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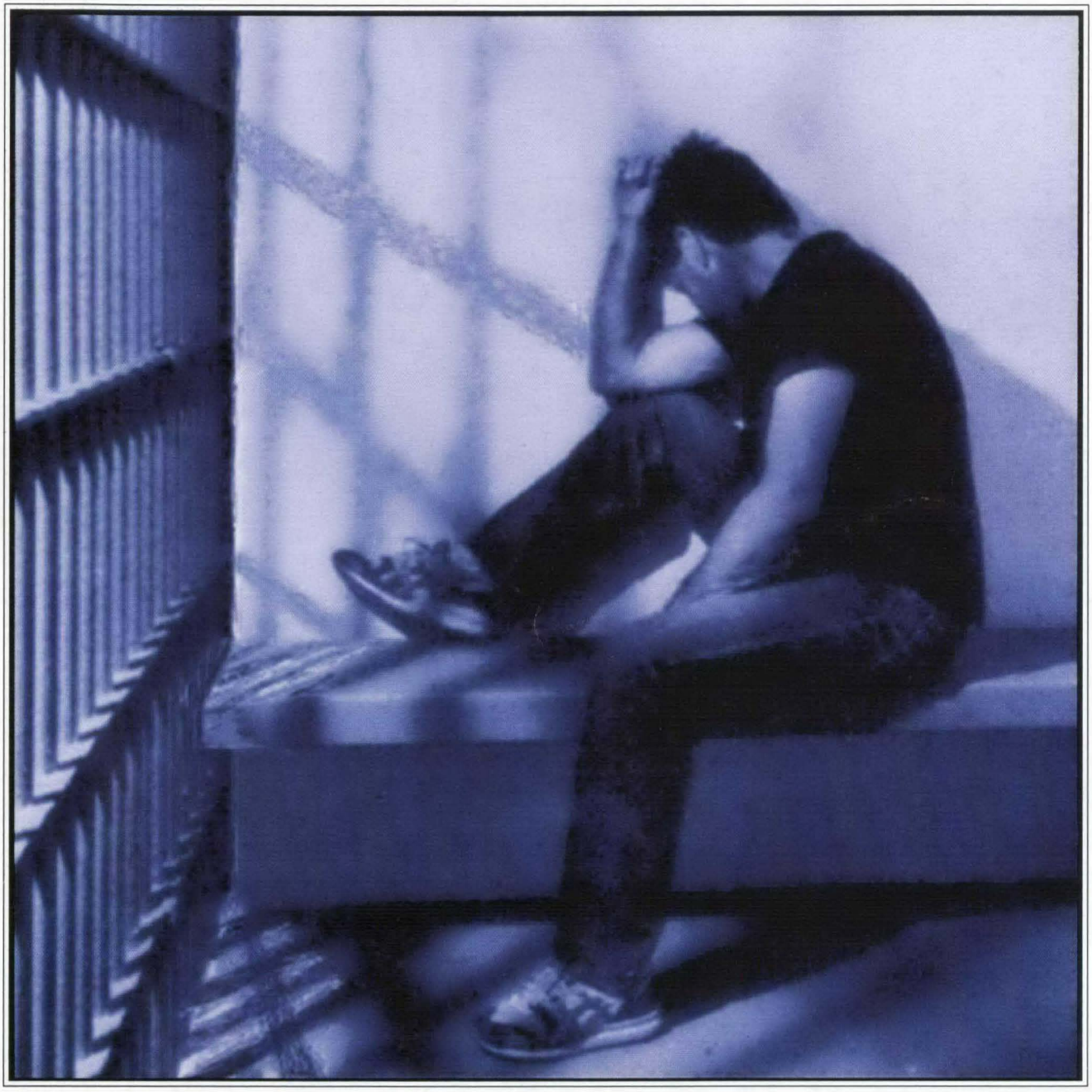

Repeat Offenders

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Director**

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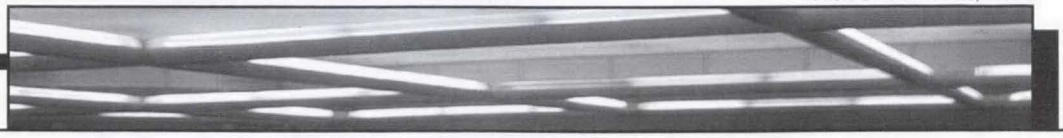
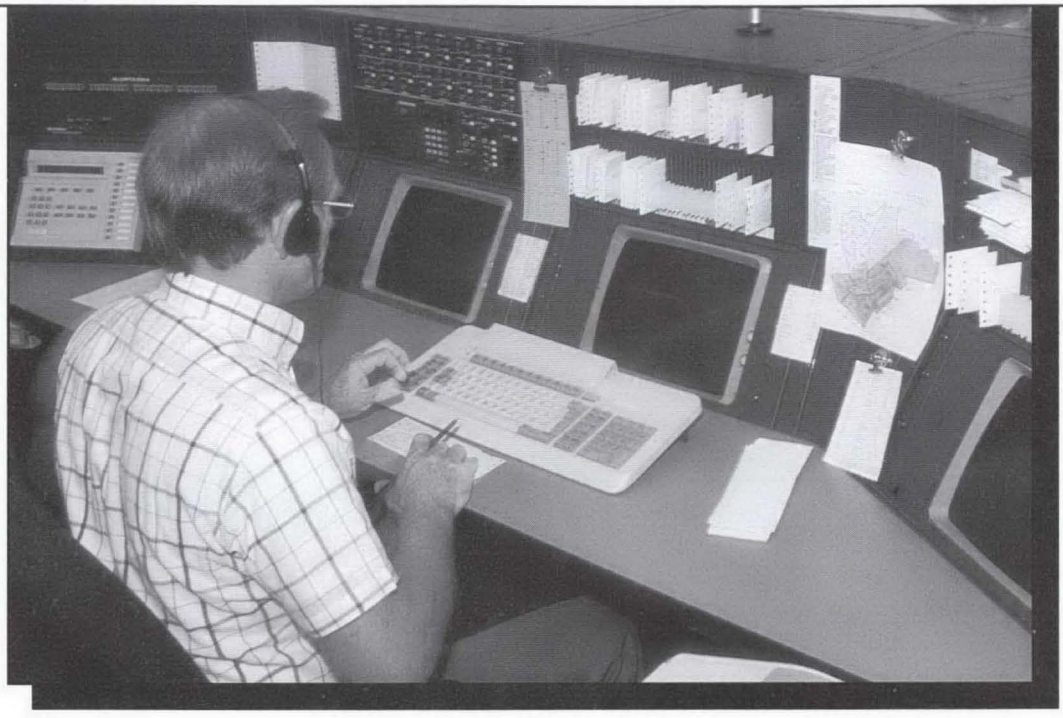


Dispatcher Stress

By
TOD W. BURKE, Ph.D.



During the past decade, the law enforcement community and individual researchers have devoted considerable attention to the issue of police stress. Much of this research has focused on finding better ways to manage those specific factors that cause stress for law enforcement officers.

Today, as a direct result of this research, it is common to find police officers attending stress management seminars, lectures, and workshops as part of academy and inservice training programs. Unfortunately, this increased attention to police stress has failed to reach other components of the law enforcement community that also experience high stress levels.

This article focuses on the specific factors that may contribute to stress and burnout among an often-forgotten segment of the law enforcement population—police dispatchers. In particular, it examines the relationship between dispatcher stress and job satisfaction, social support, and control. The article then discusses the findings of a recent survey of civilian dispatchers in New Jersey. It also offers recommendations for agency administrators to enhance not only the conditions under which police dispatchers work but also the ability of dispatchers to serve their agencies and their communities.

THE DISPATCHER'S ROLE

Dispatchers perform a complex and stressful function. Unfortunately, the critical role they play often is misunderstood by administrators, officers, and citizens.

Dispatchers must be able to handle incoming calls, dispatch officers, transfer calls to appropriate agencies, coordinate multiple units for emergency calls, record computer requests by field units, and in

some cases, process written reports. Frequently, they must provide immediate emergency care instructions to panicked, distressed, and highly emotional callers. They must perform all of these functions while remaining calm and reassuring. Additionally, dispatchers often play a vital role in ensuring the safety of others, not only callers but also officers on the street.

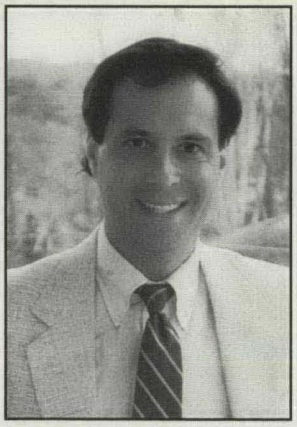
Those who most rely on dispatchers—hurried officers who demand immediate attention to their requests and citizens who expect instant resolutions to their problems—often fail to appreciate the diversity of roles performed by dispatchers. Likewise, supervisors and administrators often overlook the many different functions that dispatchers perform.

FACTORS CONTRIBUTING TO STRESS AND BURNOUT

Many individuals in law enforcement regularly refer to the terms "stress" and "burnout" without possessing a clear understanding of their meanings. For the purposes of the research presented in this article, stress is defined as "the nonspecific response of the body to any demand."[1] By contrast, burnout is defined as "the result of constant or repeated emotional pressure associated with an intense involvement with people over long periods of time."[2] It is the "painful realization that (individuals) no longer can help people in need; that they have nothing left in them to give."[3]

While many occupational settings are stressful, dispatchers experience specific stressors unique to their position. Past studies identified aspects of the dispatcher's job that contribute to stress and burnout.[4] They include: Being relegated to a low position within the departmental hierarchy; insufficient training; lack of support and positive reinforcement from officers, supervisors, and managers; shift work; lack of control; antiquated equipment; confinement and lack of interpersonal communication; lack of breaks; negative citizen contacts; lack of personal development; and insufficient pay.

Although many of these stressors have been cited in informal interviews, more formal studies that fully examine the relationship between dispatcher stress and independent stressors have been lacking. The New Jersey study marks the first formal effort to examine the relationship between stress and burnout among dispatchers, with particular attention devoted to job satisfaction, social support, and supervisory control.[5]



"...those dispatchers who perceived that they had a network of support—both within and outside the workplace—reported the least amount of job stress and burnout."

Dr. Burke, a former police officer, is an associate professor in the Department of Criminal Justice at Radford Universty in Radford, Virginia. Dr. Burke coordinated the study discussed in this article.

METHOD OF RESEARCH

For this study, researchers randomly selected civilian dispatchers from various police agencies throughout southern New Jersey. The research focused only on civilian dispatchers and thus excluded status issues pertaining to sworn officers who performed dispatcher duties. Further, the counties of southern New Jersey were selected because they included urban, suburban, and rural agencies, thereby permitting greater application of the survey results.

After securing approval from the heads of the selected agencies, researchers mailed survey forms to the departments' dispatchers. Of the 411 surveys distributed, 254 completed responses were received, for a return rate of 62 percent.

RESULTS OF THE STUDY

Job Satisfaction

The researchers predicted that police dispatchers who were

dissatisfied with their job, lacked social support, and perceived little control over their working environment would experience the greatest amount of occupational stress and burnout. Job satisfaction was defined as the totality of the dispatchers' feelings about various aspects of their occupation. These aspects included the work itself, pay, promotional opportunities, coworker support, and supervisory support.[6]

Results indicated that perceived job satisfaction was a major factor in police dispatcher stress and occupational burnout. Specifically, those dispatchers who were dissatisfied with their current position experienced significant stress. Dispatchers who were dissatisfied with their current pay and lack of promotional opportunities also reported elevated levels of stress and burnout.

Additionally, dispatchers reported a high level of role conflict and a confused sense of loyalty in the workplace. In other words, as the dispatcher's role became more complex, the level of stress increased. While a lack of supervisory support was a major stressor, dispatchers who had the support of coworkers reported less psychological stress and burnout. Thus, those dispatchers who perceived that they were being treated as second-class citizens, lacked pay and promotional opportunities, experienced conflicting role demands, or lacked supervisory support reported higher levels of job stress and burnout.

The study defined social support as a network of communication offering guidance and feedback about individuals' behavior that validate their self-concept.[7] Results indicated that lack of social support plays a vital role in dispatcher stress. Those dispatchers who indicated the *least* amount of job stress and burnout possessed the following characteristics: Intimate contacts with close friends outside of the workplace; a sense of belonging to some type of social network; a close working relationship with colleagues; belief that family members could be counted on for assistance in an emergency; and belief that they could count on colleagues for advice, guidance, and expertise in certain areas. In other words, those dispatchers who perceived that they had a network of support—both within and outside the workplace—reported the least amount of job stress and burnout.

> ***"Dispatchers perform a complex and stressful function."***

Locus of Control

Locus of control refers to the level of control individuals exert over their environment. Specifically, internal locus of control refers to those events that are contingent upon one's own behavior. External locus of control suggests those events that are not contingent upon one's own actions, but rather upon luck, chance, fate, or other outside factors.[8] Survey results indicated that dispatchers who perceived a lack of control over their working environment experienced greater occupational stress and burnout.

Those dispatchers who perceived that they had control over their work setting also reported a greater sense of personal achievement and responsibility on the job, while those dispatchers who perceived a lack of control within their agency reported feeling emotionally exhausted and overextended by their work. This lack of control accounted for dispatchers' reporting an impersonal and uncaring attitude toward the citizens they served. A majority of dispatchers also reported that their training, education, skills, and experience were inadequate for the demands of the job. In essence, many dispatchers perceived a negative work setting.

UNIQUE ASPECTS OF DISPATCHER STRESS

While respondents indicated an extensive list of stressors, three particular aspects of their work emerged as particularly stress-inducing. These included their low status within the department's hierarchy, the high level of responsibility they felt toward others, and the lack of training provided to them.

Low Status

One of the stressors that most affected job satisfaction among dispatchers was their perception of low status. Dispatchers commonly reported hearing disparaging remarks, such as "What do you expect? They are only dispatchers," from departmental personnel or callers. Their civilian status within a sworn organization and their physical isolation from other personnel reinforced this perception of being second-class

citizens. This degradation came not only from line officers but also from supervisors and other civilian employees who participated in "dispatcher bashing."

Responsibility to Others

The high level of responsibility that dispatchers feel toward others represented another unique source of stress. Dispatchers truly act as "lifelines" to fellow workers and citizens. Thus, when someone calls for assistance, the dispatcher must initiate the response and monitor the progress. For example, when a police officer calls for backup, it is the dispatcher's responsibility to identify the problem and send available units to the scene, while at the same time remaining calm and handling other incoming emergencies.

Lack of Formal Training

Dispatchers cited the lack of formal training as another significant source of stress and burnout. While many occupations require advanced educational degrees and provide formal training to employees, dispatchers often learn their trade on the job. Although their high level of responsibility would suggest proper training, this is rarely the case. Academy and ongoing inservice training programs for dispatchers are extremely rare. The training programs and workshops that do exist often are conducted by private organizations not associated with the agency.

Should individual dispatchers decide to attend an outside training program, it is unlikely that their departments will sponsor or reimburse them for expenses. Yet, dispatchers know that few police administrators would hesitate to sponsor or reimburse a sworn officer who attends a training program.

Stressors Cited by Dispatchers

The following factors contribute to stress among police dispatchers:

- Dissatisfaction with job
- Dissatisfaction with position
- Dissatisfaction with pay
- Dissatisfaction with promotional opportunities
- High level of role conflict
- Lack of loyalties in the workplace
- Lack of close friends (outside of the workplace)
- Lack of a social support network
- Poor working relationship with colleagues/officers
- Inability to count on family members for support
- Inability to count on colleagues for advice, guidance, and expertise
- Low status
- Lack of supervisory support
- Lack of control over the work setting
- Lack of training
- Lack of education/skills/experience for job demands

RECOMMENDATIONS

Administrators can use the results of this study to re-examine the support networks within their agencies in order to alleviate the high level of occupational stress inherent in *all* aspects of policing. Simple steps may prove quite effective. For example, by making sure that dispatchers are included in after-hours gatherings, supervisors can go a long way toward integrating them into an agency's sense of esprit de

corps. Such seemingly modest moves afford dispatchers a chance to socialize with officers and other members of their department and gives them an ideal opportunity to establish peer support.

In addition, professional or peer counseling should be made available to any dispatcher experiencing high levels of job-related stress. Counseling may prove invaluable not only in terms of the health of individual employees but also in terms of job performance. Administrators should consider support networks and seminars as part of an inservice training program. For example, spouse/companion programs could be implemented to give spouses and significant others a better understanding of the complex role dispatchers play in an agency and the anticipated stress that may accompany that role.

Communication and understanding between dispatchers and line officers also foster a sense of support. Supervisors should strongly encourage that dispatchers ride along with field officers to observe the actual scenarios officers encounter. In turn, officers, as part of their inservice and academy training, should observe dispatchers within their particular work setting. Administrators also must avoid assigning officers to the dispatch center as a form of punishment for ineffective field performance. The dispatch center should *not* become a dumping ground for officers with poor attitudes.

Police executives must recognize the importance of job satisfaction among all employees, including dispatchers. Therefore, they should re-examine promotional opportunities, particularly for those dispatchers who perceive themselves as lower status employees.

While salary and benefits do not guarantee job satisfaction, adequate compensation does affirm an agency's commitment to its employees. Improved salary and benefits are a tangible way to show dispatchers that management understands their difficult role.

> ***"...dispatchers report job stress and burnout primarily as a result of job dissatisfaction, a lack of social support, and a perceived lack of control."***

The complex role performed by dispatchers can be simplified through proper training sessions so that the training, education, and skills of dispatchers correspond adequately to the job demands. These sessions should be similar to academy and inservice classes provided to officers but should be modified to meet the specific needs of dispatchers. Like inservice training designed for officers, they also should be tuition-free.

Additionally, "dispatcher reference guides" should be made available to assist each dispatcher. These guides should contain details and procedures focusing on: Obtaining vital information; performing call analyses; protecting callers, victims, and officers; learning apprehension/custody processes; and preserving evidence. Departments can obtain these guides from a commercial dispatcher training provider and modify them to meet specific agency needs and demands.

Further, police managers need to create a work environment that allows dispatchers some degree of control over their actions. This can be accomplished by permitting dispatchers to provide input during any decisionmaking process affecting the communications section. Examples include operational policy and communications center hiring procedures.

Finally, if dispatchers are to be perceived as team players, they must receive supervisory support, as well as support from other members of the department. Supervisory support includes not only positive reinforcement but also the necessary resources to accomplish assigned tasks.

CONCLUSION

The findings of this formal research project indicate that dispatchers report job stress and burnout primarily as a result of job dissatisfaction, a lack of social support, and a perceived lack of control. Fortunately, police managers can take fairly simple steps to address these factors and thus foster a better work environment for dispatchers.

As the role of law enforcement officers continues to grow more complex, so too do the role and responsibilities of police dispatchers.

Administrators who treat dispatchers as second-class citizens do more than contribute to stress and burnout among a vital component of their agency's workforce. They jeopardize the ability of their agency to respond effectively to criminal activity and emergency situations.✦

Endnotes

[1] H. Seyle, *Stress Without Distress* (revised) (New York: McGraw-Hill, 1978), 1.

[2] A.M. Pines, E. Aronson, and D. Kafry, *Burnout: From Tedium to Personal Growth* (New York: Free Press, 1981), 15.

[3] Ibid.

[4] J.D. Sewell and L. Crew, "The Forgotten Victim: Stress and the Police Dispatcher," *FBI Law Enforcement Bulletin*, 53, no. 3, 1984; T. Guthery and J. Guthery, "Dispatchers: The Vital Link," *Police Product News*, December, 1984; T.W. Burke, "The Relationship Between Dispatcher Stress and Social Support, Job Satisfaction, and Locus of Control" (Ph.D. diss., City University of New York, 1991), *Dissertation Abstracts International*, 52/05-A, 1903.

[5] The study included subjects who were exclusively police dispatchers; exclusively fire/ambulance dispatchers; those who dispatched both police and fire/ambulance personnel; or those who served as civilian clerks within a law enforcement institution. However, for the purpose of this article, only those who were exclusively police dispatchers are discussed.

[6] C.L. Hulin, P.C. Smith, L.M. Kendall, and E.A. Locke, *Cornell Studies of Job Satisfaction: Model and Method of Measuring Job Satisfaction* (Ithaca, New York: Cornell University, 1963).

[7] G. Caplan and M. Killilea, *Support Systems and Mutual Help: Multidisciplinary Explorations* (New York: Grune and Stratton, 1976).

[8] H.M. Lefcourt, *Locus of Control: Current Trends in Theory and Research* (New Jersey: Erlbaum, 1976); J.B. Rotter, "Generalized Expectancies for Internal Versus External Control of Reinforcement," *Psychological Monographs*, 80, no. 1, 1966.

Book Review

The Psychology of Criminal Conduct *by D.A. Andrews and James Bonta, Anderson Publishing Company, Cincinnati, Ohio, 1994.*

Over the years, a wide range of books that attempt to explain criminal behavior have hit the market. As could be expected, these books vary in scope and approach, as well as in their relevance to the law enforcement community.

However, many authors writing in the field of criminal psychology have one thing in common. Most work from the assumption that the complexity of human behavior can be reduced to a single philosophical, psychological, or sociological level of analysis. The authors of *The Psychology of Criminal Behavior* do not take this single-factor approach. Instead, they see the need for "...a truly interdisciplinary general psychology of criminal conduct that is open to the full range of potential correlates, including the personal, interpersonal, familial, structural/cultural, political, economic and immediate situations of actions."

The book primarily draws from the authors' years of experience in teaching the psychology of criminal behavior. It begins with an overview of the psychology of criminal conduct that defines criminal behavior and explores the variability of criminal conduct. After reviewing the major principles of various schools in psychology, sociology, and criminology, the authors apply their multidisciplinary concepts in the remaining chapters. Discussion in these chapters focuses principally on prediction and prevention of criminal behavior and on the rehabilitation of criminals.

The authors use the book to advance a general psychology of criminal conduct that offers practical value to society in general and to the judicial and corrections processes in particular. They support most of their claims with well-documented empirical research.

Although *The Psychology of Criminal Conduct* offers some tangential relevance to law enforcement administration, its applicability appears more directed toward the judicial and correctional aspects of the criminal justice system. Still, law enforcement personnel with a keen interest in criminal psychology will find this book a thought-provoking read.

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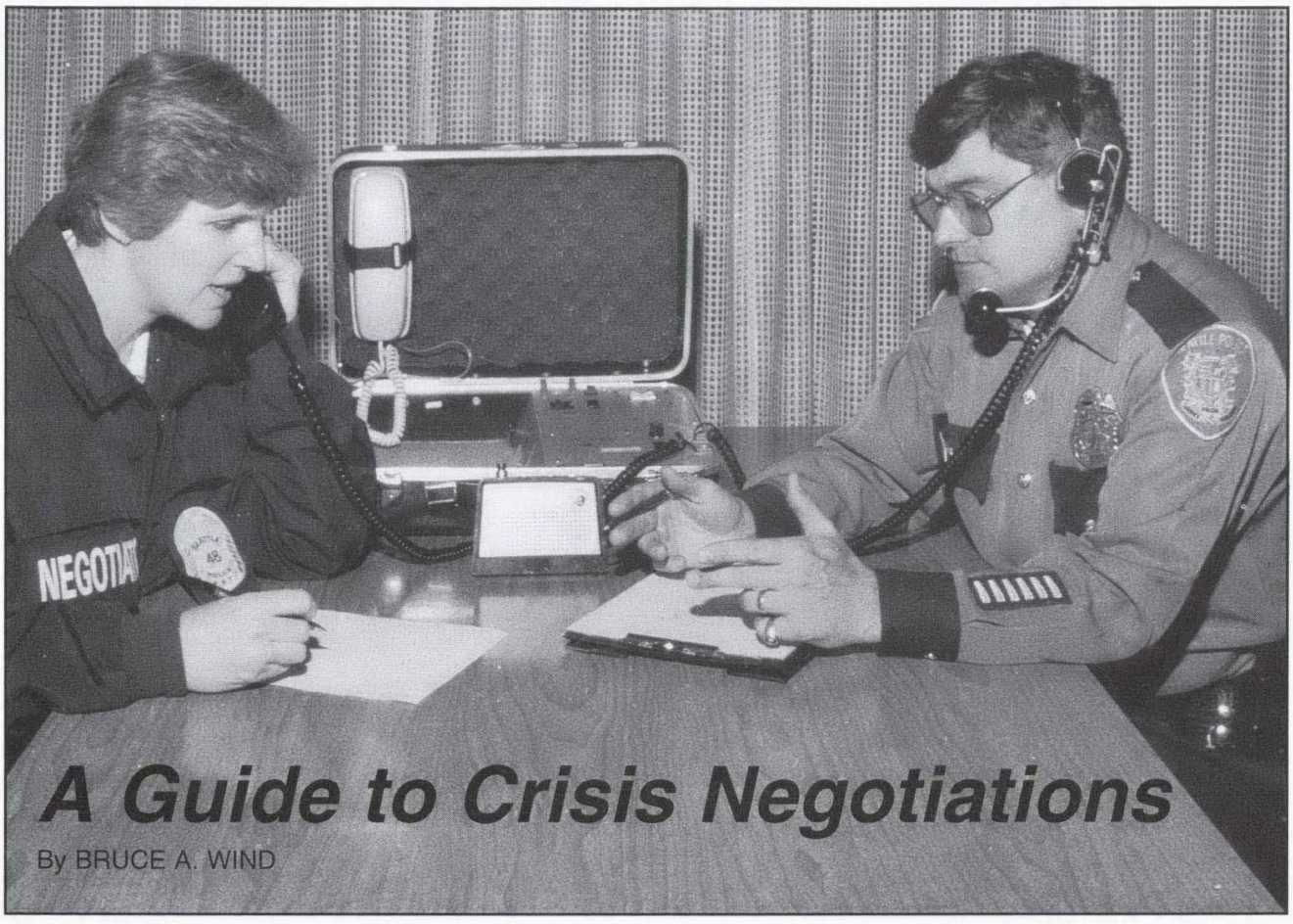


A Guide to Crisis Negotiations

By BRUCE A. WIND

Incidents involving barricaded subjects, hostage takers, or persons threatening suicide represent especially trying and stressful moments for law enforcement personnel who respond to them. Officers first responding to the scene must quickly assess the totality of the situation, secure the area, gauge the threat to hostages or bystanders, and request additional units as appropriate. Crisis negotiators must establish contact with subjects, identify their demands, and work to resolve tense and often volatile standoffs without loss of life. Special Weapons and Tactics (SWAT) teams must prepare to neutralize subjects through swift tactical means. Field commanders assume ultimate responsibility for every aspect of the police response.

For such a coordinated response to be successful, each component needs to understand clearly the functions of the others. This article clarifies the role of crisis negotiators for field commanders, of whatever rank, who find themselves in command of hostage or other critical incidents. Supervisors who understand the purpose behind the actions taken by negotiators will avoid delays at the scene that occur when negotiators must stop and explain or justify their intended courses of action.

Such understanding has taken on particular importance in recent years. Negotiators have become very active, due in part to the reputations they have established for the successful, peaceful resolution of various types of critical incidents. For example, in 1993, the Hostage Negotiations Team of the Seattle, Washington, Police Department resolved 21 incidents, expending a total of 263 negotiator hours. In 1994, negotiators resolved 32 incidents, spending 407 hours in negotiations.

TRAINING

Although it might appear that negotiators and tactical teams work at cross-purposes during a

Officer Wind is a member of the Hostage Negotiations Team for the Seattle, Washington, Police Department.

> ***"The passing of time works for the police in many ways and only means that a resolution is closer at hand."***

crisis, nothing could be further from the truth. Society requires that law enforcement exhausts all means available prior to launching a tactical resolution to an incident. If these means prove unsuccessful, then the transition from negotiation to tactical assault must be a smooth one.

To enhance cooperation, negotiators and personnel from tactical teams should train together on a regular basis. In Seattle, the Hostage Negotiations Team and the Emergency Response Team conduct joint training exercises four to six times a year. These training sessions include four fully enacted crisis scenarios. Members of the department's command staff are encouraged to participate, and through this training, have learned how the two teams work together.

Law enforcement agencies generally place a premium on the training provided to tactical teams. Administrators should place no less emphasis on the training provided to their negotiations teams. At a very minimum, negotiators should complete the FBI's Basic Hostage/Crisis Negotiations course. Because the department's training qualifications may become subject to critical review in the courts should negotiations fail, negotiators should further their training through advanced courses, seminars, basic psychology classes, and detailed critical analysis of past incidents.

TYPES OF INCIDENTS

Most negotiations teams group incidents into three main categories—hostage takings, barricade situations, and suicide attempts. Traditionally, hostage takings assume the highest profile. However, in recent years, the Seattle Police Department's Hostage Negotiations Team has responded to an increasing number of high-profile barricade situations. Field commanders should remember that the peaceful resolution of a barricade situation is as important to negotiators as the resolution of an incident involving a person threatening to jump from a bridge or a hostage taking with extensive media coverage.

THE NEGOTIATIONS PROCESS

In negotiations, as in most endeavors, no absolutes exist. Each incident takes on a personality of its own. Field commanders can be sure of only one thing: Their decisions will be scrutinized by every "Monday morning quarterback" from city hall to the city desk. Therefore, they should base their decisions on an understanding of the negotiations process and the many factors that affect it.

Untrained Personnel

A successful negotiations process requires a good foundation. Often, circumstances force the first responding officers to initiate some type of negotiation with the subject(s). However, once line officers or first-line supervisors realize that an incident appears to be heading for something other than a prompt resolution, they should immediately terminate negotiations and call in trained negotiators.

Too many tragedies in communities across America demonstrate how negotiations should *not* be initiated. A bad start by well-intentioned, but untrained, personnel can have negative effects throughout the process. Simply put, personnel who are not trained negotiators should not negotiate.

Time

A negotiator's most important ally in all situations is time. Field commanders should not rush anything unless the loss of life appears imminent. Although it may seem as if nothing is happening because a suspect is not negotiating, this is not so. During these quiet times, many

things occur that will eventually lead to a peaceful resolution.

Negotiators refer to these quiet intervals as "dynamic inactivity." As long as time passes without any harm to persons involved, then negotiators are making progress. The passing of time works for the police in many ways and only means that a resolution is closer at hand. Field commanders should keep in mind that patience is a virtue.

The Negotiations Team

Generally, the negotiations team consists of at least three main negotiators. Each team member plays a vital role in the successful resolution of critical incidents.

The primary negotiator actually communicates with the subject. The secondary (or backup) negotiator assists the primary negotiator by offering advice, monitoring the negotiations, keeping notes, and ensuring that the primary negotiator sees and hears everything in the proper perspective. The intelligence negotiator interviews persons associated with the suspect to compile a criminal history and a history of mental illness, as well as to gather other relevant information.

Often, an additional negotiator will act as the chief negotiator, whose primary responsibility is to act as a buffer between command personnel and the negotiations team. Invariably, and understandably, field commanders want to offer their advice to the negotiations team. Whenever possible, suggestions should be routed to the negotiations team via the chief negotiator.

The Negotiations Area

Typically, the negotiations team sets up away from the rest of the activity and maintains communications with the command post via a liaison. In Seattle, a member of the Emergency Response Team generally monitors the negotiations and provides tactical intelligence to the arrest, entry, and perimeter teams.

Only the Police Should Negotiate

Often, well-meaning civilians offer to negotiate with subjects. Sometimes, these civilians insist that they be allowed to negotiate. A wide range of individuals—from parents, spouses, and lovers to friends, members of the clergy, attorneys, counselors, and mental health professionals—might offer to do the talking. As a general rule, direct civilian participation in negotiations is entirely unacceptable. The tactical negotiations process is a police operation.

> ***"Critical incidents... must be contained prior to the start of negotiations."***

When faced with these offers, field commanders should keep in mind that the individual now so willing to help might have played a large part in driving the subject over the edge. While these individuals might be a useful source of information, only in very rare circumstances should they be allowed to speak directly with subjects. Instead, they should be escorted to the intelligence negotiator and kept well clear of the actual negotiations process.

Containment and Control

Basic police procedure dictates that any crisis incident be contained using both inner and outer perimeters established and maintained by the police. Critical incidents such as hostage takings, barricade situations, or suicide attempts must be contained prior to the start of negotiations. Mobile negotiations should not be attempted.

While the need for a secure inner perimeter is obvious, crisis incidents also require an emphasis on a well-controlled outer perimeter. When arriving at the scene of a hostage taking, barricade situation, or suicide intervention, negotiators often encounter a large crowd made up of bystanders, the press, and the subject's family members. It is important that the subject not be given an audience to "play to." Negotiation cannot succeed if negotiators must compete with outside influences for the subject's attention.

Individuals with potentially helpful information about a subject should be secured in an area where they can provide details to the intelligence negotiator. Likewise, the press should be provided a designated gathering area away from the perimeter and be briefed regularly regarding the status of the negotiations process.

Field commanders should remember that reporters have a job to do. They will do that job, with or without the help of the police. It is far more preferable to provide them with the accurate information they need than to force them to gather it for themselves. The relationship need not be confrontational. In Seattle, the police generally enjoy good relations with the on-scene press.

During protracted incidents, supervisors should request the assistance of the department's media relations personnel to help deal with the press.

The highly unstable nature of these incidents also makes it imperative that an arrest team be prepared to take the subject(s) into custody at a moment's notice. In fact, the surrender phase represents the most critical stage in any negotiated incident. In some cases, surrender can occur very rapidly. Depending on the severity of the incident, the arrest team can be made up of patrol officers or members of specialized teams. Once the SWAT team sets up at a scene, it should assume this duty.

Control of Phone Lines

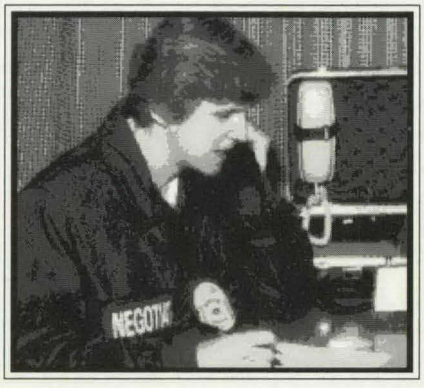
During a protracted crisis, it is essential that the police control the phone lines. Generally, one of the first actions negotiators take when arriving at an incident is to arrange with the telephone company to *deny origination* to telephones at the subject's disposal. Once origination is denied, the subject's telephones will no longer get a dial tone.

At the negotiators' request, the telephone company then establishes a new number that serves as a direct line between negotiators and the subject. Restricting telephone access in this way prohibits the subject from talking to family, friends, attorneys, and most important, the press. It also prevents the suspect from gathering intelligence about police maneuvers from associates.

The Throw Phone

When there is no telephone accessible to the subject, or the telephone has been disabled as a tactical move by SWAT, the police must reestablish a means of communication. Because of the potential danger posed to negotiators, face-to-face negotiations do not represent an acceptable option.

In these situations, the SWAT team often tactically delivers a "throw phone"—a standard telephone linked to a hardline system connected to the hostage phone system. Because telephone delivery



places members of the SWAT team in dangerous situations, it should be practiced regularly during joint negotiator-SWAT training exercises.

Controlling Utilities

In Seattle, control of the phone lines generally can be secured without supervisory approval. However, in many instances, the negotiations team might determine a need to control the electricity and water, as well. Only the on-scene commander can make the final decision to interrupt these services.

Negotiators will bring the specific reasons for disconnecting utilities to the attention of the on-scene commander. Some of the most common reasons include taking away a subject's ability to monitor the incident on television; darkening the environment to provide a tactical advantage for SWAT; and eliminating comforts, such as toilet facilities.

Tactical teams also might call for disconnection of plumbing services to deny subjects the ability to neutralize chemical agents, as has occurred in several recent incidents in Seattle. For whatever reason, the denial (or resumption) of utilities provides negotiators with an effective bargaining tool.

Different perspectives exist concerning the appropriate time to deny subjects utility services. Some experts believe that utilities should be disconnected *before* negotiations begin. Others believe negotiators should save such steps for use as bargaining tools later. While this is a matter of individual agency policy, administrators should ensure that the department adopts well-established policy guidelines in this pivotal area.

Demands and Deadlines

It is preferable for field commanders to resist the tendency to monitor the negotiations process personally. Supervisors who monitor negotiations or hear demands, deadlines, and death threats related during briefings should not become overly concerned. They should remember that the negotiating team is trained to deal with such scenarios. When a subject demands "$1 million," the negotiators actually hear "a 6-pack of soda."

Likewise, if the on-scene commander hears a subject say, "If I don't get the car by 2:00, I'll kill a hostage," negotiators actually hear,

"Good, now we are really negotiating." Remarkably few hostages have ever been harmed as a result of missed deadlines. Of course, negotiators take deadlines and demands very seriously; however, skilled negotiators generally can work around them and even make them work to law enforcement's advantage.

During an incident, a member of the negotiations team keeps the field commander informed of the negotiations. Commanders who find it absolutely necessary to monitor the negotiations need to inform the negotiations team, which should have the capability to wire a speaker to the command post to enable supervisors to listen to exchanges with the subject.

However, field commanders' decisions should be based on the law, departmental policy, and the need for preservation of life and property. They should not make decisions based on exchanges they overhear between subjects and negotiators. The decisionmaking ability of commanders who personally monitor the negotiations process may be affected by any number of factors that have little actual bearing on the situation.

Psychology

Much of the insight into the minds of troubled subjects comes from the specialized psychological training that crisis negotiators receive. As part of their training, negotiators learn a great deal about personality types, personality disorders, and the psychological motivations of hostage takers, suicidal persons, and subjects who barricade themselves. This training enables negotiators to manipulate a subject through their understanding of that person's state of mind. Accordingly, negotiators rely primarily on mental rather than physical tactics to resolve conflicts.

Checklist

Each field commander with the Seattle Police Department carries a pocket-sized checklist of actions that must be performed during a negotiated crisis. The checklist assists on-scene commanders to accomplish in an orderly fashion the various tasks required during a crisis. Other agencies might benefit from a similar checklist.[1]

> ***"...personnel who are not trained negotiators should not negotiate."***

During times of extreme pressure, even the most prepared and composed professionals might not always remember to do everything at the right time. A checklist can prove invaluable in assisting supervisors to keep tense situations under control.

Debriefings

Agencies should conduct debriefings after the resolution of any crisis incident. Whenever possible, these debriefings should take place immediately following an incident, when details are still fresh in the participants' minds.

The debriefing should focus on how the various units handled their roles during the incident. Each component must be represented, and officers should feel free to offer criticism—both positive and negative. However, debriefings of this type should not be confused with or conducted in place of critical incident stress debriefings. Both serve valuable but distinct purposes.

CONCLUSION

Despite moves toward proactive policing methodologies, law enforcement remains an inherently reactive profession. When violent or troubled subjects create a crisis, they force the police to react to a situation in which the offenders already hold many of the cards. The press and the public judge the police by how well they respond to such situations. Generally, concerns for hostage and officer safety, in addition to the well-being of often mentally disturbed subjects, dictate that the police respond at the lowest force level possible.

Therefore, on-scene commanders should be prepared to supervise a negotiated settlement. The negotiations process can be tedious, complex, and at times, confusing. The better field commanders understand the many factors that affect it, the more likely that negotiators will get the support necessary to resolve critical incidents peacefully. ✦

Endnote

Agencies interested in receiving a copy of the checklist developed by the Seattle Police Department should send a request on agency letterhead to the author in care of the Seattle Police Department, 610 Third Avenue, Seattle, Washington 98104-1886.

Focus On Cooperation

Partners in Preparedness

The Northern Illinois Police Alarm System

By Leo C. McCann

It has more police employees than the police departments of Pittsburgh, Portland, and the twin cities of Minneapolis and St. Paul combined. It provides essential police services to a population of over 1.6 million people. Yet, it is a system, not a police department. If it were, it would be the eighth largest municipal law enforcement agency in the United States.

The Northern Illinois Police Alarm System (NIPAS) represents a joint venture of suburban municipal police departments in the Chicago metropolitan area. Fifteen police agencies created NIPAS in 1983 to ensure effective police mutual aid in times of natural disasters. From these humble beginnings, the system has grown to include the law enforcement agencies of 86 cities and villages in four counties. Today, NIPAS uses its resources to accomplish diverse duties, such as fighting floods, quelling civil disturbances, and providing foreign language translation services for its members.

Background

In 1982, severe flooding nearly devastated several small communities along the shores of Lake Michigan north of Chicago. Public safety resources, especially those of local law enforcement agencies, became stretched to the limit. Although neighboring communities responded with assistance, police leaders realized that they needed a better organized system with preplanned deployment procedures.

The following year, the chiefs of 15 police agencies in Illinois' northern Cook and southern Lake counties established NIPAS through an intergovernmental mutual-aid agreement. This legal document authorized neighboring agencies to work together in times of need. In 1988, written bylaws formalized the original agreement.

Organization

A governing board consisting entirely of police chiefs directs NIPAS and approves its annual budget, which serves as the basis for all NIPAS expenditures. Member agencies pay a set annual fee to participate, thus providing both the staff and the finances needed to manage the system.

A Buffalo Grove, Illinois, police commander manages the system's day-to-day activities. Due to rapid expansion, NIPAS now comprises two geographically based divisions, each supervised by a sergeant, who reports to the system's commander.

Activating the System

Whether faced with a natural disaster or the unexpected results of a special event, a member agency may request assistance for any situation its command staff believes the agency cannot handle with its own resources. The requesting agency's incident commander contacts the system's dispatching center, the Northwest Central Dispatch System,[1] and identifies the level of response needed. There are 10 levels, each one calling for an additional 5 officers to respond according to a predetermined alarm plan. Thus, level 1 requires 5 officers to respond; level 10, 50.

The dispatch center quickly sends the appropriate number of fully equipped officers to a preselected mobilization point within the requesting agency's

jurisdiction. The incident commander also deploys a personnel officer, who records each officer's arrival and assigns each one as required.

The Emergency Services Team

In 1987, NIPAS expanded its mission by creating a special tactical squad, known as the Emergency Services Team (EST). Member agencies can deploy the EST for hostage/barricade incidents, high-risk warrant service, major crime scene searches, search and rescue missions, dignitary protection, and similar tactical incidents. In 1989, the EST acquired a fully equipped mobile command post, funded by private-sector contributions. An NIPAS member agency maintains the command post and its equipment.

Member agencies participate in the EST voluntarily. However, if they choose not to supply resources to the team, they may not request its services. Oftentimes, NIPAS agencies with their own Special Weapons and Tactics (SWAT) teams elect not to join the EST.

> **"...NIPAS uses its resources to accomplish diverse duties, such as fighting floods, quelling civil disturbances, and providing foreign language translation services for its members."**

Staffed by 45 police officers from member agencies, the EST includes sharpshooting, containment, entry, and negotiations components. Team members volunteer for EST duty, must receive a favorable recommendation from their chiefs, and undergo rigorous physical and psychological testing prior to selection for the team. Fitness retesting occurs annually, as does firearms qualification for sharpshooters.

NIPAS provides an initial 80-hour basic emergency services team training course, the only SWAT program in the State certified by the Illinois Local Law Enforcement Officers Training and Standards Board. To date, over 300 officers from law enforcement agencies throughout Illinois have received SWAT training through NIPAS.

Followup training consists of a 40-hour advanced training program that all EST officers must attend annually. In addition, the team trains as a group at least one day each month. Some components receive additional training on a regular basis.

Mobile Field Force

Special events can impact negatively on a law enforcement agency not prepared to handle them. The scheduled arrival of World Cup Soccer in the Chicago area in 1994 raised concerns within NIPAS that area law enforcement lacked effective civil disturbance procedures. As a result, NIPAS established an 80-officer Mobile Field Force to respond to such incidents.

The NIPAS board of officers examined several police response systems throughout the country for ideas and identified Florida's Metro-Dade field force concept as the most adaptable to its own needs. The Metro-Dade Police Department provided the initial training for the NIPAS field force.

As is the case with the EST, member agencies participate in the field force voluntarily. By doing so, agencies may request the Mobile Field Force for both planned events, such as rock concerts and sporting events, and spontaneous incidents that may result in a disturbance. Field force officers wear alpha-numeric pagers so they can be summoned at any time.

In 1994, the Mobile Field Force stood ready to respond to World Cup Soccer and mobilized in anticipation of a potential disturbance at a Hell's Angel's funeral. Fortunately, in both instances, the team's services were not required. Today, field force members stay sharp with regular monthly training alone and in concert with the EST, in case both teams are deployed to the same incident.

Additional Resources

In addition to mutual-aid plans, the Emergency Services Team, and the Mobile Field Force, NIPAS provides member agencies access to a language line. This private commercial service provides interpreters

by phone for over 140 languages. NIPAS holds the contract and bills agencies only when they use the service, thus saving resources.

As a result of the efforts of NIPAS and other area law enforcement leaders, the Illinois State Police, in conjunction with a private firm, now provides police helicopter assistance to all local, State, and Federal law enforcement agencies in the Chicago area. The helicopters come equipped with state-of-the-art equipment and experienced pilots. The equipment is available around the clock for operations such as search and rescue and fugitive location.

Conclusion

Law enforcement agencies nationwide are discovering the benefits of mutual-aid agreements. As the product of one such agreement, the Northern Illinois Police Alarm System demonstrates that despite limited resources, no department need be overwhelmed by unusual occurrences.

By combining resources with their neighbors, even the smallest departments can implement the most effective methods available, at low cost. In today's crime-ridden society, can any department afford not to take advantage of every means available to protect its citizens? ✦

Endnote

[1] The Northwest Central Dispatch System originated in the late 1960s, partially funded by a Law Enforcement Assistance Administration grant. The service dispatches officers for the six Illinois municipal police departments that own it, as well as for NIPAS.

Chief McCann heads the Buffalo Grove, Illinois, Police Department and is president of the Northern Illinois Police Alarm System. For more information on the Northern Illinois Police Alarm System, write in care of the Buffalo Grove Police Department, 46 Raupp Boulevard, Buffalo Grove, Illinois 60089.

Criminal History Investigations

The Key to Locking Up the Repeat Offender

By ARTHUR L. BOWKER, M.A.

In a 1993 drug trafficking case in northern Ohio, all factors, including a computer records check by the arresting agency, indicated that the defendant was a first-time offender. However, queries by the probation officer revealed that the defendant actually was a major out-of-State drug trafficker with numerous prior convictions.

Luckily, the information came to light prior to sentencing, but had the defendant's criminal history been available from the start, the case could have been handled differently. Prosecutors would have viewed the defendant in a much harsher light and could have considered making enhanced, repeat offender charges.

Based on all Federal and State arrest fingerprint cards processed by the FBI, officials estimate that two-thirds of the subjects have prior arrest records. In addition, multi-State offenders—those with both Federal and State records or arrests in more than one State—make up approximately 25 to 30 percent of the group.[1]

Federal, State, and territorial jurisdictions have enacted a variety of statutes that permit or even mandate upgraded charges or enhanced sentences for individuals with prior records. In addition, these jurisdictions often authorize or require that courts impose enhanced sentences for individuals classified as habitual or repeat offenders.[2]

Currently, legislatures nationwide are considering or have adopted mandatory life sentences (commonly known as "three strikes and you're out" statutes) for repeat offenders. The 1994 Violent Crime Control and Law Enforcement Act passed by Congress, which mandates life imprisonment without

> ***"...criminal histories can prove valuable for identifying and prosecuting repeat offenders."***

Mr. Bowker is an investigator for the Office of Labor Management Standards, U.S. Department of Labor, in Cleveland, Ohio.

parole for Federal offenders with three or more convictions for serious violent felonies or drug offenses, exemplifies this trend. Two factors influence effective enforcement of these statutes: The thorough investigation of suspects' criminal histories and the quality of criminal history records nationwide.

INVESTIGATIONS USING CRIMINAL HISTORY RECORDS

As the 1993 case in northern Ohio illustrates, criminal histories can prove valuable for identifying and prosecuting repeat offenders. Law enforcement administrators and prosecutors should view an offender's prior criminal record as a potential added element of any criminal charge(s) being considered.

To be most effective, however, an offender's criminal history must be detected and legally documented in the preliminary investigative stages. Requirements for legal documentation of criminal histories vary from State to State, but can include a subject's confession to prior convictions, certified copies of the journal entries of convictions from other courts, fingerprint records, and establishment of the functional equivalent of convictions from other States.

Often, investigators discover a lengthy prior record too late, even after a defendant has pled guilty to an offense. This can have a disastrous effect on prosecuting a repeat offender. For instance, in at least one State, prosecutors must charge suspects as repeat offenders within 14 days of the arraignment or they are barred from initiating this sentencing enhancement later in the case.[3]

Guidelines for Initial Records Checks

Law enforcement administrators should be familiar with their State's statutes concerning charge and sentence enhancement and the legal proof required to establish a suspect's criminal history. Such knowledge will help law enforcement agencies develop general guidelines on the scope and depth of investigations into criminal histories. Ideally, all of the following factors should be considered in the development of such guidelines:

- How serious is the current charge? Is it a felony or misdemeanor? Is it a violent, property, or victimless crime?
- Can prior convictions/arrests significantly aid the prosecution and/or enhance the current charge(s) or sentence?
- How recent are prior convictions or arrests?[4]
- Where did the prior conviction/arrest occur? Is a conviction or arrest in one State the same as in another? For example, does a battery conviction in one State equal an assault conviction in another?
- Does the home State's enhancing statute specifically permit using out-of-State convictions, or must the prosecutor argue that a conviction is functionally identical or equivalent to an in-State conviction to permit enhancement of the current charge?[5]
- Is the prosecutor amenable to upgrading all charges and/or sentences based on prior convictions or just certain ones?
- What resources does the agency have available? How many workhours can be spent detecting and documenting a suspect's prior criminal history?

At a minimum, agencies should consider making National Crime Information Center (NCIC) inquiries

using nonbiometric characteristics—name, date of birth, social security number, etc.—for all felonies and for offenses that have the potential for felony status. Using the National Law Enforcement Telecommunications System (NLETS), officers should make inquiries in any State identified by the Interstate Identification Index (III), as well as for the States where the subject was born, resided, and was arrested.

Inquiries based on biometric identification, i.e., fingerprints, can take days to get results. Eventually, the Automated Fingerprint Identification System (AFIS) technologies, when fully operational, will reduce the use of nonbiometric identification because positive identification will be available in minutes. Until then, using nonbiometric identifiers can alert officials in the preliminary stages of an investigation to the existence of a prior record in minutes.

Guidelines for Further Investigation

Not every case merits an indepth followup. With an NCIC printout in hand, investigators can follow the agency's guidelines to determine whether to continue the investigation of a subject's prior record.

One two-step decision model provides guidance in this area. In step one, investigators first consider the seriousness of the current charge and the type of prior record, i.e., an unexplained arrest (where the disposition has not been documented in the system) or a conviction. For example, a current felony charge with a prior enhancing conviction warrants further investigation, whereas a current misdemeanor charge with a prior unexplained arrest does not.

If step one indicates the need for further investigation, then the second step in the model factors in the location and date of the prior record. For example, a current felony charge with a prior enhancing conviction that occurred within the arresting State 2 years ago warrants legal documentation. On the other hand, a current felony charge with a prior enhancing conviction that occurred across the country 20 years ago does not. These general guidelines can be refined further based on prosecutive directives and available investigative resources.

> ***"Complete and timely recordkeeping makes a difference."***

Guidelines for Documentation

Once investigators decide to document a prior conviction for enhancement purposes, they should use fingerprints to establish that the record belongs to the subject. Unexplained arrests should be checked either by teletype or by other means to determine whether they lead to enhancing convictions or even outstanding warrants. If so, fingerprint cards then can be submitted to State repositories to verify the subject's identity.

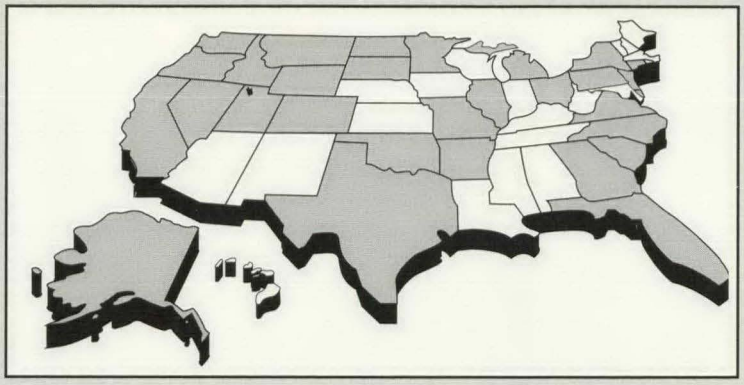
In cases where the central State repositories do not have fingerprint cards for the arrest or conviction, investigators should check with the original arresting agency, which might have a duplicate set. In cases where no fingerprint cards exist, officers should try other methods of documentation, such as photo identification, any signature the subject may have made at the time of arrest, witness identification, and admissions by the subject.

Law enforcement officials should be particularly alert to suspects with no apparent record whose behavior indicates experience in the system. Tattoos or other signs of affiliation with groups that glorify criminal behavior should be questioned. For example, members of satanic groups, Hell's Angels, Pagans, and prison and other gangs often sport identifying tattoos, whereas members of other organized crime groups have been known to wear rings to identify themselves. Further inquiry with these suspects might reveal prior convictions that previously had been undetected by records checks.

Where legally permitted, law enforcement officials should consider obtaining access to a suspect's prior presentence report.[6] Several factors make these reports very helpful for documenting prior criminal histories. For example, probation and parole authorities generally become quite skilled at documenting prior criminal records because courts and parole boards mandate that this area be as complete and accurate as possible. They also usually have more time than police investigators to document and investigate an individual's prior criminal activities.

Most presentence reports contain extensive details regarding the

Interstate Identification Index Participants



The Interstate Identification Index (III) began in 1983. The index contains the criminal records of over 21 million people. As of March 1995, identification bureaus in the 30 States shown in gray on the map provide records for III. Agencies in all States can access III information.

Source: Criminal Justice Information Services Division, National Crime Information Center, Federal Bureau of Investigation

dates and locations of arrests and/or convictions as a juvenile or adult, actual case numbers, and sentences imposed. Many jurisdictions also require that defendants applying for probation to be completely truthful regarding their prior arrests and convictions. In these jurisdictions, defendants who lie about their prior criminal records could have their probation application denied, or if granted probation based on false information, have it revoked at a later date. As a result, presentence reports might contain more prior offenses than a printout reflects.

Finally, probation or parole authorities might have important documentation, such as journal entries, regarding out-of-State convictions. This is particularly true in cases where one State supervised the offender at the request of another State.

Investigators should consider using court records on recent convictions supported by fingerprints to establish that an older, unsupported conviction belongs to a suspect. Specifically, defendants usually have an opportunity to refute the contents of a presentence report, which almost always contains a prior record section. Suspects' acknowledgement in open court to the accuracy of their presentence reports will help establish that older convictions in the reports belong to them.

Evidence gathered to document prior convictions, such as fingerprints, booking sheets/photos, court records, and the like, must be handled as is any other evidence. Officers should take care to establish a chain of custody to ensure that the information will be allowed as evidence in court.

Obviously, prior criminal history checks provide valuable information during the course of an investigation. At the same time, investigators should be aware of the deficiencies that exist in the system.

QUALITY OF CRIMINAL HISTORY RECORDS

To develop procedures and techniques for investigating criminal histories, police administrators first must understand the quality and availability of criminal history records accessible to them. A computerized format characterizes the state of the art in maintenance of criminal histories today.

Maintaining and accessing criminal history records also have moved beyond the concept of a national repository approach, where the FBI maintained duplicate records of all State offenders, to a national index systems, known as the III. The FBI maintains III at the national level. The index contains only personal identification data on individuals whose complete criminal records are maintained in State and/or Federal repositories. When fully operational, there will be 51 indexed repositories where criminal records on an individual might be located.[7]

When officers make inquiries, III refers them to the location of the complete criminal history records. For example, in an inquiry regarding an offender in Oregon, III might reveal prior arrest records in Texas and Virginia, as well as a Federal record. This information then enables officers to obtain the complete records through the NLETS for the State files from Texas and Virginia and the NCIC for the Federal records.[8]

Significant improvements have been made in the Nation's criminal history records database since computerization began in the early 1970s, and this trend should continue into the foreseeable future. Current inaccuracies in the system present only minor obstacles, not major impediments, to investigating and documenting prior criminal records of offenders and should not discourage their use. Understanding the problems should help investigators avoid frustration and make the most of the available information.

Incomplete Information

In 1991, an inquiry into the Nation's criminal history records system had only a 66-percent chance of locating a criminal record because more than 8 million records were not computerized. In addition, of the 24 million criminal records on file at the FBI at that time, roughly one-half of them, computerized or not, did not record the disposition of the criminal action.[9] Such inadequacies adversely affect the Nation's criminal history records information system.[10]

In addition, breakdowns in the reporting mechanisms of contributing criminal justice agencies often produce inaccuracies in criminal history records. Agencies frequently fail to report information accurately, completely, and regularly.[11] One State's audit of reporting compliance found that its agencies simply were not reporting, and they demonstrated a real lack of concern about complying with criminal history reporting requirements.[12]

One investigation involving a child molester highlights the problem of incomplete recordkeeping. In 1986, an NCIC printout obtained during a presentence investigation of an Ohio man convicted of gross sexual imposition revealed a prior felony arrest in Texas with no reported disposition. Contact with a sheriff's office in Texas revealed that the offender had been convicted and sentenced to probation. Further investigation uncovered an outstanding probation violation warrant that had been issued prior to the subject's arrival in Ohio, but the warrant had never been entered into NCIC.

If the Texas felony warrant had been in the system and the offender had been stopped for a traffic violation somewhere along his journey from Texas to Ohio, he would have been picked up immediately. Perhaps the life of the Ohio child never would have been disrupted so vilely. Complete and timely record keeping makes a difference.

> ***"Law enforcement officials should be particularly alert to suspects with no apparent record whose behavior indicates experience with the system."***

Missing or Illegible Fingerprint Records

Fingerprint records can provide positive identification of subjects during criminal history checks. In some jurisdictions, however, officers issue only citations for minor offenses, serious misdemeanors, and even some felonies. Unlike when an arrest is made, officers often do not take fingerprints when they issue citations. The absence of fingerprints results in incomplete criminal histories and the inability of police to establish positive identification for use in subsequent court proceedings.[13]

Illegible fingerprints also contribute to inaccuracies in the criminal history records system. Changes regarding the acceptance of deficient fingerprint cards and the new live-scan fingerprinting technology should alleviate this particular problem.

In addition, AFIS will reduce human error in fingerprint classification, which cause inaccuracies in criminal history databases. AFIS also will increase efficiency in classification of fingerprints and identification of offenders. In 1993, 39 State identification bureaus had AFIS or were in the process of procuring it. By the turn of the century, all States probably will have AFIS.[14]

At the national level, the Integrated Automated Fingerprint Identification System (IAFIS) is in the early stages of development. Ultimately, this system will eliminate paper fingerprint cards at every step of the identification process. The Federal component of IAFIS, expected to be operational in 1997, will be located at the FBI's Criminal Justice Information Services Division in Clarksburg, West Virginia.

Inadequate Equipment and Funding

Unfortunately, the State repositories often suffer from inadequate

equipment and procedures, which contribute to inaccuracies in the criminal history databases.[15] AFIS, live-scan, and card-scan technologies are expensive, and it will take some time for all agencies to get them up and running. Procedures, such as periodic audits, that ensure regular reporting of arrest and disposition information to the repositories also add costs. Many jurisdictions might have trouble funding such upgrades to their databases.

CONCLUSION

Certainly, not all charges warrant indepth investigation and documentation of a suspect's criminal history. Therefore, law enforcement officials must consider whether prior convictions or arrests can aid the prosecution significantly and enhance the current charges or sentence.

The decision to invest further resources also must be made based on the knowledge that America's criminal history records are not 100 percent accurate and complete. In addition, the wishes of the prosecuting attorneys must be considered strongly, for they make the decision on whether to enhance the final charge using repeat offender statutes.

Society demands protection from harm, especially from criminals who repeatedly victimize its citizens. By fully exploiting the available criminal history databases and making maximum use of repeat offender statutes, law enforcement agencies across the country can stop these callous criminals from hurting their communities again. ✦

Endnotes

[1] Estimates by William H. Garvie, Section Chief, Automated Fingerprint Processing Section, Identification Division, FBI, cited in Bureau of Justice Statistics, *Statutes Requiring the Use of Criminal History Record Information*, 1991, 1.

[2] Ibid., 11-13.

[3] D. Roberson, "Courts and the Importance of Reporting" in Bureau of Justice Statistics, *National Conference on Improving the Quality of Criminal History Records: Proceedings of a BJS/Search Conference,* 1992, 42.

[4] In some States, only 60 to 80 percent of arrests occurring within the past 5 years have final dispositions recorded. In addition, older records might not be supported by fingerprints, making positive identification difficult. Finally, changes in criminal codes and crime recording methods over time might make a prior conviction no longer significant. See, Bureau of Justice Statistics, *Survey of Criminal History Information Systems, 1992*, Washington, DC, November 1993, 2.

[5] These concepts have been expressed in several Federal court cases involving 29 U.S.C. 504, such as *Illario* v. *Frawley*, 426 F. Supp. 1132 (D.N.J. 1977); *Lippi* v. *Thomas*, 298 F. Supp. 242, 246-249 (M.D. Pa. 1969); and *Berman* v. *Local 107 International Brotherhood of Teamsters*, 237 F. Supp. 767 (E.D. Pa. 1964). Briefly, courts have held in these cases that the facts behind a conviction that reflect conduct that is "functionally identical" or "equivalent" to offenses specifically enumerated in the statute are covered the same as if they were enumerated specifically. *See*, A. Bowker, "Prohibition Against Certain Offenders in the Labor Movement: A Review of 29 U.S.C. 504," *Federal Probation*, March 1994, 55.

[6] Law enforcement officials should inquire with their prosecutor's office regarding how to obtain access to these records.

[7] Bureau of Justice Statistics, *Use and Management of Criminal History Record Information: A Comprehensive Report*, 1993, 49-50.

[8] Ibid 7, 52.

[9] Supra note 3.

[10] Supra note 7, 30.

[11] Supra note 7, 2.

[12] G. McAlvey, "Use of Local Agency Audits," in supra note 3, 81.

[13] Supra note 7, 10.

[14] Supra note 7, 47.

[15] Supra note 7, 2.

Police and the Media

A new resource from the National Crime Prevention Council offers law enforcement the information needed to enlist the media effectively as partners in crime prevention. *Partner with the Media To Build Safer Communities: An Action Kit* provides background information, strategy suggestions, and activity and program ideas to engage the mass communications media as long-term partners in preventing crime.

The kit presents a full picture of what the media offer as partners in crime prevention and suggestions for an individual or group in reaching out to the media. It also includes tips on getting prevention-oriented public service announcements on the air and in print and an overview of ways to achieve sustained media coverage for prevention activities.

The kit can be purchased from the National Crime Prevention Council (NCPC), order item K20. Credit card users can call 1-800-627-2911. Orders also can be placed through the NCPC Fulfillment Center, P.O. Box 1, 100 Church Street, Amsterdam, NY 12010, or by faxing an order to 518-843-6857.

Bulletin Reports

Benefits Act

The Bureau of Justice Assistance has published a fact sheet that provides information on the Public Safety Officers' Benefits Act. The fact sheet details the effective dates of death and disability benefits, the limitations and exclusions, and the eligibility criteria for public safety officers and their survivors. It also describes how to file a claim.

More information on the act can be obtained from the Public Safety Officers' Benefits Program, Bureau of Justice Assistance, 633 Indiana Ave., NW, Washington, DC 20531. The telephone number is 202-307-0635; the fax number is 202-514-5956.

PERF Publications

The Police Executive Research Forum (PERF) recently released two reports—one on dispute resolution, the other on citizen review. The authors of *Dispute Resolution and Policing: A Collaborative Approach Toward Effective Problem Solving* discuss dispute resolution techniques and use case studies to illustrate how some law enforcement agencies have used dispute resolution successfully to address recurring problems. In *Citizen Review of the Police, 1994: A National Survey*, the authors examine citizen review in the United States, addressing both its relevance among cities and jurisdictions of various sizes and the types of citizen review procedures that now exist.

Copies of these publications can be purchased from the Police Executive Research Forum, 1120 Connecticut Ave, NW, Suite 930, Washington, DC 20036. For more information or a free publications catalog, call 202-466-7820.

Teamwork in Jails and Prisons

One of the American Correctional Association's (ACA) recent publications focuses on teamwork in the correctional system. Designed to educate both new and veteran staff, *Working in Jails & Prisons—Becoming Part of the Team* focuses on how teamwork results in a more productive and efficient system and improved rehabilitation. The book contains information on a variety of topics, including the history of the criminal justice system, understanding the criminal personality, working with inmates, avoiding manipulation, and dealing with stress and burnout. A glossary of prison slang also is included.

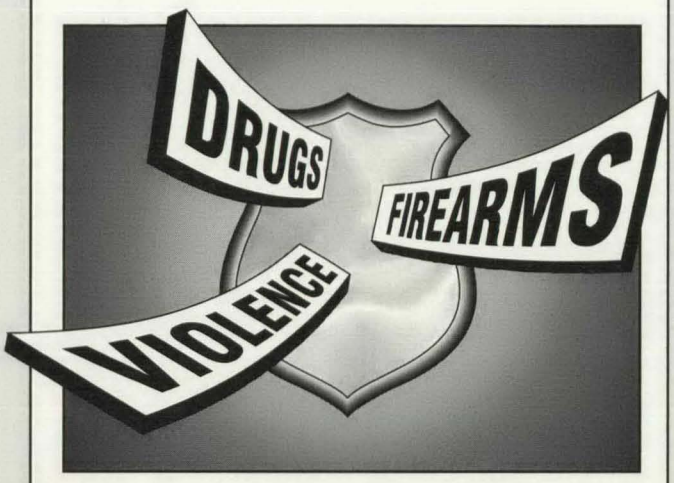
To place an order, call the ACA's Customer Service Department at 1-800-825-2665 and ask for item #534-F2. For those calling from outside the continental United States, the telephone number is 301-206-5059.

Bulletin Reports, *a collection of criminal justice studies, reports, and project findings, is compiled by Kathy Sulewski. Send your material for consideration to:* FBI Law Enforcement Bulletin, *Room 209, Madison Building, FBI Academy, Quantico, VA 22135.*

(NOTE: The material in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

Research Forum

National Assessment Program
1994 Survey Results



Approximately every 3 years, the National Assessment Program (NAP) conducts a survey to identify the most pressing needs and problems faced by the various components of the criminal justice system at the State and local levels. By identifying what agencies confront on a day-to-day basis, the survey can provide direction in developing programs and strategies to respond to their problems.

The National Assessment Program is a major part of an ongoing dialogue between the National Institute of Justice and the criminal justice community. More than 2,500 officials in the criminal justice community participated in the 1994 NAP survey. This research forum summarizes the survey findings.[1]

SURVEY PARTICIPANTS

Representatives of virtually every component of the State and local criminal justice system took part in the survey. At the local level, the questionnaire was sent to police chiefs, sheriffs, jail administrators, prosecutors, public defenders, judges, trial court administrators, and probation and parole directors. At the State level, attorneys general, commissioners of corrections, State court administrators, probation and parole directors, and prison wardens were queried.

The sample encompassed all 50 States and the District of Columbia. Within the States, researchers chose a random sample of 411 counties, including 211 counties with populations greater than 250,000 and 200 counties with populations of 50,000 to 250,000. The police chiefs were selected by identifying the city in each county with the highest population.

QUESTIONS ASKED

Researchers tailored survey questions to match the specific responsibilities of the various kinds of agencies. Thus, jail administrators were asked about such issues as crowding and inmates' medical needs, whereas prosecutors, judges, and trial court administrators were asked about sentencing alternatives and pretrial practices. Questions on staffing and training needs were common to all types of agencies.

The survey focused on three major areas of inquiry–workload problems, staffing, and operations and procedures. Respondents were asked to indicate the extent to which particular issues contributed to workload problems. For example, with regard to specific violent crimes, such as child abuse or domestic violence, the survey participants were asked whether their agencies have been able to handle the workload adequately.

In addition, respondents were asked about solutions to the problems identified. They indicated what approaches they now take to handle specific problems and whether they believed these approaches need improvement.

Throughout the survey, open-ended questions enabled respondents to comment on details of their problems and needs and to describe their own experiences. The comments complemented and enhanced the quantitative results by providing insight from the respondents on the reasons for the workload problems.

PROBLEMS CITED

The views of the survey participants mirror those of most Americans. The themes of violence, drugs, and firearms dominated the responses, and respondents repeatedly expressed concern about young people, both as offenders and as victims of violence.

Violent Crime

More than 65 percent of respondents indicated that cases involving violence caused problems in workload management. Police chiefs and sheriffs indicated domestic violence as the primary concern, while prosecutors ranked child abuse and domestic violence high.

Of the jail administrators, more than 80 percent said that arrests for violent crime contributed to crowding in their facilities. They cited only arrests for drug charges as contributing more.

By contrast, police chiefs and sheriffs ranked homicide lowest, although public defenders and judges ranked it high. Carjacking and asset forfeiture were cited by relatively few respondents.

> **"The views of the survey participants mirror those of most Americans."**

Drugs

Drug-related crime caused workload difficulties to an even greater extent than violent crime. More than 80 percent of the respondents noted drug possession and/or drug sales as creating problems for their departments. Drug crime has so dominated police operations in the past few years that large departments, according to the survey, have undertaken special measures to respond, including asset forfeiture, buy-busts, directed patrol, Neighborhood Watch, and drug units.

Whereas the police and sheriffs focus on enforcement aimed at drug crime, other surveyed agencies are involved more directly in treatment. Most of them offer treatment as an alternative sanction for offenders. However, at least 80 percent of these respondents indicated that improvements were needed in treatment services.

Ninety-three percent of probation and parole agency directors surveyed reported having drug testing programs for offenders under community supervision. However, the value of these testing programs received mixed reviews. Some thought these programs effectively discouraged illicit drug use and provided a useful supervision tool; others thought they took too much time and were relied on too heavily for validating good behavior.

Firearms

More than 80 percent of police chiefs and sheriffs said crimes committed with a firearm contributed to their workload problems. They particularly were concerned about the availability of firearms to juveniles.

Initiatives for addressing the problem of firearms included gun turn-ins and buy-backs. Thirty-seven percent of the police chiefs surveyed said they participated in these programs, and an equal percentage would like to see such programs in their jurisdictions.

Among those departments with gun turn-ins or buy-backs, the majority were satisfied with the results. Overall, the views on these programs were mixed, with the most favorable comments coming from urban areas and the most unfavorable comments from suburban and rural communities.

RESPONSES TO CRIME

The survey respondents also noted what they were doing to address the problems identified and whether they believed the response was adequate. Community policing and youth programs were the initiatives most cited.

Community Policing

Police chiefs and sheriffs cited community policing most frequently as their approach to deter crime. Most of those who have not adopted community policing indicated that they want to do so. The most common community policing components were foot patrols, special units, and neighborhood substations.

Police chiefs and sheriffs cited a number of reasons for shifting away from the traditional policing model, including the desire to improve neighborhood quality of life, involve citizens in crime-fighting (especially against drugs), and undertake a more concerted effort at crime prevention. Staffing presents a challenge, and some respondents noted the need for more officers to expand community policing efforts.

Violent Crimes Contributing to Workload Problems

Percentages indicate the number of respondents who believed the listed crimes contributed to workload problems.

	Police Chiefs	Sheriffs	Prosecutors	Public Defenders	Judges
Assault	98%	95%	79%	74%	70%
Child Abuse	91%	94%	92%	82%	79%
Domestic Violence	99%	97%	91%	83%	85%
Homicide	69%	65%	88%	86%	84%
Rape	77%	74%	88%	79%	75%

Training needs tempered the enthusiasm for community policing. Eighty-three percent of the police chiefs and sheriffs who had community policing programs said training should be improved. An obstacle to training included making time available; others noted the difficulty in selling the new approach.

Youth Programs

Efforts to deter young people from crime, including drug- and gang-related crime, ranked high on the agendas of police chiefs, sheriffs, and other responding officials. Schools represented the focal point for these efforts, to include school resource officers, Adopt-A-School programs, and D.A.R.E. programs.

Almost three-fourths of the police chiefs had programs for at-risk youths, and most others would like to see them established. Considerably fewer sheriff's departments (53 percent) had these programs, but the vast majority who did not have them indicated an interest in them.

One of the greatest needs, expressed by police chiefs and sheriffs alike, was to prevent juveniles from obtaining guns. Eighty-five percent of the police chiefs said existing methods needed to be improved, and a large percentage indicated that their jurisdictions lacked any method to prevent juveniles from obtaining firearms.

GANGS AND GANG-RELATED CRIME

Gangs and gang-related crime challenge not only the police and sheriffs but also prosecutors and corrections administrators. The survey revealed that gang-related crime is a problem in the vast majority of large jurisdictions, and it is becoming a growing concern in less-populated areas.

Among police chiefs in jurisdictions with more than 250,000 residents, 73 percent said gang-related crime contributed to workload problems. By comparison, 55 percent of the police in medium-sized jurisdictions (those with populations between 100,000 and 250,000) and 45 percent in smaller jurisdictions (those with populations of 100,000 or fewer) said they were experiencing the problem. Not only was gang-related crime reported to be extensive, but it appeared to be growing.

Police and sheriffs generally take a two-pronged approach to gang crime—enforcement and prevention through education. Enforcement may include the establishment of gang task forces or special gang units. One jurisdiction disbanded its traffic unit and converted it to a gang unit.

Prevention often focuses on the schools. Specific tactics include the use of school resource officers or implementation of the Gang Resistance Education and Training (GREAT) and D.A.R.E. programs.

The prosecution of gang-related crime has been a particular challenge in large jurisdictions, where 58 percent of the prosecutors surveyed said this type of crime was adding to their workload problems. In contrast, 33 percent of prosecutors in small jurisdictions cited gang-related crime as contributing to their workload problems. Prosecutors said fear of retaliation

against potential witnesses was a major inhibiting factor in prosecuting gang crime.

The presence of gangs in correctional facilities raises the issues of classification and staff training among jail administrators and prison wardens. In correctional facilities that have gangs, administrators need classification procedures to identify gang members accurately and training to prepare staff to deal with this type of inmate. In addition, gangs appear to pose a more serious problem in prisons than jails because of the longer period of incarceration. Wardens said gangs generally exacerbate overcrowding problems because they often must be segregated.

JAIL AND PRISON CROWDING

The familiar story of crowded conditions in jails has changed somewhat, mainly due to increased construction. While the number of jail admissions has increased in recent years, so did the capital budget for jails, which more than doubled, to permit additional bed spaces. Imposition of maximum capacity limits, as well as weekend sentencing and alternative sanctions, were other reasons jail administrators cited for the less-crowded conditions.

Still, 35 percent of the jail administrators admitted that crowding continued in their facilities. They cited the main reasons as drug offenses, violent crime, probation and parole violations, length of sentences, and jail incarceration of convicted felons who otherwise would have been sent to prison.

Of the prison wardens who responded to the survey, 37 percent reported crowded conditions. Their reasons included drug crime (reported by 88 percent of the wardens), violent crime, longer sentences, parole violations, and insufficient alternative sanctions.

ALTERNATIVES TO INCARCERATION

When asked about the availability in their jurisdictions of several alternatives to incarceration, respondents cited work-release centers as the most common, followed by electronic monitoring, boot camps, and day-reporting centers (the least common alternative). Among prosecutors, 92 percent said their jurisdictions have work-release centers, 84 percent have electronic monitoring, and 71 percent have boot camps, but only 48 percent have day-reporting centers.

Public defenders felt more strongly than others about the need to improve available options to incarceration. Probation and parole agency directors were less likely than other groups to want any of these alternatives in their jurisdictions. Their comments suggested resistance may be due to the potential for additional work for their agencies, which they said were already overburdened.

A relatively high percentage of the respondents said they did not want boot camps. More probation and parole agency directors were unreceptive to boot camps than to other types of sanctions because they were not fully convinced of the camps' effectiveness and because they were concerned about the amount of time needed to manage the camps. Judges and trial court administrators expressed more favorable opinions about boot camps, although some harbored reservations.

Over 90 percent of each respondent group, except probation and parole directors, said work-release

Need for Bilingual Officers

The percentages add to less than 100 because some respondents indicated "not applicable" on the questionnaire. These respondents represented communities with small minority populations and, therefore, did not feel bilingual officers were needed.

	Major Increase Needed	Some Increase Needed	No Increase Needed
Police Chiefs	24.5%	55.6%	13.0%
Sheriffs	23.8%	50.8%	15.0%

Research and Evaluation Priorities

Respondents indicated the areas that they viewed as priorities for future research and evaluation. These tended to vary by respondent categories and to reflect the specific responsibilities of a given group. The top three priority areas are listed. Four areas represent a tie.

Local Criminal Justice Agencies		State Criminal Justice Agencies	
Police Chiefs Community Policing Juvenile Crime Violent Crime	**Sheriffs** Community Policing Drugs Juvenile Crime	**Wardens** Recidivism Gangs Drug and Alcohol Treatment Programs Alternative Sanctions	**State Commissioners of Corrections** Alternative Sanctions Recidivism Sex Offender Treatment
Jail Administrators Alternative Sanctions Classification Drug Programs Mentally Ill	**Prosecutors** Alternative Sanctions Juvenile Crime Violent Crime	**State Attorneys General** Inmate Litigation Computer and Telemarketing Fraud Environmental Fraud	**State Court Administrators** Case Management Automation Court Organizational Alternatives
Judges Alternative Sanctions Court Security Drug Cases Case Management	**Trial Court Administrators** Case Management Alternative Sanctions Court Security	**State Probation and Parole Agency Directors** Sex Offenders Recidivism Alternative Sanctions	
Public Defenders Alternative Sanctions Mandatory Sentences Death Penalty	**Probation and Parole Agency Directors** Alternative Sanctions Drug and Alcohol Treatment Programs Sex Offenders		

centers were an option available in their jurisdictions. Probation and parole agency directors were less receptive to work-release centers than other respondents; almost one-third said they did not want or need them.

Electronic monitoring followed only work-release centers as the most frequently employed alternative to prison or routine probations. More than one-half of the respondents in each category said their jurisdictions had this type of program.

EMERGING ISSUES

Several issues that have begun to attract the atten-tion of criminal justice professionals came to light in the survey. These issues center on specific segments of the victim and criminal populations with particular needs.

Cultural Diversity

Police chiefs and sheriffs expressed concern about how to develop initiatives to work with diverse groups,

particularly where language barriers exist. The differences between the cultural composition of the community and the police force were cited as barriers between police and residents.

The specific strategies for working with culturally diverse communities were fairly wide-ranging. The most common strategies involved recruiting officers from culturally diverse backgrounds, recruiting bilingual officers, training field staff to communicate with people whose backgrounds differ from their own, and offering foreign language training. In some States, cultural diversity training is mandated by law.

> "The themes of violence, drugs, and firearms dominated the responses...."

Offenders with Mental Illness

When respondents were asked about meeting the needs of the mentally ill offenders in the criminal justice system, their answers suggested a certain ambivalence. Several perceived a shift in responsibility from the mental health community to the criminal justice system. Others cited their own sense of responsibility for providing mental health services to inmates.

Compared to other possible problem areas identified in the survey, the issue of the mentally ill offenders was noted as contributing only moderately to workload problems. The comments of sheriffs and police chiefs tended to focus on the perceived failure of mental health agencies to fulfill their obligations.

Crimes Against the Elderly

High percentages of police and sheriff's departments (88 percent and 77 percent, respectively) adopted measures to prevent fraud against the elderly. At the same time, both groups believed more could be done, particularly given the unique needs of older citizens.

Prevention programs center on education, with typical approaches including distribution of crime prevention information and speeches at Neighborhood Watch meetings and senior citizens associations. Departments also use the media to caution against flimflam groups active in their areas.

Information Systems

Overall, needs were greater in information systems than in any other area explored in the survey. For almost every task or application, the majority of respondents said their systems needed improvement.

Among police chiefs and sheriffs, applications of greatest interest were expert systems, systems to support problem solving, and court disposition information. Jail administrators and wardens expressed interest in systems for automating inmate medical and mental health records, court information, and inmate programs. Prosecutors, judges, and trial court administrators cited information systems to alleviate attorney scheduling conflicts as a priority.

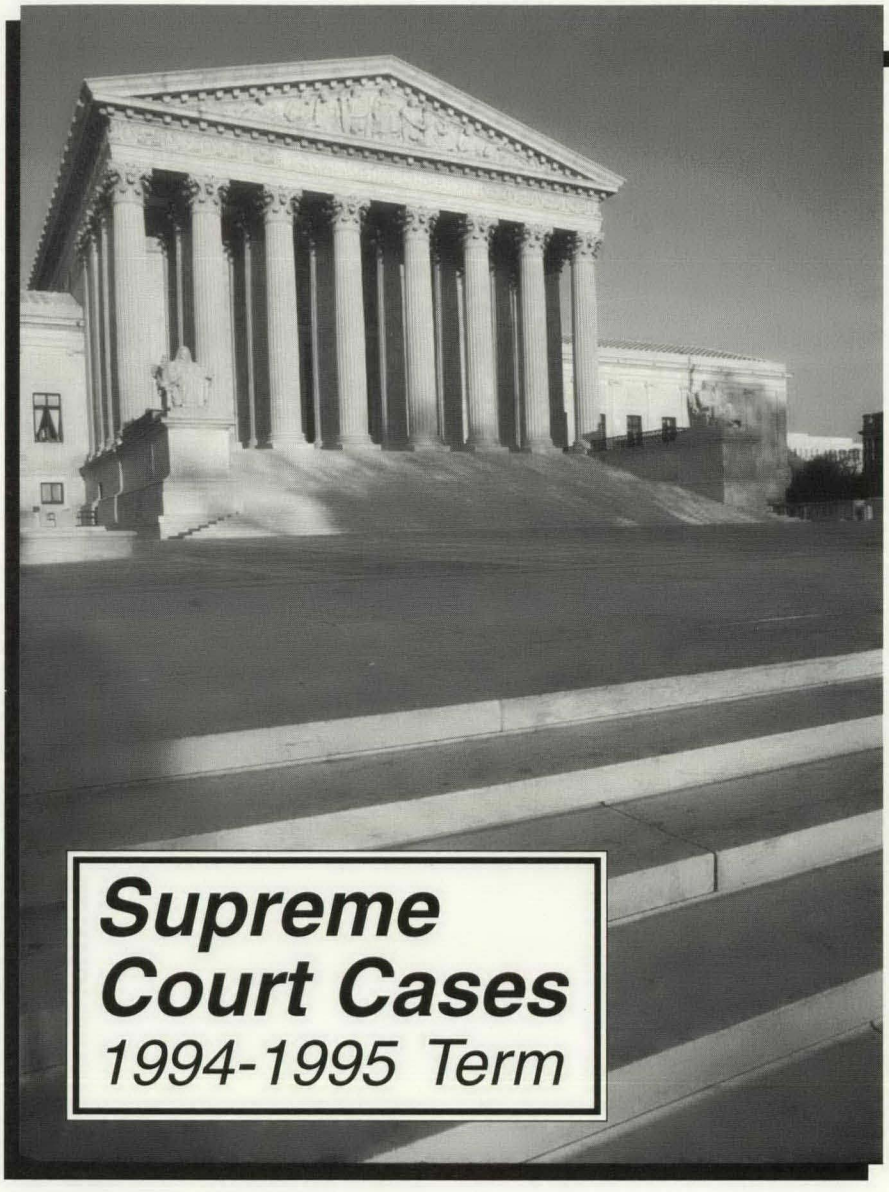
CONCLUSION

The 1994 NAP survey revealed a number of findings that offer particular insight from those on the front lines of crime and justice. In reviewing these findings, criminal justice professionals should find it useful to compare the solutions they have devised with those of other jurisdictions, to identify the extent to which a particular solution has been adopted, and to assess the extent to which the results have been found satisfactory. Their insight, in turn, can be used to refine and shape individual approaches to addressing criminal activity.✦

Endnote

Because the survey process began in 1993, the results reflect figures for 1992, the most recent year for which complete information was available to the respondents.

Excerpted from the National Institute of Justice, Research in Brief, *"National Assessment Program: 1994 Survey Results" (NCJ 153517), by Tom J. McEwen, Ph.D. The full report of the NAP survey is available through the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20849-6000. Those interested in obtaining a copy also can e-mail askncjrs@njcrs.aspensys.com or call 1-800-851-3420. For the full report, ask for NCJ 150856.*



During its 1994-1995 term, the U.S. Supreme Court ruled on six cases of particular interest to law enforcement officers and managers. The cases involved the scope of the exclusionary rule for errors made by court employees, the fourth amendment's "knock and announce" requirements, and the constitutionality of a Federal statute prohibiting possession of a firearm in a school zone. Other legal issues addressed by the Court included the effect of after-acquired evidence of employee wrongdoing in litigation under Federal anti-discrimination laws, the right of local government entities to appeal a denied motion for summary judgment in actions brought under 42 U.S.C. § 1983 for alleged unconstitutional police conduct, and the right of law enforcement officers to appeal immediately a court's denial of qualified immunity in cases involving a factual dispute. This article summarizes these six cases and their impact on law enforcement.

Arizona v. *Evans*, 115 S. Ct. 1185 (1995)

In *Evans*, the Supreme Court held that the fourth amendment's exclusionary rule does not require suppression of evidence gained during arrests made on the basis of computer errors by clerical court employees. In this case, a Phoenix police officer arrested the defendant during a routine traffic stop when the patrol car's computer data terminal showed an outstanding misdemeanor warrant for his arrest. When a subsequent search of the defendant's car revealed a bag of marijuana, the police officer charged him with possession. The defendant moved to suppress the marijuana as fruit of an unlawful arrest because the misdemeanor warrant had been quashed before his arrest but court employees had erroneously left the warrant in the computer data base.

The Arizona Supreme Court granted the motion to suppress the marijuana, reasoning that the application of the exclusionary rule would serve to improve the efficiency of recordkeepers in the criminal justice system. The U.S. Supreme Court reversed, concluding that the exclusion of evidence was not required because *court* personnel were responsible for the computer's inaccurate records.

The Court reaffirmed its decision in *United States v. Leon*, 468 U.S. 897 (1984), in which the Court held that exclusion is not required where officers act in "objectively reasonable reliance" on a properly issued search warrant that later is ruled invalid. The Court in *Evans* created an additional exception to the exclusionary rule for the errors

of court employees, using the *Leon* rationale that the exclusionary rule is designed to deter police misconduct, not mistakes by court employees. The Court concluded that application of the exclusionary rule would have no significant effect on court employees responsible for informing police that a warrant has been quashed because court clerks are not members of the law enforcement team and therefore have no stake in the outcome of particular criminal prosecutions.

Likewise, applying the exclusionary rule for the clerk's mistake would not alter the arresting officer's behavior. Unfortunately, the Court did not address in this decision whether the exclusionary rule would apply if a police employee made the computer error.

Evans, however, does not relieve officers of their responsibility to assess the reliability and potential for error of information obtained from a computer system. In this regard, a concurring opinion in *Evans* suggested exclusion would be required if officers blindly rely on information in their data system, regardless of their knowing the information is inaccurate or that the system is not generally reliable.

Wilson v. *Arkansas*, 115 S. Ct. 1914 (1995)

The Court in *Wilson* ruled that "knock and announce" requirements are part of the reasonableness inquiry under the fourth amendment. In evaluating the scope of the constitutional right to be secure in one's home, the Court adopted the common law protection of announcing one's presence and authority before entering a dwelling as a factor to be considered in assessing the reasonableness of a search.

Police officers in this case arrived at the defendant's home with a search warrant after receiving an informant's tip that drugs were being sold there. Upon arriving, the police found the main door open, but the screen door closed and unlocked. They identified themselves as police officers as they entered the residence, where they subsequently seized marijuana and drug paraphernalia. The defendant filed a motion to suppress the evidence, arguing that the search was invalid due to the officers' failure to knock and announce their presence before entering.

The lower courts denied the defendant's motion to suppress, noting that the officers did identify themselves as they entered the residence. However, the U.S. Supreme Court reversed and held that the fourth amendment's reasonableness inquiry requires officers to knock and announce *prior* to entry.

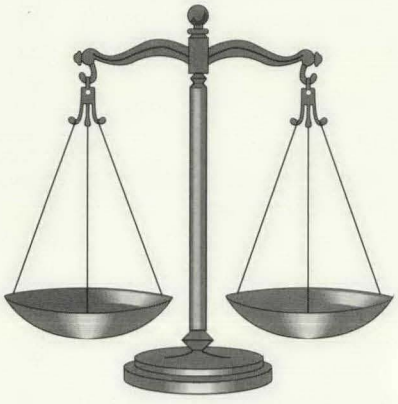
In its reasoning, the Court looked to the traditional protections against unreasonable searches and seizures afforded by English common law at the time the fourth amendment was framed. The Court determined that the framers of the Constitution implied that the reasonableness of a search of a dwelling may depend, in part, on whether law enforcement officers announce their presence and authority prior to entering.

The Court did recognize, however, that in some circumstances, an officer's unannounced entry might be reasonable if countervailing law enforcement interests exist. For example, an officer's failure to knock and announce could be considered reasonable when a prior announcement would increase the threat of physical harm to the police or others, increase the likelihood of escape, or increase the risk that evidence would be destroyed.

The Court acknowledged that the police in *Wilson* may have reasonably believed that a prior announcement would have placed them in peril and increased the risk that the defendant would destroy easily disposable drug evidence. Consequently, the Court remanded the case to allow the State courts to determine whether such relevant countervailing factors existed.

Wilson is an important case for law enforcement because it clarifies the constitutional requirement that officers balance law enforcement interests against fourth amendment knock and announce requirements. Officers carefully must evaluate each entry situation with an awareness that the exclusion of evidence could be the result of failing to knock and announce prior to entering a residence.

Supreme Court Conference Room



***United States* v. *Lopez*, 115 S. Ct. 1624 (1995)**

In *Lopez*, the Court held that Congress exceeded its Commerce Clause authority when it criminalized an individual's knowing possession of a firearm in a school zone under the Gun-Free School Zones Act of 1990. A 12th grade student challenged the constitutionality of his conviction under § 922(q) of this Federal statute for carrying a concealed .38-caliber handgun to his high school.

The Court reviewed the authority of the Federal Government under the Commerce Clause and concluded that § 922(q) could not be sustained under the power of Congress to regulate an activity that "substantially affects" interstate commerce. First, § 922(q) is a criminal statute that, by its terms, has nothing to do with "commerce" or any sort of economic enterprise and, therefore, is not a regulation of a commercial transaction that substantially affects interstate commerce. Second, there was no indication the defendant had moved in interstate commerce, or that his possession of the handgun had moved in or had any connection with interstate commerce.

The Court reaffirmed that the States possess primary authority in defining and enforcing the criminal law in matters of State interest, such as education. It then concluded that this particular Federal statute inappropriately displaced the historic police powers reserved to the States by the U.S. Constitution.

***McKennon* v. *Nashville Banner Publishing Co.*, 115 S. Ct. 879 (1995)**

The issue before the Court in *McKennon* was whether an employee, discharged because of age in violation of the Age Discrimination in Employment Act (ADEA), was barred from all relief because the employer subsequently discovered evidence of wrongdoing that would have led to her termination on lawful and legitimate grounds. The employer discharged McKennon after 30 years as part of a workforce reduction plan necessitated by cost considerations. At 62, McKennon claimed she was discriminated against due to her age.

After the discharge, the employer learned that while employed, McKennon had copied and taken home several confidential financial documents in violation of her job responsibilities. The lower Federal courts concluded that this after-acquired evidence of her wrongdoing, which would have resulted in her discharge, bars her from any relief under the ADEA.

The Supreme Court reversed and held that after-acquired evidence cannot operate to bar all relief under the ADEA, but it can limit the remedy. The Court reasoned that Federal laws intended to eradicate discrimination in the workplace are designed to compensate employees for injuries incurred and to deter employers from engaging in such discrimination. Such deterrence and compensation objectives would not be adequately served if after-acquired evidence of wrongdoing that would have resulted in termination bars all relief for an employer's earlier violation.

The Court distinguished cases where the sole basis for discharge is discriminatory from those cases involving mixed motives. In mixed motives cases, the employer's lawful reason alone at the time of the discharge would sufficiently justify the firing. Consequently, the legitimate factor for discharge would serve as an absolute bar to the employee's discrimination claim. However, the employee may still bring a claim of discrimination when legitimate justification either is acquired after the dismissal, as in *McKennon*, or where the after-acquired justification is not the motivating factor in the decision to discharge.

The Court also considered the legitimate prerogatives of employers in deciding that after-acquired evidence of employee wrongdoing is relevant to determine the appropriate remedy for an employer's discrimination. Accordingly, the Court decided that as a general rule, neither reinstatement nor front pay is an appropriate remedy, because it would be both inequitable and pointless to order the reinstatement of someone the employer would have terminated on lawful grounds. Because an ADEA violation did occur in *McKennon*, which must be deterred and compensated without infringing on the employer's legitimate interests, the Court held that an appropriate remedy would be to calculate backpay from the date of the unlawful discharge to the date the employer discovered the new information.

The Court's decision in *McKennon* is of potential importance to law enforcement organizations defending claims of employment discrimination under Federal statutes such as the ADEA, 29 U.S.C. § 621 et seq. (1988); Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1988); and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (1988). The Court's ruling will assist law enforcement officers and managers in evaluating the importance of after-acquired evidence and how the subsequent remedies in such cases will be determined.

***Swint* v. *Chambers County*, 115 S. Ct. 1203 (1995)**

In *Swint*, patrons and proprietors of a nightclub brought a civil rights action against a county commission (the county), the city, and three individual police officers under 42 U.S.C. § 1983 for civil rights violations that allegedly occurred during successive police raids on the nightclub. The county moved for summary judgment, arguing that the sheriff, who authorized the raids, was not a policymaker for the county in the area of law enforcement but was a State of Alabama employee. When the district court denied the motion for summary judgment, the county immediately appealed. The Federal appellate court upheld the county's motion on grounds that the sheriff was not a policymaker for the county .

The Supreme Court reversed and held that the county's appeal of the district court's decision was inappropriate. The Court reasoned that the county's assertion that the sheriff is not a policymaker does not rank as an immunity from suit. Instead, it acts as a mere defense to liability that can be reviewed effectively on appeal after a final judgment. The Court distinguished the county's appeal in *Swint* from an officer's appeal of a denial of a qualified immunity claim by noting that qualified immunity is "an *immunity from suit* rather than a mere defense to liability; and like absolute immunity, it is effectively lost if a case is erroneously permitted to go to trial."

This case is significant to law enforcement because it clarifies that entities of local government sued under § 1983 for alleged unconstitutional police conduct do not have a qualified right to be free from trial by being able to immediately appeal a denial of a summary judgment motion.

Supreme Court Seal

***Johnson* v. *Jones*, 115 S. Ct. 2151 (1995)**

Johnson involved a civil action under 42 U.S.C. § 1983 against five named police officers for use of excessive force. The plaintiff, a diabetic, alleged he was having an insulin seizure when the police mistakenly arrested him, believing him to be drunk. The plaintiff claimed the police beat him while in custody at the station, breaking several of his ribs.

Three of the officers moved for summary judgment based on qualified immunity, arguing that the record contained no evidence that they used excessive force or were present with the other two officers. The plaintiff responded by noting that the three officers admitted in their depositions that they were present at the arrest and in or near the booking room when the plaintiff was there.

A Federal district court denied the officers' summary judgment motion based on this factual dispute, and the officers immediately appealed. The Federal appellate court refused to consider the appeal, stating that it lacked jurisdiction over an issue of fact.

The Supreme Court agreed that the officers in *Johnson* did not have a right to an interlocutory appeal—an appeal before the end of the court proceedings—of the district court's denial of their claim of qualified immunity, when the denial is based on a factual dispute. The Court reasoned that Federal appellate courts have jurisdiction to hear such appeals, but only when the appeal is based on the legal issue of whether the officer allegedly violated a "clearly established" law.

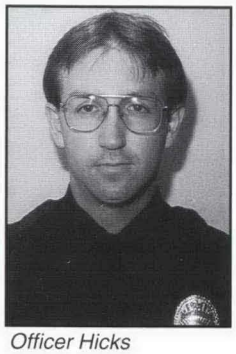
The Court relied on *Mitchell* v. *Forsyth*, 472 U.S. 511 (1995), which limits the right to an immediate appeal of denied qualified immunity to cases where the claim of immunity is conceptually distinct from the merits of the claim and relates only to the legal question of whether the defendant's conduct violated clearly established law. In that case, the Court held that a district court's order denying a defendant's motion for summary judgment based on qualified immunity was immediately appealable, in part, because one important purpose of "qualified immunity" was to protect public officials, not simply from liability but also from standing trial.

The Court noted that interlocutory appeals can make it more difficult for trial judges to supervise trial proceedings. Such appeals can delay the proceedings, which adds costs and diminishes coherence. They also risk additional and unnecessary work, because they present appellate courts with scant records or introduce appeals that, had the trials simply proceeded, would have turned out to be unnecessary. Therefore, *Jones* is important to law enforcement employees because it clarifies that interlocutory appeals of qualified immunity denials are not appropriate if denial is based on a *fact*-related dispute concerning the sufficiency of the evidence. ✦

Charlene M. Keller, an honors intern assigned to the Legal Instruction Unit and a third-year law student at Temple University School of Law, and Daniel L. Schofield, S.J.D., Chief of the Legal Instruction Unit, prepared this article.

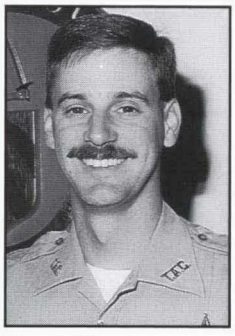
The Bulletin Notes

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. Law Enforcement *also wants to recognize their exemplary service to the law enforcement profession.*



Officer Hicks

In the early morning hours, Officer Darren Hicks of the Westminster, Colorado, Police Department responded to the report of a man with a gun in an area apartment complex. As the officer approached the parking lot, he observed three men driving out of the lot in a pickup truck. When Officer Hicks turned to follow the vehicle, the driver accelerated to 70 mph and sped through a red light. Because of the serious nature of the call, Officer Hicks initiated a pursuit of the vehicle. After a 10-block chase, the pursuit was discontinued by a supervisor for safety reasons. As the vehicle continued speeding down the road, it collided with an oncoming vehicle and careened onto the median strip. Officer Hicks cautiously approached the accident scene, only to see the driver maneuver the truck back onto the roadway in an attempt to escape. With a flat tire, the truck could only attain a speed of 45 mph. As Officer Hicks followed the truck, the driver lost control and crashed into a parked car. The three occupants ran from the vehicle. Officer Hicks pursued the driver across several yards, over fences, and through alleys. He finally caught the subject and subdued him after a brief struggle, during which the subject threw a loaded, sawed-off shotgun to the ground. A second suspect was apprehended a short time later by officers from the Denver Police Department. Investigators later determined that the three men were responsible for a crime spree throughout the area that included several thefts, a homicide, a carjacking, and an armed burglary. The subjects also had shot at five people, wounding one. Officer Hicks' alert and courageous actions put an end to the rampage of three violent subjects.



Deputy Carr

Deputy First Class Charles Carr of the Hartford County, Maryland, Sheriff's Office responded to the report of an apartment fire. When Deputy Carr arrived at the scene, he found heavy smoke filling one of the apartments. Neighbors informed the deputy that the resident had not escaped the fire. Immediately, Deputy Carr entered the apartment and searched through it on his hands and knees until he located the woman lying unconscious on the living room floor. He pulled the victim to the front door and carried her to safety outside the burning building. During his search for the woman inside the apartment, Deputy Carr had determined that the fire was concentrated in the kitchen area. He reentered the smoke-filled apartment and found food burning on the stove. He turned off the stove and extinguished the fire. The victim and Deputy Carr later were treated for smoke inhalation and released.

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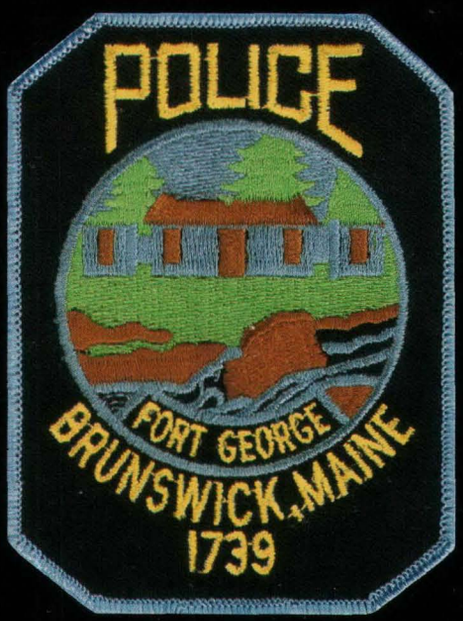

The patch of the Brunswick, Maine, Police Department depicts a fortress overlooking the rocky Androscoggin River. The fortress was built in 1715 to protect local settlers from Indian raids and was named Fort George after King George I of England.

The Rhinelander, Wisconsin, Police Department patch features a fictional creature, known as the Hodag, walking out from a group of pine trees. The Hodag, a monstrous 7-foot long creature with horns and tusks, was created as a hoax by local lumberjacks in 1896 and since has become the symbol of the city.