current research efforts in 12 categories that apply to both criminal justice agencies and academics. Human resource personnel, in particular, should investigate this system prior to beginning new projects.

State and local administrators with particular research needs oftentimes reduce their costs by determining ahead of time what topics other agencies have researched. Most likely, the research is readily available and more expansive than the inquiring agency could possibly expect to complete on its own.

Personnel

The Federal Government can help broaden the work experience of many workers, including those employed by law enforcement agencies. Through the Intergovernmental Personnel Act of 1973, law enforcement and other agencies can send employees to Federal agencies for 1 year to gain experience, or they may ask government employees to work with their departments for a 1-year period. This opportunity exists for virtually anyone who works for a Federal, State, or local agency, as well as those employed by private or State colleges and universities.

For example, a correctional administrator from California currently works on a project that combines aerospace technology and corrections. In this case, the National Institute of Corrections and the National Aeronautics and Space Administration (NASA) agreed to study both NASA technology and criminal justice needs. This research project resulted in some interesting possibilities, such as inmates being identified and tracked by voice analysis, electromagnetic scanners that can detect contraband in the human body, and a literacy tutoring program that uses artificial intelligence and pattern recognition and communicates verbally with the users.

Criminal justice personnel from both Federal and State agencies should educate themselves on this

exchange program. The exchange of ideas, the networking, and the problem-solving potential create new opportunities for law enforcement agencies.

Technology

Technology is another area where various agencies can share information and products. For example, LIDAR, a laser radar device under current development by a national laboratory, could impact on law enforcement. LIDAR has one variant that senses hydrocarbons and determines the presence of a vehicle or aircraft. The second variant senses precursor chemicals (materials used to grow drugs) and drugs.

Other technology also in the testing stage includes specialized ground sensors and a portable "sniffer" that sniffs chemicals, drugs, and explosives. Imagine a backpack with a vacuum cleaner attached that can "sniff" a vehicle or building to determine the presence of drugs, explosives, or the chemicals used to produce them.

Law enforcement officials should bear in mind, however, that the availability of technology at a Federal or national lab does not mean that all agencies can have immediate access to the information. First, labs and agencies produce ideas and prototypes. Then, technology transfer sections work with developers and agencies to determine whether a need exists for that specific idea or model. And finally, contractors bid on producing and marketing the device, eventually delivering a finished product.

As with any new program, problems still arise in the attempt to transfer technology and information. Special concerns include copyrights, patents, protection from Freedom of Information programs, and profit sharing.

However, agencies have already worked together to share technology. For example, under the directive of the Omnibus Crime Bill, a government-owned laboratory, in conjunction with the New Mexico National Guard, recently conducted the Southwest Border Test Bed. This effort brought together the Department of Defense and Federal, State, and local police agencies, as well as eight private contractors, to test various technologies with respect to their usefulness in drug-related cases. These technologies included satellite communications, doppler radar, and special operations aircraft.

In addition to testing various technologies, this same national laboratory also conducted an exercise that emphasized intelligence-driven, counter-drug operations and how the military and various police agencies could work together successfully. This particular exercise included personnel from 27 different agencies on Federal, State, and local levels.

Evaluation

State and local administrators must concern themselves with how to evaluate programs, systems, and processes. Because they oftentimes lack the expertise necessary to evaluate these areas properly, they may find Federal laboratories helpful.

For example, the director of a State corrections department determines that a new prison is needed. The corrections department probably does not have an employee who routinely evaluates physical plants or security systems; yet, poor design of either could be disastrous. However, in this age of sharing information, the director can now contact laboratories that produce security systems and structures for the most sensitive programs in the United States. These laboratories can then recommend viable prison designs and security systems.

In fact, Federal laboratories currently work on law enforcement-

Research Agencies

- National Technical Information Service (NTIS)
  5285 Port Royal Road
  Springfield, Virginia 22161
  (703)487-4600
- Defense Technical Information Center
  MATRIS Office, DTIC-DMA
  San Diego, California 92152-6800
  (619)553-7000

related projects, such as security systems for airports, robots that replace personnel, security sites that minimize personnel requirements, mobile sensor systems, and radars that can guard structures or equipment.

These examples illustrate that Federal laboratories have both experience and expertise in areas important to law enforcement. They emphasize the need for law enforcement to turn to Federal laboratories for assistance.

CONCLUSION

The Federal Government offers organized assistance programs. However, unless State and local administrators of agencies and universities familiarize themselves with existing legislation and how they might receive Federal assistance, valuable resources will remain untapped.

Mind-boggling technological developments continue at a rapid rate. This makes it even more imperative that a mutual understanding and cooperation exist between State and local agencies and the Federal Government—a critical first step toward sharing important new information and technology.✦

Endnotes:

[1] Samuel Walker, *Sense and Nonsense About Crime: A Policy Guide*, 2d. ed. (California: Brooks/Cole Publishing Company, 1989).

[2] *Technology Applications Program*, Strategic Defense Initiative, Department of Defense, April 1990.

[3] Stephen Tompkins, "The Pentagon is Pitching In," *Memphis Commercial Appeal*, March 6, 1988, p. C4.

[4] Lynn Yarris, "State Opens DNA Crime Lab," *Currents*, June 11, 1991, 1.

Bulletin Reports

ADA Guide

A guide to the Americans with Disabilities Act's (ADA) employment, public services, and public accommodations provisions is now available from the American Bar Association's (ABA) Commission on Mental and Physical Disability Law. The publication, entitled "The Americans with Disabilities Manual: State and Local Government Services, Employment, and Public Accommodations," features a series of articles and legal resource materials prepared by the commission.

The manual summarizes the ADA in "less-technical" terms and provides practical examples of compliance. It explains the effective dates and enforcement mechanisms in each title and offers advice on researching key provisions. The information covers Federal regulations and existing case law, as well as provisions that affect State and local government programs and activities.

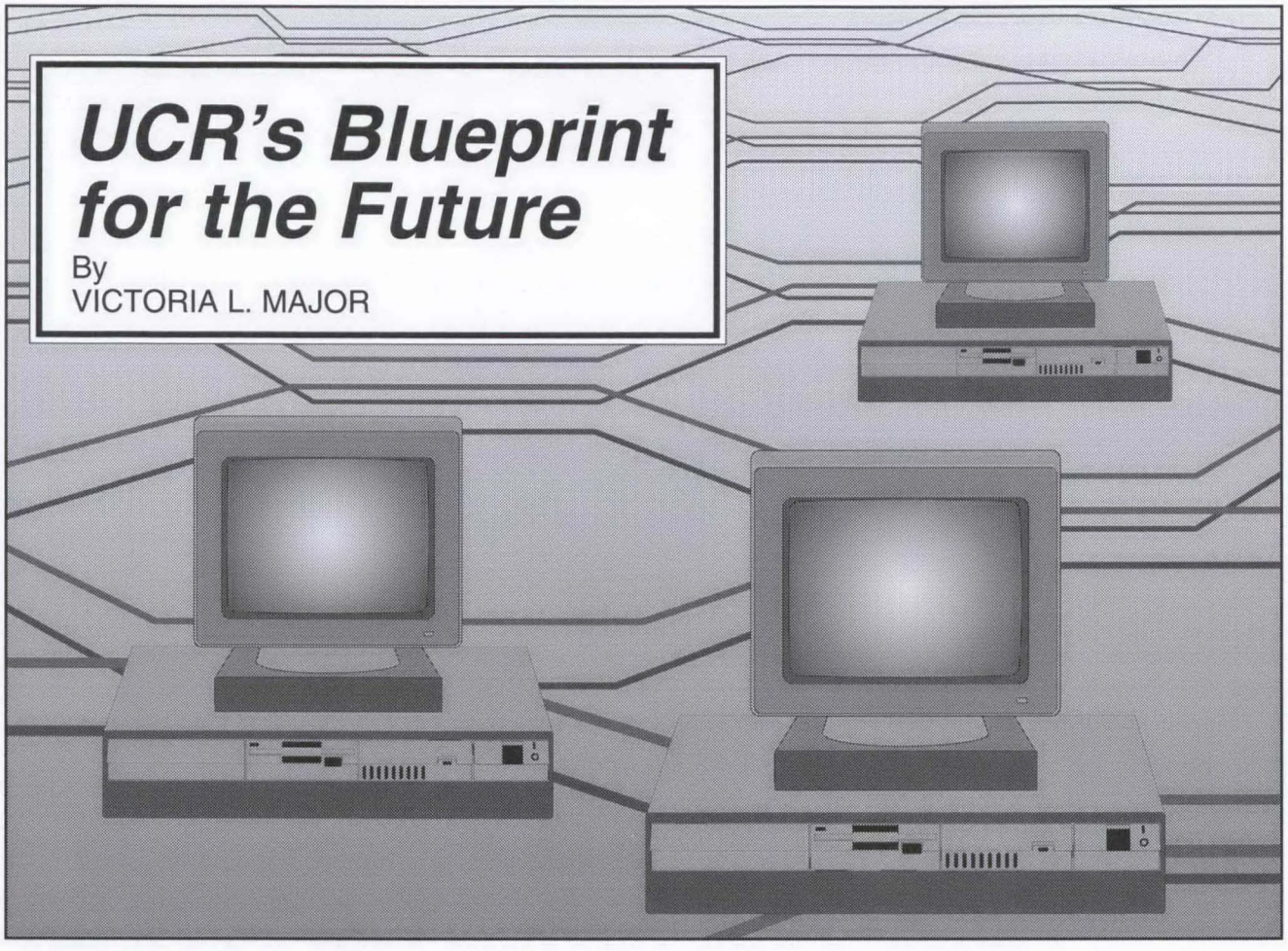
To order copies, or for more information, write the ABA Commission on Mental and Physical Disability Law, 1800 M Street, N.W., Washington, DC 20036, or phone 1-202-331-2240.

Bloodborne Pathogens

Because of the nature of their work, law enforcement personnel risk exposure daily to such bloodborne pathogens as HIV and hepatitis B viruses. The U.S. Department of Labor, recognizing the need for safeguards against these health hazards, published a booklet entitled "Occupational Exposure to Bloodborne Pathogens: Precautions for Emergency Personnel."

The booklet informs emergency responders and law enforcement and corrections personnel of the risks of occupational exposure to bloodborne pathogens and how to reduce these risks. It will also help employers to understand and to comply with OSHA's regulations on bloodborne pathogens. The contents of the booklet, however, is not a substitute for requirements of the bloodborne pathogens standard (29 CFR 1910.1030).

A copy of this booklet can be obtained from the OSHA Publications Office, 200 Constitution Avenue, N.W., Room N-3101, Washington, DC 20210. Agencies should send a self-addressed label with their requests.



UCR's Blueprint for the Future

By
VICTORIA L. MAJOR

Each month, for over 60 years, law enforcement agencies across the country tallied crime, clearance, and arrest statistics and sent them to the FBI. The FBI, in turn, combined the reports of thousands of agencies and published periodic assessments on the amount, type, and trends in crime known to law enforcement. Soon, however, this cumbersome manual process used by law enforcement agencies to record crime data will be relegated to the annals of law enforcement history.

The advent of the National Incident-Based Reporting System (NIBRS) marks the transition to a modern automated system of retrieving crime data directly from law enforcement records. With NIBRS, law enforcement agencies can transfer directly crime information needed at the national and State levels from local computer systems through automated processes. The crime statistics database becomes much more comprehensive and flexible than it ever was under the old-fashioned system that used standardized reporting forms.

While it will, of course, take time for the more than 16,000 law enforcement agency data contributors to institute NIBRS, remarkable progress continues to be made. As a result, the criminal justice system can look forward to a wealth of crime-related data in the foreseeable future.

Background

Uniform Crime Reports (UCR) is a nationwide cooperative effort, the objective of which is to provide a reliable set of criminal statistics for use in law enforcement administration, operation, and management. The data produced through the program over the years represent one of the Nation's leading social indica-

tors, providing valid assessments of the nature, extent, and fluctuations of crime in the United States.

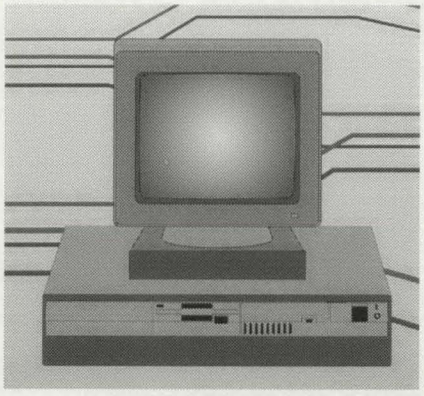
The International Association of Chiefs of Police (IACP) conceived the program in the 1920s when it recognized a need for national crime statistics. Unlike other free world countries, no nationwide criminal code for "common law"-type offenses existed in the United States. That is, each State possessed a unique criminal statute, thus precluding an aggregation of State statistics to arrive at a national total. There was, therefore, no common language by which to measure the nature and extent of crime in the country or from one jurisdiction to another.

To respond to these needs, the IACP established a Committee on Uniform Crime Records, and after years of study, the committee developed a system that constituted the UCR Program for over 6 decades. The system included a set of standardized definitions by which law enforcement agencies nationwide voluntarily submitted crime data on a monthly basis.

Establishing crimes reported to law enforcement as the measurement, the committee selected seven offenses to comprise a Crime Index that would be used to gauge changes in the nature and extent of crime. In 1930, approximately 400 law enforcement agencies started reporting crime statistics, and in that same year, Congress passed legislation authorizing the U.S. Attorney General to collect these statistics. The Attorney General, in turn, designated the FBI to act as the national clearinghouse for crimes known to law enforcement. Today, over 16,000 agencies offering law enforcement service to over 96 percent of the Nation's population voluntarily participate in the program.

Looking Toward The Future

Throughout its first 60 years of operation, the UCR Program remained virtually unchanged in



terms of the data collected and disseminated. As time passed, a broad application evolved for UCR, and law enforcement expanded its capabilities to supply information related to crime. In the late 1970s, the law enforcement community called for a thorough evaluation of UCR, with the objective of recommending a revised UCR Program to meet law enforcement needs into the 21st century.

The FBI fully concurred with the need for an updated program to meet contemporary needs and lent its support by formulating a comprehensive redesign effort. Following a multiyear study, the FBI developed a "Blueprint for the Future of the Uniform Crime Reporting Program."

Using the "blueprint," and in consultation with local and State law enforcement executives, FBI personnel formulated new guidelines for Uniform Crime Reports. The new system offers law enforcement more comprehensive data than ever before available for management, training, and planning.

National Incident-Based Reporting System

NIBRS is an incident-based reporting system. This means that law enforcement agencies collect data on each single occurrence by viewing a crime and all its components as an "incident." The FBI designed NIBRS to be generated as a byproduct of law enforcement records systems. Thus, reporting agencies build their crime records systems to suit their individual needs, with computer processes extracting NIBRS information.

UCR's goal in the redesign effort was to modernize crime information by collecting data currently maintained in law enforcement records. The FBI evaluated all facets of NIBRS by determining whether the information being considered for inclusion was likely to come to law enforcement's attention and ascertaining whether good law enforcement records systems already captured the data.

NIBRS collects data on each incident and arrest within 22 crime categories, including 46 specific offenses. For each offense reported, law enforcement agencies gather facts about the crime, e.g., victim and offender characteristics, type of property stolen, weapons used, location, etc., depending on the availability of such information.

Information on persons arrested will be gathered for an additional 11 offense categories. Above all, however, NIBRS supports the integrity of UCR's long-running statistical series.

NIBRS retains many of the general concepts for collecting and reporting UCR data. For example, the basic measurement remains crimes reported to law enforcement, and standardized definitions and guidelines exist for reporting all offenses and facts about them. However, as previously stated, the most significant difference is that NIBRS is incident-based. This means that instead of tallying offense, arrest, and other crime-related data on a monthly basis, law enforcement agencies report NIBRS information for each individual crime incident and arrest through automated data processing means.

As added features, the new reporting system exhibits other major differences. For example, NIBRS involves expanded offense reporting, increasing the number of categories from 8 to 22. It also provides greater specificity in reporting, up to 53 facts about each offense, while allowing for more correlation among offenses, property, victims, offenders, and arrestees.

Benefits of Participation

An indispensable tool in the war against crime is law enforcement's ability to identify with precision when and where crime takes place, what form it takes, and the characteristics of its victims and perpetrators. Armed with such information, law enforcement agencies can better make their case to acquire the resources needed to fight crime. After obtaining these resources, agencies can then use them in the most efficient, effective, and economical manner.

NIBRS provides law enforcement with this tool. Because of its capabilities, it stores more detailed, accurate, and meaningful data than what the traditional UCR Program captured.

Many individual law enforcement agencies employ very sophisticated records systems capable of producing the full range of statistics on their own activities. NIBRS takes the process of data collection one step further by allowing common denominator links among agencies. It provides law enforcement agencies with extensive, specific crime information concerning similar jurisdictions which, in turn, facilitates the identification of common problems or trends. Agencies can then work together to develop possible solutions or proactive strategies for addressing the issues.

> ***"NIBRS...enhances data quality assurance and virtually eliminates opportunities for inconsistent reporting from one jurisdiction to another."***

But the availability of accurate, detailed crime data does not benefit only law enforcement. With NIBRS, lawmakers, academicians, sociologists, penologists, and the American public can now better assess the Nation's crime problem by using the extensive data supplied by the law enforcement community.

Law enforcement as a public service requires a full accounting by criminal justice executives as to the administration of their agencies and the status of public safety within their jurisdictions. With full participation in NIBRS, these executives can access the information necessary to enable law enforcement agencies to fulfill this responsibility. In fact, NIBRS possesses the capability of furnishing information on nearly every major criminal justice issue facing law enforcement today, including terrorism, white-collar crime, weapons offenses, missing children, drug/narcotics offenses, drug involvement in all offenses, spouse abuse, abuse of the elderly, child abuse, domestic violence, juvenile crime/gangs, parental kidnaping, organized crime, pornography/child pornography, driving under the influence, and other alcohol-related offenses. All levels of law enforcement—Federal, State, and local—can access the data, aggregated at the level and in the manner that best meet the informational needs of the data user.

Implementation Progress

The implementation of NIBRS will be at a pace commensurate with the resources, abilities, and limitations of the contributing law enforcement agencies. The FBI steadfastly maintains that NIBRS' adoption should be, as UCR has always been, voluntary on the part of the data providers.

Thus, only when a law enforcement agency modifies or updates its records system in the normal course of business should NIBRS' capabilities be included. Until that time, the FBI will continue to accept and publish the traditional UCR data, as well as to produce interim NIBRS reports addressing data available from those jurisdictions that completed conversion. These interim

reports serve as a supplement to UCR's current publication series.

The FBI began accepting NIBRS data as of January 1989, and law enforcement agencies in six States (Alabama, Colorado, Idaho, Iowa, North Dakota, and South Carolina) now supply data in the NIBRS format. Data for agencies in an additional 13 States and the Department of the Interior are currently being tested by the FBI, and planning and development are underway in 25 other States, the District of Columbia, and the U.S. Department of Commerce.

NIBRS Reporting Guidelines

Four documents contain information to guide law enforcement agencies in implementing NIBRS.[1] Volume 1, *Data Collection Guidelines*, provides a system overview and descriptions of the offenses, offense codes, reports, data elements, and data values used in the system. Volume 2, *Data Submission Specifications*, is for the use of State and local computer systems personnel responsible for preparing magnetic tapes for submission to the FBI. Volume 3, *Approaches to Implementing an Incident-Based Reporting (IBR) System*, is for use by computer programmers, analysts, etc., responsible for developing a system that meets NIBRS' requirements. The use of this volume, intended only as a guide, is optional. Volume 4, *Error Message Manual*, contains designations of mandatory and optional data elements, data element edits, and error messages.

Also available is a NIBRS edition of the *Uniform Crime Reporting Handbook*. This document, designed for use by local law enforcement agencies, combines the traditional UCR rules retained in NIBRS with the new NIBRS guidelines.

Conclusion

The development of Uniform Crime Reports in the 1920s led to the recognition of recordkeeping standards for law enforcement throughout the Nation. NIBRS implementation offers today's law enforcement agencies the opportunity to modernize their recordkeeping practices to meet ever-growing informational needs.

NIBRS heightens an agency's ability to document and easily retrieve information about crime known to law enforcement, leaving less room for speculation. It also enhances data quality assurance and virtually eliminates opportunities for inconsistent reporting from one jurisdiction to another.

The FBI remains committed, along with law enforcement at all levels, to the successful implementation of NIBRS. Through NIBRS will come a greater understanding of law enforcement problems, and that understanding will lead to the development of the most effective strategies and countermeasures for the solution of these problems. ✦

Endnote

[1] All NIBRS documents can be obtained by writing the Uniform Crime Reporting Program, Federal Bureau of Investigation, Washington, DC 20535.

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Focus on Forensics

Lip Prints

By
Dr. Mary Lee Schnuth

Investigators often gain evidence through the use of odontology, anthropometry (measuring the body), fingerprints, and other techniques that determine gender, approximate age, height, and blood grouping. Today, however, investigators can also rely on lip prints to identify possible suspects or to support evidence gained in specific investigations.

As with fingerprints, experts can lift lip prints from objects found at crime scenes and compare these prints to a suspect's lip pattern. Lip prints can also support dental record comparisons in homicide cases where dismemberment makes identification difficult or when victims do not have teeth or readily available dental records.

Background

In 1970, Japanese researchers reported their findings on a lip print study. During the study, researchers examined the lip prints of 1,364 individuals, ranging from 3 to 60 years of age. They prepared the prints by using both photographs and a fingerprint system.[1] They then classified the prints according to their distinguishing features.

In 1991, the author conducted a lip print study, comparing the lip prints of 150 individuals, ranging in age from 4 to 85 years of age. This study included both genders,

as well as five pairs of identical twins, and applied the same methods of classification and recording as those in the previous study.

However, in the second study, researchers transferred lip prints by using lip rouge rather than a fingerprint system. In addition, two findings from the first study were not considered in the 1991 study: Lip inflamation can alter lip prints, but the prints return to normal when the condition is relieved; and lip prints do not change with age.[2]

Although methods for obtaining prints differed somewhat in the two studies, the results were the same. Findings indicated that:

- Every individual has unique lip prints—no two were identical in any case
- Heredity plays some role in lip pattern development (Similarities were found between parents and children.)
- Unique features are distinguishable (Although parents and their children have similar groove traits, the prints are not identical, even in the case of identical twins.)

Classification Method

When classifying lip prints, experts divide distinguishing labial wrinkles and grooves of the lips into two categories—simple and compound. Simple wrinkles and grooves are subdivided into four groups: Those with a straight line, a curved line, an angled line, or a sine-shaped curve. Compound wrinkles and grooves are classified into bifurcated, trifurcated, or anomalous.[3]

Six types of distinguishing features exist in lip prints:

"...the criminal justice community must look seriously at any new method that provides the evidence necessary to gain convictions."

- Type I—clear-cut lines or grooves that run vertically across the lip
- Type I/—straight grooves that disappear half-way into the lip instead of covering the entire breadth of the lip
- Type II—grooves that fork
- Type III—grooves that intersect
- Type IV—grooves that are reticulate (netlike)
- Type V—grooves that do not fall into any of the above categories and cannot be differentiated morphologically.[4]

Experts cannot categorize a lip print as a single type, since combinations of groove types exist in nearly all cases. Instead, they designate a single lip print type based on the prominance of groove type.

Recording Method

Once experts classify lip patterns, they record them by noting the combinations of groove types found in each print. A horizontal line divides the upper lip from the lower lip, and a median line partitions the right and left sides. Experts then record the combinations of groove patterns for each quadrant of the print.[5]

Conclusion

Findings from lip print studies make a strong case for their use in solving crimes. Although not useful for identification under conditions where only skeletal structures remain, intact lips provide prints that can provide valuable legal evidence.

Many law enforcement agencies remain unaware of the usefulness of lip prints when attempting to identify suspects, and as a result, important evidence is lost. With the increasing number of unsolved crimes, the criminal justice community must look seriously at any new method that provides the evidence necessary to gain convictions. Law enforcement personnel should begin to consider lip print analysis as yet another tool to use for solving crimes.✦

Endnotes

[1] K. Suzuki and Y. Tsuchihashi, "Personal Identification by Means of Lip Prints," *Journal of Forensic Medicine*, 1970, 52-57.

[2] Y. Tsuchihashi, "Studies on Personal Identification by Means of Lip Prints," *Forensic Science*, 1974, 233-248.

[3] Ibid.

[4] Ibid.

[5] Ibid.

Dr. Schnuth is an associate professor at Old Dominion University in Norfolk, Virginia.

Point of View

Citizen Complaint Policy

By
Rickard A. Ross

Lieutenant Ross serves in the Yellowstone County, Montana, Sheriff's Office.

What should law enforcement agencies do if a citizen levels charges of serious misconduct against their officers? How should the officers involved react? What can departments expect during the Federal civil rights investigations that may ensue?

These questions may seem somewhat remote and theoretical until *your* department faces such a complaint. Then, these and a myriad of related questions instantly take on paramount importance. Because charges of serious misconduct may affect agencies profoundly—perhaps even resulting in calls for a change in command—department administrators need to institute procedures for dealing with these types of complaints *before* they occur. With effective policies in place, departments minimize the negative impact of any ensuing investigation, restore a sense of goodwill within their communities by demonstrating a sincere desire to solve the problem, and accelerate the process of recovery.

Developing a Policy

When developing a civil rights violations policy, departments need to ensure, beyond a doubt, that adopted procedures are consistent with Federal constitutional standards. Further, the policy must effectively balance the legitimate interests of the community, the department, and the officer(s) involved. Once the department establishes the procedures, both the agency and its personnel must adhere to the policy and act according to set guidelines.

Because the image that a law enforcement agency portrays directly affects public perception of the department, administrators should also ensure that any complaint policy includes press and public relations strategies. An agency can actually gain public support by handling misconduct cases professionally, thus creating a positive perception in the public's mind. To accomplish this, agencies should provide a positive climate for relations between the department and the community through effective and accurate public information and education programs.

Additionally, administrators should continually work to cultivate a professional relationship with members of the news media. When reporters inquire about a specific complaint, administrators should limit responses to actions the department is taking to complete any internal investigation. When talking to the press directly after an incident, administrators should avoid blindly defending the officer(s) involved or the department. Likewise, they should not talk "through the press" to condemn the allegations. Instead, administrators should wait for factual information uncovered during the investigation and then defend the accused and the department from any unsubstantiated complaints or allegations. Most importantly, administrators should keep the news media and the public informed on actions being taken by the department to correct any factors that contributed to the incident.

Discipline

A strong commitment to discipline should complement the department's citizen complaint policy. Of course, the need for discipline transcends any one incident, but a sound code of conduct will prove invaluable in restoring morale within departments should such complaints occur. In this sense, discipline must be a full-time commitment, and administrators should ensure

that supervisory line officers stress acceptable codes of behavior to subordinates on a regular basis.

An effective discipline policy includes:

- Proper recruiting and selection of officers
- Adequate training and retraining
- Publicized rules of ethics and conduct
- Consistent leadership and supervision
- Coaching and counseling
- Regular performance evaluations
- Prompt corrective action against inappropriate attitudes or conduct.

Even apparently minor deterioration in discipline among officers may lead to serious problems for a department.

A study in a large midwestern agency, where 756 complaints were alleged in 1988 and 1989, identified 29 officers who were involved in nearly one-half of the allegations. The study further identified common traits among these offending officers, including poor report writing and use of authoritarian, unconciliatory, and demeaning language when dealing with citizens. In addition, these officers generally exhibited an excessive focus on muscle building, hid behind mirror sunglasses when dealing with citizens, and routinely carried two sets of handcuffs.[1] If administrators had detected early signs of declining discipline among these officers (each of whom had at least nine complaints against them) and had acted to correct the problems, then perhaps complaints of serious misconduct could have been avoided.

Use of Force Report

Fortunately, agencies have several means to monitor the actions of sworn personnel. One of tremendous potential value is the use-of-force report. This confidential report, which should be used only as an internal administrative instrument, provides valuable information impacting upon officer conduct.

The wide range of potential problem areas that use-of-force reports can help agencies identify include:

- Training deficiencies
- Problem assignments, activities, or locations
- Potential liability situations
- Unidentified causes of confrontation and
- Misinterpretation/misapplication of policy.

By compiling statistical information from these reports, agencies can work to improve the actual and perceived conduct of officers.

"...departments need to ensure, beyond a doubt, that adopted procedures are consistent with Federal constitutional standards."

Conclusion

Those of us in law enforcement maintain a trust with the citizens we serve and protect. When officers betray that trust, the effects can be devastating, not only within the department but also within the community. Residual loss of public support may continue to harm the department long after the specific incident is forgotten.

When a citizen lodges a complaint, the agency must make a good faith effort to identify and correct the problem, preferably before Federal authorities initiate an investigation. Administrators should thoroughly investigate misconduct complaints, even though information uncovered may be used later against the officer(s) or the department. Although a well-conducted investigation may point to the need for changes in inadequate policies and procedures, the positive impact will outweigh any potential negative consequences.

No department enjoys internal investigations. However, where allegations of misconduct exist, law enforcement managers must uncover the truth. An established complaint policy helps an agency to not only correct any factors that led to the allegation (if the charge is founded) but also to maintain public confidence in law enforcement and enhance recovery within the department. ✦

Endnote

[1] *Recommendations of the task force on the use of force*, Kansas City, Missouri, Police Department, January 1991, page 45.

Video Stress Interview

By MIKE CAREY

Promotion. Most law enforcement officers anticipate it with relish, while managers tend to view it with mixed emotions. On the one hand, managers receive satisfaction from the prospect of promoting qualified officers, thereby rewarding good police work. On the other hand, they dread having to justify every selection, or worse, every nonselection. At the same time, civil service commissions, unions, and other so-called "watch dogs" lend balance and equity to the promotion of public servants, but particularly to those employed by law enforcement agencies, whose virtue must be "above that of Caesar's wife."

Nonetheless, justifying promotion choices can be tedious and time-consuming. For these reasons, police managers look for ways to tailor their promotion procedures, while adhering to employment laws and regulations.[1] Therefore, the Guam Police Department (GPD) retooled its approach to the promotion process by introducing the video stress interview (VSI).

A Management Technique

VSI is not some revolutionary management technique. Rather, it blends present-day technology with well-established management practices. This results in a fresh approach when selecting and promoting officers.

Three primary components comprise the video stress interview:

1) An interview board of three senior officers
2) An Equal Employment Opportunity (EEO) representative, and
3) An independent observer from another public agency.

VSI also incorporates the use of a video camera/recorder, a standard

set of questions, and a standard numerical grading system.

Interview Board

The Guam chief of police chairs the board, which also includes two other ranking officers. An EEO representative and an independent observer from a nonlaw enforcement agency also sit on the board. Both the EEO representative and the observer review the battery of questions used in the selection process to verify its validity. This review also ensures that the questions are job-related and appropriate for candidates vying for promotion.

Interview Questions

The chief drafts the questions used in the interview process, drawing on police management course materials from a community college. The other board members review them for content, and a civilian staff member of the police department checks their construction for grammar and clarity. Apart from the chief's executive secretary, who types the questions, no one else outside the board has access to the questions before the board convenes.

The questions serve a twofold purpose: 1) To determine the candidates' managerial, supervisory, and technical knowledge, and 2) to test the candidates' ability to respond under stress. This allows interviewers to observe their conduct in order to determine how they handle themselves in an emotionally fluctuating environment.

Video Setup

Before each interview begins, a police technician sets up and tests the video equipment, then turns on the equipment and exits the room. The video camera runs uninterrupted during all the interviews, recording every word and action of board members, observers, and candidates. Nothing happens off camera. Even the date and running time appear on the bottom of the videotape, making it virtually impossible for someone to stop/restart the camera or edit the tape without being detected.

The Interview Process

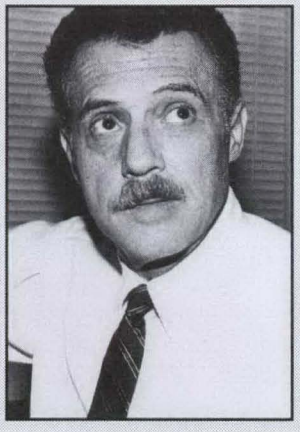
In a recent selection process for promotion to captain, the interview board, consisting of the chief, two police majors, an EEO representative, and independent observer, convened at 8:30 a.m. The task before the board was to fill five open slots from a pool of nine possible candidates. The board interviewed the candidates in the order they appeared on the eligibility list supplied by the Department of Administration (DoA). Prior to the interview, DoA screened the candidates and scored them on such factors as seniority, time-in-service, education, etc. DoA then compiled a list of eligible candidates and provided the list to the interview board.

The chief briefed all candidates on the interview procedure. After the candidates indicated that they understood the process, the individual interviews began. Each interview ran uninterrupted.

The chief drafted seven questions for this particular selection. The board posed each of the seven questions twice to the individual candidates—verbatim, without explanation or embellishment. A candidate could request to have any question read a third time, but the board would not allow any repeats after that. Board members alternated reading the questions.

The board allotted 35 minutes for each interview. This meant that candidates needed to budget their

> ***"The video stress interview provides... constructive feedback to candidates so that they can improve their performance in subsequent interviews."***



Mr. Carey is the special programs coordinator for the Guam Police Department.

time so as to address all seven questions adequately. Once the 35-minute allotted timeframe expired, the chairperson stopped the candidate and concluded the interview. Most candidates finished well within the allotted time.

Board members then graded the responses of each candidate. The board allowed 5 possible points per question, or a maximum of 35 points for an interview consisting of 7 questions. Then the board computed the candidate's interview score by adding together the scores given by each interviewer and dividing by 5. The interview score was then added to the score given to each candidate by DoA for a total raw score, which was then converted to a percentage.

For promotions, the department considered a score of 60% or better to be a passing score. If more candidates registered passing scores than the number of promotion slots available, the top scorers would be selected for promotion. For example, if eight candidates obtained passing scores but only six positions were available, then only the candidates with the six highest scores would be promoted.

However, at a recent board for the promotion to captain, cited previously, only four candidates scored 60 percent or better and were promoted. The chief then asked the Department of Administration for a new list of eligible candidates from which to pick the fifth captain.

Advantages of VSI

The video stress interview provides documented proof of how candidates fare during the process. For example, after the department posted the names of those promoted to captain, one lieutenant couldn't believe he wasn't selected. Obviously, the lieutenant was devastated, especially since he believed he "aced" the interview. He simply couldn't accept the fact that the interviewers could have marked him so low. The lieutenant then considered appealing the board's decision to the Civil Service Commission.

Before taking this action, however, he sought the advice of an interviewer who was a police major. The major told him frankly that he blew one question completely—so badly in fact that the major, who had known the lieutenant since he joined the department, was startled by his poor response. The major then suggested that the lieutenant review the interview tape.

"VSI...blends present-day technology with well-established management practices."

After viewing the video tape for 10 minutes, the lieutenant couldn't believe what he saw and heard. He had studied diligently for the interview and knew the correct answer. But, the stress interview technique momentarily broke his concentration, causing him to totally misunderstand the question. Consequently, his response made no sense.

Seeing himself from the board's perspective, on irrefutable video tape, was tough but convincing. The lieutenant, recognizing that the board treated him fairly, dismissed any thought of appeal. The VSI technique proved successful.

Conclusion

Police departments must select the most qualified candidates for promotion. And, they must do so fairly and in a manner that withstands critical scrutiny.

The video stress interview provides one such avenue to police departments. It is competitive and devoid of politics. It also provides constructive feedback to candidates so that they can improve their performance in subsequent interviews. More importantly, however, the video stress interview can save talented, aspiring officers from making critical mistakes that could tarnish their careers. ✦

Endnote

[1] This article discusses a promotional system that, under some circumstances, might require modification to ensure compliance with Equal Employment Opportunity law. Police executives contemplating adoption of any revised promotional system should consult their legal advisor.

Supreme Court Cases
1991-1992 Term

By
WILLIAM U. McCORMACK, J.D.

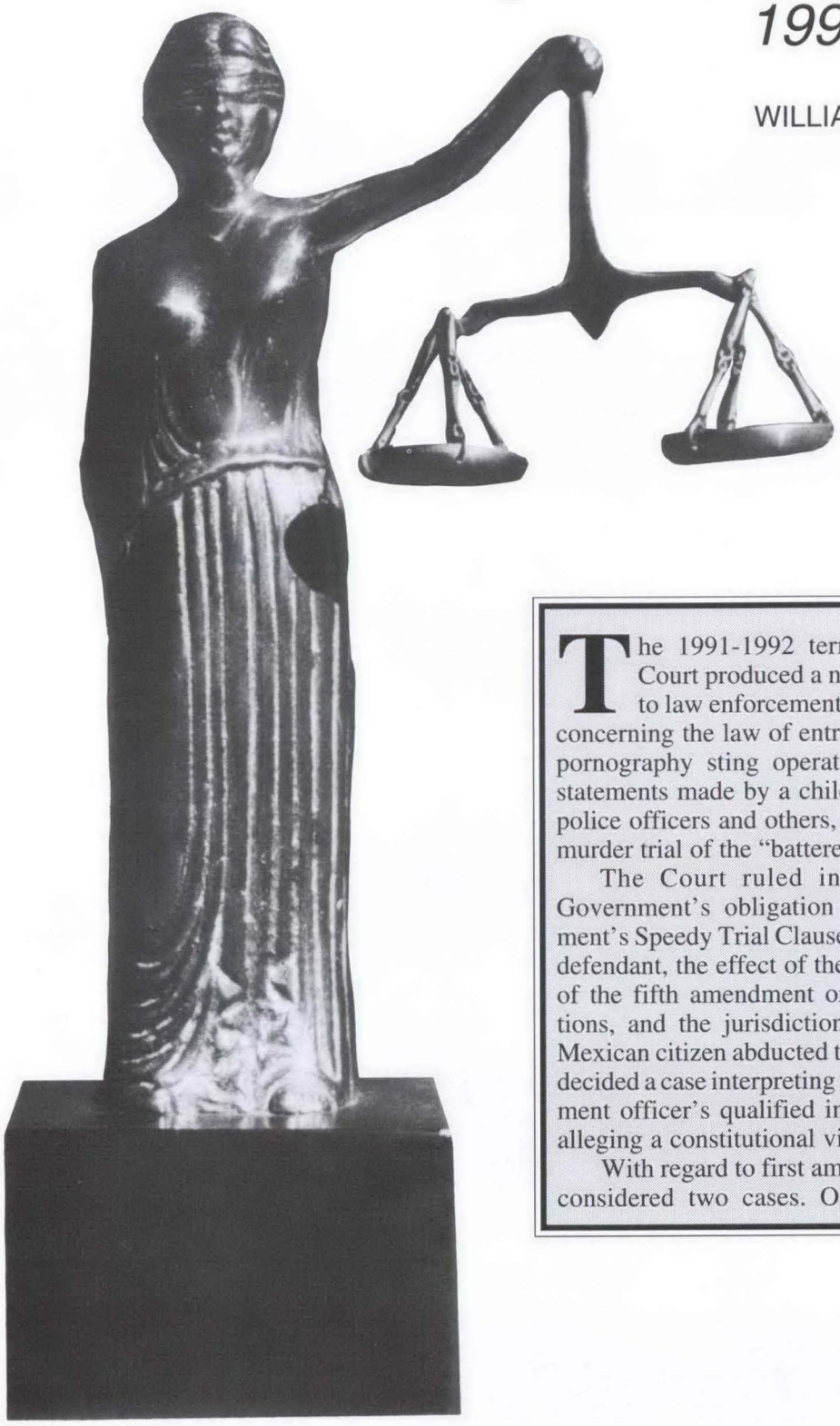
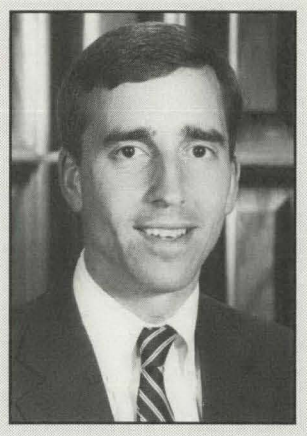


Photo by Kathy Morrison

The 1991-1992 term of the U.S. Supreme Court produced a number of cases of interest to law enforcement. The Court decided cases concerning the law of entrapment in a Federal child pornography sting operation, the admissibility of statements made by a child sexual assault victim to police officers and others, and the admissibility at a murder trial of the "battered child syndrome."

The Court ruled in cases concerning the Government's obligation under the sixth amendment's Speedy Trial Clause to bring to trial a charged defendant, the effect of the Double Jeopardy Clause of the fifth amendment on complex drug prosecutions, and the jurisdiction of U.S. courts to try a Mexican citizen abducted to the United States. It also decided a case interpreting the scope of a law enforcement officer's qualified immunity from a civil suit alleging a constitutional violation.

With regard to first amendment issues, the Court considered two cases. One case struck down an



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

ordinance designed to prevent the bias-motivated display of symbols, such as burning crosses; the other invalidated a parade permit scheme designed to recoup expenses incurred for police protection and administrative costs.

Jacobson v. *United States*, 112 S.Ct. 1535 (1992)

In *Jacobson*, the Court overturned the Federal child pornography conviction of a Nebraska farmer because he was entrapped by a U.S. Postal Service child pornography sting operation. The case began in February 1984, when the defendant legally ordered and received two magazines containing photographs of nude preteen and teenage boys from a California adult bookstore. Subsequently, Congress changed the law and made it illegal to receive sexually explicit depictions of children through the mail.

The U.S. Postal Service obtained the defendant's name from a mailing list seized at the adult bookstore and then began an undercover operation to explore the defendant's willingness to order illegal child pornography. Over the next 2 1/2 years, the Postal Service and Customs Service, through five fictitious organizations and a bogus pen pal, repeatedly contacted the defendant through the mail, exploring his attitudes toward child pornography, disparaging the legitimacy and constitutionality of efforts to restrict the availability of sexually explicit material, and offering him the opportunity to order illegal child pornography.

Twenty-six months after the Postal Service's first mailings to the defendant, the Government still had no evidence that he illegally possessed or received child pornography in the mail. Rather, the defendant's only responses to some mailings revealed certain personal inclinations, including a predisposition to view photographs of preteen sex and a willingness to promote a given agenda by supporting lobbying organizations. Eventually, however, the defendant ordered a magazine containing child pornography from a catalogue provided during the Postal Service's sting operation.

The defendant was tried and convicted of the illegal receipt of the pornographic magazine despite his entrapment defense. On appeal, the Supreme Court reversed, finding that the defendant was entrapped as a matter of law. The Court ruled that the prosecution failed to show, beyond a reasonable doubt, that the defendant was predisposed to receive child pornography through the mail prior to the time when the Government first contacted him.

The Court noted that in typical drug stings or Government-sponsored fencing operations, where the defendant is simply provided with the opportunity to commit a crime, the entrapment defense is of little use to the defendant because the ready commission of the criminal act amply demonstrates the defendant's predisposition. However, in this case, the Court concluded that the defendant's 1984 lawful purchases and his expression of certain generalized personal inclinations to view teenage sexual material was not sufficient to prove, beyond a reasonable doubt, that he was predisposed to commit the crime charged, independent of the Government's coaxing.

White v. *Illinois*, 112 S.Ct. 736 (1992)

In *White*, the Court upheld the admissibility of out-of-court statements made by a child sexual assault victim to her babysitter, her mother, the police, and medical personnel who treated her. The Court decided that a witness need not be unavailable for trial before her out-of-court statements can be admitted as exceptions to hearsay evidentiary rules.

In the case, a babysitter and the mother of a 4-year-old child deter-

mined that the child had just been sexually assaulted in her home by the defendant. After the child described the assault, the mother notified the police. When the police arrived at the house, they obtained a more-detailed description of the assault from the 4-year-old victim. The police then took her to a hospital, where she described the sexual assault to the nurse and doctor who were treating her.

At trial, the State twice attempted to have the 4-year-old victim testify. However, because she apparently experienced emotional difficulty when brought into the courtroom, the victim left without testifying.

The State then called the babysitter, the mother, the police officer, the nurse, and the doctor to testify regarding the child's description of the assault. The defendant objected on hearsay grounds, but the judge found the out-of-court statements of the victim admissible under exceptions to the hearsay rule as spontaneous declarations and statements made in the course of securing medical treatment. The defendant was thereafter found guilty.

The Supreme Court sustained the conviction, rejecting the defendant's argument that the witness must be unavailable at trial before such hearsay statements are admissible. Instead, the Court held that a finding of unavailability of an out-of-court declarant is necessary only if the out-of-court statement was made at a prior judicial proceeding.

In this case, the vicitm made the statements to the mother, babysitter, and police officer shortly after the incident, and to medical personnel in the course of receiving medical treatment. Such statements are materially different than statements made at judicial hearings because they carry special guarantees of credibility and reliability.

The Court stated that an utterance or declaration offered in a moment of excitement, or spontaneously without the opportunity to reflect on the consequences of the exclamation, may justifiably carry more weight than a similar statement made in the relative calm of the courtroom. Similarly, a statement made by a person to a treating physician or nurse carries special guarantees of reliability, since the person knows that a false statement may cause misdiagnosis or mistreatment.

Last, the Court pointed out that its recent decisions in *Coy* v. *Iowa*, 487 U.S. 1012 (1988) and *Maryland* v. *Craig*, 110 S.Ct. 3157 (1990), which require a showing of necessity before a child sexual assault victim could testify at trial behind a screen or by closed-circuit television rather than face the defendant in an open courtroom, were not controlling. The Court affirmed that no necessity requirement exists as a predicate to the admissibility at trial of out-of-court declarations of a child sexual assault victim.

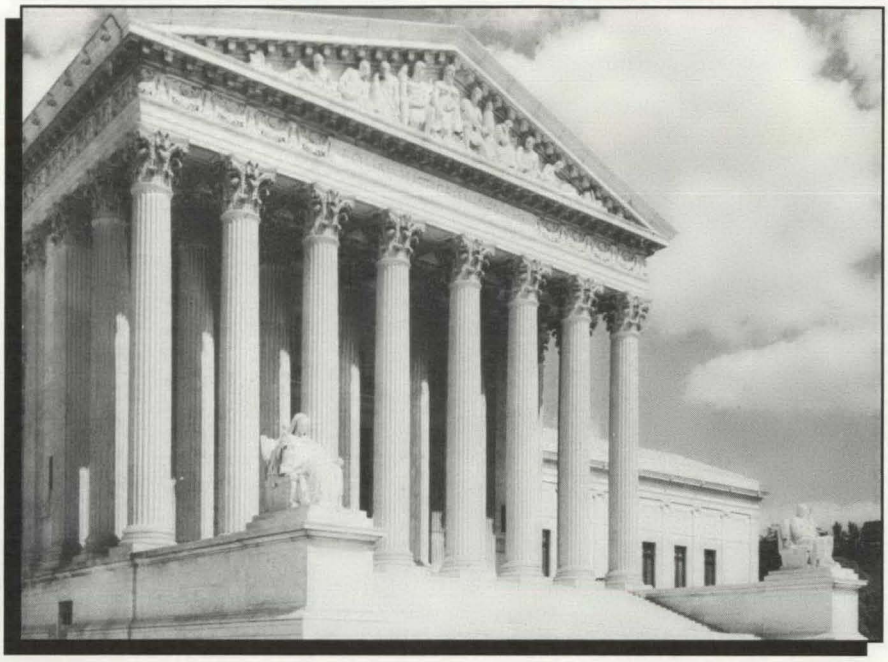
Estelle v. _McGuire_, 112 S.Ct. 475 (1992)

In *Estelle*, the defendant was charged with the murder of his infant daughter, who died as a result of multiple internal injuries. The defendant claimed to police that his daughter fell off a couch. At trial, the State introduced evidence through two physicians that the victim was a battered child, including testimony concerning several prior injuries to the infant, such as partially healed rib fractures.

The defendant was convicted, and his conviction was upheld by the State appellate courts. However, the U.S. Court of Appeals for the Ninth Circuit granted habeas corpus relief to the defendant, finding that the "battered child syndrome" evidence was erroneously admitted and that there was a prejudicial instruction to the jury concerning the use of the prior injury evidence. The Supreme Court reversed the Ninth Circuit and held that habeas corpus relief was inappropriate in this case, since there was no constitutional error committed by the trial court in admitting the "battered child syndrome" evidence.

In its opinion, the Court first made clear that habeas corpus review is only appropriate where there has been a conviction that violated the Constitution, laws, or treaties of the United States. In this case, the Court held that no constitutional violation occurred.

The State was required to prove that the infant's death was caused by intentional means, and the "battered child syndrome" evidence helped the State to do that. Even though the State did not offer evidence to prove



that the defendant caused the previous injuries to his daughter, and even though the defendant did not raise accident as a defense at trial, the "battered child syndrome" evidence was relevant and not in violation of the Due Process Clause of the 14th amendment.

Doggett v. *United States*, 112 S.Ct. 2686 (1992)

In *Doggett*, the Court determined that a delay of 8 1/2 years between a defendant's indictment and trial violated his sixth amendment right to a speedy trial. In this case, the defendant was indicted in 1980 on drug charges, but left the country for Panama 4 days before police officers arrived at his home to arrest him.

The next year, law enforcement officers determined that the defendant was under arrest in Panama, but did not file an extradition request because they thought it would be futile. Upon the defendant's release from jail in Panama, he traveled to Colombia and reentered the United States in 1982, undetected by law enforcement officials.

He lived openly using his true name until 1988, when a simple credit check by law enforcement disclosed his address and led to his arrest. The defendant unsuccessfully moved to dismiss the 1980 drug indictment, arguing that the Government's failure to prosecute him earlier violated his sixth amendment right to a speedy trial.

The Supreme Court began its opinion by reviewing the four factors used to determine speedy trial claims. These factors include 1) whether delay before trial was uncommonly long, 2) whether the Government or the criminal defendant is to blame for that delay, 3) whether, in due course, the defendant asserted his right to a speedy trial, and 4) whether the defendant suffered prejudice as a result of the delay.

Concerning the first inquiry, the Court found that the 8 1/2-year delay was not only uncommonly long but also extraordinary, and thus, clearly triggered the speedy trial inquiry. The Court stated that post-accusation delay becomes presumptively prejudicial at least as it approaches 1 year.

Concerning the second speedy trial factor, the Court determined the Government to be at blame for the length of the delay. The Court found that for 6 years, Government investigators made no serious effort to find the defendant and were thus negligent in their attempts to arrest him. The third speedy trial factor also weighed in the defendant's favor because the trial court found that the defendant was not aware of his indictment before his arrest; thus, the defendant had a good reason for not invoking his right to a speedy trial until after his arrest.

With respect to the last speedy trial factor, the Court stated that prejudice to a defendant includes the anxiety and concern of a defendant generated by the delay and the possibility that a defendant's defense will be impaired by dimming memories and loss of exculpatory evidence. However, the Court held that specific proof of prejudice does not have to be demonstrated where excessive delay presumptively compromises the reliability of a trial.

The Court concluded by distinguishing the different reasons for the delay. If the delay is caused by the Government's bad faith, the length of delay allowed will be shortened. When the delay is not in bad faith but attributable only to the Government's negligence, it will be accorded less weight in determining prejudice to the defendant. However, even delay occasioned by the Government's negligence creates prejudice that compounds over

time, and at some point, as here, becomes intolerable.

***United States* v. *Felix*, 112 S.Ct. 1377 (1992)**

In *Felix*, the Court dealt with the effect of the Double Jeopardy Clause of the fifth amendment on two overlapping drug prosecutions. This case arose out of a Federal drug investigation of a methamphetamine manufacturing facility operated by the defendant in Oklahoma, which law enforcement officers raided and shut down. However, the defendant evaded arrest and moved his operation to Missouri.

Eventually, he was arrested and indicted in Missouri for the methamphetamine manufacturing activities he conducted in the State. At the defendant's trial in Missouri, he claimed he was working covertly for the Government. To counter this defense, the prosecution introduced evidence of his prior illegal acts in Oklahoma to show his criminal intent, and the defendant was convicted.

The Government then brought a second indictment in Oklahoma against the defendant, charging him with a conspiracy and manufacturing a controlled substance in Oklahoma. Part of the overt acts forming the basis of the Oklahoma conspiracy charge included activity for which the defendant had already been convicted in Missouri.

The defendant was convicted of all of the Oklahoma charges. On appeal, he claimed his Oklahoma conviction violated his protection against double jeopardy, since he had been previously tried and convicted in Missouri on evidence of the same criminal actions.

The Court upheld the conviction, ruling that the Double Jeopardy Clause only prevents duplicative prosecution for the "same offense." First, the Court determined that introduction at the Missouri trial of the defendant's acts in Oklahoma for purposes of showing criminal intent was not in any way a prosecution of the defendant for the Oklahoma charges. Second, the Court ruled that a substantive offense and a conspiracy to commit that offense are not the "same offense" for double jeopardy purposes. Thus, the Oklahoma conspiracy charge against the defendant was a completely distinct offense from the Missouri crimes for which he had already been convicted.

***United States* v. *Alvarez-Machain*, 112 S.Ct. 2188 (1992)**

In *Alvarez-Machain*, the defendant, a citizen and resident of Mexico, was indicted for participating in the kidnap and murder of Drug Enforcement Administration (DEA) Agent Enrique Camarena-Salazar and a pilot working with Camarena. In 1990, the defendant was forcibly kidnapped at the behest of the DEA from Mexico, flown to El Paso, Texas, and arrested by DEA officials. The Mexican government officially protested the abduction.

The defendant successfully moved to dismiss his indictment, claiming that the U.S. Government lacked jurisdiction to try him because he was abducted in violation of the United States-Mexico Extradition Treaty. The Supreme Court reversed and held that the defendant's forcible abduction did not prohibit his trial in the United States.

The Court noted that a defendant brought before a court in accordance with an extradition treaty may raise jurisdictional claims under the terms of the treaty. However, when a treaty is silent on forcible abductions, it does not govern a court's jurisdiction to try an abducted defendant. In this case, the Court found that the United States-Mexico Extradition Treaty said nothing about the obligation of the two countries to refrain from forcible abductions, and thus, did not govern the jurisdiction of a U.S. court to try the defendant.

(Note: This opinion should not be interpreted as authorizing law enforcement officers to conduct foreign abductions, since any such activity raises important political and foreign policy issues that must be considered at the highest level of government.)

***Hunter* v. *Bryant*, 112 S.Ct. 534 (1991)**

The Court in this case reemphasized the important protection that qualified immunity provides to law enforcement officers sued for violating the Constitution by dismissing a lawsuit against law enforcement officers alleged to have made an arrest without probable cause. The case began in 1985, when the plaintiff walked into the University of Southern California's administrative offices and delivered two photocopied handwritten letters that referred to a plot to assassinate President Reagan.

The rambling letters referred to the potential assassin as "Mr. Image," who was described as "Communist white men within the National Council of Churches." The letter stated that "Mr. Image wants to murder President Reagan on his up and coming trip to Germany."

Campus police contacted the Secret Service, and a university employee identified the plaintiff as the person who delivered the letter. Two Secret Service agents then went to the plaintiff's home to interview him, and he admitted writing the letter but refused to identify "Mr. Image."

The agents then obtained consent to search the plaintiff's residence and found the original of the letter. However, the plaintiff refused to answer questions concerning his feelings toward the President or to state whether he intended to harm the President. The two agents then decided to make a warrantless arrest of the plaintiff for making threats against the President.

The plaintiff was arraigned and held without bond for 2 weeks before the criminal complaint was dismissed. He then sued the arresting agents for a constitutional violation, alleging that they had arrested him without probable cause.

The trial court denied the agents' motion for summary judgment on qualified immunity grounds, and the U.S. Court of Appeals for the Ninth Circuit affirmed the district court's finding that whether probable cause existed for the arrest was for a jury to decide. The Supreme Court reversed and held that the civil suit should have been dismissed on qualified immunity grounds.

The Court stated that qualified immunity shields law enforcement officers from constitutional lawsuits if reasonable officers could have believed their actions to be lawful in light of clearly established law and the information the officers possess. In the context of a warrantless arrest, the Court stated that even law enforcement officials who "reasonably but mistakenly conclude that probable cause is present" are entitled to immunity.

The Court held that the Ninth Circuit's decision was wrong because it placed the question of immunity in the hands of the jury when that determination should be made by the court long before trial. The Court then stated that the agents were entitled to immunity if, as in this case, a reasonable officer could have believed that probable cause existed to arrest the plaintiff. The Court concluded that the qualified immunity standard gives ample room for mistaken judgments and protects all but the plainly incompetent or those who knowingly violate the law.

***R.A.V.* v. *City of St. Paul, Minn.*, 112 S.Ct. 2538 (1992)**

In *R.A.V.*, the Court struck down a city ordinance designed to prevent the bias-motivated display of symbols or objects, such as Nazi swastikas or burning crosses. The case concerned the prosecution of a teenager who assembled a crudely made cross and burned it on the front lawn of an African-American family. The defendant was charged under a St. Paul ordinance that made it a misdemeanor to place on public or private property a symbol or object, such as a Nazi swastika or burning cross, "which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender."

The trial court granted the defendant's motion to dismiss the charges as an impermissible restriction on the first amendment freedom of speech, but was reversed by the Minnesota Supreme Court, which held that prosecution under the ordinance was permissible since it was limited to conduct that amounts to "fighting words." The U.S. Supreme Court reversed the Minnesota Supreme Court and held that the ordinance was invalid under the first amendment, even when interpreted to prohibit only "fighting words," because it prohibits otherwise permitted speech solely on

the basis of the subjects the speech addresses.

The Court began by noting that the first amendment generally prevents the Government from proscribing or prohibiting speech or even expressive conduct, such as flag burning, because of disapproval of the ideas expressed. The Court stated that certain categories of speech, such as defamation, obscenity, or "fighting words," can be regulated because of their constitutionally proscribable content. The Court then noted that the Government may not regulate speech based on hostility or favoritism toward a particular message and to hold otherwise raises the possibility that the Government may effectively drive certain ideas or viewpoints from the marketplace of ideas.

Applying these principles to the St. Paul ordinance, the Court found that the ordinance's prohibition on "fighting words" was directed to speech that insulted or provoked violence "on the basis of race, color, creed, religion or gender." As such, it sought to regulate speech based on its content or message. The Court stated that the first amendment does not permit a government to impose special prohibitions on those speakers who express views on disfavored subjects.

The Court pointed out that there were adequate content-neutral alternatives to punish the type of conduct in this case, such as arson or property crime charges. Thus, the city had not demonstrated that the ordinance was necessary to serve a compelling interest of the city to prevent this type of activity. The Court concluded by stating that it believed burning a cross in someone's front yard is reprehensible, but the city has sufficient means to prevent this type of conduct without violating the first amendment.

***Forsyth County, Ga.* v. *Nationalist Movement*, 112 S.Ct. 2395 (1992)**

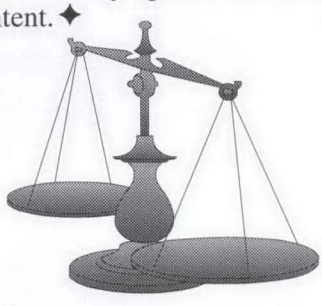
In this first amendment case, the Court struck down a county ordinance that required the issuance of permits for parades, assemblies, and other uses of public property by private organizations and permitted the imposition of a fee based upon the expense to the county caused by the parade or assembly. The ordinance provided that every permit applicant shall pay an amount to be determined by the county administrator in order to meet the expenses incident to the administration of the ordinance and to the maintenance of public order. However, the sum could not exceed $1,000 per day.

In 1989, the Nationalist Movement (a Ku Klux Klan affiliate) proposed to demonstrate for 1 1/2 to 2 hours on the county courthouse steps in opposition to the Federal holiday for the birthday of Martin Luther King, Jr. The county imposed a $100 fee based on the administrator's time in issuing the permit. The Nationalist Movement refused to pay and sued requesting a temporary restraining order and permanent injunction against the county, claiming the ordinance illegally infringed the first amendment freedom of speech.

In its opinion striking down the ordinance, the Court restated the general rule that there is a heavy presumption against a prior restraint of speech. The Court recognized that a government may regulate the uses of public forums, but if a permit scheme controls the time, place, or manner of speech, it must not be based on the content of the speech. Instead, it must be narrowly tailored to serve a significant governmental interest and must leave ample alternatives for the communication.

The Court found two problems with the county ordinance in this case. First, it vested unbridled discretion in the county administrator to determine what fee to charge, and thus, did not contain adequate standards for the county administrator to apply. Second, it impermissibly allowed consideration of the content of the speech in setting the fee.

Because the costs imposed on an applicant were designed to offset police protection and other county expenses, it was necessary for the administrator to assess the content of the message and to estimate the response of others to that content. The fee assessed for a parade permit, therefore, would impermissibly depend on the administrator's measure of the amount of hostility likely to be created by speech based on its content. ✦

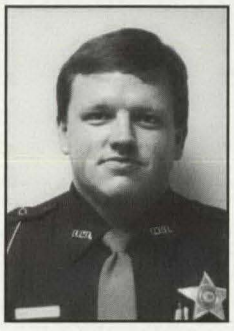


The Bulletin Notes

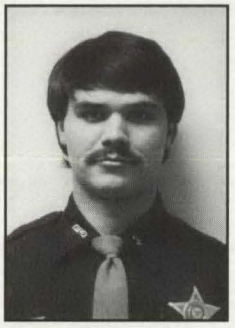
Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize their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

Sgt. Dean Atkinson and Officers James Bowen and Bernard Coughlin of the Oregon, Wisconsin, Police Department responded to the report of a female being assaulted. When the officers arrived, they found a man applying a chokehold on the victim and holding a knife to her throat, threatening to kill her. During the tense negotiations that followed, the suspect momentarily lowered the knife from the victim's throat, allowing the officers to pull her away from the assailant. The offender—who was later found to have an extensive violent criminal history—was taken into custody. The victim was later treated for her injuries and released.

Sergeant Atkinson

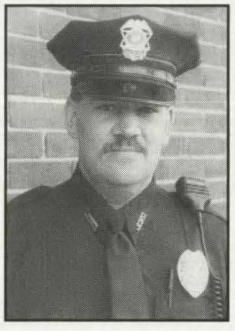


Officer Bowen



Officer Coughlin

Officer Roland Holt of the Jefferson City, Tennessee, Police Department responded to the report of a man threatening suicide. Upon arriving at the scene, Officer Holt was confronted by the distraught subject, who had placed a pistol to his head. After almost an hour, during which time the man threatened the officer with a loaded handgun, Officer Holt finally persuaded him to surrender his weapon without incident.



Officer Holt

Nominations for ***The Bulletin Notes*** should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short writeup (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions should be sent to the *Editor, FBI Law Enforcement Bulletin*, Room 7262, 10th and Pennsylvania Ave., NW, Washington, DC 20535.

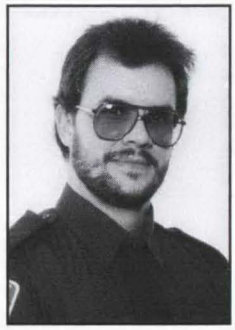
Officer Baki

Officer Joseph K. Baki of the Glen Ellyn, Illinois, Police Department saved the life of a 4-year-old girl after making repeated attempts to rescue her from a burning home. On his seventh attempt to enter the burning and smoke-filled residence, Officer Baki succeeded in locating the girl and carrying her to safety. The victim was then flown to an area medical center for special oxygen therapy treatment and subsequently released.

Officer McTeague

Officer Thomas R. McTeague of the Goose Creek, South Carolina, Police Department saved the life of an 11-week-old infant who was choking. While investigating an unrelated report in a shopping center parking lot, Officer McTeague was approached by a woman holding an unconscious infant. The child had stopped breathing and was turning blue. Officer McTeague immediately performed the Heimlich maneuver, which cleared the infant's windpipe and allowed normal breathing to resume.

Constable Bannatyne



Constable Siatecki

Constables Grant Bannatyne and Phil Siatecki of the Winnipeg Police Department in Manitoba, Canada, responded to the report of an elderly woman missing from a personal care home. Upon searching the premises, the constables discovered fresh footprints in the snow and followed them to a nearby river, where they heard faint cries for help. The constables walked cautiously onto the ice and discovered that the missing woman had fallen into open water in the middle of the river. Constable Bannatyne tied a rope around himself, and with Constable Siatecki holding the other end, went into the water. The two constables then pulled the woman to safety.

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