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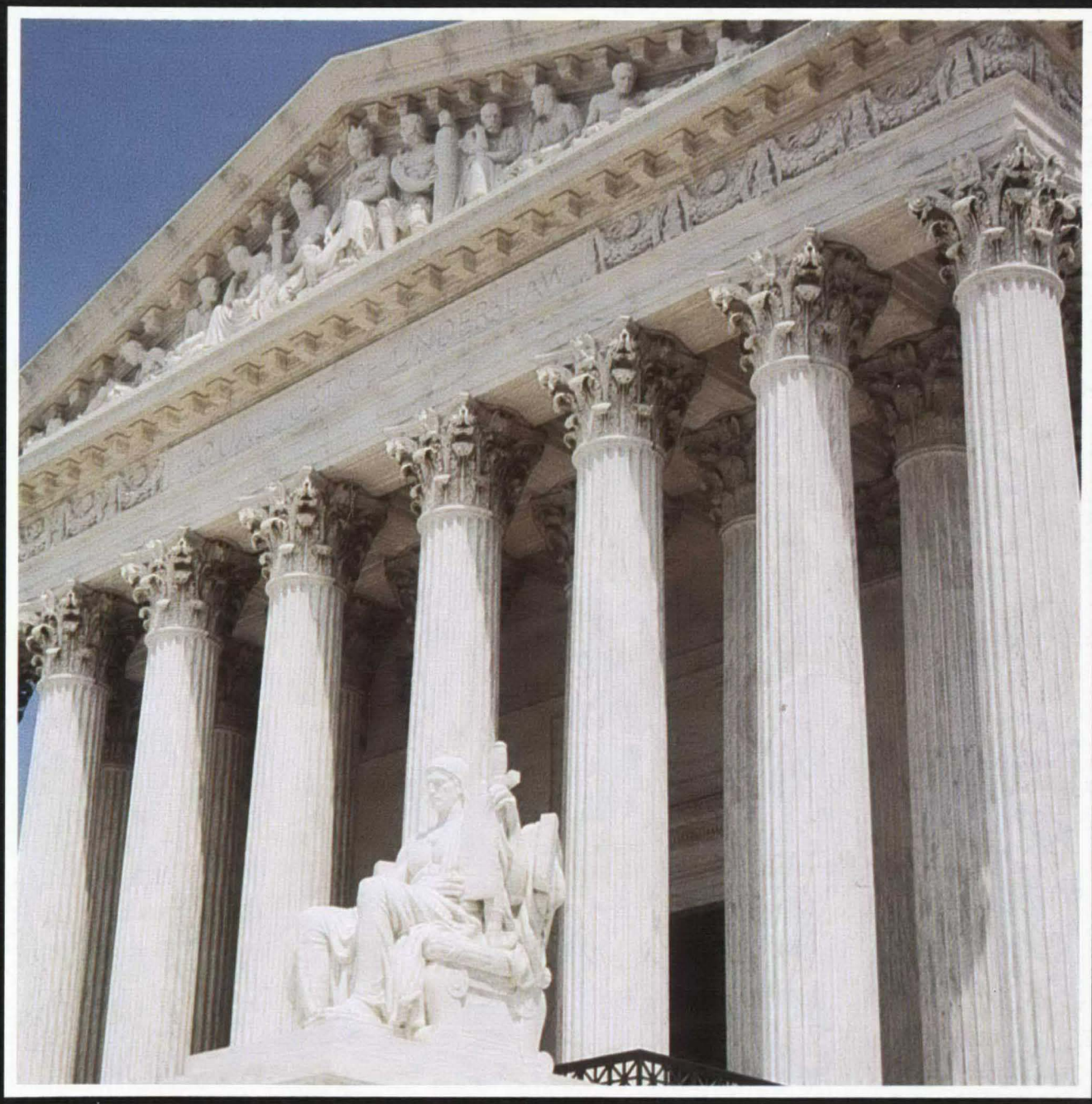

Supreme Court Cases

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**Louis J. Freeh
Director**

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Drug Conspiracy Cases

By
GREGORY D. LEE, M.P.A.

The message is clear. Government agencies, including those charged with public safety, must learn to do more with less. Police managers face the challenge of stretching already-strained budgets even further. Even drug enforcement units that receive asset forfeiture funds have adopted trimmer budgets. This pattern seems unlikely to change.

Drug conspiracy cases may be just the answer for budget-conscious agencies. These investigations produce the same results as more traditional ones, yet do so more quickly while using fewer resources. This article provides guidance to law enforcement administrators seeking to take advantage of the benefits of drug conspiracy cases.

BACKGROUND

Traditionally, law enforcement agencies attempt to arrest drug offenders for distribution. This often entails cultivating an informant, who introduces an undercover officer to a drug dealer. The officer makes several controlled purchases and then orders a larger amount of drugs, hoping to seize as much contraband as possible. Sometimes, this method proves successful; often, it does not.

Conventional drug cases require an inordinate amount of time, personnel, and above all, money when attempting to secure a conviction for distribution. These cases go far beyond what is necessary to convict a suspect for the often-overlooked crime of conspiracy, which is simply an *agreement* between two or more people to commit a crime.[1]

Drug conspiracy constitutes a separate and distinct offense and does not depend on whether the subjects accomplished the conspiracy's objective—selling drugs. Accordingly, drug investigations that concentrate on the simple elements of proof for conspiracy can achieve many of the same results as more complex investigations but with less cost and effort.

COORDINATING DRUG CONSPIRACY CASES

Although charging defendants with conspiracy can simplify most cases, some investigations require extraordinary means to achieve the desired results. Yet, even these investigations can be streamlined if the police and the prosecutor come to a mutual understanding before they are undertaken.

Prosecutors need to know that budget cuts are changing the way law enforcement conducts drug investigations. Investigators should call for strategy meetings with prosecutors to determine the scope of the investigation, the evidence available, the means of collection, and anticipated legal ramifications and defense tactics. Together, investigators and prosecutors can formulate a plan of attack.

Because prosecutors know the local legal community, they can determine if judges will be receptive to conspiracy trials that lack drug evidence and if the district attorney or State prosecutor will present such a case to a grand jury. Law enforcement officers must consider these factors before initiating drug conspiracy investigations.

THE INVESTIGATIVE PROCESS

The investigator's job is to produce witnesses and evidence to support the theory that a conspiracy existed. Evidence may consist of simple documents, such as car rental agreements, hotel receipts, and phone bills. These seemingly innocent transactions take on a different appearance when witnesses testify that the defendant used the hotel room to discuss privately the details of an upcoming drug deal; that phone records revealed the defendant called known drug dealers from this room; that the defendant, using a fictitious name, paid the bill in cash; and that scientific evidence positively identified the handwriting and fingerprints on the registration card as those of the defendant.

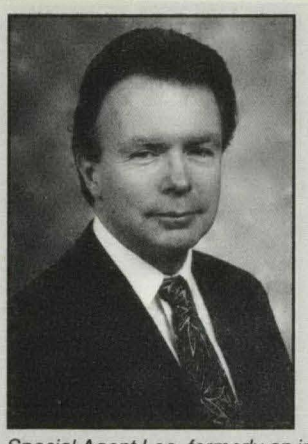
All of these factors further corroborate any informant testimony that may exist. The jury can then decide for itself why an "innocent" person would pay cash to rent a hotel room using a fictitious name and then meet with and call drug dealers from that room. Although much of the evidence by itself has no meaning, the totality of the evidence will help to secure the conviction.

Some States require that an overt act take place before the crime of conspiracy is consummated. An overt act is anything that furthers the goal of the conspiracy—for example, a meeting or a car rental. The act need not be criminal in nature or known by all the participants. Simply stated, the overt act shows sincerity and intent by the members of the conspiracy. The greater the number of overt acts uncovered, the easier it is for the jury to conclude that the defendants actually intended to commit the crime.

Undercover Operatives

Drug investigations frequently employ undercover officers or informants to infiltrate criminal organizations. The same technique applies to drug conspiracy investigations. Undercover officers become expert witnesses who can testify about the events they see or hear.

Informants also can testify about their observations. However, because the courts and the public view them as inherently unreliable, their information should be corroborated. For example, if an informant



"...a defendant's admission to engaging in the drug trade...is sufficient to sustain a conviction for conspiracy...."

Special Agent Lee, formerly an instructor in the Drug Enforcement Administration's Office of Training at the FBI Academy, is currently assigned to DEA's Islambad, Pakistan, Office.

claims to have attended a meeting at a hotel on a certain date, investigators should verify the information through hotel registration records. Hotel employees may corroborate further the informant's testimony and may be able to identify the defendants by viewing a "photo line-up."

Technical Listening Equipment

The questions that the officer or informant asks a defendant during recorded conversations[2] can reveal the truth about a defendant's intent to commit the crime that was the objective of the conspiracy. A skillful undercover officer can elicit responses to the same questions jurors may have during a trial.

For example, a defendant may admit to the undercover officer to having sold drugs "hundreds" of times or may boast of an ability to obtain "any" drug in "any amount." Then, when the officer expresses doubt, a defendant sometimes will boast about past drug sales and other crimes.

Such a tape provides evidence that is hard to dispute. In addition, a defendant's admission to engaging in the drug trade with others is sufficient to sustain a conviction for conspiracy,[3] even if the co-conspirators are never identified or indicted.[4] Yet, even if the defendant makes no confession, the recording alone satisfies the elements of proof for conspiracy, because the defendant committed an overt act *simply by meeting with the undercover officer.*

Other Investigative Techniques

Mail covers can accelerate and bolster the investigation by quickly providing numerous investigative leads. The chief postal inspector in local jurisdictions can provide specific instructions on how to obtain the return addresses of all first-class mail delivered to the suspect(s) for a particular time period. Mail covers do not require a court order; they can be accomplished through a simple letter from the agency head to the chief postal inspector outlining the basic facts of the investigation.

Trash runs provide an easy way of determining long-distance toll carriers, bank affiliations, telephone tolls, and travel itineraries. Evidence of crimes may surface when such items as pay-and-owe sheets, packaging materials, and other drug paraphernalia are found.[5]

"Drug conspiracy constitutes a separate and distinct offense and does not depend on whether the subjects accomplished the conspiracy's objective—selling drugs."

HISTORICAL DRUG CONSPIRACY CASES

Historical drug conspiracy cases are classic "no dope" conspiracy cases that are initiated when an informant—whether motivated by revenge, greed, fear of prosecution, or some other reason—admits to participating in a *past* drug transaction.[6] As a result, these cases do not require, and seldom provide, the opportunity to seize drug evidence or to use undercover officers. They may, however, result in the arrest of a notorious drug trafficker.

Historical drug conspiracy cases require the same techniques used to investigate any other crime. However, the investigation must prove only that an agreement to violate

the law existed between two or more persons.[7]

Although the probable cause required to obtain search warrants to seize drug evidence probably will not exist in historical drug conspiracy cases, warrants for documents can be readily justified. Drug traffickers usually maintain meticulous records, which chronicle past drug transactions and can identify other members of the conspiracy. If drugs are found during the execution of a document search warrant, so much the better. In fact, historical drug conspiracy cases frequently locate proceeds of drug transactions that are subject to seizure.

BENEFITS OF DRUG CONSPIRACY CASES

Cost Efficiency

Some traditional drug enforcement operations take months to complete. In contrast, investigators can satisfy the elements of proof for drug conspiracy early.

Making controlled purchases from the same defendant eventually can reach the point of diminishing returns. Drug enforcement budgets deplete rapidly when prosecutors, seeking to establish the most compelling case possible to secure a conviction, demand that several buys be made in order to thwart possible entrapment claims by the defendant. Thus, a department's entire "buy money" allocation could be exhausted on just one investigation. Further, the jury may interpret additional buys as agency attempts to penalize the defendant with more prison time.

Simplicity

Prosecutors risk losing cases that are too complicated for the jury to understand. The sheer magnitude of a trial can cause a jury to lose sight of even simple elements. During the course of a long, complicated drug trial, the defense has ample opportunity to portray the defendant as the victim of an intrusive, overzealous government. Conspiracy cases avoid these problems because the jury needs only to realize that the defendants agreed to commit a crime.

> ***"Conventional drug cases...go far beyond what is necessary to convict a suspect for the often-overlooked crime of conspiracy...."***

Crime Prevention

Drug conspiracy cases also are a form of crime prevention. To identify and arrest defendants *before* they sell drugs in the community is a noble goal, one that appeals to any jury.

In addition, in many jurisdictions, the penalty for conspiracy to commit a crime is the same as the penalty for the substantive crime the defendants conspired to commit. For example, since 1987, Federal law mandates the same punishment in Federal cases.[8] Drug conspiracy laws, coupled with mandatory minimum sentences, are powerful crime prevention tools for drug enforcement.

Further, conspiracy cases give prosecutors added leverage during plea bargaining, because all members of a conspiracy can be charged with crimes committed by any one member. However, the crime must have been a foreseeable consequence, and in furtherance, of the conspiracy.[9]

For example, if one subject steals a boat to transport a drug shipment into the country, everyone in the group can be charged with that crime, if they were members at the time of the theft. However, if the subject stops at a liquor store and steals a six-pack of beer on the way home from stealing the boat, the others cannot be charged with that theft; it was not committed in furtherance of the conspiracy. In addition, murders often occur in the course of drug transactions. Therefore, the courts consider them foreseeable consequences of conspiracies, and prosecutors can charge each member of the group with murder.

Exception to the Hearsay Rule of Evidence

An added benefit to conspiracy prosecutions is the exception to the hearsay rule of evidence. Because conspiracies are secretive by nature, the rules of evidence allow a defendant or an informant to testify about the words, deeds, and actions of others, even if they did not actually witness them. In other words, evidence that an informant heard the defendants say they were going to obtain and sell 100 kilograms of cocaine would be admissible in a conspiracy case.

In contrast, if defendants are charged with aiding or abetting, the hearsay rule attaches, and such evidence would not be admissible. Therefore, prosecutors can help their cases by prosecuting defendants for conspiracy.

Asset Forfeiture

Asset forfeiture laws apply to drug conspiracy cases just as they do for any other drug law violation. Many civil seizure laws do not require that defendants be convicted of a substantive drug crime in order to make their property subject to seizure.

Although asset forfeiture funds can supplement lean budgets, law enforcement agencies must resist the temptation to target drug traffickers based solely upon their assets. The suspect who poses the biggest threat to the community may own little property. The focus of any drug investigation should be people, drugs, and assets, in that order. With people as the primary focus of the investigation, drugs and assets invariably will follow.

CONCLUSION

Conspiracy investigations are not designed to take the place of aggressive, long-term, multijurisdictional cases that have the promise of large drug seizures. However, they often can achieve the same results as more traditional drug cases. People, drugs, and assets can be identified and located using fewer departmental resources. In short, conspiracy cases provide an innovative way to extend existing budgets while eliminating entire drug organizations.✦

Advantages of Drug Conspiracy Cases

1) Eliminate the need to purchase drug evidence
2) Serve as sources of asset forfeiture funds
3) Reduce undercover and surveillance expenses in most cases
4) Help to dismantle entire criminal organizations
5) Allow for indictment of conspirators for crimes committed by co-conspirators throughout the life of the conspiracy
6) Permit evidence against one defendant to be used against all defendants
7) Permit more than one trial to be held on the same conspiracy
8) Provide an exception to the hearsay rule of evidence
9) Enable prosecution and conviction without drug evidence
10) Apply the same penalties for conspiracy and the actual crime in many jurisdictions.

Endnotes

[1] The Wharton Rule may preclude a conspiracy charge when there is only *one* buyer and *one* seller agreeing to violate the law. *See Iannelli* v. *United States*, 420 U.S. 770 (1975).

[2] Conversations recorded with the consent of at least one involved party do not require a warrant. However, because consensual eavesdropping rules vary, officers should consult with their State's attorney's office before using this technique.

[3] *United States* v. *Figueroa*, 720 F.2d 1239 (1983).

[4] *United States* v. *Goodwin*, 492 F.2d 1141 (1974).

[5] Under Federal law, individuals have no expectation of privacy in trash set at the edge of curtilage for pickup. *See California* v. *Greenwood*, 108 S.Ct. 1625 (1988). However, officers should check with their local prosecutors to determine the law in their jurisdictions.

[6] Historical conspiracy cases are subject to statutes of limitations.

[7] Supra note 1.

[8] U.S. Sentencing Commission, *Guidelines Manual*, Sec. 2D1.4 (a) (Nov. 1991).

[9] *Pinkerton* v. *United States*, 328 U.S. 640, 66 S.Ct. 1180, 90 L.Ed. 1489 (1946). *See also United States* v. *Gutierrez*, 978 F.2d 1463 (7th Cir. 1992).

Focus on Child Care

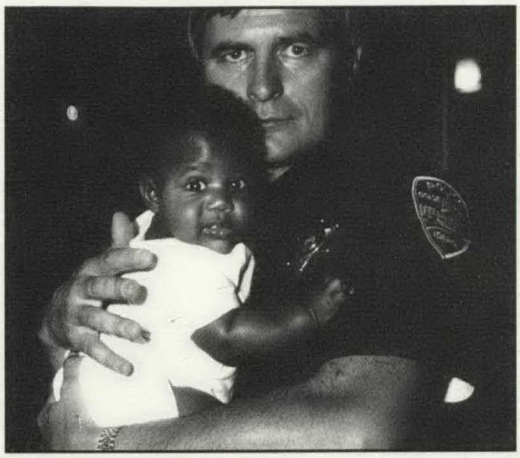


Photo © Paul McIver, Tribute

Police Intervention at Child Day Care Centers

By Joseph H. Maddox

Child care centers and preschool facilities have become an indispensable part of our communities. Not only has the number of child care units increased substantially, but the type of care provided also has expanded significantly. Facilities now operate on extended hours and provide care for children who have various emotional and physical needs.

The growing number of children and care providers in these facilities makes it essential that police administrators include provisions for child care centers in critical event planning. The unique vulnerability of children mandates extreme caution on the part of police personnel responding to an emergency at a care facility.

The events requiring police response vary. Police may be called to respond to internal incidents, such as attempted abductions by a parent or a stranger, or to external events, such as adverse weather, or industrial or transportation accidents that endanger the children. Regardless of the reason, responding officers must consider the special safety needs of the children involved. Effective preplanning will enable police administrators to exercise a high degree of control over a high-risk situation closely scrutinized by parents, the media, and the community.

On-Site Police Intervention

Police commanders need to ensure that their officers are sensitive to the age and vulnerability of the children within care facilities. Therefore, if the possibility for emotional outbursts or physical conflict exists during a service call, officers should remove the source from within the confines of the facility. This includes avoiding extended interviews with victims or complainants at the care center whenever possible.

At the same time, officers must not introduce situations into child care units. For example, every effort should be made not to serve warrants at or near child care facilities, unless circumstances present no alternative. Officers should then execute warrants as unobtrusively as possible and remove arrested subjects immediately.

Whether issuing a warrant or removing a person with care-giving duties, officers never should allow their actions to interfere with the needs of the children. If a care giver must be removed, the children's safety obviously is affected. In such instances, officers must make provisions for the children's care, especially for those who may be physically or emotionally challenged.

Any police action that affects the continuity of care center operations must not be undertaken lightly. Parents pay child care centers to provide a specific level of supervision and security for their children. Officers must respect those parental wishes, and whenever possible, minimize disruption of care centers.

Incidents Requiring Evacuation

Some situations—such as hazardous material spills, industrial accidents, or extreme weather conditions—necessitate the evacuation of a child care facility. Emergency services providers and care givers should prepare contingency evacuation plans, to include arrangements for transportation, designation of the transfer site, and selection and storage of necessary supplies. Some municipal statutes require child care facilities to have a relocation plan on file. It is not unrealistic to expect care units to assume

responsibility for evacuation planning and expenses during times of municipal fiscal restraint.

If the emergency requires removing the children from the facility, a minimum number of vehicles should be used. A public or private bus, as opposed to a fleet of cars, permits the greatest degree of control. Safety seating must be a priority to ensure child protection and compliance with State vehicle codes. The move also should occur under police direction, and vehicles should travel at a moderate speed.

The relocation site should be within a municipal building, if at all possible, to ensure adequate safety and control. A police presence, where feasible, provides stability until the children can be returned to their parents. Without exception, the identity of any person picking up children must be documented either by the police or by the care center workers.

Police and care center administrators also must be prepared to respond to media requests for information. Law enforcement administrators can use news services to notify parents and to speed the process of releasing the children to their families or guardians. Broadcasts of accurate information reduce community and parental anxiety.

Emotional Extremes

Officers and administrators who are involved in any police action at a child care facility need to prepare for intensely emotional responses from the children, as well as from their parents. Naturally, children can be expected to become upset and scared by police intervention, whether for an arrest or for some type of emergency. Child care providers and police officers must work together to minimize disruption and to calm the children.

The extreme actions of parents who believe their children to be in danger, however, will require careful handling by police officers. In essence, the element of fear for a child's well-being can cause parents to behave in ways that easily could defeat the officers' attempts to establish stability at the site. Parents or guardians may try to circumvent police safeguards and remove a child, or they may irately demand that an officer bring them their child immediately.

Under no circumstance should a child be released from the scene without the release being processed or documented by a care center supervisor. Such

Children's Care Center Evacuated After Gasoline Spill

A routine safety inspection of the playground at a local child and preschool care facility in Penn Township, Pennsylvania, triggered an unusual sequence of events that ended with an emergency evacuation of 65 youngsters and their care givers. On Monday, December 6, 1993, an employee discovered a strong gasoline odor coming from a stream near the play area. Responding Penn Township fire, police, and emergency medical units determined that a gasoline spill had occurred upstream earlier that day.

As a hazardous materials team was being dispatched, emergency services and police evacuated the children, all of whom were under 9 years of age. The school district sent a school bus to transport the children to a safe location. Care givers put several infant car seats on the bus before the children quickly boarded the waiting vehicle. Police guided the group to a local fire station, where the children were held under the supervision of their care givers and a police officer until they could be returned to their parents or guardians.

An evaluation of the event found that no child or care giver was injured as a result of the spill or the evacuation. Credit for success of the operation does not belong to one person or agency, but reflects on the combined efforts of those at the scene, coupled with extensive training and preparation.

accountability will require additional effort in an already complicated situation. Yet, the potential tragedy of losing a child or of releasing a child to a wrong person far exceeds any logistical headache presented by accurate release practices.

Critique and Evaluation

As with any event that compels an unusual public safety response, both a post-incident critique and evaluation are essential. A review group should include representatives from the child care facility, the fire service, the emergency medical providers, and any other emergency service agency that participated in the event. A subsequent meeting with parents also provides input and permits an exchange that could prove beneficial to both the community and the police.

Conclusion

Police executives need to understand and prepare for the unique variables that may develop during a police call for service at a child care facility. While planning will improve the potential for success, police leaders must be alert to any opportunity that permits added control of the situation. Police commanders should be ready to shift their agendas, scale down objectives, or rethink any part of an established strategy.

No department can plan for every contingency, but assessing selected situations does help police commanders to consider the special nature of the care center environment. The community expects the police to treat a care unit response as a high-priority event. Therefore, police action at a care center will be the focus of intense observation by parents, the community, and the media. Stabilizing the situation will require taking into account the children's special needs for safety and supervision and preparing for the multitude of emotional factors affecting the care providers, the children, and their families. By planning ahead and working closely with care center administrators, parents, and the media, police can resolve crisis situations at child care facilities safely and quickly.✦

Chief Maddox commands the Penn Township Police Department in Hanover, Pennsylvania.

Wanted: Photographs

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

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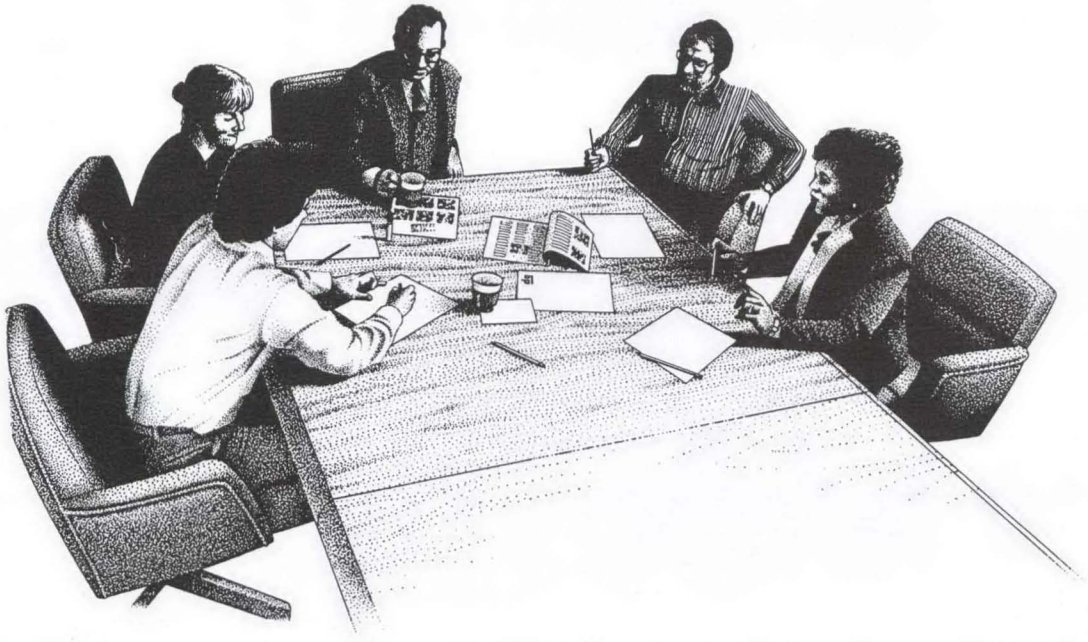
The Use of Consultants in Law Enforcement

By
JAMES MICHAEL BAIRD, M.A.



Police departments sometimes turn to outside consultants to treat specific departmental problems. There are valid reasons for hiring a consultant to obtain an organizational evaluation of a police department. The time and talents needed for this particular task often are not available internally. Additionally, the built-in biases and subjective beliefs held by officers within the department may make an outside evaluator necessary to assess the true state of the department's operations or to determine the true problem when a conflict exists among agency managers.

However, while private consultants can be extremely beneficial to law enforcement agencies, administrators should enter into such arrangements with caution. First, they must know how to choose a suitable consultant. Second, they must educate themselves in research methods so that they can analyze effectively the results of any study produced by the consultant.

This article discusses the experience of the Pasadena, Texas, Police Department, which hired a consulting firm to conduct a study of the department. It also discusses how to select a consulting firm, how to work cooperatively with the consultant, and how to interpret study results.

THE PASADENA EXPERIENCE

The Pasadena Police Department retained the services of a private management group to evaluate the department. This group produced a report that recommended a revamping of the management structure and operations of the department in order to improve its overall performance. The group maintained that implementing the recommendations would enhance the effectiveness and efficiency of departmental services. It further

asserted that while service quality would be maintained or improved by implementing the recommendations, departmental costs would be reduced by some $1.4 million, a substantial savings to the department's $13 million annual budget.

Upon close review, however, the study appeared flawed. Department managers found the study data skewed and many of the suggestions to be unworkable. The managers' familiarity with the inner workings of the department enabled them to recognize these flaws immediately. Obviously, the consulting group's evaluation achieved desired cost reductions but failed to provide practical recommendations for improvement.

How, then, should police executives select a consultant in order to avoid such pitfalls? There are several critical considerations for administrators who decide to employ an outside consultant.

SELECTING A CONSULTANT

Reference Sources

Once administrators decide on the type of evaluation needed, they can contact several police professional associations, such as the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the Police Executive Research Forum, and the Police Foundation, to request a list of potential consultants. Professional publications and journals and the National Criminal Justice Reference Service are also excellent sources for information on consultants. However, networking with other police executives may be the best way to find a consultant, because they most likely will refer one with whom they have worked and one familiar with the police subculture.

The next step is for administrators to contact prospective consultants to request a list of past clients. Administrators then should contact these clients for an assessment of the consultant's performance.

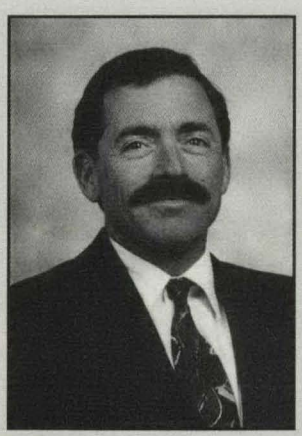
Expertise

Consultants who evaluate law enforcement agencies need to possess certain critical skills, including both substantive and methodology expertise. Methodology expertise includes knowledge of research design, data collection, and statistical analysis procedures. Substantive expertise includes knowledge of the problem and any law, rule, and regulation relating to it.

Consultants hired by law enforcement agencies also should have experience in working with law enforcement professionals. A knowledge of current Federal, State, and local laws; familiarity with standard, acceptable police procedures; and a thorough understanding of the police subculture are essential if evaluations and recommendations are to be accepted in the police environment. If consultants lack this knowledge and understanding, they most likely will make illogical recommendations.

For example, the Pasadena study recommended several hierarchical changes that conflicted with civil service laws governing the department. In addition, the study called for several operational changes that restricted officers' discretion in making arrests. It further suggested that officers no longer investigate minor traffic accidents and that officers issue misdemeanor citations more often.

Department members believed these operational changes to be incongruent with the desires of



Sergeant Baird serves with the Pasadena, Texas, Police Department.

"...while private consultants can be extremely beneficial to law enforcement agencies, administrators should enter into such arrangements with caution."

local citizens. Several mid- and upper-level managers expressed disappointment with the study results because the recommendations called for immense changes in the operations, organization, and culture of the department. In fact, one patrol commander stated that the study was plagued with both errors and contradictions and that the recommendations were out of touch with the realities of police service in the community.

As another consideration, police executives could seek out consultants with a background in the specific problems being experienced by the department. Some experts believe that the firm's experience does not need to be in the same field. However, as the Pasadena experience proved, a lack of knowledge of police techniques severely hampers the effectiveness of a consulting firm working for a law enforcement agency.

WORKING WITH CONSULTANTS

Once a consultant is chosen, both the consultant and the police executive should work to establish mutual expectations and open communication. Clearly defined roles facilitate clear communication. Police executives must delineate both their perceptions of the problem and their expectations of the consultant. In turn, the consultants must detail their projected services to the department.

To delineate the department's problem effectively, police executives should avail themselves to critical resources. They can identify and contact knowledgeable community leaders and experts, listen to attendees at open forums, and check existing statistics, records, and data from surveys and censuses.

When executives clearly delineate problems, not simply the symptoms of an overall problem, the consultant can offer workable solutions to them. Unfortunately, many administrators focus on whatever flame is burning the brightest at the time. In 6 to 8 months, however, when the consultant's study is completed, that flame may not be the brightest one, and the offered solutions may no longer be critical to the organization.[1]

"When executives clearly delineate problems, not simply the symptoms of an overall problem, the consultant can offer workable solutions to them."

With a clear understanding of both the problem and their expected role, consultants have the necessary foundation to evaluate and to make a diagnosis, thereby avoiding helter-skelter research efforts. To facilitate this effort, administrators should assign a team or representative to act as liaison with the consultant. The liaison provides necessary information to the consultant and implements any new program after the consultant's assignment ends.

Liaison is critical to a successful experience with consultants. Had the Pasadena Police Department appointed a liaison team, the final product might have been less flawed. This, in turn, may have resulted in more credibility being placed on the *valid* recommendations offered by the study.

REVIEWING THE STUDY

When a consultant's final report recommends changes in operational procedures, an overhaul of the organizational structure, or a reduction in the work force, should the department automatically implement all of the changes? The answer to this question is an unequivocal "no." Police executives must review the study and interpret its results before deciding what recommendations to implement. Organizational costs could be enormous if police executives implement inappropriate changes based on faulty research.

In order to determine whether any problem exists with the study, administrators first need to examine the specifics of how it was conducted. By doing this, they often can ferret out problem areas and adjust final recommendations accordingly.

To begin, administrators must attempt to separate good research from bad research. This means that today's police administrators must understand research methods. An understanding of these methods allows them to review the study to determine how the consultant reached certain conclusions and whether these conclusions are valid.

Research Techniques

Applied research involves collecting and analyzing data regarding a specific problem. This type of research assists police managers in making decisions.[2] Police executives use applied research when they allocate personnel, decide what type of police equipment to purchase, study crime trends, and make other administrative decisions.

There are two types of applied research: Descriptive and evaluative.[3] Descriptive research identifies the size of the problem, its causes, and who is affected. For example, this type of research involves looking at calls-for-service data to determine the number of calls, the purpose for the calls, and the effect of the calls on officer workload.

Evaluative research, on the other hand, compares one program to an alternative program. Examples of this type of research include determining the effectiveness of having a traffic accident investigations unit or determining what model car would best suit the needs of the patrol unit. Evaluative research ascertains whether a program, policy, procedure, or purchase is doing what it should do; how the program might be deficient; how the program can be improved; and whether the program should be eliminated.

Police executives who understand basic research techniques can review a consultant's study to determine whether any problem exists. This critical step ensures that the department does not make changes based on faulty research techniques.

Problem Research and Research Design

When reviewing a study, the administrator must determine whether the consultant had a clear problem formation and research design. It is the administrator's responsibility to delineate the purpose of the study—exploration, description, explanation, or a combination of these. For the most part, law enforcement agencies require a combination of descriptive and evaluative research.

Individuals Involved in the Study

Administrators also must consider who conducted the study to ensure that individuals hired by the consultant understood police problems and practices. Individuals working on the study also should have research methodology expertise and the ability to interpret the findings and report them accurately. In addition, they should be familiar with the law, the police subculture, and the community's needs.

Variables

It is important for administrators to determine whether researchers delineated different dimensions of the variables being studied and whether they operationalized these variables correctly. For example, if researchers report that crime in the city is up, administrators should determine how they arrived at this conclusion. Did the researchers define crime? Perhaps, they based their conclusion on the fact that the total number of police calls for service increased during the previous year, and this is an operationalized definition used by them to make the increased crime rate claim.

Administrators then must decide whether the calls-for-police-service variable is a valid measure of crime. For example, a community-based, nonpolice assistance program implemented in the previous year may have increased the number of calls for service to the police without affecting the crime rate.

Police executives also should consider whether the crime rate for certain crimes increased, while the number of more serious crimes decreased. For example, thefts in the jurisdiction may have increased while the number of murders, sexual assaults, and robberies decreased. Or, perhaps the previous year was the first year that theft of items valued under $20 was reported along with all other theft charges, causing an inflated theft statistic.

In the case of the Pasadena Department, the study asserted that the department had a slow response rate—an average of 15 minutes per call. However, individuals conducting the study arrived at this figure by averaging critical calls, such as shootings and felony crimes in progress, with complaints of loud music and a barking dog. Clearly, the consultants' data skewed the findings. Administrators must always question whether the data obtained actually provide accurate information about what supposedly is being measured. Accurate results require accurate data.

Sampling Methods

Administrators then must look at the sampling methods employed by the consultant. Did the consultant select a sample of employees or were all employees contacted?

When assessing a policy or a procedure in a large agency, sampling is probably appropriate. However, a modest sample from a small- or medium-sized department may not reflect the true beliefs of the organization.

If a sample is used, it is crucial for the consultant to describe the type of sampling on which the information is based—convenience, simple random, systematic, or cluster sampling. How well a sample represents the entire agency depends on the sampling frame and the specific design of selection procedures. Did the consultant select a sample out of convenience, or does the sample truly represent the organization? For example, did the study conveniently sample a particular segment of employees, such as detectives or day-shift officers, to the exclusion of others?

Statistically speaking, a sample can be representative of only the population included in the sampling frame. Each person in the organization must have a known chance of being selected by the sampling procedure used. Sampling and analyzing data from a sample can be fairly straightforward if an accurate employee list is used as a sampling frame, if a simple random or systematic sampling scheme is used, and if all respondents are selected at the same rate.

> **"...private consultants...provide fresh ideas and an objective evaluation of the department."**

Also critical is whether the consultant selected an appropriate sample size and what percentage of the sample responded by completing the instrument (survey questionnaire). The sample should be representative of the organization and should reflect the gender, age, rank, ethnicity, and education level of the entire organization. The researcher must estimate the size of the sample in order to provide adequate representation of these organizational subgroups. Most decisions about sample size do not focus on estimates for the total population. Rather, they concentrate on the minimum sample sizes that can be tolerated for the smallest subgroups of importance.

Gathering Data

Administrators need to understand how the consultants gathered data. Did they use survey or field research, or did they analyze existing data or experimental research? Typically, consultants rely on several types of research methodology. However, several internal and external validity questions arise with each type of research method.

Survey Instruments

Research can be gathered using written or orally administered survey instruments. If researchers used a written survey, police administrators need to determine the validity of the questions. Additionally, if researchers administered an oral survey, police executives should ascertain whether interviewers asked the survey questions differently or perhaps even asked different questions.

Four types of questions can appear on surveys: Demographic, behavior-oriented, knowledge, and attitude.[4] Researchers must construct the questions properly to obtain internal and external validity. They also must construct the questions in a manner that allows the respondent to give clear, unambiguous answers. Questions containing negative terms could cause the respondent to misunderstand what is being asked.

There should be no compound questions, and the respondents should be capable of answering all

questions. Survey questions should be applicable to all who are asked to answer them.

Field Research

Field research is appropriate to police research topics that defy simple quantification. This type of research may identify the nuances of specific attitudes or behaviors that might escape researchers using other methods. Researchers who employ this method go directly to the problem under study and observe it as completely as possible, which allows them to develop a deeper understanding of the problem.

However, field research has potential problems that can affect the validity of the study. For example, the researchers' own cultural identities or backgrounds could color their interpretation of what they observe. Not all researchers who observe the same events would classify things in the same manner.

Existing Statistics

Administrators need to determine whether researchers relied on existing statistics. For instance, to study traffic accidents, they may have relied, in part, on traffic flow statistics supplied by the local traffic or transportation department. In such cases, administrators should ascertain who originally collected the data, when the data were collected, and whether the findings were appropriate to current concerns.

Experimental Design

Another way to gather information is through the experimental design method. In these cases, administrators need to establish what other variables may have influenced the findings. For example, did the researcher use a proper control group? Were the experimental subjects properly assigned to experimental and control groups? Did the testing process affect the results? Did the fact that an interest was shown in a particular group affect its performance irrespective of the independent variable's effects? Above all else, the findings of the experiment must be applicable to real-world situations.

CONCLUSION

Whenever possible, police executives should rely on their employees to collect and evaluate organizational data. However, when necessary, private consultants can be of immense assistance to law enforcement agencies. They can provide fresh ideas and an objective evaluation of the department.

Consultants who work cooperatively with departmental personnel—especially the chief executive—can produce studies that educate administrators on how they can improve greatly the effectiveness of their departments. In the end, this benefits not only the department but also the community it serves.✦

Endnotes

[1] John H. Sheridan, "Where Bench-markers Go Wrong," *Industry Week*, March 1993, 28-31.

[2] J. Eck, *Using Research: A Primer for Law Enforcement Managers* (Washington, DC: Police Executive Research Forum/National Institute of Justice, 1974), 3.

[3] Ibid.

[4] F. Leavitt, *Research Methods for Behavioral Scientists* (Dubuque, Iowa: William C. Brown, 1991).

Patrol Vehicle Tire Evaluation

The National Institute of Justice's Technology Assistance Program (TAP) and the Institute of Police Technology and Management of the University of North Florida co-sponsored a comprehensive evaluation of patrol vehicle tires. An independent testing company conducted the tests.

Three tire brands were tested on two different car models. Each brand was subjected to eight tests to measure performance under wet and dry road conditions and to determine tread wear characteristics. No specific "winners" or "losers" were identified because driving conditions in different parts of the country vary widely. However, from the tests, departments can then determine the tires that best meet individual needs.

A synopsis of the evaluation results or a copy of the full report can be obtained by writing the Technology Assessment Program Information Center, Box 6000, Rockville, Maryland, 20850, or by calling 1-800-248-2742. TAP also publishes an annual report on police patrol vehicle testing, which also can be obtained from the information center.

Response to Rape

The National Institute of Justice has issued a report on the response of law enforcement and victim service organizations to rape. This report is based on a review of recent research literature on rape and sexual assault, interviews with leading researchers and practitioners in the field, and on-site visits to four jurisdictions that have national reputations for successful approaches to investigation and prosecution of sexual assault and for successful coordination among criminal justice agencies, hospitals, and rape crisis centers.

The report examines the reform of rape laws and organizational, procedural, and training issues of four primary organizations involved with rape victims—law enforcement agencies, prosecutors' offices, rape crisis centers, and hospitals. It also discusses how these agencies work together. The report then addresses emerging issues (acquaintance rape, DNA typing of accused offenders, HIV antibody testing of accused offenders, and civil suits), as well as prevention education for children, adolescents, college communities, and the general public.

The report, entitled "The Criminal Justice and Community Response to Rape," can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. The toll-free number is 1-800-851-3420.

Excessive Force

"The Role of Police Psychology in Controlling Excessive Force," a research report issued by the National Institute of Justice, discusses the role of police psychologists in preventing and identifying individual police officers at risk for use of excessive, nonlethal force. It also addresses the factors that contribute to police use of excessive force in performing their duties.

A sample of 65 police psychologists was surveyed. The results indicate that psychologists were involved more with counseling and evaluating functions than with training and monitoring officer behavior. Counseling was more likely to take place as a response to excessive-force incidents than as a means of prevention.

This report (NCJ 146206) can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. The toll-free number is 1-800-851-3420.

Drugs and Crime in Public Housing

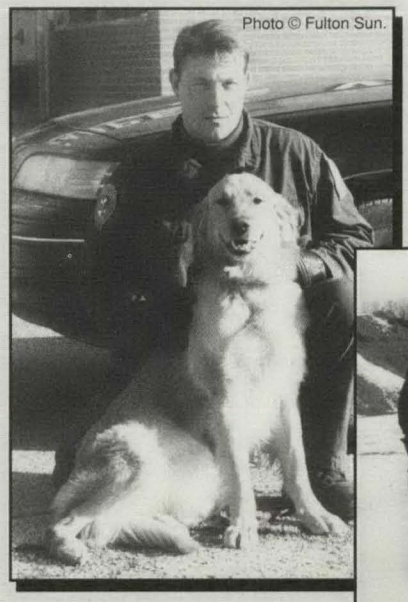
A research report issued by the National Institute of Justice, "Drugs and Crime in Public Housing: A Three-City Analysis," provides an objective, quantitative description of the extent and nature of crime in selected public housing developments. It presents an analysis of rates of drug, violent crime, and property offenses in public housing developments in Los Angeles, California; Phoenix, Arizona; and the District of Columbia. It also compares the rates of these types of offenses in public housing to rates in nearby urban areas containing public housing and to rates in the cities overall.

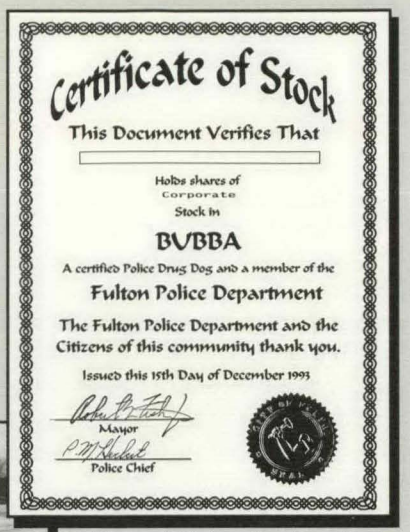
A copy of the report (NCJ 145329) can be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. The toll-free number is 1-800-851-3420.

Police Practices

Operation Drug Dog

By Charles M. Latham





Bubba and his handler, Investigator Greg Backer, are shown at left. Above is a copy of a Bubba stock certificate.

Drive-by shootings, crack houses, street corner drug markets—Fulton, Missouri, did not escape the scourge of the drug epidemic that has spread through the rural cities of the Midwest in recent years. To combat the problem, the police department took the usual measures, such as increasing foot patrols, participating in task forces, using informants, and rolling possession cases into search warrants. It also implemented community policing concepts in high-crime and public housing areas, but the most important ingredient—community participation—was missing. So, instead of just one problem, the department faced two: The drug epidemic and an uninvolved community.

Sniffing Out a Solution

Because crack cocaine can be concealed so easily, officers knew that they were not finding all of the drugs during searches. They also realized that every missed cache boosted the bad guys' confidence.

Knowing that a well-trained dog can find drugs that officers miss, the chief decided that the department needed a drug dog to make more effective searches. Unfortunately, he made that decision in the middle of the fiscal year.

The timing presented a tough dilemma—raising money to buy a dog, a critical policing tool, without sacrificing other services or projects. Once a law enforcement agency's governing body adopts a budget, particularly a line item account, alternative funding for unplanned purchases becomes a very limited proposition. Agency heads either can ask for more money or borrow from one project to pay for another.

Taking Stock of the Options

During a discussion of the dilemma, the chief wondered if the department could ask the public to assist with the purchase of a drug dog. After a bit of comical speculation about the headlines that such a request would evoke ("Police Department Asks Taxpayers for Money to Buy a Pet"), I half-jokingly suggested that the department sell shares and give contributors certificates of stock in Fulton's drug dog.

Surprisingly, the chief shared the idea with the city administrator who, in turn, presented it to the city council. No one could predict how the idea would be received until it was made public at the city council meeting, an announcement we approached with some trepidation. However, the first council member to speak after hearing the share-selling plan asked, "Where can I purchase shares for my kids?" Suddenly, the very people whom the department had hesitated to ask for more money started to contribute to the fund and challenged others to do the same. The council did not discuss any other city business that evening; it focused solely on finding ways for the police department to promote the drug dog stock program.

Sharing With the Community

Shares in the dog could be purchased at three levels: Individual for $10, civic for $25, and corporate for $100. Stock certificates were designed and made on a computer, and officers delivered them in person to stockholders. The day after the council meeting aired on the local cable access channel, school children and teachers met the police department's DARE officer at the door of his first school stop to give him money to buy shares in the dog.

Two days after the original announcement, civic organizations began presenting the chief with rather large checks. The local newspaper traded several quarter-page ads for one share in the dog. The paper also ran a daily front-page progress report free of charge. The project became known as Operation Drug Dog, and when all three local television stations began to carry the story, contributions started to pour in from all over central Missouri.

Fund Raiser Fetches a Dog

Within the first week of the program, the department reached the initial goal of $5,000 to cover the cost of the dog and training for the handler. It accepted additional money only after announcing that the goal had been reached and that the remaining funds would be used for care of the dog. Ultimately, Operation Drug Dog raised approximately $8,500.

With the funds, the department purchased Bubba, a 3-year-old Golden Retriever, trained his handler, and equipped a canine vehicle for them. The new team started conducting drug searches within approximately 10 weeks of that initial council meeting.

The program also spawned a newsletter, *The Bubba Times*, which is produced quarterly for the supporters of Operation Drug Dog. The newsletter allows the department to maintain the close contact with the public that was established during the campaign. It also informs stockholders of how their money is being spent.

"Within the first week of the program, the department reached the initial goal of $5,000 to cover the cost of the dog and training for the handler."

Community Action Dogs Criminals

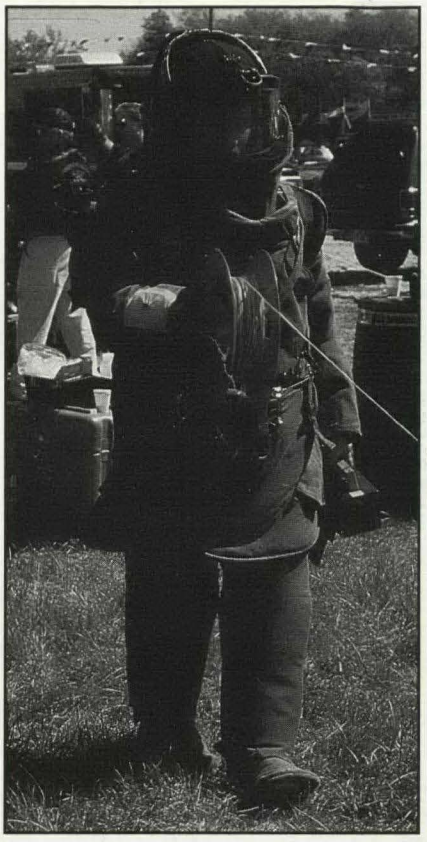
The community and all members of the Fulton Police Department made the program a success. Operation Drug Dog simply represents community policing in its truest form—law enforcement and the community teaming up to solve their problems. As it happened, the solution to the crack problem also solved the community involvement problem.

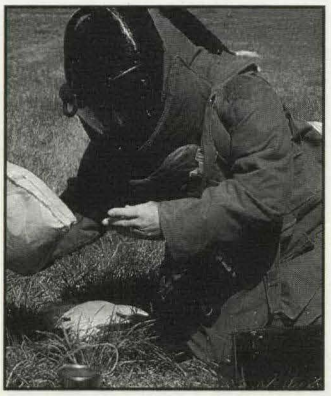
To the members of the Fulton Police Department, the amount of money collected was secondary to the contacts made with law-abiding citizens who shared identical concerns. Operation Drug Dog illustrates that police officers need not and should not shoulder complete responsibility for solving a community's problems. It shows what can be accomplished when officers team up with citizens to take stock in the community, or in this case, a drug dog! ✦

Deputy Chief Latham serves in the Fulton, Missouri, Police Department.

Bomb Squads
Developing Mutual Aid Agreements

By DAVID K. JERNIGAN
and MARTIN S. LaBRUSCIANO





Since the early days of modern law enforcement in America, agreements between municipalities for mutual public safety services have been used in emergency situations. In addition to providing enhanced protection to the public, such agreements allow jurisdictions to pool resources, defray certain training costs, and establish administrative rules and procedures on a regional basis. Today, many regional mutual aid agreements exist under the identity of joint operations, such as drug, violent crime, arson, or terrorism task forces.

Another area in which multiagency cooperation can prove beneficial and, in many instances, essential is the establishment of bomb squads. The relatively high cost of equipment and training combined with the specific mission of public safety bomb squads makes mutual aid agreements in this area a sound idea for many agencies.

GUIDELINES

Today's public safety bomb squads are significantly more advanced in handling improvised explosive devices (IED) than squads of just 15 years ago. Strong emphasis on standard operating procedures, safety, remote render-safe procedures (RSP), robotics, and improved bomb suit design and construction have reduced effectively the frequency of bomb technician injuries. In addition, an increased awareness in the areas of safety and technology has led to new guidelines in the field of explosive incident management.[1]

The National Guidelines for Bomb Technicians were established in 1987, under the direction of the FBI's Bomb Data Center. These guidelines mandate that a ranking agency official (chief of police, sheriff, fire chief, or public safety director) certify that the agency possesses "bomb technician essential safety equipment," either in its current inventory, in a proposed budget, or available through another

agency by mutual aid agreement. This requirement must be met *before* prospective bomb technician candidates can attend the FBI's Hazardous Devices School (HDS) at the U.S. Army's Redstone Arsenal in Huntsville, Alabama.[2]

COST AND EQUIPMENT

While this requirement is an important one to ensure public safety, establishing and maintaining bomb squads represent significant expenses for public safety agencies. The cost to equip a two-person squad with only the essential safety equipment can approach $25,000. This equipment includes at least one full protective bomb suit, a portable X-ray unit with supporting accessories, a dearmer/disrupter, demolition equipment, and a set of quality hand tools.[3] Optional equipment, such as a remote-operated robot or a bomb containment vessel/vehicle to transport the hazardous material to a remote disposal site, adds considerably more to the overall cost of a bomb disposal unit.

Although these outlays may represent a small fraction of the public safety budgets of many large cities, the financial resources to purchase such specialized equipment are virtually beyond the reach of most small- and medium-sized law enforcement agencies. How, then, can these agencies meet their bomb disposal needs if they lack the necessary funds to support a disposal unit that conforms to the national guidelines? The answer in many cases may be the implementation of a mutual aid or voluntary cooperation agreement among several small agencies or the merging of a small agency's bomb squad into the previously established squad of a larger agency.

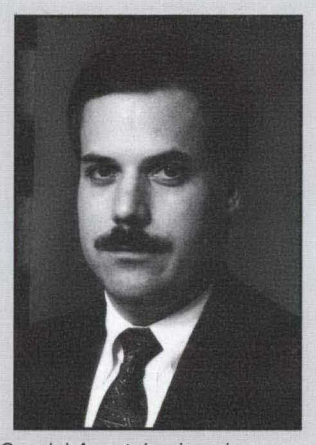
AGREEMENTS AMONG AGENCIES

The Florida Experience

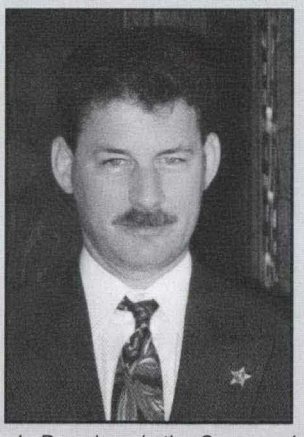
The Florida Mutual Aid Act went into effect in June 1981. The act was designed to facilitate cooperation and assistance among Florida law enforcement agencies in routine *and* emergency situations through mutual aid agreements. It also defines the responsibilities of the Florida Department of Law Enforcement in emergency management and planning on behalf of local law enforcement agencies.[4]

In addition, the Mutual Aid Act includes a provision for implementing voluntary cooperation agreements. These formal, written agreements permit voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines. They also outline the assistance to be rendered by law enforcement, designate which agency will bear liability arising from acts undertaken through the agreement, and define other terms and conditions the respective agencies deem appropriate. Voluntary cooperation agreements can be broad-based or crime-specific in nature.[5]

Because of the considerable financial savings, smaller departments that seek to join previously established bomb squads may consider entering mutual aid and voluntary cooperation agreements similar to Florida's model. Such agreements address the extent to which "new" agencies contribute resources to the squad. This might include contributing an additional protective suit, X-ray equipment, or vehicle, in order to enhance the overall quality of the mutual aid response. In addition, a joining agency's participation on a regular basis, in both inservice practical training and normal callouts to explosive incidents,



Special Agent Jernigan is assigned to the FBI's Bomb Data Center at the FBI Academy.



Captain LaBrusciano is the Commander of the Emergency Services Division of the Seminole County, Florida, Sheriff's Office.

fulfills both agencies' commitment to the mutual aid agreement or voluntary cooperation agreement.

Working Model

Law enforcement and military bomb disposal units of central Florida joined forces in 1989 to provide a mutual aid assistance network of personnel, equipment, and resources. The Central Florida Bomb Disposal Group is a working model of multijurisdictional cooperation in providing the highest level of professional service in response to bombing and hazardous device calls.

The group formed as a result of the dramatic growth of the greater central Florida area which, among other things, had resulted in an increase in the number and complexity of bombing/explosive-related incidents. Before the creation of the Central Florida Bomb Disposal Group, the number of FBI/HDS-trained and qualified bomb technicians available to many jurisdictions of the region had not been commensurate with the needs of their communities.

The bomb disposal group consists of personnel from nine agencies—Altamonte Springs Police Department, Brevard County Sheriff's Office, Daytona Beach Police Department, Orlando Fire Department Arson/Bomb Squad, Seminole County Sheriff's Office, Volusia County Sheriff's Office, Orange County Sheriff's Office, U.S. Army 66th Ordnance Detachment (EOD), and Orlando Office of the Bureau of Alcohol, Tobacco and Firearms (BATF). In addition, several retired military and EOD personnel participate in the group and provide invaluable information and assistance.

One of the group's initial challenges was to draft a mutual aid contract that would specify the terms and conditions under which qualified bomb technicians and investigators could be called upon by law enforcement or fire service agencies. Members also determined that this mutual aid contract should address such ancillary issues as restitution, liability, workers compensation, death benefits, and property damage.

> **"...cooperation among agencies with existing...capabilities will be essential to provide the highest level of protection to the public."**

Additionally, the members of the group identified the operational guidelines in which all group members agreed to approach IEDs, hazardous materials, and ordnance incidents. They eventually adopted the National Guidelines for Bomb Technicians as the operational standard for the group.

Because any one of a large number of municipal law enforcement agencies within the greater central Florida region could, at any time, request assistance in explosive-related matters, members determined that it would be impractical for *every* municipal law enforcement agency in the area to enter into a mutual aid contract with each member agency. Instead, the member agencies (with the exception of the BATF and the Army's 66th EOD) entered into mutual aid contracts with the sheriff's offices of six central Florida counties. Through these agreements, municipal law enforcement agencies requiring bomb disposal expertise contact the sheriff's office in their county to request assistance, which is then provided "under the colors of the sheriff" of the respective counties.

Currently, the Central Florida Bomb Disposal Group meets every other month. Member agencies take turns hosting these informal gatherings. During the morning sessions, group members generally share incident management techniques, discuss recent bombing cases and intelligence, and present new or innovative tools and equipment. In the afternoon, the members work together to resolve simulated IEDs in practical field exercises. Members are encouraged to work with personnel outside of their own agencies and to use tools and equipment provided by the other group members.

The New Jersey Experience

While the central Florida model is an excellent example of multijurisdictional cooperation, various approaches can be used to address the unique needs of different communities. A smaller scale arrangement exists in New Jersey between the Clifton Police Department and the Passaic County Sheriff's Department.

As a suburb of New York City, Passaic County supports a

population of 450,000. Clifton, a medium-sized municipality within Passaic County, has a population of 71,000. Passaic County possesses a bomb squad consisting of four FBI/HDS-trained technicians. Two of these technicians serve with the Clifton Police Department, and two serve with the Passaic County Sheriff's Department.

In 1988, through a letter of agreement, the chief and sheriff established a mutual aid arrangement. The letter outlines and documents the mutual response strategy and the cooperative efforts of the two agencies in the event of a callout. In essence, the agreement ensures that the bomb disposal units of both departments act as a single, integrated bomb squad, sharing expenses and participating in inservice training, even though the technicians perform collateral duties in their respective agencies. In this way, both departments maintain bomb disposal capabilities while conserving personnel, training, and financial resources.

CONCLUSION

For small- and medium-sized agencies, the Florida and New Jersey models offer two distinct, but viable, alternatives to establishing and maintaining explosive disposal units. As the cost of public safety bomb squads increases, cooperation among agencies with existing, but limited, capabilities will be essential to provide the highest level of protection to the public. Such arrangements are yet another example of law enforcement's adapting to contemporary economic realities and learning to do more with less.✦

Endnotes

[1] "Standard Operating Procedures, Four Models," *Special Technicians Bulletin*, FBI Bomb Data Center, 1992.

[2] "National Guidelines for Bomb Technicians," *Special Technicians Bulletin*, FBI Bomb Data Center, 1987, 2.

[3] Ibid, 6-7.

[4] Florida State Statute 23, section 1231.

[5] Ibid.

Point of View

Mission Impossible

Satisfying Society's Increasing Demands

By
Christopher G. Hennen, M.A.

Major Hennen served in the Fort Montgomery, New York, Police Department and is now a technology program manager in the U.S. Army.

With America's renewed war on crime, society is demanding ever more from its police. Communities expect traditional crime control methodologies that once focused on enforcing laws and maintaining civil order to embrace social welfare and public health features. Consequently, police administrators are expected to broaden their agencies' methods of crime intervention without sacrificing efficiency or accountability, despite increasing budget constraints.

These divergent, and sometimes conflicting, pressures lead to questions about the direction many police agencies have taken, whether wittingly or not. Are society's evolving expectations realistic? Can an acceptable standard of police efficiency and effectiveness be achieved under such a broad mandate? Should law enforcement, as a panacea for society's ills, be the policing paradigm for the 21st century?

It is impossible for contemporary American crime fighters to respond effectively to the Nation's call for service without clearly defined, customer-driven mission statements composed of realistic objectives and achievable goals. Such statements would help to correct the ambiguity regarding the roles and functions of police that rests at the heart of the current debate concerning strategies. In fact, the future relevance of the police in society may depend on the creation of well-defined mission statements.

Universal Variations

That policing is in a state of flux is nothing new. The history of American policing is a tale of public mood swings followed by dramatic—and often painful—reforms. Politics, technology, and scholarly inquiry into the profession all strongly influence police operations. Consequently, the police mission in contemporary society has become increasingly varied and complex, driven by unusual demands for service.

Granted, it may be impossible, even foolhardy, to establish an all-encompassing national mission for policing. With over 17,000 individual departments—all with different histories, operational challenges, and leadership styles—a great deal of variation is inevitable. Yet, the fact remains that the basic mission of policing—crime control—is, or should be, the same. Ideally, therefore, only the peripheral components of each department's mission should differ in order to address local variations.

The Limits of Policing

While the police might be the most recognized agency of government, they are probably the least understood. The public generally views police operations as being uncomplicated; therefore, far more is expected of the police than they are authorized, trained, or equipped to do. However, it is unreasonable to expect law enforcement to address

singlehandedly problems affected by immensely complex social, economic, and political forces.

In reality, the police possess a limited capacity to enhance the quality of life within communities through the prevention, investigation, and resolution of crime. No matter how professional or community-oriented police officers become, they are powerless to solve the root causes of crime alone. Curing long-term problems caused by the unraveling of family networks, unemployment, poverty, and other societal forces should not be considered a police responsibility.

Considering the available evidence, it seems clear that society must lower its expectations of the police. This is not to say that the police should retreat into a reactive, minimalist posture. But the time has come for political leaders and citizens to understand that the police cannot solve society's problems. To ask them to do so only dilutes and jeopardizes the true mission and function of law enforcement in society.

> **"...the future relevance of the police in society may depend on the creation of well-defined mission statements."**

Citizens—not the police—bear primary responsibility for the quality of life within their communities. While the police certainly can provide assistance in this area by sponsoring neighborhood watches and encouraging community involvement in crime prevention, the ultimate responsibility for the well-being of a neighborhood, a community, and ultimately, a society lies with its citizens.

To help rehabilitate society's view, the police must recognize their own limitations. Many departments confuse diversity of programs with productivity, sacrificing the latter to achieve the former. There is transcending truth in the architectural principle that "less is more." Admittedly, the current scope of criminality dictates that the police must become more proactive and interactive in their orientation. But, increased activism must not come at the expense of their core function—enforcing the law and maintaining order.

Rather than adopting a particular philosophy of policing as best for all of the Nation's communities, each municipality must seek to define the police mission based on capabilities that make the greatest contribution to its quality of life. The law enforcement community should not lose patience because the ideal model has yet to be discovered and validated. At the same time, police administrators should not settle for simplistic, politically appealing concepts rooted in nostalgia, calculated to satisfy emotional, rather than practical, needs.

The mark of an effective police department should not be how successfully it implements the most recent national program model, but instead how thoughtfully it crafts logical solutions to local needs. An agency develops a practical mission by identifying the right fit between its capabilities and its environmental opportunities. There is no rule requiring that the same mission be executed in every municipality. Each department must remain flexible within the framework of its mission.

For example, it may be appropriate to emphasize the law enforcement role where a higher crime rate exists. Periods of increased social turmoil may require an emphasis on maintaining civil order. When relative tranquility prevails, the police may pursue more public service-oriented tasks.

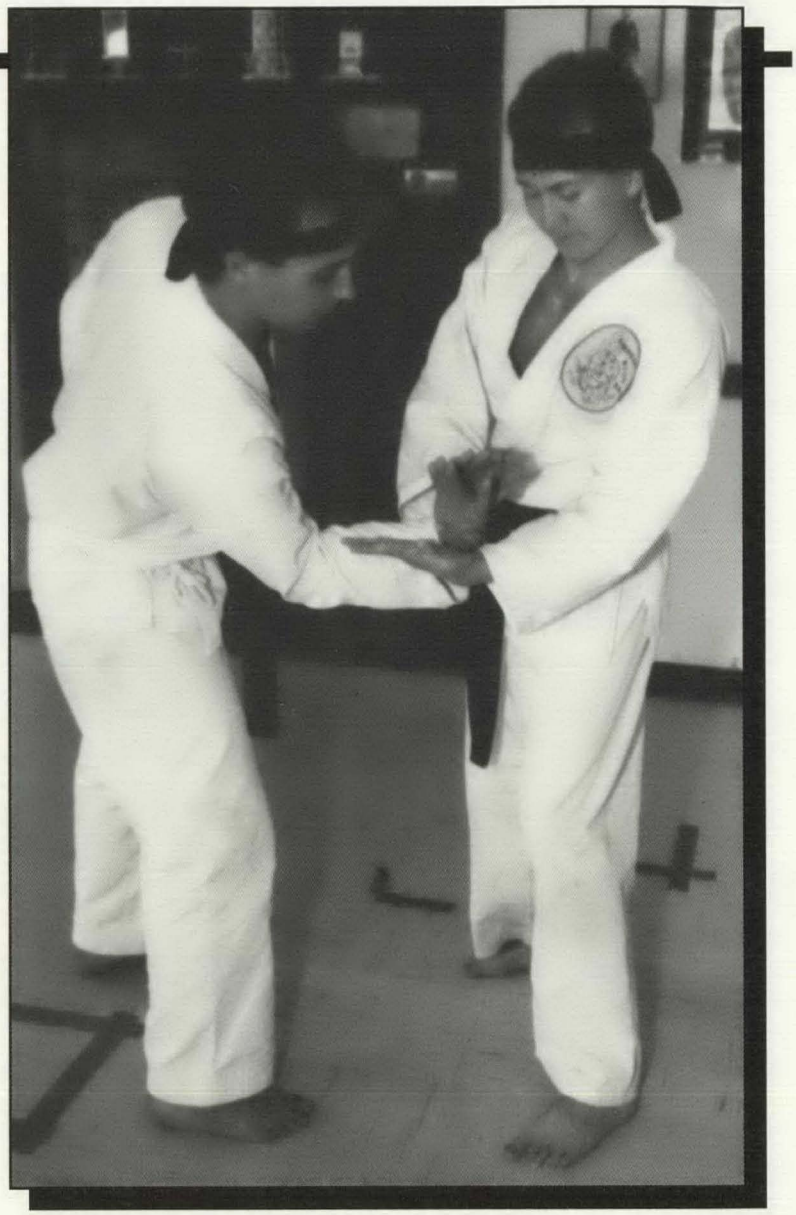
Conclusion

If law enforcement is to avoid becoming an anachronism in the next century, the prevailing view of policing as a "catchall" profession must be dispelled. To this end, the formulation of appropriate mission statements is of decisive importance. Without a *logical* mission, law enforcement will be compelled to endure, rather than shape, its own course. The time has arrived for serious and realistic debate about the mission of the police and the role of law enforcement in society.✦

"Marshaling" an Old Art

Martial Arts in Police Training

By
ARNOLD ANDERSON



The idea of using the martial arts in police training is not a new one. In Japan, *all* police officers train in various styles of Karate and Judo. In the United States, officers routinely practice wrist locks and "take down" techniques that originated in the martial arts. The PR-24 police baton used by most American police departments is, in fact, based on the Tonfa, an ancient Okinawan farming tool that peasants adapted for use as a defense against sword attacks.

However, most police instructors quickly would correct someone who referred to the baton as a Tonfa. This conflict in terminology typifies the misconceptions many Americans hold about the martial arts. Even those who tacitly embrace the martial arts often do so without fully appreciating their more subtle qualities.

In addition to providing unequaled self-defense capabilities, proper training in the martial arts can also benefit law enforcement officers in numerous other ways. The strict mental and physical conditioning in martial arts training promotes cardiovascular health, increases flexibility, and enables officers to cope better with the high stress levels inherent in policing.

The training also fosters a sense of self-confidence that allows officers to diffuse volatile situations without resorting to force. With American law enforcement facing unparalleled challenges, administrators would be remiss to ignore the many potential benefits that martial arts training could provide to their officers and their agencies.

BENEFITS OF MARTIAL ARTS TRAINING

Physical and Emotional Health

A career in law enforcement is considered one of the most physically dangerous of any profession.

However, the threat to officers' emotional health should not be underestimated. Stress and nervous tension resulting from internal conflicts that evolve from a wide range of external situations can prove both physically and emotionally damaging to officers.

Stress is, of course, an inevitable factor in human existence that affects each person differently. Ultimately, the manner in which police officers cope with stress will determine how this potentially destructive force affects their careers and their lives.

How could training in the martial arts help? High on any list of ways to combat stress is a comprehensive program of physical fitness. Participation in a regular program of aerobic exercise or other physical activities that develop heart and lung capacity has been proven to reduce stress, fatigue, and even the risk of certain diseases. In addition, achieving a high degree of physical fitness dramatically increases an officer's ability to deal with violent or emergency situations. And, because martial arts training promotes flexibility, it makes officers less prone to injury.

Any activity that simultaneously improves officers' overall physical fitness, cardiovascular health, flexibility, and ability to cope with stress is certainly worth exploring. Training in the martial arts provides all of this and much more.

Inner Strength

What truly separates the martial arts from other forms of aerobic training is an emphasis on developing inner strength. Martial arts training can be a catalyst to promote self-confidence, assertiveness, goal orientation, calmness, and concentration.

In fact, the martial arts could be considered a practical course in assertiveness training. Recognizing this, some psychiatrists recommend martial arts training for their patients who lack assertiveness. This aspect of martial arts training also may be very beneficial to line officers.

Most of the criminals with whom police officers deal suffer from very low self-esteem. The need to feel powerful causes them to seek out and victimize others who are either weaker than they are or who are in a vulnerable position. Gone are the days when a police officer's presence alone could be counted on to place fear in a suspect's heart, giving the officer the necessary advantage to control the situation. During an encounter, many criminals quickly can sense any weakness in an officer's demeanor, such as a hunched posture, rapid breathing, a quavering voice, uncertainty in forming requests and responses, and an unwillingness to look others in the eye.

By short-circuiting these undesirable behavioral responses, martial arts training actually prepares officers to respond more effectively to confrontational situations and enhances their ability to diffuse violent encounters. Martial artists learn to look their opponents in the eye. Through the practice of Kata and regular sparring, martial artists learn to control their breathing. When confronted, they reflexively adopt a proper stance that provides balance and allows rapid, powerful movement.

During a confrontation, an adversary will sense all of these elements. In fact, martial artists often defeat opponents not through

"Martial arts training provides practical benefits both to individual officers and to their agencies."

Officer Anderson serves with the Irvington Township, New Jersey, Police Department.

combat, but through their calm and confident demeanor, as they speak in a firm voice poised in a ready posture. Hemingway once said that "courage is grace under pressure."[1] The martial arts teach such grace.

Other Benefits

In addition to its direct benefits, martial arts training also provides ancillary rewards to officers and departments. Perhaps most important, such training gives officers a positive activity to pursue outside the realm of police work.

It is no secret that police officers tend to "stick together," often because they believe individuals on the other side of the thin blue line do not understand what they face. Some officers routinely meet after their shift to "let off steam" and to discuss the events of the day. This form of ventilation can be very useful if properly controlled. If not, it can lead to disastrous events such as those described by Joseph Wambaugh in *The Choirboys*, his darkly humorous novel describing the antics of a group of dysfunctional police officers.

The martial arts provide an activity in which officers can participate that is not essentially police-related. It gives officers something to talk about other than police work. While Karate and other martial arts are distinctly individual as sports, a good school, or "Dojo," can instill a strong sense of family and belonging. Such bonds provide a positive counterpoint to traditional police camaraderie.

While some people harbor a concern that the martial arts promote violence, recent psychiatric studies show that the opposite is true. In one study, a clinical psychologist from the University of Miami found that, when compared to a control group of similar college students, male martial artists appeared "quiet, conscientious, industrious, and able to inhibit aggression and hostility." The professor further stated that martial artists actually may be able to control their violent impulses better. "Some people behave uncontrollably when they feel their dignity...threatened. Maybe they wouldn't if their identity was well secure."[2]

> ***"Martial arts training can be a catalyst to promote self-confidence, assertiveness, goal orientation, calmness, and concentration."***

Martial arts training also may foster leadership skills. Western business executives who began visiting Japan in the 1980s to study the management and production techniques of Japanese companies soon were impressed with the number of successful business leaders who had practiced martial arts in their youth. Ancient books on strategy that espouse martial arts philosophy, such as *The Art of War*[3] and *The Book of Five Rings*,[4] have moved from the war room to the boardroom. Just as American business has witnessed firsthand the positive effects of martial arts training, law enforcement agencies in the United States should explore the many potential rewards of this training.

CONCLUSION

One of the strengths unique to the American character has been an ability to assimilate cultural influences from other nations. By embracing martial arts training, agency administrators do not discard traditional law enforcement training procedures. They expand them.

Martial arts training provides practical benefits both to individual officers and to their agencies. By adopting training methods that truly have stood the test of time, rather than searching for the latest magic pill to solve the problems that confront law enforcement, administrators can find a way to combat the tremendous physical and emotional demands placed on today's officers. Perhaps in doing so, they can help to improve the overall image of law enforcement officers in our society. ✦

Endnotes

[1] Quoted from an interview with Dorothy Parker, in the *New Yorker*, November 30, 1929.

[2] Study conducted by Dr. Richard M. Carrera, clinical psychology professor at the University of Miami, Florida. Study results presented at the American Psychological Conference in 1989.

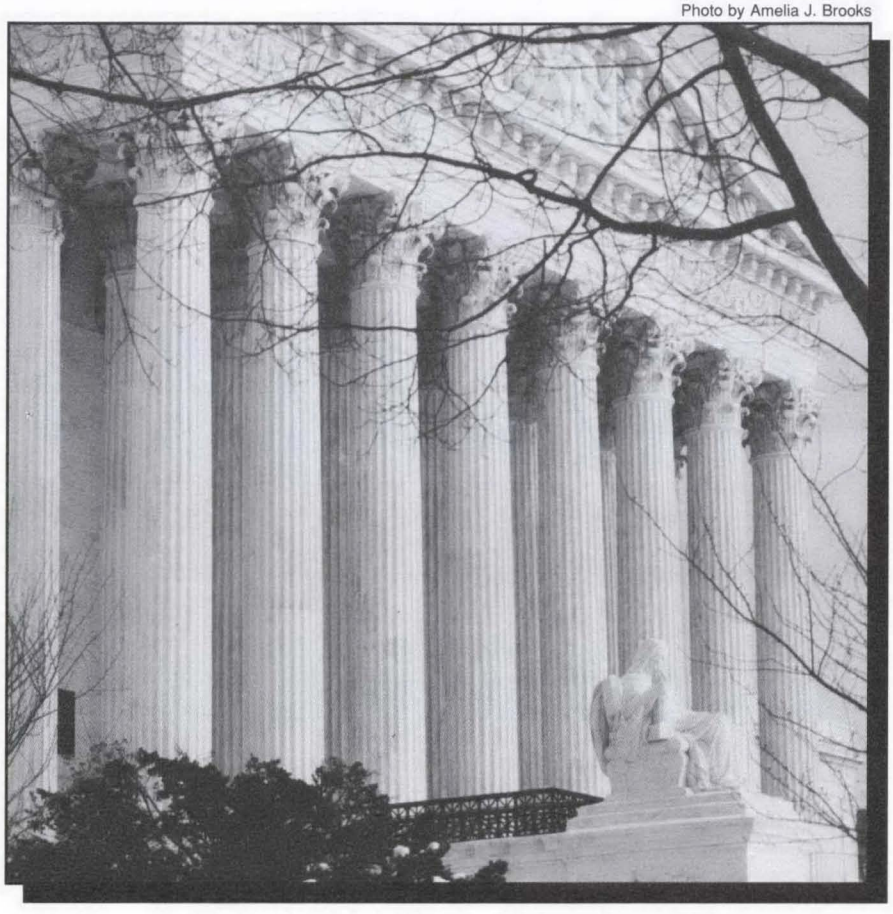
[3] Sun-Tzu, *The Art of War*, trans. Thomas Cleary (Boston, Massachusetts: Shambala Publications, 1988).

[4] *The Book of Five Rings*, Miyamoto Musashi, (originally published in 1645) translated by Nihon Services Corporation: Bradford J. Brown, Yuko Kashiwagi, William H. Barrett, and Eisuke Sasagawa, Bantam Books, 1982.

Supreme Court Cases
1993 - 1994 Term

By
WILLIAM U. McCORMACK, J.D.

Photo by Amelia J. Brooks



During its 1993-1994 term, the U.S. Supreme Court ruled on six cases of particular importance to law enforcement officers and managers. This article summarizes these cases.

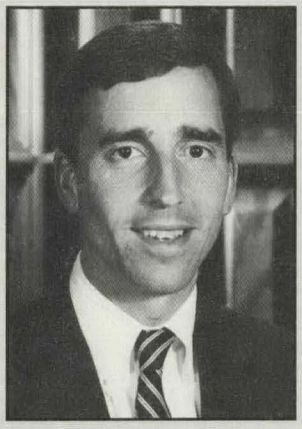
Specifically, the Court clarified two important issues concerning a criminal defendant's *Miranda* rights and addressed important first amendment free speech issues. In the area of equal rights for women, the Court reinforced statutory and constitutional principles prohibiting sex discrimination in the workplace. Finally, the Court established due process protection for property owners before their real property is forfeited.

Davis v. *United States*, 114 S.Ct. 2350 (1994)

In *Davis*, the Court ruled that after law enforcement officers obtain a valid *Miranda* waiver from an in-custody suspect, they may continue questioning him when he makes an ambiguous or equivocal request for counsel during their questioning. The Court stated that while it may be a good law enforcement practice to attempt to clarify an equivocal request for counsel, that practice is not constitutionally required.

The defendant in this case, a murder suspect, waived his *Miranda* rights before being interrogated, but during the interview, said, "Maybe I should talk to a lawyer." The investigators clarified this statement and determined that the defendant did not want a lawyer. Later, the defendant requested a lawyer, at which point the questioning ceased.

The lower courts denied the defendant's motion to suppress



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

statements made during the interview. The U.S. Supreme Court affirmed and held that if an in-custody suspect waives his *Miranda* rights and later makes an ambiguous or equivocal reference to an attorney, law enforcement officers are not required to stop questioning the defendant.

The Court reaffirmed *Edwards* v. *Arizona*, 451 U.S. 477 (1981), in which it was decided that if an in-custody suspect makes an unambiguous or unequivocal request for counsel, all criminal questioning must cease, unless the suspect initiates contact with law enforcement officers or the suspect's attorney is present. However, the Court determined that when a request is ambiguous or equivocal in that a reasonable officer would have understood only that the suspect *might* be invoking the right to counsel, the officers may continue questioning until the suspect clearly requests an attorney.

The Court noted that the investigators in this case clarified the suspect's ambiguous counsel request and that this often will be good law enforcement practice because it minimizes the chance of second-guessing by a court as to whether a suspect's counsel request was ambiguous or not. However, the Court stated that it was unwilling to create a third layer of protection beyond *Miranda* and *Edwards* when a suspect *might* want a lawyer and that questioning may continue after a valid *Miranda* waiver has been obtained, unless the suspect actually requests an attorney.

Davis should prove helpful to law enforcement officers interviewing in-custody suspects. When a suspect mentions an attorney, the officers need not interrupt the flow of the questioning to clarify the reference, but may continue questioning unless a reasonable officer would conclude that it is a clear assertion of the right to counsel, such as, "I want a lawyer."

***Stansbury* v. *California*, 114 S.Ct. 1526 (1994)**

In *Stansbury*, the Court reaffirmed the principle that an officer's uncommunicated suspicions concerning a suspect's guilt are irrelevant to the question of whether that suspect is in custody for purposes of *Miranda*. Thus, custody for *Miranda* purposes is a completely objective determination based on facts and circumstances known to the suspect.

An investigation of the rape and murder of a 10-year-old girl focused on an ice cream truck driver who spoke to the girl before her murder. The defendant was also an ice cream truck driver who had talked to the girl, but he was not the leading suspect. When police went to the defendant's home and told him they were investigating a homicide and that he might be a witness, the officers asked the defendant if he would accompany them to the police station, and he agreed.

At the station, without providing *Miranda* warnings, the officers questioned the defendant concerning his whereabouts and activities on the day of the murder. Eventually, the defendant made incriminating remarks about the color of a car he was driving that day and his prior criminal record. When officers later terminated the interview and advised the defendant of his *Miranda* rights, he invoked his rights and was arrested.

The lower courts ruled that the defendant was not in custody for purposes of *Miranda* until the officers' suspicions focused on him. However, the U.S. Supreme Court reversed and concluded that the factors used to determine custody for *Miranda* purposes should not take into account the officers' uncommunicated suspicions.

The Court reiterated its earlier holding in *Oregon* v. *Mathiason*, 429 U.S. 492 (1977), that *Miranda* warnings are required only when a person is in custody, which can be defined as either a formal arrest or a restraint on freedom of movement to the degree associated with a formal arrest. The Court then stated that this determination of custody depends on objective factors and not on the subjective views of the officers or the suspect.

For example, in *Berkermer* v. *McCarty*, 468 U.S. 420 (1984), the Court ruled that a motorist stopped by the roadside was not in custody for *Miranda* purposes, even though the traffic officer had decided to arrest the motorist, because the officer's unarticulated plan had no bearing on the question of custody. The Court concluded that any inquiry into whether the interrogating officers have focused their suspicions upon the individual being questioned (assuming these suspicions remain undisclosed) is not relevant for purposes of Miranda.

Stansbury will be a helpful decision to law enforcement officers. Although Supreme Court decisions concerning custody for *Miranda* purposes have been fairly clear, some lower courts and law enforcement organizations have continued to use a "focus of suspicion" test in determining whether *Miranda* warnings are required. *Stansbury* clearly and unequivocally restates that an officer's uncommunicated suspicions are irrelevant and only those factors known to the suspect should be analyzed in determining custody for purposes of *Miranda*.

***Madsen* v. *Women's Health Center, Inc.*, 114 S.Ct. 2516 (1994)**

In *Madsen*, the Court upheld portions of a State court injunction prohibiting antiabortion protesters from demonstrating in certain places and in certain ways outside of an abortion clinic. Most significantly, the Court upheld a 36-foot buffer zone protecting the clinic's public right-of-way and driveway.

A State court judge in this case permanently enjoined an antiabortion protest group from blocking or interfering with access to an abortion clinic. However, when that injunction failed to protect access to the clinic, the State court issued a broader injunction, which prohibited the protestors from the following:

1) Demonstrating, at all times, within 36 feet of the clinic's property line

2) Singing, chanting, whistling, shouting, yelling, using sound amplification equipment or other sounds or images observable to or within earshot of the patients inside the clinic during certain times and during surgical procedures

3) Approaching, at all times, any person seeking services of the clinic, unless the person indicates a desire to communicate by approaching the protesters, and

4) Approaching, demonstrating, or using sound amplification equipment, at all times,

Supreme Court Library

within 300 feet of the residences of clinic staff.

The Court first determined that the injunction was not a content- or viewpoint-based restriction because the same remedy was available to any group if similar disruptive conditions existed. It noted that the test to determine the constitutionality of a content-neutral injunction, such as this one that regulated the time, place, and manner of speech, is whether the injunction burdens no more speech than necessary to serve significant government interests. The Court found that the State had significant government interests in imposing the injunction, including protecting a woman's freedom to seek lawful medical services, ensuring public safety and order, providing for the free flow of traffic, and promoting residential privacy.

Turning to the specifics of the injunction, the Court upheld the 36-foot buffer zone as it applied to the public right-of-way and driveway of the clinic because it protected free access to the clinic. However, the Court struck down the buffer zone as it applied to private property on two sides of the clinic.

In addition, the Court upheld the noise restrictions prohibiting singing, chanting, or yelling, which could be heard in the clinic, but invalidated the prohibition on images being displayed by the protesters, which were observable from within the clinic. The Court noted that it is much easier for the clinic to draw its curtains than for a patient to plug her ears.

With respect to the provision prohibiting approaching any person, the Court decided that this burdens more speech than necessary to prevent intimidation and to ensure access to the clinic. Finally, the Court struck down the 300-foot buffer zone for residences, finding that it was too broad and that a smaller buffer zone could have accomplished the desired result.

Madsen is an important case for law enforcement because it upholds substantial portions of a State court injunction. Law enforcement agencies attempting to maintain public order and protect the rights of demonstrators should consider the use of court orders or injunctions to place limits on demonstrators if there is a significant government interest served by the limitation that burdens no more speech than necessary.

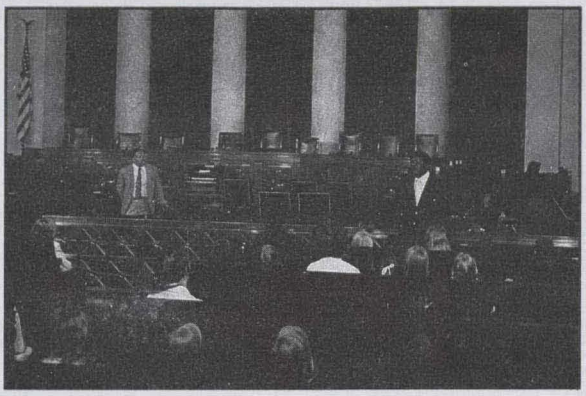
Waters v. *Churchill*, 114 S.Ct. 1878 (1994)

The Court in *Waters* further refined the law concerning the first amendment free speech rights of public employees. It ruled that public employers must, prior to imposing discipline for employee speech, conduct a reasonable investigation of factual disputes concerning the content and context of the employee's speech.

Waters involved the termination of a nurse from her job at a public hospital after her supervisors received conflicting reports concerning critical and insubordinate comments she had made, which discouraged another nurse from transferring into another department. The nurse then filed suit, alleging that her termination was in violation of her first amendment free speech rights.

The U.S. Court of Appeals for the Seventh Circuit ruled that the case had to go to trial for a determination of what the speech actually was, not what the employer reasonably thought it was. However, the U.S. Supreme Court vacated that decision and held that a public employer may take adverse employment action if the employer has conducted a reasonable investigation and the investigation reveals that the speech is not otherwise protected by the first amendment.

The Court reaffirmed the broad latitude that public employers have in regulating the speech of employees by noting that a public employer may prohibit employees from the following: 1) Uttering obscene or offensive language to the public or to co-workers, 2) being "rude to customers," and 3) counseling coworkers to do their job in a way contrary to the public employer's instructions. It also noted that public employers may prohibit high-ranking employees from publicly criticizing the employer's policies where that criticism undermines a duty of loyalty or a close working relationship among high-level managers.



Supreme Court Chamber

The Court added that the extra power the government possesses to regulate the speech of government employees is based on the need for efficient and effective government services. The Court stated that when an employee begins to do or say things that detract from the agency's effective operation, the government employer has the power to prohibit such disruptive activity. Nevertheless, the Court recognized that public employees often are in the best position to know what ails their agency, and thus, a government employee may have a strong interest in speaking out on public matters.

In light of these competing interests, the Court determined that when the facts concerning a public employee's speech are unclear, the Constitution does not require a jury determination of what the employee actually said. Instead, the employer may take action based on the version that is revealed by a reasonable investigation. The Court noted that the extent of the investigation required will vary according to whether there is a substantial likelihood the speech is protected and should be the type of investigation a reasonable manager would conduct.

Waters is a mixed blessing for law enforcement managers. On one hand, it includes strong language and examples of the extent of management prerogative in disciplining disruptive, divisive, and insubordinate speech of employees. On the other hand, the case has added a new burden on managers to conduct a reasonable investigation when the facts surrounding what the employee actually said are unclear.

Fortunately, most law enforcement managers will not need to alter existing disciplinary proceedings in speech cases, because officers facing discipline generally are afforded a due process hearing that should suffice to meet the *Waters* requirement for a reasonable investigation. However, for law enforcement agencies with at-will or probationary employees who do not receive due process hearings before adverse personnel action, a reasonable investigation now is required when disputed employee speech is the basis for the personnel action.

***Harris* v. *Forklift Systems, Inc.*, 114 S.Ct. 367 (1993)**

In *Harris*, the Court further defined when a hostile or abusive work environment constitutes illegal sexual harassment under Title VII of the Civil Rights Act of 1964. The plaintiff in this case alleged that her employer had made various comments to her, including 1) that she was "a dumb ass woman"; 2) "You're a woman, what do you know"; 3) "We need a man as the rental manager"; and 4) that they "go to the Holiday Inn to negotiate your raise." In addition, the employer allegedly asked female employees to get coins from his pockets and threw objects on the ground in front of the plaintiff and other women and then asked them to pick them up.

After the plaintiff complained to her employer, he promised he would stop, but thereafter, made a sexual comment to the plaintiff in reference to arranging a deal with a customer. The plaintiff then sued the company, claiming that the employer's conduct had created an abusive work environment.

The lower courts dismissed the lawsuit on the grounds that the offensive conduct had not seriously affected the plaintiff's psychological well-being. However, the Supreme Court reversed the lower

courts and ruled that a work environment need not seriously affect a person's psychological well-being to be hostile or abusive. The Court noted that mere utterance of an epithet that causes bad feelings does not sufficiently affect the conditions of employment to constitute a hostile work environment under Title VII and that conduct not severe or pervasive enough to create an objectively hostile or abusive work environment—an environment that a reasonable person would find hostile or abusive—is beyond the reach of Title VII.

The Court stated that whether an environment is hostile or abusive is determined by looking at all the circumstances, including 1) the frequency of the conduct; 2) its severity; 3) whether it is physically threatening or humiliating, or a mere offensive utterance; and 4) whether it unreasonably interferes with an employee's work performance. The Court concluded that the effect of the conduct on the employee's psychological well-being is also relevant, but it is not a required element to prove sexual harassment.

The *Harris* case is important to law enforcement officers and managers because it provides the Court's only pronouncement on sexual harassment since its first case on the issue, *Meritor Savings Bank* v. *Vinson*, 477 U.S. 57 (1987). *Harris* is a strong reaffirmation that sexual harassment and hostile or abusive work environments are illegal under Title VII. The Court's ruling will assist law enforcement officers and managers to determine what sexual behavior in the workplace is legally impermissible, that is, what type of behavior creates an environment that a reasonable person would find hostile or abusive.

United States v. *James Daniel Good Real Property*, 114 S.Ct. 492 (1993)

In *James Good Real Property*, the Court held that in the absence of exigent circumstances, the Due Process Clauses of the 5th and 14th amendments require the government to afford a real property owner notice and a meaningful opportunity to be heard before seizing the owner's real property under civil forfeiture statutes.

The defendant in this case was convicted on drug charges in 1985 after 89 pounds of marijuana were uncovered during a search of his home. In 1989, the Federal Government began forfeiture proceedings against the defendant's real property and seized it after making an application to a magistrate of which the defendant was not notified.

The defendant filed a claim for the property, asserting that the seizure violated his due process rights and that the forfeiture action was untimely based on Federal regulations. The Supreme Court agreed with the defendant concerning the issue of due process but not on the timeliness issue. The Court stated that the fourth amendment does not provide the sole measure of constitutional protection for property owners in forfeiture proceedings and that due process also must be considered, particularly when the property is a home or other real property.

Balancing the property owner's interests against the government's interests, the Court determined that in the typical case, there is no reason for the government to take control of real property without first affording notice and an adversary hearing. The Court noted that real property cannot abscond, and absent emergency circumstances, the government can take legal measures to prevent sale or destruction of the property without seizing it. Finally, the Court held that a Federal statute requiring prompt forfeiture of property did not bind the government because the statute did not specify a consequence for failure to comply with the provision.

James Good Real Property should not be a major obstacle in law enforcement's forfeiture efforts, although it may require some changes in forfeiture procedures and may delay the seizure of real property in some cases. The required preseizure due process procedure should not be onerous and may be avoided altogether by delaying seizure until after the civil forfeiture proceedings have concluded.✦

The author wishes to acknowledge the assistance of Donald Gast, a 1994 Honors Intern assigned to the Legal Instruction Unit, in the preparation of this article.

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.

U.S. Park Police Officer Daniel M. McFadden was preparing to end his shift at New York's Gateway National Recreation Area when he heard reports of a ship running aground a short distance away. He quickly responded to the location and learned from officers already on the scene that the ship was carrying a large number of Chinese aliens, many of whom were now caught in the turbulent surf. Officer McFadden and several other officers entered the water and battled the strong riptide and chilling temperatures to bring the disoriented passengers to safety. At one point, with waves breaking over his head, he swam to three people far from shore. Although the strong undertow threatened to sweep them all out to sea, Officer Mcfadden kept the group together, until other officers were able to recover them.

Officer McFadden

Sgt. Daniel A. Nolan of the Upper Moreland Township, Pennsylvania, Police Department observed a vehicle matching the description of a sport-utility vehicle used a short time earlier in an assault and an armored car robbery. Sergeant Nolan stopped the driver and was preparing to exit his cruiser when he noticed movement in the back of the vehicle. As he radioed this information to the dispatcher, one of the subjects began firing at him. Several rounds struck the cruiser as Sergeant Nolan got out and returned fire.

When the subjects drove off, Sergeant Nolan notified his dispatcher and followed in pursuit. After their vehicle collided with another automobile, the subjects attempted unsuccessfully to carjack a utility truck that had stopped to render assistance at the accident scene. The four subjects then fled on foot. Officer Herman Hengeveld, also of the Upper Moreland Township Police Department, came to the assistance of Sergeant Nolan. As they cornered one of the gunmen, he raised his weapon as if to fire on the officers. The officers shot him when he ignored commands to lower his weapon. Two of the suspects were apprehended a short time later. The fourth shot himself when cornered by a plainclothes detective.

Sergeant Nolan

Officer Hengeveld

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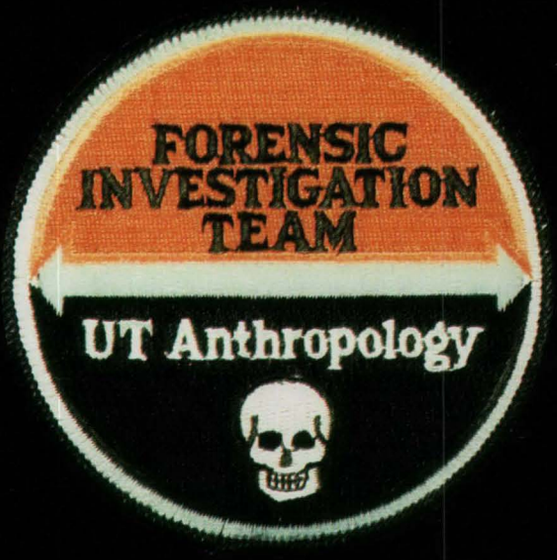
Patch Call

The patch of the Narragansett, Rhode Island, Police Department depicts a scenic view of the town's shoreline and features one of the town's focal points, the Towers on Ocean Road and its covered promenade.



Forensic anthropologists from the University of Tennessee Forensic Investigation Team have assisted law enforcement agencies in Tennessee and surrounding States for 21 years. Their patch features a human skull on an orange and black background.