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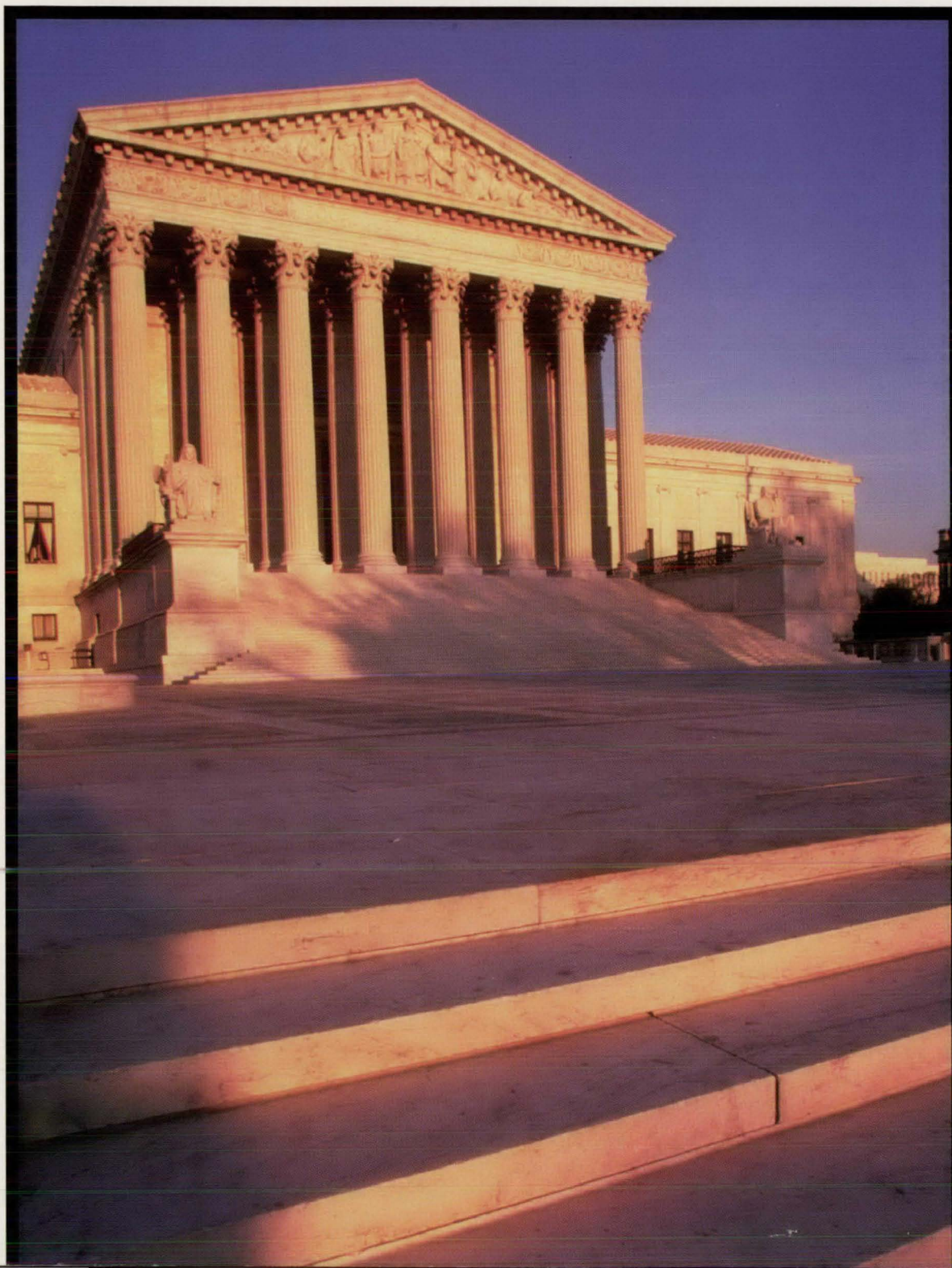


November 1997

FBI Law Enforcement

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Supreme Court Cases



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Director

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Editor

John E. Ott

Managing Editor

Andrew DiRosa

Associate Editors

Julie R. Linkins

Kim Waggoner

Art Director

Brian K. Parnell

Assistant Art Director

Denise Bennett

Staff Assistant

Linda W. Szumilo

Internet Address

leb@fbi.gov

Cover photo

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Send article submissions to
Editor, *FBI Law Enforcement
Bulletin*, Quantico, VA 22135.

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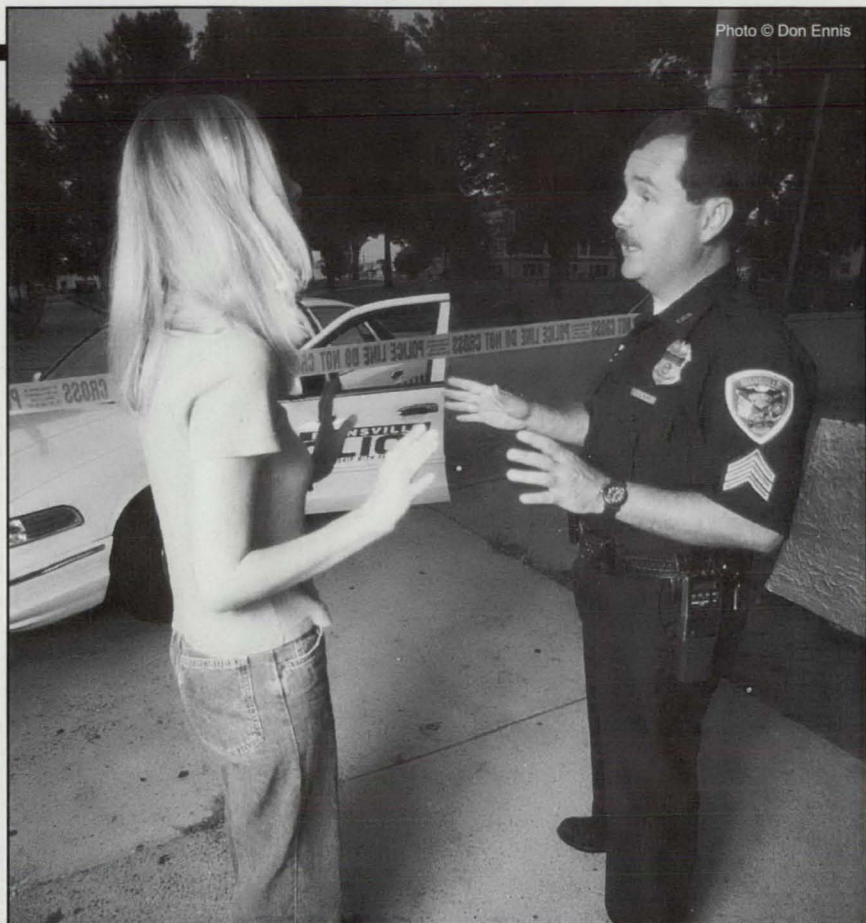
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Interviewing Erratic Subjects

By ANTHONY J. PINIZZOTTO, Ph.D. and GEORGE D. DESHAZOR, LCSW, BCD

During the morning, Smith appeared organized and coherent to his family and co-workers. Patrons of the small restaurant where he ate lunch report that Smith argued heatedly with Jones over some wages that Smith claimed were due him. The two men left the restaurant together, still arguing over the matter. Two hours later, police officers are holding Smith for Jones' murder. During initial questioning, Smith admits to killing Jones but claims that he was

driven to do so by some irresistible impulse resulting from a delusional state. Smith exhibits erratic behavior during the questioning and as police officers transport him to the precinct office for booking. When the case goes to trial several months later, Smith's attorneys base their client's defense on the claim of insanity.

Although the defendant in this case clearly may have undergone a significant mood shift in the hours preceding the homicide, it

does not necessarily indicate a true lapse into delusion. And, while the subject's erratic behavior during questioning might support his later claims of insanity, could it merely be the reaction of a person who has committed a reckless and life-changing crime? What information could investigators collect that would help prosecuting attorneys see that justice is served when a defendant claims lack of criminal responsibility due to insanity?

This article focuses on the insanity defense and observations investigators can make—as well as questions they can ask—that could assist courts in determining an offender's state of mind at the time an offense occurred. By collecting the right information, investigators can help the court make the appropriate decision regarding a defendant's sanity and ability to stand trial.

THE INSANITY DEFENSE

Despite a popular misconception to the contrary, the insanity defense is relatively uncommon in the American court experience. The legal elements upon which a subject is judged to be insane at the time of an incident vary from jurisdiction to jurisdiction. Most, however, reflect the basic concepts of the American Law Institute (ALI) Rule, used in 20 states and all federal courts. The ALI Rule states, "A person is not responsible for criminal conduct if

at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law."¹

Courts often request that mental health professionals help assist in determining the mental state (mens rea) of subjects at the time of a crime. A primary concern of the court and mental health systems in this area is to determine what individuals intended as a consequence of their actions.

One of the methods mental health professionals use to assess the mental state of an individual is to conduct a mental status examination. A complete examination provides a description of the subject's current mental functioning by assessing various aspects of the individual's cognitive and emotional states. Specific areas assessed include the subject's general appearance and behavior, speech,

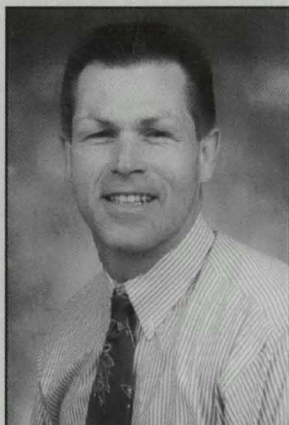
thought processes, and judgment. These examinations can last as little as several minutes or extend for several hours.

DOCUMENTING A SUBJECT'S BEHAVIOR

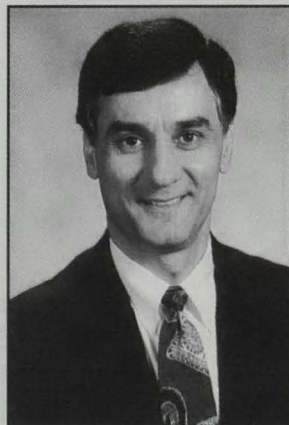
Law enforcement investigators are not trained to conduct such extended or intense mental status examinations—nor should they attempt to do so. However, much of their training and experience in behavior assessment, interviewing, and interrogation affords them the skills needed to collect information that could prove very relevant in court.

Generally, information that investigators collect focuses on a subject's behavior and thought processes prior to the incident in question, at the time of the incident, after the incident, and behavior and responses during questioning. In some cases, two or more categories converge, for example, a subject might be apprehended at the scene and questioned within moments of the offense.

Behaviors do not occur in a vacuum; a person generally behaves with some consistency over time. Therefore, whenever possible, investigators should develop a behavioral time line for the information collected about a subject. In the case cited earlier, for example, Smith's coherent behavior in the morning—as witnessed and recounted to police by family members and co-workers—would help establish that the subject exhibited no outward signs of delusion in the hours leading up to the homicide.



Special Agent DeShazor serves with the Behavioral Science Unit at the FBI Academy.



Dr. Pinizzotto serves with the Behavioral Science Unit at the FBI Academy.

Investigators can document several aspects of the subject's behavior that may provide insights for the court into the individual's mental state. These elements can be broken down into several broad categories—the subject's physical state, mood and affect, thought processes and perceptions, speech, and social interaction. When documenting each of these categories, investigators should note concrete examples and exact words used by the subject. Rather than simply noting that a subject was dressed "inappropriately," for example, investigators should document that the subject "wore his underclothing outside of his street clothes."

Physical State

Investigators can document much about a subject's physical state even before speaking to the individual. The best observations include detailed information about a subject's attire, as well as physical movements at the time of questioning. Investigators should note whether the subject was clean or dirty, well-groomed or unkempt, neat or disheveled, or whether the subject's clothing was appropriate for the day, season, or social circumstances, and specifically why.

Likewise, investigators should document any erratic physical movements on the part of the subject. These movements include visible indicators of restlessness, fidgeting, muscular rigidity or any inappropriate movements, e.g., hair pulling. Investigators also should note the absence of erratic movements.

Mood and Affect

Mood and affect reflect an individual's emotional state. Displays of anger, hostility, depression, apathy, and euphoria represent various expressions of mood. Investigators should note whether a subject displays emotions appropriate to the circumstances. Does the individual laugh while recounting the sad details of a loved one's death?

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A person's mood can change from euphoria to depression over a relatively short time without necessarily indicating mental disorder. However, evidence of multiple, rapid, and extreme mood changes may indicate some type of disorder. Such changes in mood are referred to as a *labile affect*. The terms *constricted* or *blunted* are often used to describe individuals who do not express any mood or who remain "poker faced." More important than using the appropriate terms, though, investigators should include clear and specific examples—such as inappropriate laughter—that document a subject's mood and affect.

Thought Processes and Perceptions

Since individuals generally act in ways consistent with their thoughts and beliefs, mental health professionals and attorneys devote considerable effort to evaluating and understanding a subject's thinking and belief system. Investigators can document observable behaviors that may reflect aspects of a subject's thought processes, including the individual's insights and judgment, memory, and thought content. Information investigators provide to the court in these areas can be crucial in determining a subject's mind-set or mental condition.

Investigators should document subjects' awareness of who and where they are, as well as their ability to identify the day of the week, the month, and the current year correctly. Knowledge of these facts indicates at least a basic understanding of what is referred to in the mental health field as *orientation x 3*—recognition of person, place, and time. Impairment or disintegration of orientation usually follows a set sequence: first time, then place, then person.

Mental health professionals use various methods to determine degrees of memory impairment. Investigators can document the status of a subject's immediate and recent memory simply by intermittently repeating questions during the interview process. For example, at the end of an interview, an investigator could ask several questions covering material discussed in earlier stages of the questioning, noting

similarities and differences in the subject's responses.

Thought content involves several areas of potential interest to the court. These include suicidal or homicidal thoughts, delusions, flights of ideas, and ideas of reference on the part of subjects.

As subjects speak or respond to specific questions, investigators should note both overt and covert threats that subjects make to themselves or others. Investigators also should document any statements that denote delusional thinking—false beliefs subjects maintain in spite of evidence to the contrary.

Investigators should be alert to the different types of delusional thinking individuals may exhibit. For instance, subjects may profess to being important religious figures or even fictitious characters (grandiose type); subjects may maintain an irrational belief that they are being followed, maligned, or prevented from achieving their goals (persecutory type); or they may believe that a person of stature, such as a high government official or a celebrity, is in love with them (erotomantic type). Likewise, it may be helpful for investigators to note a lack of delusional language on the part of subjects who exhibit otherwise erratic behavior.

Subjects exhibit *flight of ideas* when their conversation moves from one topic to another so rapidly and with such a lack of cohesiveness that others find it difficult to follow. When subjects believe that conversations and gestures in which other people engage refer to the subject when in fact they do not, they are displaying *ideas of reference*.

Subjects' words and actions also may indicate hallucination. Although hallucinations are most frequently visual or auditory, they can manifest in any of the five senses. Subjects suffering from alcohol- or drug-induced psychoses, for instance, often experience tactile hallucinations. Hallucinatory episodes can be either positive (seeing stimuli that are not present) or negative (not seeing stimuli that are

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present), though positive hallucinations are much more common. During questioning, for example, suspects may appear to be looking off to one side, appearing to be listening to a phantom voice. In such cases, investigators should elicit information from the subject pertaining to the possible hallucination and document the responses. Investigators also should note a lack of hallucinatory behavior on the part of subjects.

Speech

Investigators should document and describe the qualities of a

subject's speech. Often, the volume level of speech reflects an individual's mood. That is, the speech of depressed persons tends to be subdued, while angry individuals tend to speak in loud, boisterous tones. Investigators also should note the pace of a subject's speech; it may range from slow and determined to rapid and pressured. Investigators should note any specific examples or any distinguishing features of a subject's speech patterns.

Social Interaction

How subjects interact with others—including law enforcement personnel during the interview—also may be of interest to the court. Investigators should document whether a subject acts in a guarded, provocative, or frightened manner. Likewise, investigators should note whether the subject appears cooperative or uncooperative, responsive or unresponsive.

THE SUBJECT'S HISTORY

If investigators have the time and resources to collect additional information, selected areas of the subject's history may be particularly useful to the court. Investigators can document any past contacts the subject may have had with private or public mental health professionals. The type of treatment received (inpatient or outpatient) should be noted, as well as the length of time in therapy, current medications, and past or present diagnoses. Investigators also should document any history of substance abuse.

In addition, investigators should briefly document the

subject's social history. This biographical background data should include information concerning the subject's immediate and extended family, associates, occupation and work record, and any social support systems available to the individual.

CONCLUSION

Law enforcement officers come into contact with a wide variety of

people. Many of these individuals behave erratically for various reasons. While investigators do not possess the time or the training to conduct mental health examinations, they do possess the skills to collect some of the information that the courts can use to determine whether subjects meet the strict standards necessary to qualify for the insanity defense. By collecting the right evidence and documenting

specific characteristics displayed by subjects, investigators can help the courts ensure that the needs of society are served, as the rights of the mentally insane are protected. ♦

Endnote

M. Blinder, *Psychiatry in the Everyday Practice of Law*, 3rd ed. (Deerfield, IL: Clark, Boardman, Callaghan Press, 1992).

Questions for Subjects

To assist mental health workers, a noted psychiatrist developed a mini mental examination that can be used to make partial determinations concerning an individual's mental status. Although investigators should not attempt to diagnose a subject using this examination, they can administer the questionnaire to collect information that may prove useful to the court as a case progresses.

By asking the following ten questions and recording the verbatim responses of an individual, investigators can provide important observations of the mental condition of a subject at the time of questioning. This information, along with the other observations and descriptions of the subject documented by investigators, later could prove invaluable to mental health professionals and prosecuting attorneys.

1. Where are we right now?
2. What is the location of this place?

3. What month is it?
4. What day of the week is it?
5. What year is it?
6. How old are you?
7. When were you born?
8. Where were you born?
9. Who is the current president of the United States?
10. Who was the president before him?

Mental health professionals use a scoring scale in conjunction with this examination to rank a subject's level of mental impairment. Although investigators can administer the examination, they should leave scoring of the instrument to professionals in the mental health field.

From A. Goldfarb in W.J. Kelly, ed., *Psychosocial Crises* (Springhouse, PA: Springhouse Corporation, 1992).

Integrated Patrol Combining Aggressive Enforcement and Community Policing

By Robert A. Johnson, M.S.

The concentration of police resources on specific groups of people in particular areas or neighborhoods within a community plays well to contemporary political themes but, as an operational philosophy, falls short of defining a truly encompassing crime control and reduction strategy. Further, the rush to accomplish some measure of community-oriented policing (COP) within law enforcement agencies has led to an infusion of programs responding to various societal ills that are well outside what Egon Bittner called the "core of the police role."¹ Although local political realities often drive a law enforcement agency's response to crime reduction and prevention, the potential benefits of COP make broadening its impact throughout the widest spectrum of the police organization and the community a worthwhile goal.

However, this goal should not be considered mutually exclusive of aggressive enforcement. In fact, an operational philosophy that combines community-based policing with aggressive enforcement provides a balanced and comprehensive approach to addressing crime problems throughout an entire jurisdiction rather than merely in targeted areas within a community. In Anne Arundel County, Maryland, an experiment in such integrated patrol has led to dramatically increased productivity in a midnight patrol shift and has contributed to an overall decline in crime throughout the county.

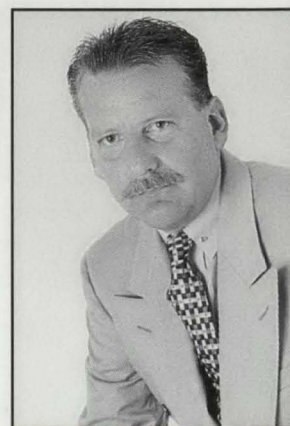
This article discusses the ongoing integrated patrol experiment in Anne Arundel County and some of the factors that led to its development. Among these factors is an understanding that despite the appeal and potential benefits of community-based policing initiatives, like anything, community-oriented policing has limits. COP should complement—but not necessarily replace—police agencies'

traditional enforcement mandate. The integrated patrol approach grew from the presumption that community-based policing can—and probably should—coexist with a policy of aggressive enforcement. Integrated patrol also grew from a developing understanding that current methods of measuring police effectiveness may be inadequate for accurately assessing the full range of responses necessary to address crime in a comprehensive way.

Limits of Community-based Policing

During the past decade, police agencies throughout the country implemented community-oriented policing programs with the goal of reducing the incidence of crime through police-community partnerships. With the best intentions, and often with monetary support and direction from the federal government, local law enforcement agencies now consistently target the youthful offender, who often is living in a socially and economically challenged environment. This strategy anticipates that the young offender will be dissuaded from participating in anti-social behavior through a redirection of activities, sponsored in large part by public law enforcement, private business, and other community interests. Most law enforcement executives embrace the equation that the underlying philosophy will serve as a catalyst for a reduction in crime, enhanced satisfaction with the

*Lieutenant Johnson
is a patrol shift
commander with
the Anne Arundel
County, Maryland,
Police Department.*



police, and a strengthening of police-community bonds.

Although nearly everyone would agree that such a goal is a noble one, skepticism persists regarding the long-range success of a philosophy that relies on changing value systems and cultural norms. The likelihood, for example, that the police alone could change the core values of a 14-year-old potential offender appears remote. Likewise, although occasional transformations do occur, police officers who spend at most a few hours a week within a community cannot expect to have a lasting impact on anyone who is not predisposed to rejecting those established values and norms.

Research on social disorganization gives compelling evidence that individual and collective value systems resist opposing influences. This research strongly suggests that ethnicity, family, and community standards often form the basis upon which values and goals are established in the classroom and in the community as a whole. The obvious conclusion is that peer, family, and community influences play a far more important role in shaping identities than do surrogate associations with police officers.² Against this backdrop, it appears that the accepted methods police agencies use to measure success might be woefully out of step with the realities officers face.

Measuring Success

Law enforcement administrators have traditionally relied on three indicators to measure agency effectiveness and to determine funding for particular operational programs. First, crime statistics always have played an important role in providing direction to police agencies. But, by relying on crime statistics as *prima facie* evidence that specific programs or philosophies are achieving their anticipated results, observers often fail to ensure that these statistics accurately reflect what they purport to measure. For example, politicians often view decreases in crime as

indicators of successful programmatic responses to funding priorities, and although the converse is often used as justification for additional funding, some long-range studies suggest that police agencies have little direct control over increases and decreases in crime. This is so, researchers believe, because the police have no control over the sociological conditions that are blamed for fueling the growth of crime.³

For this reason, the use of crime statistics as an evaluator of program success or as an indicator of money well spent is inherently inadequate.

Second, measuring the level of satisfaction with the police has been of organizational concern for decades and usually is accomplished through surveys, personal interviews, and by annually calculating the numbers of sustained internal complaints. Although these data-capturing mechanisms contain inherent biases and may be of little value

when used as explanations of crime or other anti-social behavior, police organizations continue to rely on them as valid measures of agency effectiveness. This is the case even though, from an historical point of view, citizen attitudes towards the police have not been subject to change as a result of the level of patrol, nor are attitudes towards the police appreciably affected after police-citizen encounters.⁴ In other words, there is little that government can do to change more than temporarily the existing penchant for individual likes and dislikes, or as in this case, satisfaction or dissatisfaction with the police.

Last, the popularity of prevention as an indicator of success among police program managers is easy to understand. To refute the effects of prevention strategies would require a precise measurement of crime that did *not* occur. Moreover, it would be reasonable to expect that the level of criminal activity in a given community would be commensurate with the attention paid to it by law enforcement. To the extent that communities can apply an ever-increasing proportion of shrinking government resources to a

“Community-oriented policing should complement—but not necessarily replace—police agencies’ traditional enforcement mandate.”

relatively small group of recipients, the level of satisfaction can be expected to remain favorable. Similarly, the use of prevention statistics also will remain popular as long as municipal legislatures continue to provide funding on the basis of this measurement.

Something Is Missing

The missing ingredient within the current community-based policing paradigm has been the lack of attention to traditional law enforcement responsibilities. Little has been written, for example, about using confidential informants, stakeouts, intelligence-gathering, and aggressive vehicle stops—in conjunction with flexible organizational structures—to respond to criminal activity. Although continuously updated information regarding crime trends and patterns is key to any such attempt, problem solving should not be confined to youth crime or specific neighborhood dysfunctions. Community policing and problem-oriented policing can be successful in a larger context involving every member of the organization.

New York City, for example, has established a zero tolerance for most misdemeanor street-crimes. This philosophy recognizes the relationship between the enforcement of minor infractions and the perception among citizens of police omnipresence. Backed by a management framework that stresses aggressive enforcement, information management, and a case-to-fruitment mentality, the police officer on the beat can decide what and where the problem is and what to do about it.

The shortcomings of traditional program evaluation methodologies necessitate a more precise indicator of success for such initiatives. One under-used method is the assessment of fear. The extent to which police can reduce citizens' fear of being victimized may provide a more realistic assessment of police success than measurements currently in use. Considerable disparity often exists between the reality

of an issue and how the public perceives it, often dictated by the way the issue has been framed by the media. This fact leads some to suggest that the perception of an issue may be as important as its reality.

When viewed in this way, the absence of fear may signal a perception of confidence in the police and may have more assessment value than traditional measures. To that end, a high-profile crime-fighting force whose ability to solve crime quickly, use good judgment, and remain flexible as the task demands, is essential. Applying flexibility of response within the traditional organizational structure also can maximize productivity, reduce downtime for personnel, and increase overall effectiveness.

Applying the Philosophy

The shift supervisor—whose job is to focus personnel on case-clearance—must act as the linchpin of this operational change. As a basic tenet of the integrated patrol philosophy, police officers are permitted to determine the enforcement activities necessary for their particular area and respond accordingly. If an officer's entire shift is devoted to responding to 911 calls for service, then follow-up would be encouraged during downtimes. Conversely, an officer with fewer service calls during a shift would be expected to work in conjunction with other personnel to provide necessary enforcement action or to gather intelligence or engage

in problem-solving activities. As the team concept is crucial to this philosophy, it is not always necessary that officers be productive within the limitations of the term's traditional definition. An officer may be productive by assisting team members with a new computer program, instructing team members about search warrants, or working on any number of necessary staff functions.

Still, this flexible approach requires that all team members adhere to a number of absolutes. First, team members must interrogate all arrestees for the purpose

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By deftly coordinating and directing creativity rather than limiting it, commanders need only open the door for creative thought and action and stay out of the way.

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of gathering additional intelligence or solving additional crimes. Second, team members must keep current on criminal activity, wanted suspects, and crime patterns occurring within their areas of assignment. Last, team members should develop and maintain citizen contacts for the purpose of intelligence-gathering.

In order to coordinate this approach, the commander not only must know what initiatives each officer pursues and provide encouragement, but also provide the necessary time and resources to complete tasks. In this way, the commander becomes an activity *facilitator* rather than an activity *director*. Commanders who subscribe to the traditional method of measuring officer performance by counting reports, tallying tickets, and totaling the number of drunk driver apprehensions, may find adjusting to this new approach troublesome.

For this type of endeavor to succeed, commanders must possess a meaningful appreciation of each subordinate's skills, abilities, work habits, goals, etc., and use this knowledge to apply the correct motivational stimulus at appropriate times. By deftly *coordinating* and *directing* creativity rather than limiting it, commanders need only open the door for creative thought and action and stay out of the way.

Case Study

In January 1996, the Anne Arundel County Police Department initiated an experimental integrated patrol strategy in its western patrol district. The demographics of this primarily residential area of suburban Maryland—including a military complex and a number of commercial pockets—as well as a steady increase in calls for service created conditions conducive to a change in deployment strategy. The experiment would be limited to the midnight shift, which was tasked with establishing and refining a model patrol strategy.

Supervisors identified the primary goals of the experiment as increasing officer productivity,

expanding organizational responsibility beyond writing incident reports, decreasing reliance on specialized units for case follow-up, and establishing flexibility as an operational norm. To these ends, a new management philosophy quickly emerged that emphasized increased patrol activity—most notably vehicle stops, field interrogations, and building checks. Employing creative closure strategies—

including the ability for officers to move throughout the patrol area as they observed crime patterns develop—became an operational hallmark and an important factor in instilling a case-to-fruit mental-ity among patrol officers.

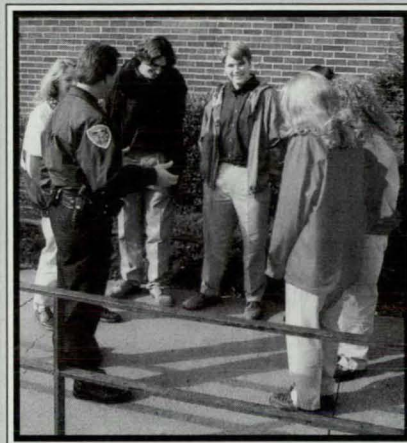
As part of the patrol strategy, sergeants and lieutenants continually reviewed crime data and brainstormed with patrol officers to determine the best response strategies for particular problems. Cases requiring follow-up were returned to the responding patrol officers before being forwarded to

detectives. Individual officers ultimately were held accountable for investigating and resolving crimes that occurred in their patrol areas. If the officer assigned to a particular area identified the need for a stakeout or search warrant, supervisors paired the officer with another patrol officer to assist. In the early days of the experiment, this approach quickly established a standard for what was expected of each patrol officer individually and the squad collectively.

As the creativity of patrol officers was allowed to flourish, officers began to demonstrate individualized expertise in such diverse areas as criminal investigations, traffic enforcement, drug suppression, routine patrol, execution of search warrants, stakeouts, and computer support. At the same time, productivity and case-closure rates began to rise. Only months into the experiment, as supervisors saw that the patrol force was capable of assuming much more responsibility for crime clearance, they further refined the integrated patrol strategy.

The most productive investigators in the patrol force assumed responsibility for following up on cases that they thought could be resolved quickly. In

Photo © Don Ennis



the interim between such cases, these patrol-investigators worked on cold cases that had fewer solvability factors.

Additionally, in response to an increase in commercial break-ins, each night, a different officer driving an unmarked vehicle was assigned to patrol commercial areas with the sole responsibility of checking buildings for burglaries. Although this revolving assignment did not always prove popular among officers, this preventive patrol approach netted arrests within days of its implementation.

Since its inception, the integrated patrol project has yielded impressive results.

Over a 14-month period from January 1996 to March 1997, the midnight shift of the western district patrol squad solved 21 breaking-and-entering cases, 23 armed robberies, 27 vehicle thefts, 2 rapes, 20 simple assaults, 34 non-vehicle thefts, 1 carjacking, 1 abduction, and 139 destruction of property cases. In 1996, under the integrated patrol strategy, the squad issued 3,657 traffic citations—compared to 2,010 in 1995—and apprehended 365 drunk drivers—compared to 200 DWI apprehensions in 1995. The increased productivity and enhanced case-clearance rates generated by the integrated patrol approach spurred department administrators to continue the program and to consider expanding it to other shifts and patrol areas.

Conclusion

Although the art of policing has changed a great deal over the last several decades, especially with regard to personnel deployment strategies and new technologies, relatively little attention has been paid to the way in which administrators deal with personnel or define productivity within a structured, paramilitary environment. A management philosophy that sets parameters but encourages solutions by the rank-and-file is infinitely more desirable than a

system that discourages, albeit unintentionally, the innovative and creative worker. Together with effective measures that more accurately validate police successes, a new management philosophy can emerge.

The application of community policing programs within this structure, however, is best accomplished through aggressive enforcement, a case-to-fruitment mentality, the use of the flexible organizational structure concept, and common sense. The tendency to apply law enforcement resources exclusively to specific communities to the exclusion of others also should be avoided in favor of encouraging individual officers

to apply the resources available to them on every call for service. In an integrated patrol approach, shift commanders assume a difficult, but ultimately integral, role. They must know their employees, encourage their employees' activities, measure the results fairly, provide guidance and support, and act to maximize the effectiveness of the team. By combining aggressive enforcement with a comprehensive community-based orientation, law enforcement agencies can unleash officers' full creative power to combat crime. ♦

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Endnotes

¹ E. Bittner, *The Functions of Police in a Modern Society* (Cambridge, MA: Olegeschlager, Gunn & Hain, 1980), 6-24, 36-47.

² R. Bursik, "Social Disorganization and Theories of Crime and Delinquency: Problems and Prospects," *Criminology*, 26, no. 4 (1988): 519.

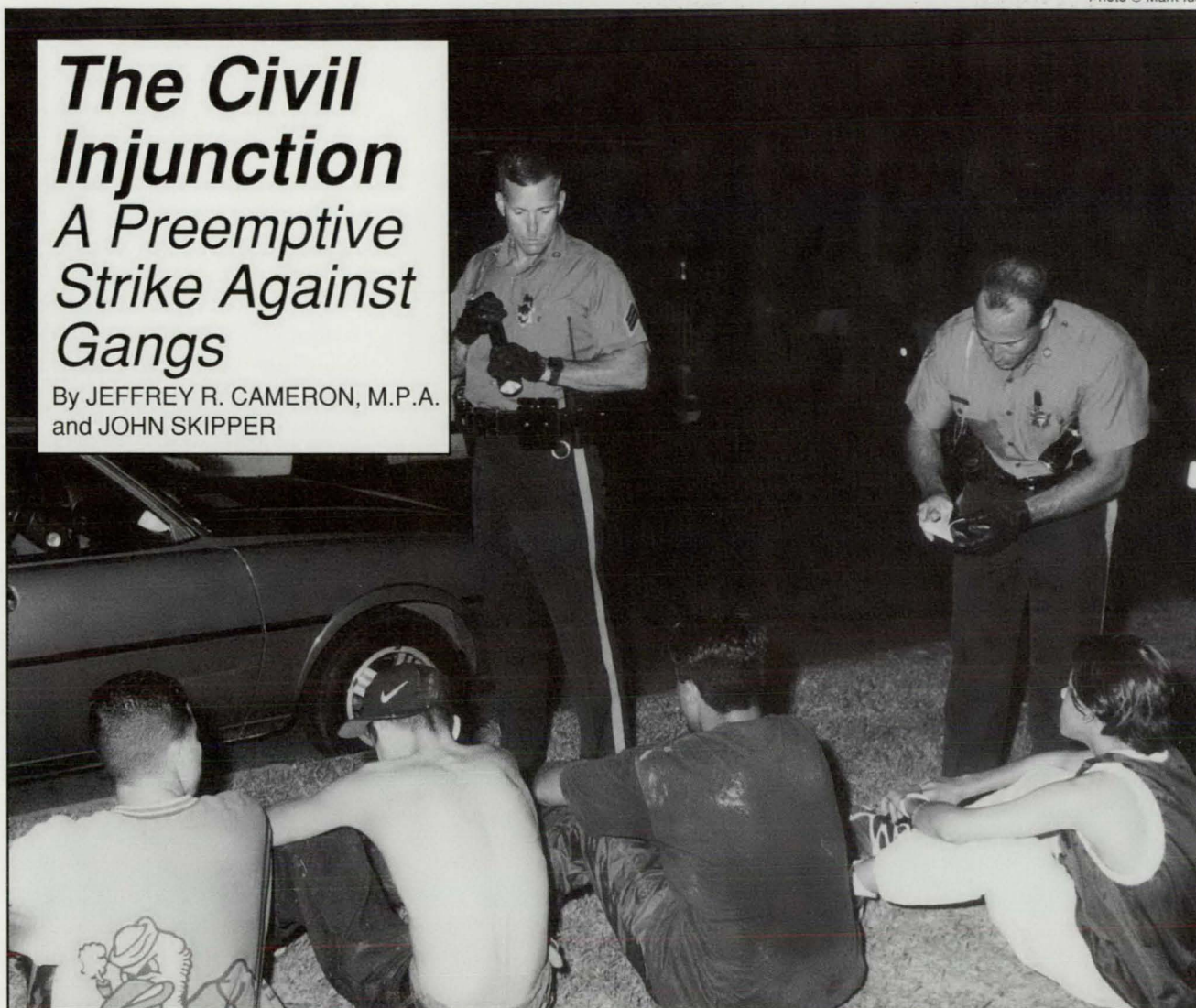
³ C. Klockars, "The Rhetoric of Community Policing," in *Thinking About Crime: Contemporary Readings*, ed. C. Klockars and S. Mastrofski (New York: McGraw-Hill, 1988), 530-542.

⁴ G. Kelling, T. Pate, D. Dieckman, and C. Brown, "The Kansas City Preventive Patrol Experiment," in *Thinking About Crime: Contemporary Readings*, ed. C. Klockars and S. Mastrofski (New York: McGraw-Hill, 1988), 139-162. It should be noted, however, that in the Newark Foot Patrol Experiment, researchers recorded a significant reduction in citizens' fear of typical street crimes and an increase in generalized feelings of personal safety when foot patrols (as opposed to motor patrols) were deployed. The Police Foundation, *The Newark Foot Patrol Experiment*, (Washington, DC: The Police Foundation, 1981), 123.

The Civil Injunction

A Preemptive Strike Against Gangs

By JEFFREY R. CAMERON, M.P.A.
and JOHN SKIPPER



The lawsuit's defendants included 28 gangsters, some with names like "Scrappy," "Monster," and "Li'l Capone." Once a source of terror for neighborhood residents, these gangsters faced jail time for actions as innocuous as littering or stepping onto someone else's property without permission.

As part of a team effort with citizens, city officials, and the local prosecutor's office, the Redondo

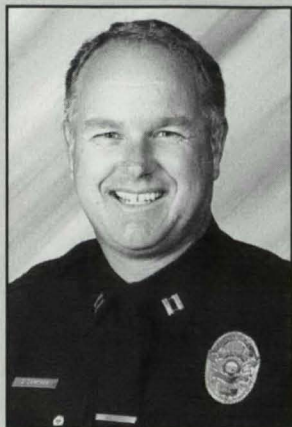
Beach Police Department used the civil injunction in a successful preemptive strike against gang-related crime. As a result, peace returned to the community, and mothers who once feared taking their children to the park wrote letters of praise and thanks to the police department.

THE REDONDO BEACH EXPERIENCE

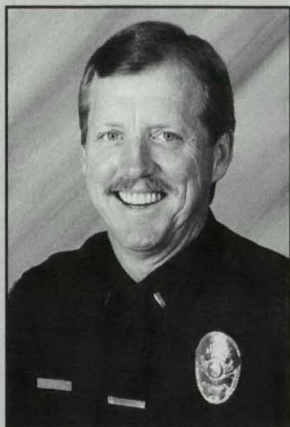
In many ways, Redondo Beach typifies the popular conception of

Southern California living. Sun bathers, volleyball players, and in-line skaters crowd the beach and bike paths. The pier teems with top-quality restaurants and souvenir shops for tourists. The climate typically is neither too cold nor too warm. Well-kept, middle- to upper-middle-class homes abound. To many, Redondo Beach is a very desirable place to live.

Unfortunately, members of the North Side Redondo (NSR) Gang,



Captain Cameron commands the Operations Bureau of the Redondo Beach, California, Police Department.



Lieutenant Skipper commands the Patrol Division of the Redondo Beach, California, Police Department.

SOLVING THE GANG PROBLEM

In July 1995, the Redondo Beach Police Department formally adopted the philosophy of community-oriented policing. Management encouraged department personnel to search proactively for creative solutions to long-standing problems. As a result, in late 1995 when residents expressed concern about the high level of gang activity in and around Perry Park, the community policing officer assigned to their neighborhood gathered residents, city officials, the city prosecutor, and members of the police department—including gang officers, command staff personnel, and the chief—to discuss the situation.

During the meeting, residents offered anecdotal accounts of intimidation, gunfire, drug dealing, and drunken gatherings at all hours of the night. One after another, mothers told how afraid they were to take their children to the park. Police officers familiar with the NSR knew that residents had a factual basis for their fears. Roughly the geographic center around which a number of NSR members lived, Perry Park was long known as a gathering place for NSR gangsters.

By the end of the meeting, the city prosecutor had formulated a plan of attack. First, he would prosecute to the fullest extent of the law any gang members arrested for crimes in and around Perry Park. Next, he would prevent these offenders from entering the park by making it a condition of their probation. Finally, he would use an approach that had proved moderately successful in curbing gang

also known as the Redondo 13, give Redondo Beach high marks too. A turf-oriented street gang currently in its third generation of membership, the NSR has called Redondo Beach home for over 40 years.

While primarily Hispanic, the gang also includes Caucasians, African Americans, and, from time to time, Asians. NSR has a total membership of approximately 180 gangsters, with an active membership of about 40. Members range in age from 14 years old to over 40, with an average age of 24. The gang claims the entire city of Redondo Beach as its turf and has resorted to violence in answer to perceived transgressions by both rivals and innocent residents.

In 1990, the Redondo Beach Police Department petitioned the Los Angeles County District Attorney's Office to declare the NSR a violent street gang under the authority of a section of the California Penal Code known as the Street Terrorist Act (STA). Recognizing

the violent nature of the gang, the district attorney granted the department's petition. Afterward, the department served identified gang members with papers notifying them of the enhanced sentences they would receive for convictions under the STA.

Yet, NSR members remained undeterred, and over the years, they became involved in many violent and illegal acts. In 1993, the NSR fought a war with a rival gang that resulted in 3 homicides and 11 other shooting incidents. The war ended when over 100 members of the Redondo Beach Police Department and 120 officers from neighboring jurisdictions served search warrants at 16 locations, leading to the arrest and conviction of several key NSR members. This incident became typical of NSR activity over the years—episodes of extreme violence punctuated by periods of general quiet, usually brought about by heavy and aggressive law enforcement interdiction.

activity in other jurisdictions: filing a civil injunction against the gang members.

The Injunction Process

A civil injunction is a lawsuit that, if granted by the court, requires or limits certain actions by the defendants. In essence, an injunction serves as a protective order for the city.

In this case, the city of Redondo Beach would sue NSR gang members, proving that they were a nuisance and thereby restricting their activity via a court order. Over the next several months, members of the police department's Gang Enforcement Team began the arduous task of proving that a problem existed in Perry Park. To that end, they:

- Examined records for over 1,800 calls for service at or near Perry Park, determining which were gang-related
- Obtained declarations from officers throughout the department recounting day-to-day gang activity in and around Perry Park that had not been documented by other means
- Secured statements from area residents that recounted their experiences with NSR gang members
- Gathered intelligence on the recruitment of new members and gang activity in local schools.

It soon became apparent that Perry Park served as an informal headquarters for NSR activity. Gang Enforcement Team members found evidence of gang activity,

which ranged from graffiti and fistfights, to drug- and alcohol-related crimes, weapons violations, and acts of violence. The park also served as the location where new members were "jumped in," slang for the process used to induct new members by physically beating them. In essence, Perry Park had become "...the single most significant factor in the growing strength of NSR."¹

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...mothers who once feared taking their children to the park wrote letters of praise and thanks to the police department.

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Rival gangs also had become aware of the significance of the park to the NSR. This only increased the potential for violent confrontations in the surrounding residential area.

For 5 months, officers gathered evidence to use against the gang members. Because they remained responsible for their regular duties, several officers spent numerous off-duty hours working on the injunction.

Their hard work paid off. The resulting 250-page document helped the prosecutor convince a judge to issue a temporary restraining order (TRO) and set May 22, 1996, as a date for the hearing. The order prohibited the individuals named from conducting specific activities in Perry Park and the

surrounding 24-block area. Many of these acts normally would be legal; yet, including these seemingly innocuous activities gave the order its teeth. If the restraining order banned only illegal acts, it would not have given police any new weapons to use against the gang members. Specifically, the TRO prohibited gang members from

- Violating a midnight curfew instituted for adults
- Being in the presence of an individual who has a weapon (including pipes and screwdrivers)
- Drinking alcohol in public
- Stepping onto private property, such as a neighbor's lawn, except with the owner's written permission
- Whistling, yelling, or signaling to warn others of approaching police officers
- Blocking a street or public walkway
- Using abusive language, racial slurs, or threatening or harassing people
- Littering
- Making unnecessary loud, boisterous or unusual noises or disturbing the peace
- Possessing graffiti-writing materials
- Using, selling, or possessing drugs and drug paraphernalia; and
- Congregating in Perry Park in groups of more than two for the purpose of engaging in any conduct prohibited by the order.

With the restraining order granted, personnel from the department's Administrative Services Division copied and prepared over 11,000 pages of documentation. During the early-morning hours of May 2, approximately 30 officers from every division in the department served 28 key members of the NSR with the TRO. Officers arrested several gang members that day for drug possession and outstanding warrants.

After serving the TRO, the department's patrol officers provided a high-profile presence in the park and made three arrests for violations of the TRO. At their hearing, which was well-attended by gang members, their families, and the public, the judge granted NSR members a continuance so they could acquire legal representation. The TRO remained in effect until the next hearing, which was scheduled for June 28, 1996.

Until then, members of the Gang Enforcement Team and the Special Investigations Unit (a surveillance team), both under temporary assignment to the prosecutor's office, focused their efforts on the leaders of the NSR. Within a few weeks, they had arrested three key NSR members for violating the conditions of their probation or parole, which prohibited them from associating with other gang members.

At the hearing, the judge agreed that the city had made a compelling argument for restricting the activities of the NSR in Perry Park. As a result, he granted the injunction with only minor modifications. For example, he ruled that gang

members could not be prevented from carrying baseball bats, which the temporary restraining order had deemed weapons.

Although temporary, the injunction remains in effect for 3 years and, if not challenged, becomes permanent. It also leaves room for the department to add 50 "John Does" to the 28 gang members already named. In doing so, the injunction restricts the activities of key gang members and their progeny indefinitely.

“The injunction process represents merely one part of the department's comprehensive gang strategy....”

Results

Early statistical analysis reflects a significant decrease in gang activity in and around Perry Park since the restraining order was granted. Before the TRO, on average, 42 gang-related crimes occurred each month. In the 3 months after the TRO took effect, the area experienced a 38.5 percent decrease in similar activities. Of special note, violent crime and gang contacts plummeted. After 6 months with the TRO in place, violent crime had decreased almost 90 percent; gang contacts, over 70 percent.

Perhaps more important, residents feel a new-found sense of security. In fact, as soon as the injunction was granted, citizens and police personnel alike felt a sense of victory over the NSR. For the first time, the police department believes it has the proper legal tools to effectively dismantle the NSR as a criminal organization.

Means to an End

The injunction process represents merely one part of the department's comprehensive gang strategy that includes intelligence-gathering, school intervention, graffiti abatement, high-profile enforcement, vertical prosecution, and community support. Each aspect is important in its own right; yet, some hold particular significance.

For example, prosecutors who take one case from start to finish—a process known as vertical prosecution—become stakeholders in the process. This proved crucial during the injunction process. In Redondo Beach, the city prosecutor knows the identity and background of every gang member. As a result, he takes a personal interest in every case and makes a special effort to see each one through to the end, which usually means stiff penalties for hardcore gangsters.

The level of support provided by community residents can mean the difference between success and failure for any law enforcement initiative. Perry Park residents supported the gang injunction process and currently participate in other programs designed to curb crime in their neighborhood.

ATTRACTING ATTENTION

Although the department initially attracted local media attention for its aggressive handling of an entrenched gang problem, the spotlight grew until it reached across the country. At an anticrime rally in Perry Park, the governor and the state attorney general personally congratulated members of the Gang Enforcement Team for their efforts. And, the Police Executive Research Forum selected the gang injunction program to receive an honorable mention for the 1996 Herman Goldstein Excellence in Problem Solving Award.

CONCLUSION

The injunction process worked in Redondo Beach for a number of reasons. First and foremost, it gave the department a useful tool to combat gang-related crime, which had been driving a difficult and longstanding set of interrelated problems in the community. It also demonstrated to the citizens of Redondo Beach that the police were, and are, willing to work with them to solve problems. Furthermore, it served as an example of the effectiveness of community involvement in the problem-solving process and, in fact, showed that community- and

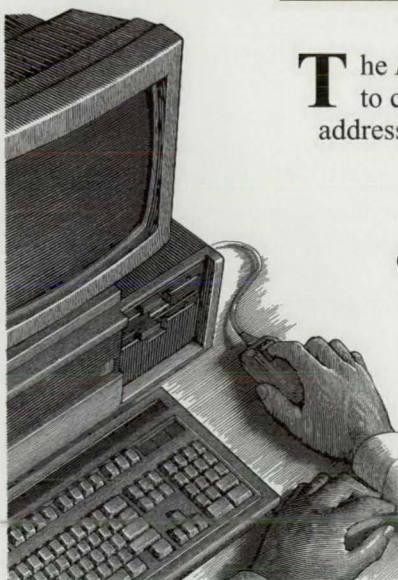
problem-oriented policing can work.

Likewise, the process demonstrated that inter- and intra-departmental cooperation can allow agencies to use available resources to solve chronic problems. Indeed, when the police, prosecutors, and the public work together, once seemingly insurmountable problems can be solved. ♦

Endnote

Sergeant Phil Keenan, Redondo Beach Police Department, civil injunction.

The *Bulletin's* Internet Address



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We would like to know your thoughts on contemporary law enforcement issues. We welcome your comments, questions, and suggestions. Please include your name, title, and agency on all e-mail messages.

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<http://www.fbi.gov>

Book Review

Investigating White-Collar Crime: Embezzlement and Financial Fraud

by Howard E. Williams, published by Charles C. Thomas, Springfield, Illinois, 1997.

A book's success as a tool in embezzlement and fraud investigation depends on a variety of factors. Does the text provide readers with a basic theoretical understanding of white-collar crime? Does it adequately cover general accounting and auditing principles? More important, does the book promote sound techniques and provide insight into the investigative process required to meet the legal requirements for successfully prosecuting white-collar offenders?

Investigating White-Collar Crime: Embezzlement and Financial Fraud meets all of these requirements. The author, a 17-year veteran with the Austin, Texas, Police Department, presents information in an easy-to-follow manner on a subject of increasing importance to law enforcement as agencies devote more resources to investigating white-collar crimes.

Chapters on accounting and auditing theory describe the "nuts and bolts" of these topics without overloading readers with needless technical jargon. The author specifically addresses three auditing techniques—ratio analysis, horizontal analysis, and vertical analysis—that investigators can use to systemically analyze financial statements for investigative leads. After describing the techniques, the author then carefully highlights the differences between them and discusses their respective strengths and weaknesses for uncovering specific types of offenses.

Chapters on interviewing and interrogation address key points in the investigative process, such as planning and collecting preliminary financial data. Noting that few white-collar offenders willingly confess because of the perceived consequences of acknowledging their guilt, the author suggests several useful strategies—such as permitting offenders to rationalize their illegal behavior and blame it on substance

abuse or financial hardship—to help obtain confessions.

A chapter focusing on illicit transactions covers various methods that white-collar offenders use to commit their crimes, ranging from relatively simple over-billing schemes to creating ghost employees. Within this discussion, the author also addresses the specific differences between "on book" and "off book" schemes and provides the basic investigative steps required to detect and document illicit transactions for prosecution.

Recognizing the paper-intensive nature of most white-collar investigations, the author devotes two chapters to issues relating to subpoenas, search warrants, evidence collection, and documentation. These chapters include useful sample attachments investigators can refer to when using subpoenas and search warrants to obtain financial evidence. There is an excellent discussion of admissibility rules (hearsay, relevancy, competency, etc.) and the exception to the hearsay rule for business records.

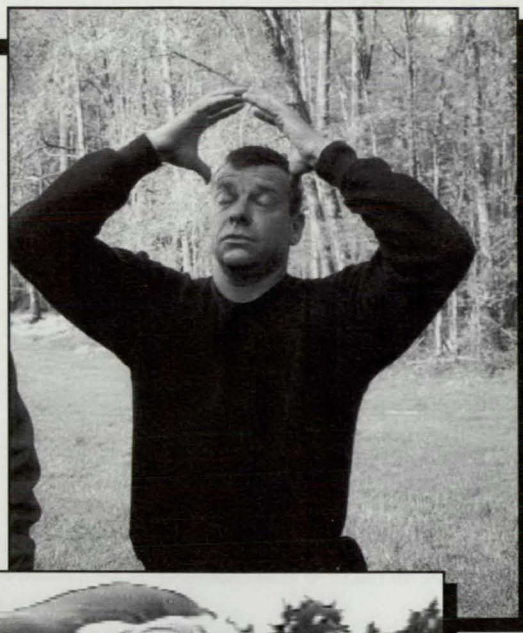
The chapter on investigative reports and case preparation provides a strong foundation for investigators who are untrained in documenting white-collar crimes. The book closes with a glossary that defines financial and legal terms with which white-collar investigators at all experience levels should be familiar.

Investigating White-Collar Crime discusses inherently complex material in a detailed, yet highly readable, way. It should prove a valuable resource both for experienced investigators, who will find the book a good refresher for previously acquired skills, and for novices, who will find it an excellent tool when preparing for their first white-collar crime case.

Reviewed by
Arthur L. Bowker
U.S. Probation Officer
U.S. District Court
Northern District of Ohio
Cleveland, Ohio

Pepper Spray Training for Safety

By MONTY B. JETT



Many people have experienced the fiery sensation of biting into a cayenne pepper. It can bring tears to the eyes and send the unlucky diner gulping for water to douse the flaming taste buds. In recent years, oleoresin capsicum (OC) sprays have harnessed the pepper's potent powers and provided a useful tool for the police to use in subduing violent subjects. However, with the increased use of OC sprays by law enforcement agencies, questions about their safety continue to surface.

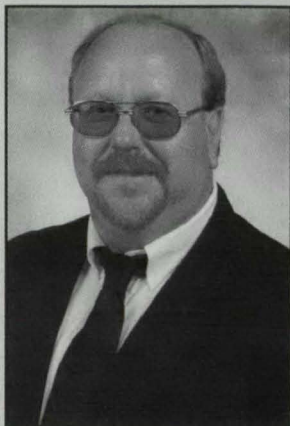
One of the main concerns revolves around more than 30 in-custody deaths in which an officer's use of OC spray to subdue a violent individual allegedly contributed to the death. These deaths have prompted many departments to re-evaluate their use of OC spray.

Two studies of in-custody deaths involving OC spray identified several common factors in those incidents. In addition to understanding these factors, administrators and trainers in departments that use or plan to use OC spray

need to know what such sprays contain, how they work, and how and when to use them. With this information, they can devise training programs that will enable officers to use OC spray safely and effectively.

STUDIES OF IN-CUSTODY DEATHS

The International Association of Chiefs of Police (IACP) and the FBI conducted separate studies of in-custody deaths in which OC spray was used to subdue a subject.¹ Both studies reviewed the law



Mr. Jett is an instructor in the Firearms Training Unit at the FBI Academy in Quantico, Virginia.

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enforcement agencies' incident reports and the coroner or medical examiner's reports, including investigative reports, autopsy reports, toxicological information, and conclusions as to the causes of the deaths. They also compared all cases to determine common factors, if any. Of the 32 deaths reported at the time of the studies, the IACP could draw conclusions in only 22 of the cases and the FBI in only 30 cases due to insufficient information.

The studies revealed no specific evidence that OC caused or contributed significantly to any of these deaths. However, the subjects who died, all of whom were male, possessed some or all of the following features:

- Obesity
- Large stature
- Bizarre behavior due to psychotic delusional, agitated, or stimulant-drug induced mental states
- Occult (hidden) heart disease

- Failure to be subdued by OC spray
- Involvement in a struggle or other violent or high-exertion activity.

Many of the subjects were restrained in positions of possible respiratory compromise, such as prone, hog-tied, or tightly strapped. Often, they died quietly during transport to jail or to the hospital.

Given these observations, if a subject displays drug- or alcohol-induced behavior, officers should be cautious in using OC spray and should consider other tactics for making the arrest. If OC is used, officers must ensure that the subject stays in an upright position with a clear airway to avoid possible positional asphyxiation, which occurs when the position of the body interferes with a person's ability to breathe.² Officers also must exercise extreme caution if combative subjects must be hog-tied following exposure to OC, quickly getting them off their stomachs and never leaving them unattended.

With these cautions in mind, administrators and trainers should examine the products and procedures they use and develop appropriate policy and instruction to guide officers in the safe use of OC spray. To reduce the chances of injury or death related to OC spray, officers must become knowledgeable about the spray's contents, the appropriate context for its use, and the proper care of individuals exposed to OC.

CONTENTS OF OC SPRAY

Oleoresin capsicum is a natural derivative of the cayenne, or hot, pepper. Heat generated by OC is measured in Scoville Heat Units (SHU). Spice companies have used this rating system for years to gauge the potency of spices. OC sprays can vary from 500,000 to 2 million SHUs. The FBI uses a spray rated at 1.5 million SHUs.

OC sprays rely on propellants to dispense their contents. Most sprays contain carbon dioxide, nitrogen, or isobutane propellants. In addition, the OC can be suspended in a water or alcohol solution. Water-based sprays are nonflammable. However, alcohol-based sprays present a potential fire hazard if sprayed directly into a flame or if used in tandem with electrical devices, such as tasers or stun guns.³

Law enforcement agencies should know the contents of the spray they use. An agency representative should contact the manufacturer and ask for a Material Safety Data Sheet (MSDS). The MSDS lists information about the spray, including the product name, chemical name, chemical family, materials contained in the spray unit, and

known hazards. *All OC sprays should have an MSDS.* If the manufacturer claims that no MSDS exists or refuses to provide one, that spray should not be used.

EFFECTS

For OC spray to affect a subject, it must be dispensed directly into the subject's eyes and nose. The oleoresin capsicum can trigger several physical reactions, mainly in the eyes and the respiratory system.

On contact with OC, the subject's eyes will fill with tears (referred to as lacrimating) and close involuntarily (blepharospasm). The subject will feel a burning sensation, and the capillaries in the eyes will dilate, causing a bloodshot appearance.

If the subject inhales the spray, the lining of the throat can swell, restricting breathing, and the larynx can be paralyzed temporarily. This induces uncontrollable choking, gagging, and gasping for breath, conditions exacerbated by burning and swelling of the mucous membrane, causing intense mucous flow.

In addition, skin exposed to OC spray can become inflamed. Subjects also might experience a loss of coordination. Temporary loss of vision might cause some subjects to lose their balance and fall to the ground. They might fall to their knees and try to rub the OC out of their eyes, or they might begin swinging wildly.

Only a direct spray with OC causes these effects. Individuals indirectly exposed usually only experience difficulty breathing and

a burning sensation on exposed skin.

APPROPRIATE USES

Before issuing OC spray, departments need to establish written policy and procedures governing its use. It is the department's responsibility to ensure that officers know how and when to use OC spray.

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...officers must know precisely what force options are available and when to use them.

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Part of determining when to use the spray hinges on where it fits in the department's use-of-force continuum. Use-of-force models abound. Some contain only five levels: command presence, verbalization, physical contact, hand-held impact weapons, and lethal force. Others are more complex. In any case, departments should decide where to position OC in their force continuum.

When OC entered widespread use, many departments placed it between verbalization and physical contact, reasoning that this might increase officer safety by minimizing contact with unruly individuals who could be infected with the HIV or hepatitis B viruses. Some legal

advisors categorize OC spray as a pain compliance technique that should be positioned between physical contact and impact weapons. Other departments believe that the use of impact weapons could be discontinued with the use of OC. However, because OC spray does not affect all subjects, departments should consider it another tool that might reduce the use of impact weapons, but not replace them.

Perhaps it would be better to make physical contact, OC spray, and impact weapons congruent options from which officers can choose after command presence and verbalization fail to obtain a subject's compliance. Officers could use discretion in choosing a force option based on their physical abilities, personal assessment of the risk to themselves and the subject, and relevant departmental policies. No matter what use-of-force continuum a department adopts, officers must know precisely what force options are available and when to use them.

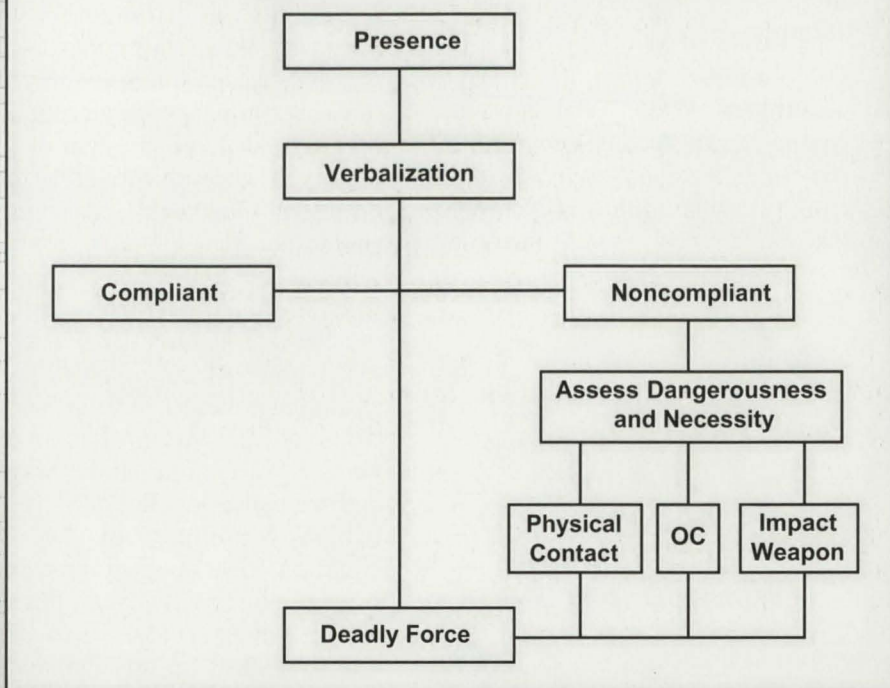
AFTER-EXPOSURE CARE

One of the most important components of safely using OC spray is caring for individuals who have been affected by it. Officers might be exposed indirectly and will need care similar to that described below for subjects intentionally sprayed with OC.

Get Fresh Air

Subjects should be removed from the contaminated area immediately. Once in fresh air, they should remain upright and be instructed to breathe deeply. Normal

Suggested Use-of-Force Model



Monitor Subject's Condition

An exposed subject must not be left unattended at any time. Officers should remain in constant contact to ensure safe recovery from the OC. They should check the subject's upper chest area for residue from the spray and, if any is present, they should remove and replace the contaminated clothing. Residue in the garments could cause the subject to have difficulty breathing. Again, officers should obtain immediate medical attention for subjects who continue to have trouble breathing.

Other Concerns

If the exposed subject wears contact lenses, OC spray should not damage the lenses or the eyes. Nevertheless, officers should provide subjects with the means to clean the contact lenses once they reach the holding facility.

In addition to asthma, other pre-existing medical conditions, such as heart disease or other respiratory conditions, might affect a subject's recovery from OC spray. If officers learn of such conditions, they should get appropriate medical treatment and continue to monitor the subject closely. Under no circumstances should the subject be left alone.

When officers take a subject to a holding facility, they should inform personnel there of the subject's exposure to OC spray.

breathing should return in a matter of minutes. *If the subject has serious difficulty breathing, officers should acquire immediate medical attention at a hospital or from emergency medical technicians.* Officers should ask exposed individuals if they suffer from asthma, a condition that exacerbates the effects of OC spray, and advise medical personnel.

Rinse with Water

Officers should help subjects rinse their faces with free-flowing, cool water. (Warm water will intensify the burning sensation.) The flow should be restricted to prevent eye injuries caused by excessive pressure. Water will help normal eye functions return in 10 to 15

minutes. If cool water is not available, officers should roll down the car windows while transporting the subject; the wind will help eye functions return, though not as quickly as water.

Wash with Soap and Water

At the holding facility, officers should provide soap and cool water for removing the OC resins from the subject's skin. Oil-based soaps should not be used because the oil coats the skin, sealing in the OC. Likewise, salves and creams should be avoided. The burning sensation on the skin should subside in approximately 1 hour, sometimes longer for fair-skinned people. The sensation is uncomfortable, but not life-threatening.

The subject will need to be monitored for 45 minutes to 1 hour, in which time the effects of the OC should dissipate.

TRAINING

Every department using OC spray should develop its own training program. To begin, trainers can receive formal instruction from other agencies or from OC manufacturers and then create a department-specific program in accordance with their agency's policy and procedures. Trainers should try to attend a course offered by the manufacturer of the spray the department uses; however, if such a program is not available, trainers can attend generic OC training and instructor programs, which are offered around the country.

Familiarization

Trainers should convey complete information about the spray, including

- the propellant and other ingredients
- flammability
- delivery system (cone-shaped mist, stream, splatter/droplet, or fog)
- safety features of the container.

Information about effective spray distance and patterns also is important. These spray factors are affected by

- the size and shape of the nozzle's orifice
- the amount of pressure in the container
- the container's size

- the concentration of OC suspended in the solution
- the SHU rating.

Most OC spray manufacturers produce a variety of cannister sizes for different situations. Trainers should be familiar with all cannisters used by their department and should share this information as part of the training program.

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To be most effective, the OC unit should be sprayed within 2 to 3 feet of the subject.

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Carrying Method

Trainers should determine the proper method for carrying the OC unit. Some sprays can be carried safely in a pocket, while others require a holster to prevent accidental discharge. There are pros and cons to whether the spray should be carried on the weak side or the strong side and whether it should be drawn and sprayed with the weak or strong hand. The FBI allows agents to carry the unit on either side but requires them to draw and spray it with the weak hand for several reasons:

- While in a bladed interview stance, the weak hand can be

extended fully to minimize the distance between the OC unit and the subject's face

- The strong hand is free to control a weapon or deliver a strong blow, if necessary
- An interview stance allows mobility to spray and move to avoid the subject
- Fully extending the strong hand for spraying might expose an unprotected weapon to the subject.

After considering the pros and cons of each of these issues, trainers should devise instruction in accordance with departmental policy and training doctrine.

Spraying Techniques

Instructors should emphasize that OC only works properly if it is sprayed into the subject's eyes or nose. Aiming in the general direction of the subject will not suffice. To be most effective, the OC unit should be sprayed within 2 to 3 feet of the subject. Trainers should determine whether the delivery system also requires a minimum distance from the subject to prevent injury to the eyes.

When spraying an OC unit, officers should be aware of wind direction to avoid spraying themselves. The OC unit should be sprayed in controlled bursts of 1/2 to 2 seconds, continuing until the subject complies with officers' orders or until another form of force is needed. Trainers should remind officers that as soon as the subject complies, the spraying stops.

Aftercare

When cuffing subjects who have been sprayed, officers should take care to avoid being contaminated by the OC residue. Once the subject is in custody, aftercare should begin immediately, applying the previously described regimen of fresh air, free-flowing cold water, soap-and-water cleanup, and vigilant monitoring during recovery. It is critical that instructors thoroughly cover aftercare and emphasize it repeatedly during officer training.

Documentation

Before issuing OC spray to their officers, departments should establish a method for documenting the training provided and all instances of OC use. This usually means devising a standard form and creating a central file or using the department's chemical agents file to retain the information. Documentation can be invaluable in court or for responding to excessive use-of-force complaints. During initial training, officers should learn what

form to use, how to complete it, and where to submit it.

Additional Training Points

A good OC spray training course should take 2 to 3 hours. Trainers should alert officers to a number of additional issues during the training program.

- OC spray is more effective on a wider range of people and animals than CN (chloroacetophenone) or CS (orthochlorobenzalmalononitrile) gases
- If possible, officers should give a verbal warning that they are using OC in order to alert other officers to possible indirect contamination
- Neither OC nor any chemical agent may be carried aboard passenger aircraft
- Officers always should test-spray a new OC unit to ensure that it works properly
- OC units should not be left in a car; direct sunlight can elevate interior temperatures to

more than 100°F, causing the unit to release its contents and contaminate the entire vehicle

- For safety reasons, the OC unit should be treated like a firearm and kept out of the reach of children.

Mandatory Exposure

The question of whether officers should be exposed to OC spray during training has been hotly debated in recent years. Opponents of mandatory exposure often reason that they do not have to be shot to understand the effects of a firearm, so they need not be sprayed to understand the effects of OC. Each department must resolve this issue for itself.

The rationale for requiring exposure is multifaceted. First, exposure builds confidence in the effectiveness of OC spray. Experiencing the effects of the spray also helps officers understand an exposed person's behavior and the need for prompt aftercare. Moreover, exposure during training forces officers to experience what might happen if

Confronting Subjects Armed with OC Spray

Officers who come into contact with a subject armed with OC spray first should distance themselves from the subject to avoid the spray. Most units spray only 15 feet; larger delivery systems reach 20 to 25 feet. After reaching a safe distance, officers should order the subject to drop the OC unit. They might need to retreat and wait for backup, or, if retreat is

not an option, the officers must decide whether being exposed to OC by the subject poses a threat to their lives or the lives of others and take appropriate action.

If sprayed with OC, officers must control their reactions and focus on retaining their weapons. They might need to take other courses of action, depending on threat assessment and departmental policy.

they are sprayed with OC. Then, if officers use deadly force in response to being threatened or sprayed with OC, they can articulate in court why they chose that option. If they have been exposed to OC during training, they likely will have a more solid defense.

The FBI requires all persons authorized to carry OC spray to be exposed to it, however, the agency does not mandate carrying OC spray. The FBI's training program requires OC exposure to occur only once.

Refresher Training

Periodic refresher training should be conducted at firearms qualification sessions or roll calls.

Refreshers should address any updated product information, pertinent policies, use-of-force issues, proper carry and spray techniques, and documentation of OC use.

CONCLUSION

OC spray is neither appropriate nor effective in every situation. The goal is to provide officers a means to make arrests with the least danger to themselves, the subjects, and bystanders. With carefully considered policies, thorough initial training, and regular refresher training, law enforcement agencies confidently can add oleoresin capsicum spray to the range of force options available to their officers. ♦

Endnotes

¹ John Granfield, Jami Onnen, and Charles S. Petty, M.D., "Pepper Spray and In-Custody Deaths," Executive Brief, IACP, Alexandria, VA, March 1994; and Monty B. Jett, "Review of In-Custody Deaths Consensus Statements," OC Seminar, FBI Firearms Training Unit, Quantico, VA, September 1994.

² Donald T. Reay, "Suspect Restraint and Sudden Death," *FBI Law Enforcement Bulletin*, May 1996, 22.

³ The OC used by the FBI is suspended in alcohol. The agency conducted flammability tests on its spray after a 1991 incident involving the New York City Police Department in which an alcohol-based spray used on a barricaded subject in conjunction with a taser set the subject on fire. The tests revealed that the smallest flame able to ignite the alcohol-based OC spray was a butane lighter; cigarettes would not ignite the spray. See Monty B. Jett, "Flammability Test," unpublished internal report, Firearms Training Unit, FBI Academy, Quantico, VA, 1991.

Snap Shots

Unusual Arrest

Officers Jim Taylor and Liz West of the Big Rapids, Michigan, Police Department were dispatched to a downtown movie theater to remove a turkey in the street. After they arrived at the theater, the officers picked up the turkey and placed it in the trunk of their patrol car. They then took the bird to a rural area out of town where they attempted to release it. Unfortunately, the turkey had other plans and was in no hurry to leave its new friends. The turkey followed Officer Taylor back to the patrol car several times before finally being shooed away permanently.



If you have a poignant, humorous, or interesting photograph that you would like to share with other readers, please send it to: Brian Parnell, *FBI Law Enforcement Bulletin*, Law Enforcement Communication Unit, FBI Academy, Quantico, VA 22135.

Bulletin Reports

Technology to Benefit Crime Victims

The National Victim Center is studying promising strategies and practices in using technology to benefit victims of crime. Sponsored by a grant from the U.S. Department of Justice's Office for Victims of Crime, the project aims to 1) identify innovative technologies that enhance crime victim services and promote public and victim safety; 2) develop a compendium, in both electronic and paper formats, of promising practices and strategies; 3) convene a 2-day transfer-of-knowledge symposium of crime victim advocates, assistance providers, allied professionals, and technology experts; and 4) develop an action plan to expand knowledge and the use of technologies that enhance victim services and related justice processes and promote public and victim safety.

Individuals and agencies with information about innovative technologies that hold promise for improving victim services should send descriptions, documentation, and related material to Project Director David Beatty, Suite 300, 2111 Wilson Blvd., Arlington, VA 22201; Fax 703-276-2889; e-mail david@mail.nvc.org. All contributors will receive a copy of the project's final report, which will include a full catalog of all technologies identified.

Criminal Justice Internet Guide

During a project supported by the U.S. Department of Justice's Bureau of Justice Assistance, the Illinois Criminal Justice Information Authority, in conjunction with the University of Illinois at Chicago, the Illinois Attorney General's Office, and the Elmhurst, Illinois, Police Department, developed three World Wide Web sites on the Internet, as well as an electronic handbook. The three Web sites were designed to demonstrate how criminal justice agencies can use technology to reach out to the public. The handbook provides a variety of information other criminal justice agencies can use, from an overview and history of the Internet and the World Wide Web and a directory of major criminal justice and related Web sites to guidelines on planning, designing, and implementing a Web site. The Uniform Resource Locators (URLs, or Internet addresses) for the three new Web sites are, for the Illinois Criminal Justice Information Authority's Research and Analysis Unit: <http://www.acsp.uic.edu/~icjia>; for the Illinois Attorney General's Office: <http://www.acsp.uic.edu/~ag>; and for the Elmhurst, Illinois, Police Department <http://www.acsp.uic.edu/~epd>. The URL for the handbook is <http://www.acsp.uic.edu/cjweb/handbook/>.

Preventing Crime

What Works, What Doesn't, What's Promising

In *Preventing Crime: What Works, What Doesn't, What's Promising*, criminologists from the University of Maryland at College Park report to Congress on the effectiveness of state and local crime-prevention programs that are backed by U.S. Department of Justice grants. Researchers reviewed over 500 program evaluations, rating them on their scientific validity. That is, if the studies used to assess the impact of the programs met generally accepted research principles, the results they achieved—whether positive, negative, or unknown—were considered valid.

Unfortunately, based on this criterion, few programs proved effective, if only because they could not stand up under the required "rigorous and scientifically recognized standards and methodologies." Still, the report gives the thumbs up to a few programs, including early infancy and preschool home visits; school programs that establish, communicate, and enforce norms for student behavior; vocational programs for released older male offenders; nuisance abatement at private rental properties; and incapacitation of high-rate repeat offenders. Four policing strategies deemed effective were increased patrols directed at crime "hot spots," proactive arrests of serious repeat offenders, proactive arrests of drunk drivers, and arrests of domestic violence offenders who are employed.

What programs don't work? Unfortunately, the researchers classified many more programs ineffective than effective. Some of the programs that the report panned: gun buy-back programs without geographic limits on gun sources; home visits by police after domestic violence incidents as a means to reduce future violence; and "the most widely used version" of Drug Abuse and

Resistance Education as a way to reduce substance use and delinquency.

The report also identifies what programs seem promising. Any program not fitting into one of the three main categories was placed the "What's Unknown" category. In sum, the researchers recommended that "a much larger part of the national crime prevention portfolio" be invested to test programs and identify the elements of successful local ones so that they may be adopted in "similar high-crime urban settings nationwide." It is in these "areas of concentrated poverty," as the report calls them, where the majority of all homicides in the nation occur and where crime prevention programs stand the best chance of success.

The full text of the report is available on the Internet at <http://www.ncjrs.org/works>. For a fax of the overview, contact the National Criminal Justice Reference Service at 800-851-3420; ask for document #1025. Additional information for this Bulletin Report came from *Justice Bulletin*, National Criminal Justice Association, Washington, DC, June 1997, 11-14.

Bulletin Reports, a collection of criminal justice studies, reports, and project findings, is compiled by Kim Waggoner. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 209, Madison Building, FBI Academy, Quantico, VA 22135. (NOTE: The material in this section is intended to be strictly an information source and should not be considered an endorsement by the FBI for any product or service.)

Supreme Court Cases

1996-1997 Term

By MICHAEL J. BULZOMI, J.D. and ROBERT M. DUNN

Photo by Jennifer Hill, FBI



It often is said that the future is determined by the past. During its 1996-1997 term, the United States Supreme Court determined the future for law enforcement, to some extent, in eight of its decisions. The cases involved the issues of 1) due process rights of officers who are immediately suspended without pay after being arrested; 2) extended incarceration for violent sexual offenders; 3) government liability for unconstitutional actions of employees; 4) blanket exceptions for the

newly-recognized constitutionally based knock and announce rule; 5) overtime wage benefits for police supervisors; 6) ordering passengers out of vehicles during traffic stops; 7) floating buffer zones when restricting abortion protests; and 8) obtaining a valid consent to search. This article summarizes these cases.

***Gilbert v. Homar,* 117 S.Ct. 1807 (1997)**

When a police officer at a Pennsylvania state institution was

arrested and charged with a drug felony, officials of the state institution immediately suspended the officer without pay. The officer subsequently filed suit against his employer claiming that the failure to provide him with notice and an opportunity to be heard before suspending him without pay violated his 14th Amendment due process rights. The United States District Court for the Middle District of Pennsylvania entered judgment for the employer but the United States Court of Appeals for the Third

Circuit reversed the judgment and held that, based on the due process clause, a state employee is entitled to a pre-suspension hearing before being suspended without pay. The Supreme Court unanimously reversed the latter judgment.

The court noted that due process is flexible and calls for such procedural protections as the particular situation demands. In that regard, the state has a significant interest in immediately suspending employees who occupy positions of great public trust and high public visibility, such as police officers, when felony charges are filed against them. The court said the government does not have to give an employee charged with a felony a paid leave at the taxpayer's expense.

The purpose of a presuspension hearing is to determine whether there are reasonable grounds to believe the charges against the employee are true and support the proposed action. The arrest and formal charges imposed upon an officer demonstrate that the suspension is not arbitrary; the arrest itself assures that the decision to suspend an officer is not baseless or unwarranted.



**Kansas v. Hendricks,
117 S.Ct. 2072 (1997)**

In 1994, after serving 10 years for taking "indecent liberties" with two 13-year-old boys, the defendant walked out of prison only to be committed almost immediately to a Kansas correctional mental health facility. Under a 1994 state law called the Sexually Violent Predator Act, a judge ordered the defendant confined indefinitely after ruling that his "mental abnormality" made him likely to attack again. The defendant had told authorities that only death could stop him from molesting children. Despite this declaration and the fact that he had been previously convicted five times for the same type of offense, he challenged the constitutionality of the act.

The Supreme Court upheld the Kansas act to the extent it allows for the involuntary commitment of people who have been convicted of

a sexually violent crime and have already served their sentence but, because of a mental abnormality or personality disorder, are likely to continue that same violent conduct. The Court concluded that the Kansas act did not violate the double jeopardy, *ex post facto*, or the due process clauses of the Constitution.

The Court decided that double jeopardy, which prohibits the imposition of more than one punishment for a single crime, does not come into play because, in this instance, the offender is not being punished twice for the same crime. The Kansas act is neither retribution for the crime the offender was convicted of, nor a basis for general deterrence, which are the primary objectives of criminal punishment.

The Court also found there was no violation of the Constitution's *ex post facto* clause that forbids the enactment of new laws that extend punishment for past crimes. Under

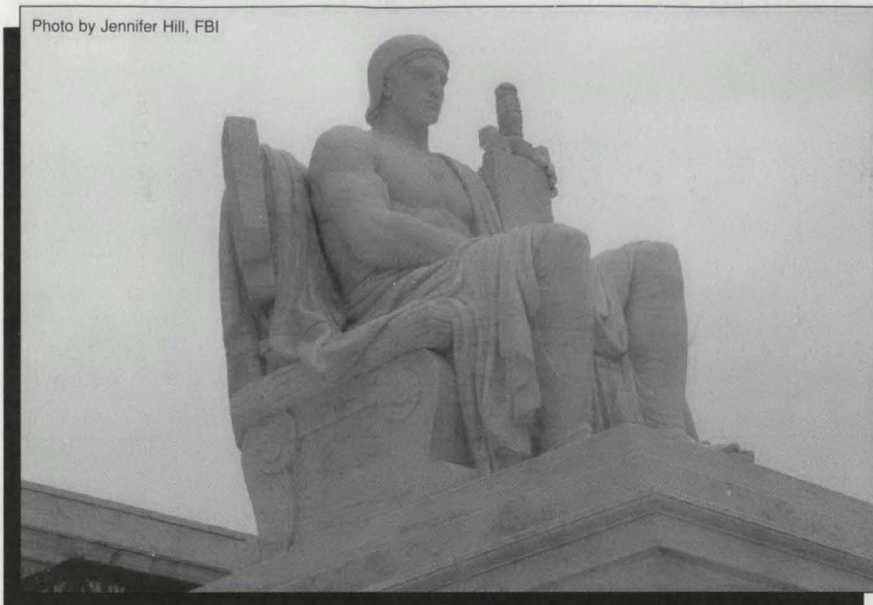


Special Agent Bulzoni is a legal instructor at the FBI Academy.



Mr. Dunn, a former FBI honors intern, is a law student at the Notre Dame School of Law, South Bend, Indiana.

Photo by Jennifer Hill, FBI

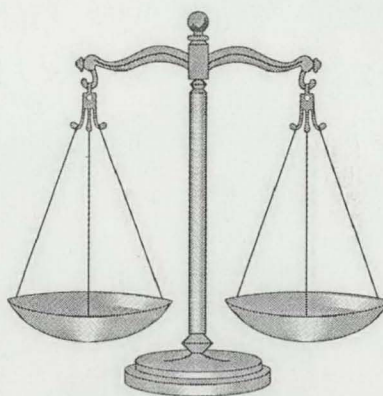


this act, however, the continued confinement cannot be considered "punishment" because punishment, in constitutional terms, arises from criminal proceedings, not civil ones.

The Kansas act involves a civil, rather than a criminal, proceeding that requires a separate finding of dangerousness either to one's self or to others as a prerequisite to involuntary confinement. Dangerousness alone, however, is not sufficient since the added confinement is limited to a narrow class of sexual predators who are unable to control their vicious impulses. A judge or jury must determine beyond a reasonable doubt that a person meets this test. Moreover, anyone committed to a mental health facility must be reevaluated annually.

The Court recognized the authority of the state, through civil commitment, to confine violent sex offenders until they are no longer a threat based on less than a determination of the more prevalent and stringent standard, "mental illness."

In that regard, Justice Thomas wrote, "Although freedom from physical restraint has always been at the core of the liberty protected by the due process clause from arbitrary governmental action, that liberty interest is not absolute."



***Board of County Com'rs
of Bryan Cty, Okl v. Brown,
117 S.Ct. 1382 (1997)***

In 1991, a driver in a pickup truck fled from a police checkpoint

and led police on a high-speed chase. A deputy sheriff consequently stopped the truck and allegedly twice ordered the driver's wife in the passenger seat from the vehicle. When she did not respond, the deputy implemented an arm bar technique whereby he grabbed her arm at the wrist and elbow, extracted her from the vehicle, and threw her to the ground. The impact caused severe injury to her knees, requiring four separate knee surgeries and the likelihood of a total knee replacement in the future.

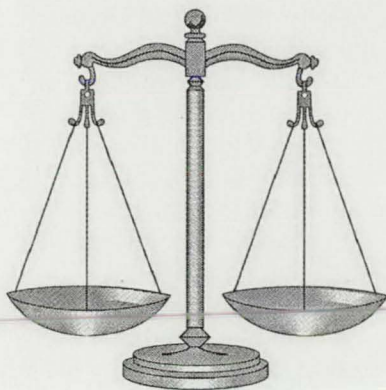
The wife sued the county and the deputy under 42 U.S.C. Section 1983 alleging that the deputy violated her constitutional right to be free from unreasonable seizure and false arrest. A jury awarded her \$800,000 after finding the deputy used excessive force. On appeal, the United States Court of Appeals for the Eighth Circuit ruled the county liable as a result of the sheriff's decision to hire the deputy. The U.S. Supreme Court reversed the latter decision.

Despite a highly questionable hiring decision, the Court concluded the county was not liable under Section 1983 for the unconstitutional conduct of the deputy. The facts of the hiring indicate that the sheriff is the deputy's great-uncle and that the deputy had a record of nine moving violations, driving while intoxicated, driving with a suspended license, conviction for possession of a false identification, and a misdemeanor assault conviction based on a fight when the deputy was a college student.

The Court noted municipalities cannot, under Section 1983, be held

liable for the actions of their employees under a *respondent superior* theory. To prevent municipal liability for a hiring decision from collapsing into *respondent superior* liability, a court carefully must test the link between a policy maker's inadequate decision and the particular injury alleged. The plaintiff must show that the hiring decision reflects deliberate indifference to the risk that a violation of a particular constitutional right will follow the decision.

In ruling the county was not liable under Section 1983, the Court ruled that municipal deliberate indifference for a hiring decision can occur only when the applicant's actual background makes it plainly obvious to the hiring official that the use of excessive force by the applicant will follow. Here, except for the college fight, the deficiencies in the deputy's background did not make it "plainly obvious" to the sheriff that, if hired, the deputy would use excessive force in violation of the constitution.



***Richards v. Wisconsin,*
117 S.Ct. 1416 (1997)**

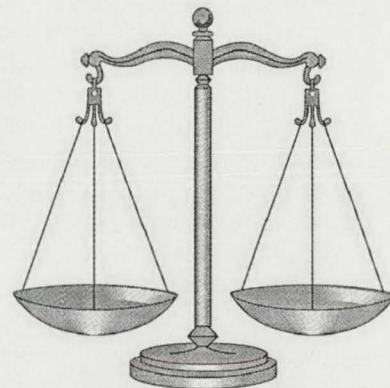
In 1991, police broke down the door of a Madison, Wisconsin, motel room and arrested the defendant for possession of 63 packets of cocaine. Though the police were executing a valid search warrant, the defendant claimed that the officers failed to identify themselves properly, thereby violating the now constitutionally based knock and announce rule. The defendant sought to suppress the evidence as the fruit of an unlawful search.

The Wisconsin Supreme Court reasoned that when the police execute a search warrant in a drug case, "there is a reasonable cause to believe that the drugs will be destroyed, evidence lost, and the occupants of the residence will be armed." Accordingly, the Wisconsin court created a blanket exception to the knock and announce rule, allowing officers to dispense with advance notice when dealing with suspected drug dealers.

The United States Supreme Court unanimously reversed the decision, holding that law enforcement officials must still justify no-knock searches on a case-by-case basis. The Court found the Wisconsin Supreme Court's decision unconstitutional to the extent it granted police a blanket exception to carry out unannounced entries when executing search warrants in all felony drug investigations.

Justice John Paul Stevens wrote that the protection against unreasonable searches "would be meaningless" if a blanket exception "were allowed for each category of investigation that included a

considerable...risk of danger to officers or destruction of evidence" and that "the asserted governmental interests in preserving evidence and maintaining safety may not outweigh the individual privacy interests intruded upon by a no-knock entry." While declining to adopt the blanket exception concept, the Court nonetheless upheld the defendant's conviction by finding that the no-knock entry used by police in gaining access to his motel room was justified by the facts of the particular case.



***Auer v. Robbins,*
117 S.Ct. 905 (1997)**

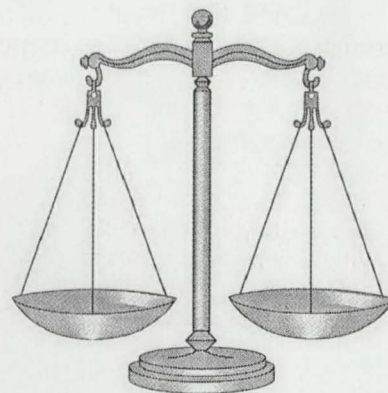
Auer involved the Court's interpretation of the proper limits to overtime wage benefits under the Fair Labor Standards Act (FLSA). St. Louis police sergeants and a lieutenant sued for overtime pay under FLSA after the city concluded that the sergeants were "bona fide executive, administrative, or professional" employees exempted from overtime pay

requirements. Under the Secretary of Labor's regulations, this exemption applies to employees paid a specified minimum amount on a "salary basis," which requires that the "compensation...not be subject to reduction because of variations in the quality or quantity of the work performed." The sergeants argued that they did not meet this requirement because, under the terms of their police department manual, their compensation theoretically could be reduced for a variety of disciplinary infractions related to the "quality or quantity" of their work—although this was not the department's general practice.

The Court confronted the issue to determine whether, under the salary basis test, an employee's pay is subject to disciplinary or other deductions whenever there exists a theoretical possibility of such deductions, or rather only when there is something more to suggest that the employee is actually vulnerable to having pay reduced. The sergeants contended that because a

single sergeant in their department actually had been subjected to a disciplinary deduction in pay, they were nonexempt under the FLSA.

However, the Secretary of Labor interpreted the "salary basis" test to deny exempt status only if there is either an actual practice of making such deductions or an employment policy that creates a "significant likelihood" of such deductions. The fact that a single sergeant had been disciplined with a salary deduction was not enough to reach this threshold of significant likelihood. Moreover, the Court found that the sergeants' manual did not effectively communicate that pay deductions are an anticipated form of punishment for employees in the sergeants' category. Because no clear inference could be drawn as to the likelihood of a sanction being applied to the sergeants, the Court concluded that neither an actual practice nor a significant likelihood of such deductions supported the sergeants' claims for overtime wage benefits under FLSA.

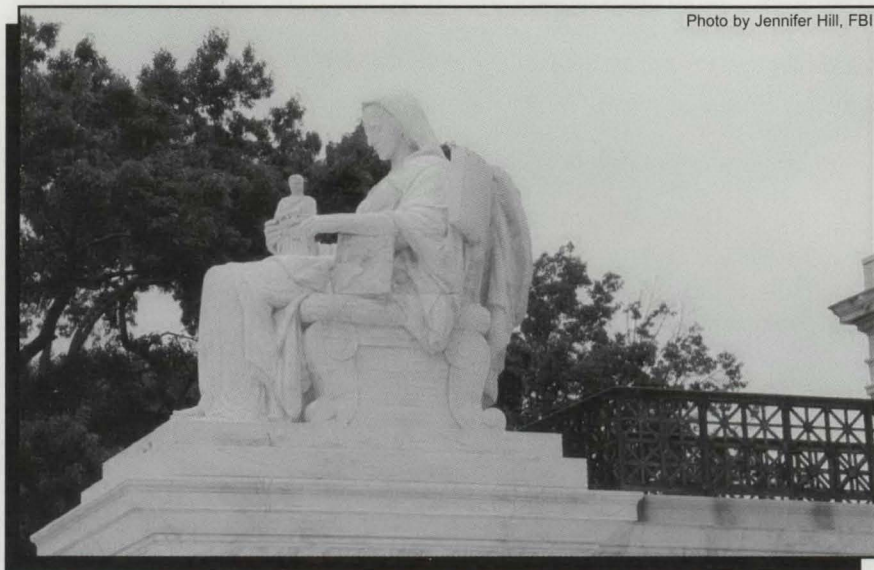


***Maryland v. Wilson,*
117 S.Ct. 882 (1997)**

In *Wilson*, the Court ruled that a police officer making a traffic stop may order passengers to get out of the car pending completion of the stop. The Court stated that as a practical matter, passengers are already stopped by virtue of the vehicle stop itself, so that the additional intrusion upon them is minimal.

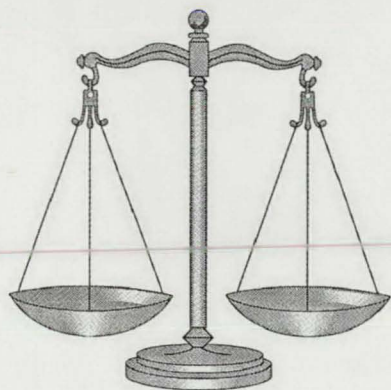
The defendant in this case was a passenger in a vehicle that was pulled over for speeding and lacking a license tag. The Maryland trooper who made the stop noticed that the defendant appeared extremely nervous and ordered him out of the car. When the defendant exited the car, a quantity of crack cocaine fell to the ground. The defendant was then arrested and charged with possession of cocaine with intent to distribute.

The lower courts granted the defendant's motion to suppress the charges by concluding that a previous Supreme Court ruling that allowed officers to order the driver out of a vehicle did not apply to passengers. The Supreme Court reversed and extended its earlier decision to include passengers.



The Court first noted the dangers that occur in a number of traffic stops. The presence of more than one occupant in the vehicle increases the possible sources of harm to the officer, and the Court recognized this danger to law enforcement. When passengers are outside the car, they are denied access to any possible weapons that may be concealed in the interior of the vehicle. Additionally, the Court noted that the possibility of a violent encounter during a traffic stop arises from the fact that evidence of a more serious crime might be uncovered during the stop. Consequently, the motivation of a passenger to employ violence to prevent arrest in such instances may be as great as that of the driver.

Since the likelihood that a traffic stop may give rise to either violence or the destruction of evidence increases when there are passengers in the vehicle, the Court held that the officer may order passengers to get out of the car pending completion of the stop. The decision in *Wilson* is a victory for law enforcement officers because of the greater amount of discretion given to the officers to ensure their safety.



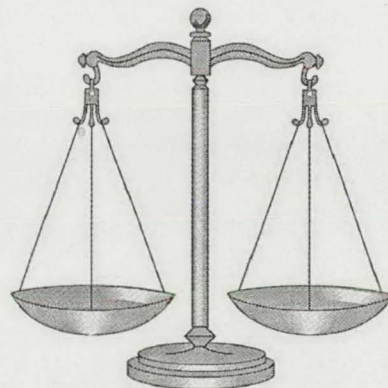
***Schenck v. Pro-Choice Network of Western New York*,
117 S.Ct. 885 (1997)**

Schenck dealt with the conflicting rights of a woman having an abortion and of protestors exercising their freedom of speech. The case arose after health care providers in upstate New York brought a complaint against 50 individuals and 3 organizations involved in the pro-life movement. The complaint alleged that the defendants had consistently engaged in illegal blockades and other illegal conduct at facilities in the Western District of New York where abortions were performed.

As a result of the complaint, the District Court issued a temporary restraining order (TRO) that required the defendants to stop physically blockading the clinics, physically abusing or harassing anyone entering or leaving the clinics, and demonstrating within 15 feet of any person entering or leaving the clinics. Defendants, however, continued to engage in protests that the District Court viewed as "constructive blockades" in violation of the TRO. As a result of these violations, the District Court issued an injunction that more broadly banned "demonstrating within 15 feet from either side or edge of, or in front of, doorways or doorway entrances, parking lot entrances, driveways and driveway entrances of such facilities (fixed buffer zones)," or "within 15 feet of any person or vehicle seeking access to or leaving such facilities (floating buffer zones)." The defendants then challenged the injunction on First Amendment grounds.

The Supreme Court held that the injunction's floating buffer zones requiring protestors to stay 15 feet from people entering and leaving clinics violated the First Amendment by burdening more speech than necessary to serve relevant governmental interests. These floating buffer zones were deemed to restrict speech of those protestors who simply lined the sidewalks to chant, shout, or hold signs peacefully. The Court also noted that trying to enforce such "floating zones" would be extremely difficult and subject to wide discrepancies.

However, the Court upheld the legality of the fixed buffer zones, which required protestors to remain 15 feet from clinic doorways, driveways, and driveway entrances. These fixed zones are more practical to enforce and more effectively balance the necessity of ensuring access to such clinics and the right to freedom of speech.



***Ohio v. Robinette*,
117 S.Ct. 417 (1996)**

Robinette reexamines the question of what constitutes a valid consent to search under the Fourth

Amendment. The case arose on an Ohio interstate when the defendant was pulled over for a speeding violation. The driver was issued a verbal warning after a computer check revealed he had no previous violations. After issuing the warning, the deputy inquired whether the defendant was carrying illegal contraband and subsequently asked permission to search the car. The defendant consented and the deputy discovered a small amount of marijuana and a pill that was later determined to be methamphetamine.

The defendant was convicted of possession of a controlled substance, but this conviction was overturned by the Ohio Supreme Court on the grounds that when the deputy returned to the car after running a license check and decided not to issue a ticket, any further detention was unlawful.

The Supreme Court reversed the Ohio Supreme Court's decision and reaffirmed that "the touchstone of the Fourth Amendment is reasonableness," measured by examining the totality of the circumstances.

Because of the fact-specific nature of the deputy's inquiry, the Court rejected the Ohio Supreme Court's bright-line rule that "any attempt at consensual interrogation must be preceded by the phrase 'at this time you are free to go' or by words of similar import." Instead, the Court ruled that knowledge on the part of the defendant to refuse consent is but one factor because it "would be thoroughly impractical to impose on the normal consent search the detailed requirement of an effective warning." ♦

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The Bulletin Notes

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



Officer Jones

Indianapolis, Indiana, Airport Police officers responded to the report of a man threatening suicide from the ledge of a high-rise parking garage. Despondent over the breakup of a relationship, the subject refused to allow officers to get near him and declined any offers of counseling. Officer Rosemary Jones, the only person the subject would talk to, slowly gained his confidence by negotiating with him. At great risk to her own safety, Officer Jones climbed onto the ledge and eased toward the subject as she continued to calmly discuss his problems. When the subject closed his eyes and began to cry, Officer Jones seized him and pulled him from the ledge to safety. Other officers then assisted her in restraining and subduing the subject. Two days later, the man contacted Officer Jones to thank her for risking her life to save his.



Trooper Tallent



Trooper Shields

While on patrol, Troopers Heather Tallent and John Shields of the Bad Axe Post, Michigan State Police, observed a burning vehicle in a roadside ditch. A man who appeared to be unconscious was trapped in the vehicle. With the assistance of a passing motorist, the troopers entered the vehicle, freed the injured man, and carried him to safety. Because of the intense smoke and flames, the troopers could not see if other occupants remained trapped in the vehicle. Moments after Trooper Tallent reentered the automobile and determined that it contained no other occupants, the vehicle exploded and became engulfed in flames.

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

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Patch Call



The patch of the Austin, Texas, Police Department features the State Capitol, which was completed in 1888. The "Lone Star" of Texas, as depicted on the state flag and some state license plates, rests behind the capitol.



The Town of Clayhatchee, Alabama, Police Department patch reflects the strong American Indian heritage of the area. The name of the town is a combination of two local waterways—Claybank Creek and the Choctawhatchee River. The crane and the alligator represent the wide array of wildlife found in and around the waterways.