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FBI Law Enforcement

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Features

Negative Influences of Police Stress

By Joseph A. Harpold and Samuel L. Feemster

1

Those in the law enforcement profession must find ways to battle the negative influences of stress.

The Police Response to Medical Crime Scenes

By Richard T. Boswell

17

Police officers have certain responsibilities when responding to medical crime scenes.

Constitutional Rights to Counsel During Interrogation

By Kimberly A. Crawford

28

Law enforcement officers must understand how to apply the different protections afforded individuals under the Fifth and Sixth Amendments.

Departments

7 ViCAP Alert

Unidentified Homicide Victim

8 Case Study

A Cultural Analysis of a Threat Communiqué

13 Crime Data

Law Enforcement Officers Killed, 2001

14 Focus on Management

Communication Survival Skills for Managers

20 Perspective

Interacting with Arabs and Muslims

24 Notable Speeches

Freedom
The Front Line Is Ours

27 Bulletin Reports

Drugs and Crime
Law Enforcement
Juvenile Justice



Negative Influences of Police Stress

By JOSEPH A. HARPOLD, M.S., and SAMUEL L. FEEMSTER, J.D.

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Ian Campbell believed that what most policemen shared was an abhorrence of the predictable, a distaste for the foreseeable experiences of working life.... He felt that the job was not particularly hazardous physically but was incredibly hazardous emotionally and too often led to divorce, alcoholism, and suicide.... Never mind whether they could interpret, never mind if it was potentially hazardous to the soul. To be there was the thing.

—Joseph Wambaugh,
The Onion Field¹

Many variables exist in the battle against the negative influences of stress. While people can control some variables more easily than others, choice remains the one that they can exercise the most influence over. Officers have *chosen* a career in law enforcement, rather than having someone force them to join the profession. Other decisions, such as living with a mate, having a family, or attending college, represent examples of controlled choices that officers make.

However, choosing to live as healthy a life as possible remains

one of the most important choices that officers *should* make. Deciding to battle the negative influences of life by developing and accentuating positive influences reduces stress in officers' daily activities. Research has shown that negative influences increase distress (negative stress), which, in large enough quantities, may cause some individuals to become sick.²

DEFINING STRESS

What is stress? One researcher defined stress as “a nonspecific response of the body to any demand placed on it.”³ What does that really



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mean? It simply means that each person responds differently to internal and external demands of life, but that each person *does* experience stress. Denying its existence does not alleviate the body's response to daily stress.

The day-to-day stress of dealing with people and their problems, especially the deeply disturbing aspects of dealing with critical incidents, can traumatize officers and poison their spirits. Friederich Nietzsche said, "Whoever fights monsters should see to it that in the process he does not become a monster. And, when you look into an abyss, the abyss also looks into you."⁴ This aptly applies to the law enforcement profession because officers look into the abyss of evil and negative behavior every day. The quote at the beginning of this article provides insight into what happens to police officers who, during the course of their duties, daily look into the abyss. Although they may face physical jeopardy, their souls remain constantly susceptible to

poisoning with each encounter at the edge of the abyss.

Historically, the law enforcement profession has not acknowledged the negative stress related to being an officer. For example, law enforcement academies throughout the United States rarely have addressed stress in police work. Notwithstanding unmistakable cries for help disclosed in internal reviews, academies have been particularly lax in suggesting appropriate methods for identifying this potentially debilitating disorder. In addition, until recently, many law enforcement agencies did not implement programs to assist officers struggling with stress-related issues. One case, in particular, illustrates this problem all too well.

EXAMINING THE ONION FIELD

In *The Onion Field*, author Joseph Wambaugh described the horrible tale of two Los Angeles police officers' abduction while on duty one night in 1963. Criminals took

the officers to an onion field outside of Bakersfield, California, and murdered one officer at the feet of the other. Somehow, miraculously, the second officer escaped and survived, only to experience second-guessing by his colleagues and the criminal justice system and incredible effects of negative stress without any assistance or support.

The surviving officer not only was victimized by watching his partner murdered but was second-guessed by his colleagues because he escaped and survived. The result was a second victimization. However, in 1963, no critical incident stress management debriefings or employee assistance programs existed, so he had no place to turn for support within his agency. His family members could not support him because no family education programs existed to teach them about the job and its negative stressors. He could not communicate with a police chaplain because his agency had no chaplain program. To make matters worse, a main aspect of the police personality dictated that officers, regardless of traumatic experiences, must endure repeated emotional and physical exposure to the abyss as if nothing had happened. In such an environment, the surviving officer's agency would not have had meaningful peer discussions or formal peer support programs in place to encourage him to talk about his problems.

The case ultimately went to court. For the next 9 years, the surviving officer had to recount the horror of the night over and over again during all of the hearings and appeals of the case. This left an open and infected psychological

wound that never properly healed so that he could return to duty as a fully functional officer.

The gardener was a thief. That's the thing that bothered him the most... It was getting so hard to remember... something flashed in his mind.... He began getting afraid for no reason... a throbbing pain started at the base of his skull... The fear was weakening him and the pain was ferocious. He wanted to work it off.... Even the pain would not stop the gardener from thinking about his crimes.... He used to think about the night in the onion field... before he became a thief.⁵

In recounting this true story, Wambaugh described the effects of what has come to be known as post-traumatic stress disorder (PTSD) along with some of the symptoms that someone with PTSD may exhibit. Tragically, the surviving officer ultimately was lost to PTSD and to the law enforcement profession because he became a thief himself by shoplifting some tools that he could have paid for but did not.

Fortunately, the law enforcement profession has made great strides since 1963 in the development of programs to treat officers exposed to such horrific incidents. However, room exists for improving these treatment efforts and for enhancing the credibility of such programs so that officers will participate in them. Most important, however, the law enforcement community must remind officers of the negative effects of stress and provide them with the skills to

deal with the demands of their profession.

LEARNING FROM THE PAST

The U.S. Department of Justice's National Institute of Justice conducted research involving one of the major law enforcement agencies in the United States.⁶ Through an anonymous survey of the officers in this agency, researchers discovered that, apparently, the law enforcement profession had not learned from the history of negative

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The day-to-day stress of dealing with people and their problems...can traumatize officers and poison their spirits.

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influences of job stress and what that stress does to officers exposed to it. The study, Project Shield, provided information about the negative effects of stress and broke these down into categories of psychological, physical, behavioral, and organizational public health.

During this research project, officers admitted anonymously to increased vulnerability to alcohol abuse and anxiety within the first 5 years of employment. Project Shield also found that officers experienced increased risk of mortality

and morbidity from cancer, heart disease, hypertension, acute migraine headaches, reproductive problems, chronic back problems, foot problems, and insomnia.

Project Shield showed that profound emotional effects from stress occurred most often when officers attended a police funeral, were the subject of an internal affairs investigation, experienced a needle stick or exposure to body fluids, made a violent arrest, or personally knew victims. In addition, the study discovered that officers experienced organizational, or job-related, stress most often when making split-second decisions with serious consequences; hearing media reports of police wrongdoing biased against police; having administrators who did not support their officers; putting work ahead of anything, including family; and not having enough time for personal or family responsibilities.

In the psychological area, Project Shield revealed that officers lost energy or interest, including loss of sexual interest, along with experiencing pounding in their chests and feelings of impending doom. Most important, 1 percent of these officers considered ending their lives.⁷

Regarding behavioral problems due to negative job stress, officers reported smoking and drinking problems; more injuries; and physical abuse of spouses, children, and even their police partners. Based on the laws associated with police officers convicted of domestic violence having to give up their guns, the potential exists to lose officers to this problem if they are convicted

of domestic violence or child abuse. Of course, physically abusing their police partners also can result in tragedy in the workplace.

Project Shield demonstrated that whereas only a small percentage of officers in this agency reported these problems, they also were 30 percent more likely to report health problems than other officers in the agency, 3 times more likely to abuse their spouses, 5 times more likely to report alcoholism, 5 times more likely to have somatization (multiple, recurrent, and long-term physical complaints apparently not due to any physical disorder),⁸ 6 times more likely to have anxiety, 10 times more likely to be depressed, and the least likely to seek help.

REDUCING AND PREVENTING STRESS

More important than discovering that the negative impact of stress still exists is developing a comprehensive strategy to prevent or reduce it. Sadly, little is being done to inoculate new law enforcement personnel against the poisonous effects of negative stress. One story illustrates the need for action. “There were two doctors standing in the middle of a river. Gradually, dead bodies began coming toward them. At first, there were only a few, and the doctors were successful in pulling them out of the river. Later though, more bodies were coming downstream, and it was becoming impossible to get them all out of the river. At that point, one of the doctors got out of the water and went up on the bank. The other doctor, still in the river, said, ‘Hey,

where are you going? I can’t get all of these bodies out of the water by myself.’ With that, the doctor on the bank replied, ‘I am going upstream to find out who is throwing all of these bodies in the river.’”⁹

Likewise, the law enforcement profession must go upstream to prevent the negative impact of stress. Prevention, or at least the reduction, of the negative impact of stress proves crucial to the health of law enforcement officers. Comparing stress prevention or reduction to similar efforts, such as crime or disease prevention and reduction, can lead to a better understanding of how to approach the problem.

“

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Crime Prevention Model

Since 1970, the National Crime Prevention Institute (NCPI) in Louisville, Kentucky, has taught that crime prevention is “the anticipation, recognition, appraisal of a crime risk; and the initiation of some action to remove or reduce it.”¹⁰ Prior to the advent of a formal crime prevention philosophy at NCPI in 1970, a basic example of

such action would have involved officers who worked the midnight shift checking for unlocked or open doors of businesses. When they found a door open or unlocked, they surmised that a thief could enter and steal what was inside. Recognizing this as a crime risk, officers understood that something had to be done to remove this opportunity from the criminal. Therefore, officers would have called the business owner to come and secure the business, which would have removed or at least reduced the opportunity for theft.

The law enforcement community can apply this definition of crime prevention to the concept of negative stress reduction by simply substituting “negative stress,” or, more correctly, “distress” (as opposed to eustress or positive stress, such as winning the lottery), in the place of “a crime risk.” Now, officers have a working definition of stress reduction: “the anticipation, recognition, appraisal of distress; and the initiation of some action to remove or reduce it.” Anticipation means that anyone can experience distress. The importance of recognition lies in the awareness of the particular distress that bothers someone the most. Appraisal relates to understanding stress and how it affects people in general and why certain distress bothers a person. With these concepts in mind, the law enforcement community can begin to “initiate some action to remove or reduce it (distress).”

To bring the reduction or prevention of negative stress about, however, law enforcement officers first must consider some

contributing factors inherent in their profession. For example, research in criminal victimization has shown that those who have become victims are never the same as they were prior to their criminal victimization.¹¹ Likewise, officers are never the same as they were prior to entering the law enforcement profession. When they come in contact with individuals who have been victimized by criminals, officers also are victimized because people naturally relate to the pain of others. Victims of crime have experienced a violation of their inner selves, and officers easily can empathize because of the realization that this could have happened to anyone. Each time officers encounter this poisonous contact, the potential exists for their spirits to erode. After a period of time, the mind begins to build a wall to protect itself from experiencing any more pain. When this occurs, officers may display cold, unfeeling, or cynical attitudes, even though they do not mean to. To prevent this from occurring, officers need the skills to combat this exposure and avoid becoming sick and dispirited. Anticipation through education may develop a better understanding of how this distress may be contagious and will help to initiate action to guard against this phenomenon.

Disease Prevention Model

Just as with the crime prevention comparison, the law enforcement community can borrow the three phases of disease prevention from public health medicine to help in the battle against stress. In the primary phase of disease

prevention, doctors focus on educating people who live healthy lifestyles about unhealthy behaviors so that they will not *choose* to engage in those behaviors and become ill. For example, they teach people who do not smoke about the dangers of smoking so that they will *choose* not to smoke and, thus, reduce their chances of becoming ill.



In the secondary phase of disease prevention, doctors target those individuals engaged in behavior that may lead to disease, but who are still healthy. The doctors attempt to educate these people so that they will stop the dangerous behavior (e.g., smoking) before they contract such ailments as lung cancer, emphysema, or heart disease. The final, or tertiary, prevention phase involves treating sick individuals and educating them to choose not to continue the behavior that resulted in their illness. This represents the most costly phase of the three, and the one that stands the

least chance of being effective because treatment usually offers no guarantee of success once a serious illness has developed.¹²

If the law enforcement community applies the three phases of public health medicine's concept of prevention to developing a stress reduction model, then choosing the primary phase makes the most sense. Why wait until the negative influences have broken into a healthy lifestyle and the individual is so sick with stress that the tertiary phase is required to attempt to restore health?¹³

However, even in the secondary phase, officers can choose to "initiate some action to remove or reduce" the negative influences of stress by employing various coping methods. Some of these include deep breathing, muscle relaxation, meditation/prayer, positive thinking and self-talk, and mental imagery.¹⁴ Officers can choose one of these or use them in combination, whatever works the best. Each person is different and what might work well for one might not work for another. These various techniques do work, and when officers find a technique that works the best, they have to practice it to increase its effectiveness. Most important, officers can refine these coping skills to the point that they can employ them as stressful situations occur.¹⁵ Using these techniques gives a hopefulness in dealing with most stressful situations and even preventing them from becoming destructive to an officer's overall health.

Practicing stress management also must be used in the context of

practicing a healthy lifestyle, including regular exercise, wholesome nutrition and diet, spiritual renewal, and enriching social interactions. Officer choices determine the health of the body, mind, spirit, and social interactions. If any one of these four areas sickens, other areas can become ill as well. Conversely, if officers choose to practice a healthy lifestyle in these four areas, then they choose to take care of their bodies.

Finally, officers also can choose to think positive thoughts.¹⁶ Plato said that “thinking is the soul talking to itself.”¹⁷ This should be a positive dialogue. Officers should

choose to cultivate an energetic, positive, and loving spirit. To help in this effort, they also should choose to associate or interact with others who think and act in a positive manner as well.

CONCLUSION

As law enforcement officers become healthier, their agencies need to consider their health as well. “Police agencies need to be healthy before they can treat the community’s illnesses and injuries. Signs of good health include pride, self-esteem, quality leadership, comprehensive training, and board certification.”¹⁸ Also, “...they

always should demonstrate an appropriate bedside manner and always practice what they preach.”¹⁹

Choosing to be healthy is the best weapon against the negative influences of stress. Once a commitment is made to fight back against the negative factors of stress, life becomes healthier and more enjoyable. Fighting back includes the deliberate adoption and implementation of stress reduction techniques and the vigilance of the law enforcement community to protect its members from the effects of negative stress as vigorously as officers protect society from lawlessness. ♦

Suggested Readings and Resources

Edward A. Charlesworth and Ronald G. Nathan, *Stress Management: A Comprehensive Guide To Wellness* (New York, NY: Ballantine Books, 1984).

Norman Vincent Peale, *The Power of Positive Thinking* (New York, NY: Fawcett Columbine Trade paper ed., 1996).

Gary Aumiller, *Keeping It Simple* (Holbrook, MA: Adams Publishing, 1995).

Stephen R. Covey, *Seven Habits of Highly Effective People* (New York, NY: Simon & Schuster, 1990); *Principle Centered Leadership* (New York, NY: Summit Books, 1991); and *First Things First* (New York, NY: Simon & Schuster, 1995).

Gary Smalley, *Loving Each Other For Better and For Best* (New York, NY: Inspirational Press, 1993).

Larry Dossey, *Healing Words* (New York, NY: Harper Collins Paper Backs, 1993).

Depak Chopra, *The Seven Spiritual Laws Of Success* (San Rafael, CA: Amber-Allen Publishing, 1993).

Jeffrey T. Mitchell and George S. Everly, Jr., *Critical Incident Stress Management: The Basic Course Workbook*, 2nd edition (Ellicott City, MD: International Critical Incident Stress Foundation, 1998).

Katherine W. Ellison and John L. Genz, *Stress and the Police Officer* (Springfield, IL: Charles C. Thomas Publisher, 1983).

Endnotes

¹ Joseph Wambaugh, *The Onion Field* (New York, NY: Delacorte Press, 1973), 3-4.

² Edward A. Charlesworth and Ronald G. Nathan, *Stress Management: A Comprehensive Guide to Wellness* (New York, NY: Ballantine Books, 1984).

³ Ibid.

⁴ Friedrich Nietzsche, *Beyond Good and Evil*, quoted in Margaret Miner and Hugh Rawson, *The New International Dictionary of Quotations*, 2nd ed. (New York, NY: A Signet Book, 1994), 111.

⁵ Supra note 1, 1-2.

⁶ Robin Gershon, U.S. Department of Justice, National Institute of Justice, *Public Health Implication of Law Enforcement Stress*, video presentation, March 23, 1999.

⁷ A presentation at a national conference on police suicide held at the FBI Academy in September 1999 indicated that police officers are three to four times more likely to kill themselves than to be killed in the line of duty. Given the predisposition to suicide that a few officers harbor, there seems to be a real potential for violence in the workplace of a police station by an officer who turns from suicidal to homicidal thoughts. See U.S. Department of Justice, Federal Bureau of Investigation, *Suicide and Law Enforcement* (Washington, DC, 2001).

⁸ *American Psychiatric Glossary*, 6th ed., s.v. "somatization."

⁹ Presentation given by Deborah Prothrow-Stith, M.D., FBI Academy, October 15, 1991.

¹⁰ National Crime Prevention Institute, *Understanding Crime Prevention* (Stoneham, MA: Butterworth, 1986), 2.

¹¹ Interview of Morton Bard, Ph.D., in *Because You Need to Know*, prod. Federal Law Enforcement Training Center, July 5, 1988, video.

¹² Supra note 8.

¹³ Supra note 8.

¹⁴ Supra note 2.

¹⁵ Patricia Carrington, *How to Relax* (New York, NY: Warner Audio Publishing, 1985).

¹⁶ For additional information, see Norman Vincent Peale, *The Power of Positive Thinking* (New York, NY: Fawcett Columbine Trade paper ed., 1996).

¹⁷ Plato, *The Republic*, retrieved from <http://www.ag.washington.net/aphorism/A-1993>, on June 18, 2001.

¹⁸ Joseph A. Harpold, "A Medical Model for Community Police," *FBI Law Enforcement Bulletin*, June 2000, 26.

¹⁹ Ibid, 27.



Unidentified Homicide Victim

The FBI in New Orleans, Louisiana, seeks information regarding the identity of a female found in February 1999 floating in the Gulf of Mexico approximately 20 miles south of Grand Isle, Louisiana. Current investigative analysis shows that the victim may have resided in the south Florida area.

Crime Scene

The victim, found fully dressed wearing a gold bracelet and a gold necklace with a butterfly pendant, had been shot once in the chest. The woman was wrapped in a fish net, with a 40-pound concrete block inside, and bound with cable wire.

Forensic examination determined that the victim was a white female, approximately 50 to 55 years old, 5'2" to 5'5" tall, and weighed between 130 and 145 pounds. The examination also revealed that, a number of years ago, the victim had broken both bones in her lower left leg, which had healed prior to the time of her death. In the past 30 years, she received extensive dental work, but, due to a badly decayed tooth, examiners believed that she had not visited a dentist in the past several years.

Alert to Law Enforcement

The FBI has highlighted the victim on its Web site at <http://www.fbi.gov/mostwant/seekinfo/seek.htm> under "Unidentified Murder Victim-Grand Isle, Louisiana." The Forensic Anthropology Computer Enhancement Service (FACES) laboratory prepared a reconstructed clay model of what the victim's face may have looked like. Photographs of the clay model, the victim's jewelry and clothing, the fishing net, the cable wire, and the 40-pound concrete block are depicted at the indicated FBI Web site.

The FBI asks any agency having information concerning the identity of the victim to contact Special Agent Barbara O'Donnell, FBI, 2901 Leon C. Simon Boulevard, New Orleans, Louisiana, 70126, at 504-816-3388 or Crime Analyst Glen W. Wildey, Jr., Violent Criminal Apprehension Program (ViCAP), Quantico, Virginia, 22133, at 703-632-4166. This alert bears ViCAP number 2000-LA-00007.

Case Study

World Destruction A Cultural Analysis of a Threat Communiqué

By Mitchell R. Hammer, Ph.D.



At ten o'clock in the morning on October 26, 1990, I was working in my office analyzing transcripts and audiotapes of actual hostage negotiation incidents when I received a phone call from an individual I know in a U.S. government agency in Washington, D.C. This individual mentioned that he was working on a threat assessment of a letter he just had received and wanted to know if I could provide a cultural analysis. His primary question was, "Does this letter appear to be an authentic letter written in an Arab cultural style or could it be written by someone trying to appear as an Arab terrorist?" I told him that I could do a cultural analysis of the letter to answer his question. Little did I realize what that simple statement would involve.¹

To start with, I learned that a letter was sent on October 16, 1990, and received by military attaches

in Washington, D.C., from the embassies of Italy, Australia, Great Britain, and Canada. The writer used the correct names and addresses of the attaches and also sent letters to embassies in London. The one-page communiqué was written in capital letters in four sections with the subheadings: "Current Situation," "Covert Deployment," "Strategic Warning," and "Technical Verification." Centered at the top of the page, the communiqué began with—

Urgent Communiqué
United Nations Security Council
(New York City, USA)
In the sacred name of Allah
(Blessings be upon his holy name)
He who begets not and is not begotten.

It concluded with the name of the writer, Brotherhood of Allah, and essentially stated that certain chemical-biological agents were placed in a number of cities in the world and would be activated if the United States attacked Kuwait. Further, the writer demanded that newspapers throughout the world publish the communiqué.²

Various U.S. government agencies analyzed the communiqué and provided a determination in the areas of technical feasibility assessment (Can the writer accomplish the threat?), psychological assessment (Is there evidence of psychological disorder of the writer?), and cultural assessment (Is there evidence of the cultural background of the letter writer?). My quick briefing by one of these agencies ended when I was informed, "We need to send in our analysis by 5 p.m. today, so we will need your assessment by 4 p.m. Any problem with that?" Thus, I began 6 hours of intense analysis.

Understanding Cultural Analysis

A cultural analysis is important and can provide a valuable tool for the investigation and analysis of communications, whether those messages are in verbal or written form. All people receive their primary socialization in culture groups, from which they learn specific patterns of perception, meaning, and behavior. These patterns, "because they are learned typically early in life, often are out of awareness and deeply ingrained."³ Further, simply because someone comes from a specific culture group does

not mean that the individual can recognize these “out of awareness” aspects of perception and behavior. Therefore, identifiable, culturally based patterns of behavior emerge in interaction and communication with others. As an interculturalist (i.e., a specialist in how cultural differences influence behavior and social interaction between individuals and groups), my expertise lies in the identification of these cross-cultural patterns of difference.

Establishing Criteria for Cultural Analysis

To begin my work on the threat communiqué, I established two fundamental criteria for analyzing the document. First, the language translation criterion concerns the degree to which typical errors in writing made by the author of the communiqué represent

typical errors native Arabic speakers make when working from the Arabic to the English language. Identifiable, culture-specific patterns of language translation emerge as individuals attempt to speak or write in a second language while using their primary language system as a reference.⁴ For instance, common errors often occur among Koreans writing in English. Because the use of an article, such as *a*, does not exist in the Korean language, native Korean language speakers writing (or speaking) in English tend to drop the article in sentences (e.g., “I am going for walk now,” rather than the correct “I am going for *a* walk now”).

Finding Arabic-to-English language translation errors might suggest that the writer is a native Arabic language speaker. However, not finding these translation errors only means that the writer’s command of English is sufficient to not make these errors. In this case, the writer may be a native English language speaker or an Arab or other foreign national proficient in the English language.

Second, the deeper cultural pattern criterion involves an identification of often-unconscious stylistic devices used in writing (and speaking) that provide evidence of deeper cultural elements that

likely indicate the cultural background of the writer. Because these deeper cultural (rather than more surface language translation) elements often are “out of awareness,” evidence of their presence in the communiqué is a fairly accurate indicator of the writer’s cultural background or nationality.

Finding Evidence of Language Translation Errors

Sometimes, it is common for Arab-English language writing to contain certain errors. One common writing pattern, the Arabic use of the phrase *as we all know*, reflects a general assumption of common knowledge that may, in fact, not exist. Nevertheless, the phrase typically functions among Arab speakers as a linguistic convention for initiating communication. I found no evidence of this pattern in the communiqué.

Second, correct use of verb forms and tense often cause difficulties for nonnative speakers of English. For example, the verb *be* does not exist in Arabic; therefore, Arab writers often confuse tenses or otherwise use this verb improperly. In general, verb tense problems can continue a fairly long time while learning the English language. The communiqué writer used such phrases as “A variety of chemi-

cal-biological warfare (CBW) ‘devices’ have been covertly deployed...”; “All of the aforementioned CBW ‘devices’ will be activated immediately...”; and “If the sacred soil of Islam continues to be violated...” In these and other phrases, the writer correctly used *have been*, *will be*, and *be* throughout the document. I found no errors in verb tenses in the communiqué and, therefore, saw no evidence of this pattern. Similarly, nonnative English speakers typically make mistakes in subject-verb agreement, particularly when it is difficult to determine whether the subject is singular or plural. In the communiqué, the writer did a remarkably good job in maintaining proper subject-verb agreement. For example, “a pack of satanic infidel dogs *is* poised...”

“

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”

Third, nonnative English language speakers often make prepositional errors. Prepositions express relationships typically in space and time between nouns, pronouns, or other words. For example, “He did not want to leave the store *during* the baseball game.” Errors that nonnative English language speakers may make include, for instance, “I picked him *out* of the train station,” rather than “I picked him *up* at the train station.” The communiqué writer consistently used sentences that reflected the proper English language usage of prepositions. For example, “...pack of satanic infidel dogs is poised to strike *at* the fighting heart of Islam....” Again, I found no evidence of this pattern in the communiqué.

Fourth, Arab writers of English often use poorly constructed adjective clauses. This occurs with the duplication of basic clause functions in language by a personal pronoun of a function filled by a relative pronoun. Examples of this include: “The car I bought *it* does not work” or “The man I met *him* at the station was my friend.” Again, the writer consistently employed English language sentences in which this type of error did not occur.

Fifth, Arabic relies heavily on coordination, rather than subordination, in sentence construction. Coordination typically can involve stringing or linking a number of separate ideas together with such words as *and*. This produces very long, complex, multi-idea sentences, which, in English, are better separated with commas and periods. The communiqué writer did a remarkably good job of separating various ideas, appropriately using commas and ending sentences correctly with periods. For example, “Needless to say, any and all attempts to locate them, via the utilization of current surveillance technology...” and “In recent months, a variety of chemical-biological warfare....” Throughout the document, I found no evidence of this pattern.

Finally, sometimes, misspelled words exist that may be spelled phonetically but are not correct. Only one word, appearing in the first line of the text, was

misspelled: “At this very moment, a ravenously *blloodthirsty* pack of satanic....” This misspelling of bloodthirsty probably was a typographical error. Therefore, I found no evidence in the communiqué of this pattern of misspelling. Overall, the writer appeared highly skilled in the English language and made none of the more common errors that I would expect from someone translating from Arabic to English.

Determining Evidence of Deeper Cultural Patterns

In Arabic, compared with English, more repetition of a thought (i.e., making the same point several times) occurs. Repetition of an idea functions in Arab cultures to demonstrate sincerity of the writer (or speaker) to the message, as well as a marker to distinguish the importance of one idea compared with another idea.⁵ For example, this might be expressed in more ritualistic statements, such as *inshallah* (“if God wills it”) and *ishkoraallah* (“thanks be to God”), as well as in a simple restatement of a message made earlier. I found the language used in the communiqué remarkably clear and succinct in its style. For example, the writer used statements, such as “In order to establish the ‘bona fides’ of this communiqué, extremely small but biochemically testable samples of....,” to express rather clearly the message’s intent. Thus, I found no evidence of the Arab pattern of repetition in the communiqué.

Second, an Arab cultural pattern puts a far greater degree of emotion in the beginning of a message to demonstrate the individual’s personal commitment to the ideas presented.⁶ At one level, the communiqué did contain statements that might, on the surface, appear to indicate greater emotional expressiveness. For example, “At this very moment, a ravenously blloodthirsty pack of satanic dogs is poised to strike at the fighting heart of Islam...”; “...the aforementioned infidel dogs have been significantly aided and abetted

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and communication
with others.
”

by a treacherous cabal of traitors to Islam...”; and “Moslem warriors are unafraid of death, because death (for the holy cause) to them means paradise, while death to infidels means only eternal damnation in hell.”

The communiqué did have statements, such as “ravenously, bloodthirsty, infidel dogs,” which are more highly emotionally charged. However, the letter remained uncharacteristically unemotional concerning the personal feelings and commitments of the writer and “his” people. The purpose of using more highly charged emotional expression within Arab discourse is to demonstrate the writer’s personal commitments and feelings. In this respect, then, the writer did not connect the more emotionally charged language to his or her own viewpoint or actions. In fact, the writer did not use any inclusive terms to suggest that he or she was one of the “Moslem warriors.” In the example, “Moslem warriors are unafraid of death...,” the writer did not say what should have been a more natural phrase, “*We* Moslem warriors are unafraid of death...,” nor did the writer place himself or herself in the picture by saying, “...to *us* means paradise...” Further, the writer gave a cultural rationale for death in this example. Typically, this would be assumed with no need to “spell it out” to someone else unless the writer wanted to show the reader that he or she knew something about Arab culture and Muslim religion. This represents fairly common information, so it is not particularly insightful.

Third, an American pattern of argument places the primary thesis statement at the beginning of a paragraph, whereas an Arabic one puts the main point at the end of a paragraph. This reflects a more general pattern of difference between American (English speakers) and Arab cultures in which Arab patterns of persuasion are found in the form of presentation, rather than the more precise logical structure and evidence of proof.⁷ For example, the writer began the

second paragraph of the communiqué with a clear thesis statement: “If any part of the Republic of Iraq, including province number nineteen (19) ‘Kuwait,’ is attacked by anyone, for any reason whatsoever, in any manner whatsoever, then all...” In each of the principal paragraphs, the main point was well stated at the beginning. Therefore, I found the logic of the writer clearly more American than Arab.

Fourth, one of the deeper “out of awareness” aspects of cultural programming concerns the use

of imagery, metaphors, and analogies. Because of this, how individuals employ imagery, metaphors, and analogies can be particularly insightful regarding their cultural identity. The communiqué writer used the phrase “...ravenously bloodthirsty pack of satanic infidel dogs...” From the cultural perspective of many Muslims, a dog generally is considered an “unclean” creature; an animal, for example, that they would not have in their home. However, the imagery used by the writer invoked a

“*pack of dogs.*” This is not the primary notion of an Arab cultural view of a dog (e.g., the term *pack of dogs*, or *wolves*, does not appear in Arabic dictionaries).⁸

In contrast, situations where Americans would think of dogs in a negative sense tend to include those where the animals are wild; run in *packs*; and attack, for example, defenseless deer. Clearly, this negative image of a dog from an American viewpoint is not the same as the negative connotative meaning of the animal from a Muslim or Arab cultural view. Therefore, I found the use of the term *pack* to describe “infidel dogs” not typical of the Arab or Muslim mind-set. Specifically, it is *not* that dogs run in “packs” that make them particularly vile to an Arab or Muslim warrior. Yet, the use of the term *pack* for Americans *is* critical in characterizing the dog as a vile animal. Thus, I found this particular use of imagery far more characteristic of an American, rather than an Arab, pattern.



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Finally, a number of words and phrases cast doubt on the Arabic background of the writer and also suggested that the writer was male and at least 45 years of age or older. First, the writer stated that "...the aforementioned infidel dogs have been significantly aided and abetted by...." The phrase *significantly aided and abetted* is common to American English language speakers. Further, the word *fore-mentioned* represents an older English language term for *previously* or "above." To me, this suggested that the writer possibly was older, perhaps 45 years of age or more. Second, the writer stated that "In recent months, a variety of chemical-biological warfare (CBW) 'devices' have been covertly deployed to a strategically significant number of 'safe' locations.... These 'devices' have been programmed in 'fail-safe' modes, so that (if located) any attempt...." The words *devices* and *fail-safe* illustrated the use of quotation marks to highlight an idea, while (*if located*) represented one of a number of examples that the writer used of the parenthetical, another sophisticated English language device. Again, the writer used these more sophisticated English language elements properly. Also, the writer's use of the word *safe* was not typical. Safe, in the context of the communiqué, meant a location free from detection, something a person might have read in a spy novel. An Arab national would have had to know this rather uncommon meaning to have used it properly. Finally, the writer used a number of technical terms throughout (e.g., covert deployment and technical verification), possibly reflecting a military background or, more likely, indicating an avid reader of military and spy novels.

Providing the Analysis

Overall, I found no direct evidence that the writer's English language command was such that typical Arabic errors in English were present in the communiqué. The deeper cultural analysis suggested that the writer was an American attempting to sound

like an Arab terrorist. The logic of the communiqué, the writing style, the use of words, the imagery of the "pack of dogs," and the technical terminology suggested that the writer was an American male in his 50s. After I submitted my analysis, authorities subsequently apprehended the writer. He was an American white male, in his 50s, living in the United States.

Conclusion

Traditionally, threat assessments have included both technical feasibility and psychological assessment. What was unique to the analysis of this threat communiqué was the additional cultural analysis. This provided a profile that assisted law enforcement authorities in their investigative efforts.

In addition to the integration of cultural analysis into overall threatening communication assessments, a targeted communication or discourse-based analysis of these threat messages also should be included as part of a comprehensive assessment procedure to augment more traditional technical feasibility and psychological profiling currently used in law enforcement. This communication and culture approach can prove

useful in assessing the degree and intent of threat messages, identifying the writer/communicator, determining the writer's back-ground (e.g., nationality, age, and sex), and uncovering key message "hot buttons" embedded within the writer's communication. This significantly can aid law enforcement in selecting persuasive counter-messages more likely to impact the writer's behavior in predictable ways. Finally, this approach is not limited to assessing written communication. It also can apply to assessments of verbal threat as well. ♦

“
...correct use of verb forms and tense often cause difficulties for nonnative speakers of English.
”

Endnotes

¹ The author based this article on his professional experience in the area of cultural analysis and his knowledge of the Arab culture.

² The author does not present an exact copy of the threat communiqué. Rather, he provides an overall description of the letter, along with specific examples that illustrate the analysis he undertook.

³ Mitchell R. Hammer, "Negotiating Across the Cultural Divide: Intercultural Dynamics in Crisis Incidents," in R.G. Rogan, M.R. Hammer, and C.R. Van Zandt eds., *Dynamic Processes of Crisis Negotiation* (Westport, CT: Praeger Press, 1997), 105-114.

⁴ A.C. Purves, *Writing Across Languages and Cultures* (Newbury Park, CA: Sage, 1988).

⁵ E. Feghali, "Arab Cultural Communication Patterns," *International Journal of Intercultural Relations* 21 (1997): 345-378.

⁶ Ibid.; and R. Cohen, *Negotiating Across Cultures: International Communication in an Interdependent World* (Washington, DC: U.S. Institute of Peace Press, 1997).

⁷ Supra note 5.

⁸ See, for example, *Almonjid* (Beruit, Lebanon: Dar el-Machreq Publishers, 1992).

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Crime Data

Law Enforcement Officers Killed in the Line of Duty, 2001

According to preliminary figures released by the FBI, 140 law enforcement officers were slain feloniously in the line of duty in 2001. This number includes the 71 officers killed in the September 11, 2001, terrorist attacks.

The officers killed as a result of the attacks on the World Trade Center in New York City include 37 officers with the Port Authority of New York and New Jersey Police Department, 23 with the New York City Police Department, 5 with the New York Office of Tax Enforcement, 3 with the State of New York Unified Court System, 1 fire marshal with the New York City Fire Department, 1 agent with the U.S. Secret Service, and 1 agent with the FBI. These officers are not included in the following preliminary statistics.

By circumstance, 10 officers were murdered in 2001 while answering domestic disturbance calls, and 10 were killed during traffic pursuits and stops. Eight officers were slain investigating drug-related matters, 8 attempting other arrests or serving arrest warrants, 8 investigating suspicious persons or circumstances, and 7 officers were killed in ambush situations (unprovoked attacks).

Another 5 officers were murdered while answering nondomestic disturbance calls, 4 during robberies in progress or pursuing robbery suspects, 3 in ambush situations (entrapment and premeditation), 2 during burglaries in progress or pursuing burglary suspects, 2 while handling prisoners, and 2 in incidents involving persons with mental illnesses.

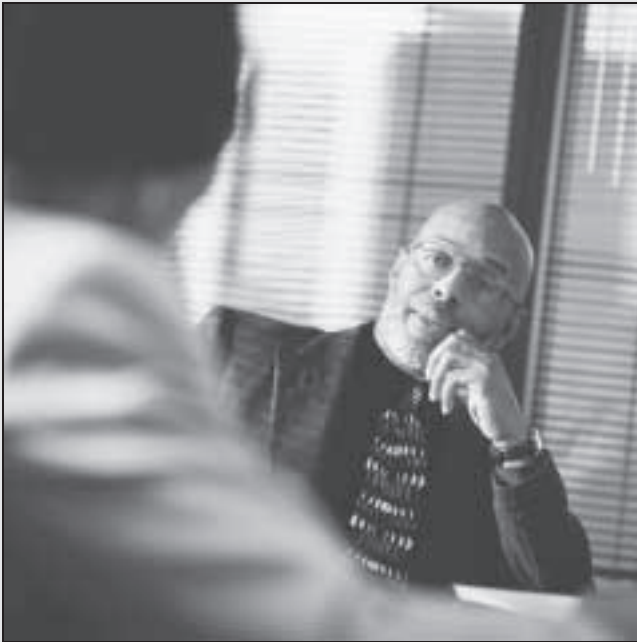
Sixty officers were killed in 2001 with firearms. Of these 60 officers, 45 were slain with handguns, 11 with rifles, and 4 with shotguns. Seven officers were killed with vehicles, 1 officer was murdered with personal weapons (hands, fists, feet) and 1 was killed with a blunt object. Thirty-nine officers were wearing body armor at the time of their deaths, and 3 were slain with their own weapons.

Preliminary statistics also indicate that an additional 77 officers accidentally lost their lives during the performance of their duties in 2001. This total represents a decrease of 7 compared with the 84 accidental deaths that occurred in 2000. Final statistics and complete details will be published in the forthcoming *Law Enforcement Officers Killed and Assaulted—2001*.

Focus on Management

Communication Survival Skills for Managers

By Stephen J. Romano, M.A.



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The amount of time managers spend on investigating and resolving work-related personnel problems can be staggering. These problems run the gamut from equal employment opportunity complaints, job performance issues, and personality conflicts to lack of productivity and negative attitudes. Regardless of the problem, the end result, the mission, always suffers. In a majority of instances, these personnel problems share a common thread—poor or no communication between managers and employees. Managers significantly can minimize personnel problems and create a productive and harmonious work environment by using effective communication techniques.

People communicate on two levels: content (the story) and emotion (the feelings). The story (facts and circumstances) constitutes the objective part of communication. On the other hand, the feelings (meaning/significance) people have about their story count most. How people feel about a situation

strongly affects their behavior. Therefore, if managers can identify and control emotions, they are in a better position to influence other people's behavior.

While conflict cannot always be resolved, it can be managed. To this end, managers can use a process of maintaining self-control, understanding their employees, and using active listening skills to change employee behavior.

MAINTAINING SELF-CONTROL

People generally agree that it is not what happens to someone in life that counts but how that person reacts to what happens that matters most. Life stressors can be overwhelming at times and may affect the way a person thinks, feels, and behaves. Emotions, not reason, may control a person's behavior. A stressed person may be under the influence of one or more emotions, such as anger, fear, frustration, or depression. If people feel that they have a problem, they do. The manager's challenge is to restore the employee's emotional equilibrium.

The only aspect of an interaction that people have absolute control over is their own emotions. Therefore, when confronted with a difficult employee, managers must understand that the first step is *not* to control the person's behavior but to control their own. If they cannot control themselves, they cannot control the situation. Managers must gauge their own pulse and honestly appraise themselves. Are they emotionally prepared to effectively interact with the employee at that moment? If not, it is far better for them and the employee to reschedule the meeting if possible.

UNDERSTANDING THE EMPLOYEE

Stephen R. Covey, author of *Seven Habits of Highly Effective People*, said, "seek first to understand, then to be understood. This principle is the key to effective interpersonal communication."¹ He further advised, "if you withhold judgements and conclusions long enough to hear the person out and listen to his story, you will gain a better sense of what his needs may be and, thereby, how he may be influenced."²

Managers must be good listeners. Listening is the cheapest, yet most effective, concession they can make to their employees. It gives employees

“a hearing” and lets them ventilate. Above all, people want to be understood. Their desire to be understood is as powerful as their need to have their own way. Managers can demonstrate respect by giving an employee their undivided attention. They should eliminate interruptions and distractions by closing the office door and holding phone calls. They also should create a personal and relaxed environment by moving from behind their desks to a more comfortable seating arrangement that avoids a superior-subordinate position. Overall, managers must demonstrate empathy to their employees and satisfy their needs.

Demonstrate Empathy

Good listeners demonstrate empathy, the ability to see the world through the eyes of another person and to walk in another person’s shoes. Empathy absorbs tension. Empathic statements, such as “I can understand how you would be upset over...” or “You feel as though I did not fully address your issues in my decision,” can help set the proper tone and begin the task of building bridges. Tone of voice indicates attitude and speaks much louder than words. A calm, controlled demeanor may prove more effective than a brilliant argument.

Satisfy Needs

Managers must listen and let their employees tell them “where it hurts.” Acknowledging a person’s point of view and feelings does not equate to agreement. Managers should try to find some common ground by agreeing wherever they can without conceding. This helps create a positive atmosphere for problem solving. Managers should not argue with their employees. Arguing results in a communication blockade, wherein both parties cease listening to each other and, instead, put all of their energies into defending their positions. People do not always say what they mean. Managers should attempt to listen for the meaning—the unsatisfied needs. Managers are not in the business of solving all problems, but, rather, of trying to satisfy the needs of their employees.

USING ACTIVE LISTENING SKILLS

Active listening skills (ALS) are the most effective weapon a manager can employ to defuse strong emotions and restore a subordinate’s emotional equilibrium. When listened to, people tend to listen to themselves more carefully and to evaluate and clarify their own thoughts and feelings. Managers who use ALS demonstrate empathy, which enhances rapport with their employees and, thereby, increases their potential to influence and change a subordinate’s behavior. The eight aspects of ALS involve paraphrasing, emotion labeling, reflecting/mirroring, effective pauses/silence, minimal encouragers, “I” messages, open-ended questions, and summarizing.

Paraphrasing is the repeating of the speaker’s “story” (content) in the listener’s own words. Some examples include such phrases as “Are you telling me...?” and “Are you saying...?” This technique provides feedback to clarify

content. Additionally, it demonstrates that the manager is listening to and understanding what the employee is saying.

Emotion labeling tentatively identifies the “feelings” (meaning/significance) of the speaker’s story. Responses, such as “You sound..., You seem..., I hear...,” followed by the emotion the person is exhibiting represent examples of this ALS. When managers emotion label, they show an employee that they *really* are listening and “tuned into” what the person is experiencing emotionally. This helps identify unsatisfied needs and feelings driving the person’s behavior.

Reflecting/mirroring occurs when the listener repeats back the last word or phrase of the speaker’s story. This not only demonstrates both interest and listening but also solicits more information without guiding the direction of the interaction. An employee might say, “I work 12 hours a day, 5 days a week, and no one really cares.” A manager using reflecting/mirroring could respond, “Feel like no one cares, huh?”

Effective pauses/silence are best used at appropriate times for effect. People tend to be uncomfortable

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**People communicate
on two levels:
content (the story)
and emotion
(the feelings).**

””

with silence and will speak to fill dead space in a conversation. Managers can employ silence most effectively just before they say something important or immediately after they have said something important. Silence can help defuse highly emotional employees and also help them understand that conversation is a turn-taking process.

Minimal encouragers include the gestures or sounds listeners make to let speakers know that they are attentive and focused. These facilitators keep the person talking and do not interfere with the flow of the conversation. Gestures include nodding the head, good eye contact, and leaning forward. Verbal responses might be “uh-huh, yes, I see, okay, oh? when? really?”

“I” messages personalize the listener by letting the speaker know how the listener feels and why. This skill provides feedback in a nonthreatening way without putting the person on the defensive. Managers should consider using an “I” message when an employee displays intense emotions, when an employee verbally attacks them, or when they need to refocus an employee. The “I” message format is: I feel (emotion the manager feels) when you (the employee’s behavior) because (the manager’s reason). “I feel frustrated when you become angry with me because I’m doing my best to help” depicts an example of an “I” message.

Managers can use open-ended questions—usually beginning with how, when, where, and what that employees cannot answer with merely a yes or no—to stimulate conversation. Managers should avoid “why” questions because employees can perceive such inquiries as judgmental or confrontational, resulting in their becoming defensive. Open-ended questions, designed to elicit information without asking numerous questions, include “Can you tell me more about that?” and “Could you help me better understand by explaining that further?” Such questions focus on what the employee thinks and feels.

Summarizing puts the speaker’s story and feelings in the listener’s own words. “Let me make sure I understand what you’re saying” followed by a summary

of the content and emotions by the listener illustrates summarizing. Managers can use this powerful technique to demonstrate that they are listening and trying to understand. This skill promotes clarification and gives employees the opportunity to reassess their own positions.

CONCLUSION

Although people may not always achieve their objectives, they need to be allowed to save face and maintain some level of dignity. Managers always should maintain their composure when dealing with their subordinates. The manager’s position affords both influence and the “last word,” which managers must use with the utmost discretion. Many managers strive to project power and control. Instead, they need to show that they are open and receptive to subordinates who raise issues of concern with them. Managers must be perceived as being accessible and approachable.

The ability to negotiate in the workplace represents a survival skill for managers. The formula for negotiation success involves

controlling emotions, using active listening skills to demonstrate understanding, and being genuine and nonthreatening. While not always expected to solve a problem, managers, by listening, fulfill important needs of subordinates by showing respect and giving them an opportunity to voice their concerns. Managers who are creative, flexible, and patient and who demonstrate an ability to negotiate in the workplace can significantly minimize personnel problems and foster a positive work environment. Successful managers, like successful negotiators, are good listeners. ♦

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The only aspect of an interaction that people have absolute control over is their own emotions.

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Endnotes

¹ Stephen R. Covey, *Seven Habits of Highly Effective People* (New York, NY: Simon & Schuster, 1990).

² Ibid.

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The Police Response to Medical Crime Scenes

By RICHARD T. BOSWELL, M.S.



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While on duty, a shooting occurs in one of the more violent areas of your jurisdiction. As you and your backup respond, the fire department and ambulance are not en route. Or, if you live in a rural community, your dispatcher still is contacting the local volunteer rescue squad. You are the first to arrive on the scene, and you know that the first emergency medical technicians (EMTs) will arrive soon.

Law enforcement, fire, and emergency medical services (EMS) work closely together. And, although they have different roles and

responsibilities, they respond to many of the same calls. Officers' responsibilities at a medical crime scene consist of securing the scene and investigating the criminal act that caused the injuries. They do not respond to provide direct emergency medical care.

MEDICAL CRIME SCENES

When EMS personnel are dispatched to a scene that has the possibility of violence, they usually request the presence of law enforcement officers as well. In most instances, paramedics will not even respond to the scene until officers

have secured it. Securing the scene and protecting the safety of themselves, EMS personnel, and others involved constitute the most important functions of the police at a medical emergency. EMS members cannot properly provide quality medical care if they fear for their safety; they rely on the police to perform this vital function.

Even if officers have no medical training and do not directly care for patients, their actions can affect the outcome of an injured person. By quickly securing the scene and relaying vital information to responding medical units, such as the

number of patients, types of injuries, and the cause of injury (e.g., vehicle collision), officers indirectly can start the process of quality patient care. In many instances, the law enforcement response takes the first step toward successfully resolving a medical emergency.

While protecting and serving their communities, police officers encounter a variety of circumstances. Not every criminal act the police come into contact with results from criminal intent. Individuals who become belligerent and physically abusive following a violent assault may react this way due to a head injury, which can increase pressure in their craniums and cause them to act irrationally. Officers should not transport individuals in this condition to jail for assaulting police and rescue personnel. Instead, respondents should take them to an emergency room where medical personnel can determine the type and extent of their injuries.

Officers should attempt to calm the individuals and, if possible, convince them to restrict their movements so that they do not exacerbate any injuries.

People who appear disoriented or stumble around following a motor vehicle related crime may not be intoxicated. Instead, they may be experiencing a diabetic reaction called hypoglycemia. If these individuals do not receive medical care, their sugar levels will continue to fall and they will pass out, lapse into a coma, and eventually die.¹ To reverse this condition, responding personnel must give them glucose or an intravenous bolus of glucose. Untrained responders should not attempt these procedures. Officers should summon medical personnel and have them transport these individuals to the hospital. Many chronic alcoholics have numerous medical problems masked by the effects of alcohol. Officers should not assume that the person who

appears intoxicated is simply intoxicated; medical problems may cause certain activities.

Hazardous Materials

Many medical crime scenes contain hazardous materials that most police officers may not be trained or equipped to handle. Because many police departments do not provide their officers with the specialized equipment carried by most fire and EMS personnel, officers must protect themselves and others from these dangers.

Law enforcement officers always should consider the possibility of the presence of hazardous materials and, although detection may be impossible, a few simple steps can help officers recognize them. Upon arrival, officers should take a few moments to appraise the situation, survey the scene prior to entering, look at the injuries, and attempt to determine their cause. Are smoke or other odors in the air? Are liquids or other materials at the scene hazardous? Are injured persons acting strangely considering the situation? Officers should assume that vehicles and buildings contain hazardous materials until ruled otherwise. Safety remains the priority.

If officers arrive on the scene prior to fire department or EMS personnel, they should move people from additional harm and injury, secure the perimeter, and not let anyone in or out until specialized units arrive. They should attempt to contain contaminated materials and individuals, establish an operational area upwind in an uncontaminated location some distance from the hazard zone, and direct incoming

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***Law enforcement,
fire, and emergency
medical services
work closely
together.***

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Deputy Boswell serves with the Bedford County, Virginia, Sheriff's Office.

units where to set up. Law enforcement officers always should treat the area as a possible crime scene and consider the possibility of additional hazards.² Hazardous materials can complicate matters for even the most highly trained experts. Officer safety should remain paramount to any police officer arriving on the scene of this type of incident.

Blood-Borne Pathogens

Blood-borne pathogens, microorganisms present in human blood that can cause diseases,³ pose a second possible hazard at a medical crime scene. Officers should treat every injured person as if they have a blood-borne disease and guard against unprotected contact with a person's body fluid, which can contain blood. People can only contract blood-borne diseases from a direct blood-to-blood transmission. For example, getting cut on the hand or becoming stuck by a contaminated needle can transmit diseases. Common blood-borne diseases include HIV and hepatitis.⁴

The possibility of coming into contact with a person's body fluid exists at every crime scene. But, by taking certain precautions, individuals virtually can eliminate the chance of contracting a blood-borne disease. Officers always should wear latex gloves or other protective clothing if necessary, avoid contact with another person's body fluid, and decontaminate any equipment that came into contact with the patient. By following these simple steps, police officers can safeguard themselves against many of the potential hazards present at a medical crime scene.

PSYCHOLOGICAL ISSUES

In their role as public servants, police officers often encounter the worst in society. Situations they must face oftentimes can prove stressful, causing acute reactions. Further, continued exposure to these incidents can lead to delayed stress reactions. Stress means a hardship, force, or strain. It is defined as a state of physical or psychological arousal. A stressor is any agent or situation that causes stress.

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At a medical crime scene, officers secure the area and investigate the criminal act.

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An imbalance between the demands of the job and a person's ability to perform the job at hand can cause stress.⁵ Violent crime scenes involving injured persons can be a stressor for even the most seasoned officer. Situations involving children oftentimes can be the worst.

Dealing with the stress caused by these situations proves challenging. Following these types of events, officers can take particular steps to relieve some of the stress. For example, they can discuss the situation with others involved or attend a structured critical incident stress debriefing, which may help everyone connected with the situation. Additionally, officers can

confide in a trusted coworker about the event, which can assist them when dealing with stress as well. Officers should try to maintain a regular routine, exercise, adhere to a normal diet, get regular sleep, and keep busy with enjoyable activities.⁶ They also should seek professional help through their departments.

CONCLUSION

While performing their duties, law enforcement officers deal with a variety of situations. At a medical crime scene, officers secure the area and investigate the criminal act. Further, by following certain steps, they can protect themselves from possible hazards at this type of incident.

Along with other first responders, officers must render assistance in a calm, professional manner. Situations that police officers face can cause physical and psychological imbalances for those involved. Responders must recognize these stressors and ensure that they treat them as needed. ♦

Endnotes

¹ Bryan E. Bledsoe, Robert S. Porter, and Bruce R. Shade, *Paramedic Emergency Care*, 3rd ed. (Upper Saddle River, NJ: Brady Prentice Hall, 1997), 733-735.

² Commonwealth of Virginia, Department of Emergency Management, *Public Safety Response to Terrorism: Tactical Considerations*, Unit 3, 1-3.

³ American Safety and Health Institute, *Blood-Borne Pathogens Instructor's Guide*, Newport Richey, Florida, 11.

⁴ For additional information, see John Cooley, "HIV/AIDS in Law Enforcement: What-If Scenarios," *FBI Law Enforcement Bulletin*, February 2000, 1-6.

⁵ *Supra* note 1, 112-115.

⁶ *Supra* note 1, 119, 120.

Interacting with Arabs and Muslims

By Joe Navarro, M.A.

The terrible events of September 11, 2001, focused all of America, in fact, the world, on the Middle East, the various Arab conflicts, and Islam. For the most part, law enforcement has had little contact with the growing Arab/Muslim community because they are law-abiding, hardworking, family-oriented people seeking the same freedoms and aspirations as other immigrant groups before them. Law enforcement contact with these communities principally has been in administrative areas, such as with the U.S. Immigration and Naturalization Service or the U.S. Customs Service.

The World Trade Center bombing in 1993 and the events of September 11, 2001, have changed the American perception of the Arab/Muslim community in the United States. These terrorist acts, perpetrated by a few individuals who do not represent the millions of law-abiding Muslims and Arab-Americans living in the United States, brought focus upon an otherwise quiescent Arab/Muslim community. Consequently, interactions between law enforcement and the Arab/Muslim community in the United States increased precipitously. To do their jobs effectively, law enforcement officers must understand more about the Arab culture to better interact with this community.¹

The Arab Perspective

Twenty countries encompass the “Arab world.” While political diversity among the Arab countries is notable (governmental systems include monarchies, military governments, and socialist republics), they all strongly embrace Islam.² Although vast social differences exist between the various cultures from the Arab world, Arabs are more homogeneous than Westerners in their outlook on life. Most Arabs share basic beliefs and values that cross national or social class boundaries. For example, Islam possibly can influence personal beliefs even among non-Muslims

living in the Arab world; child-rearing practices are nearly identical; and the family structure is essentially the same, with a high regard for tradition.³

Similar to other cultures, ethnic identity remains very important for Arabs, regardless of whether they share the same religion. Their ethnicity and cultural background, their native city and country, and where they have traveled are very important to them.⁴ Likewise, their dignity, honor, and reputation are of paramount importance, and they spare no effort to protect them. Arabs tend to behave in a way that will create a good impression on others.⁵ Loyalty to one’s family takes precedence over personal needs. Social class and family background constitute the major determining factors of personal status, followed by individual character and achievement. As with other cultures, Arabs place great importance on education and learning; many educated people of the Arab world speak several languages, including French and English, in addition to their native tongues.

Religion also plays a large part in Arab culture. While Islam is the primary religion, the Arab world consists of Christians and Jews, as well as Bahais, Alaouis, and Zoroastrians. Nevertheless, in this region of the world, God or Allah, plays a vital role, and

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almost everyone acknowledges his power and has some sort of religious affiliation. Muslims tend to believe that humans cannot control all events; some things depend on God (i.e., fate). Religious piety constitutes one of the most admirable characteristics in a person and, unlike most Western governments, a large number of Muslims believe that there should be no separation between “church and state,” the secular and the religious. They believe that religion should be taught in schools and promoted by governments because Islam encompasses the social, as well as the spiritual.⁶

Similar to other cultures, Arabs are generous, humanitarian, polite, and loyal people with a rich cultural heritage dating back thousands of years, as illustrated by their contributions to religion, philosophy, literature, medicine, architecture, art, mathematics, and the natural sciences.⁷ Nevertheless, many Arabs feel that Westerners have misunderstood and wrongly characterized them; they often feel neglected, ignored, or even exploited. For many Arabs, the experience of the Palestinians represents the most painful and obvious example of Western indifference or arrogance. Many Arabs view the creation of Israel as the capricious imposition of a Jewish state, by the West, at the expense of the Palestinian people, causing their migration (or as they term, diaspora) throughout the Middle East.⁸ Additionally, many Arabs perceive Westerners as culturally hegemonous, with the propensity to weaken traditional family ties, as well as social and religious values, a potentially corrupting influence on traditional Arab society.⁹

The male-female relationship for many Arabs remains an important issue in the Middle East. For Arab men, especially those from very traditional backgrounds, discussing business with a woman present may make them ill at ease. At the same time, an Arab woman’s tradition may inhibit her from discussing matters with men who are not family members. Even something like shaking hands with

a person of the opposite sex is viewed negatively by some Arabs (mostly extremists) unless body language implies otherwise. Some believe that if an Arab woman offers to shake hands, it is permissible, but a man never should extend his hand to a veiled woman. Some Muslim men (mostly extremists) will not shake a female’s hand unless she is part of his family.¹⁰

Law Enforcement Perspective

As with all cultures, the law enforcement approach to Arab-Americans should remain one of respect and dignity, with an appreciation for their historical, cultural, and life experiences. Many come from countries that have seen decades of war (Lebanon) or where capricious regimes have expelled them, which happened to many Palestinians after the Gulf War. Their perceptions of law enforcement often are tainted by these events and how they were treated overseas. For many Arab-Americans, a lingering fear exists that they are perceived as terrorists because they are Muslims, from the Middle East, or the fact that they dress differently.¹¹

Law enforcement officers need the assistance and cooperation of this vital community. Agencies can develop and encourage greater trust and cooperation between the Arab/Muslim commu-

nity and local, state, and federal law enforcement. As with most immigrant groups, Arab communities want to eliminate crime in their neighborhoods, they want to feel safe, they want their children to thrive, and they do not want to be associated with terrorism.

In general, the Arab community willingly assists in investigations. They respond to well-mannered, professional investigators. Oftentimes, they make their homes a comfortable place to conduct interviews by offering tea or coffee and even generous amounts of food. This represents their way of showing hospitality and congeniality. In fact, partaking of refreshments often leads to more open and extended conversations, which, in turn, may prove beneficial to both the Arab and law enforcement communities. Such

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Agencies can develop and encourage greater trust and cooperation between the Arab/Muslim community and...law enforcement.
”

situations may require more time and patience because Arabs usually prefer not to “talk business” right away, but engage in friendly conversations first.

To this end, officers should avoid contacting Arab/Muslims on religious holidays or during prayers (devout Muslims pray five times per day and weekly communal prayer is at noon on Fridays).¹² Very little eye contact should occur between male law enforcement officers and Arab females. For example, the head of an Arab family scolded officers because they repeatedly visually scanned the man’s daughters as they entered the room. Law enforcement officers should refer to the family in the collective, not individually, because for many Arabs, the family constitutes a very private matter, with daughters and wives receiving special considerations.

While in Arab/Muslim homes, law enforcement officers should be respectful of the family hierarchy.

They should avoid slouching in chairs or, in particular, baring the soles of their shoes to their hosts. This may not seem important to Westerners, but it is very important to many Arabs.

Similarly, shame often becomes a bigger factor than guilt. When possible, officers should conduct interviews in private, allowing for the person to save face if caught in a lie. Investigators can question inconsistencies, but they must offer the interviewee room to maneuver and save face so that they are not shamed into not further responding or having to lie in front of others.

Conclusion

Law enforcement officers should remain sensitive to various ethnic groups. They can influence and shape perceptions by professional comportment. Interviewees often willingly tell officers about their backgrounds and their lives. This information can

Additional Resources

- Roger E. Axtell, *Gestures: The Do's and Taboos of Body Language Around The World* (New York, NY: John Wiley & Sons, Inc., 1991).
- Daniel C. Diller and John L. Moore, eds., *The Middle East* (Washington, DC: Congressional Quarterly Inc., 1994).
- Elizabeth W. Fernea, *Guests of The Sheik: An Ethnography Of An Iraqi Village* (New York, NY: Anchor Books, 1965).
- Bernard Lewis, *The Middle East: A Brief History of The Last 2,000 Years* (New York, NY: Scribner, 1995).
- Desmond Morris, *Bodytalk: The Meaning of Human Gestures* (New York, NY: Crown Trade Paperbacks, 1994) and *Man Watching* (New York, NY: Crown Publishers, 1980).
- Desmond Morris, et. al., *Gestures* (New York, NY: Scarborough Book, 1995).
- Terri Morrison, Wayne A. Conaway, and George A. Borden, *Kiss, Bow, or Shake Hands: How to Do Business in Sixty Countries* (Holbrook, MA: Adams Media Corporation, 1994).
- Charles D. Smith, *Palestine and the Arab-Israeli Conflict*, 3rd ed. (New York, NY: St. Martin's Press, 1996).
- William Spencer, ed., *Global Studies: The Middle East* (Guilford, CT: Dushkin Publishing Group/Brown & Benchmark Publishers, 1996).

prove educational and enriching, enhance communication, establish empathetic channels, and prepare officers for the next interview where knowledge of the region and customs oftentimes can offer additional investigative opportunities and improve relations between the law enforcement agency and the cultural group.

As terrorism investigations continue, officers involved in these types of investigations should receive additional training or read relative literature to enhance their abilities to deal with this growing community. They will enrich their understanding of a diverse and interesting people, though often misunderstood. The Arab community deserves law enforcement's best efforts and protection, which can be accomplished ably with understanding, dignity, and respect. ♦

Endnotes

¹ The author based this article on his years of analyzing the effects of culture on human behavior and personal experience as an investigator.

² Margaret K. Nydell, *Understanding Arabs: A Guide for Westerners* (Yarmouth, ME: Intercultural Press, Inc., 1996), 20.

³ *Ibid.*, 12, 20.

⁴ Fouad Ghorra, *The Arab World* (unpublished manuscript), (Tampa FL).

⁵ *Supra* note 2, 21.

⁶ *Supra* note 2, 19.

⁷ *Supra* note 2, 22.

⁸ Roy R. Anderson, Robert F. Selbert, and Jon G. Wagner, *Politics and Change in the Middle East: Sources of Conflict and Accommodation*, 4th ed. (Englewood Cliffs, NJ: Simon and Schuster, 1993).

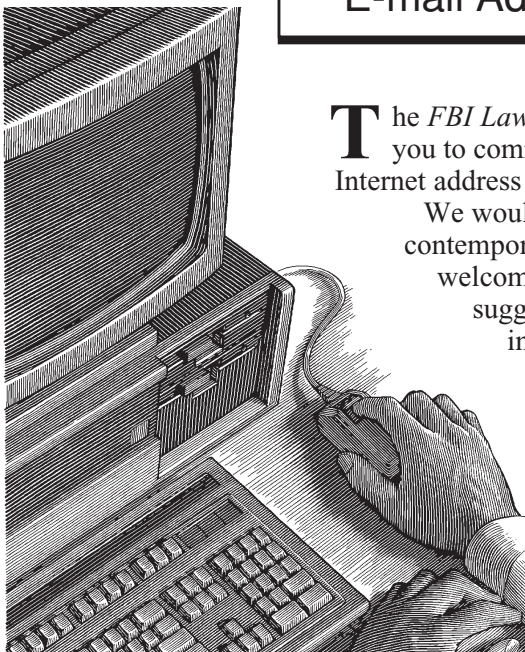
⁹ *Supra* note 2, 22.

¹⁰ *Supra* note 4.

¹¹ *Supra* note 2, 24.

¹² John Sabini, *Islam: A Primer*, revised ed. (Washington, DC: Middle East Editorial Associates, 1990), 16.

The *Bulletin's* E-mail Address



The *FBI Law Enforcement Bulletin* staff invites you to communicate with us via e-mail. Our Internet address is leb@fbiacademy.edu.

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Reflections on September 11, 2001

The FBI Law Enforcement Bulletin presents two speeches delivered in the wake of the tragic events of September 11, 2001. They aptly demonstrate the immense impact that the attacks had on the lives of all Americans throughout the country. They also reveal a change in the nation's perspective as illustrated by Sergeant Gustafson's observations after the tragedies, "Over the weeks that followed, our class focus was repeatedly drawn to the need for domestic homeland security in contrast to our national ideal of individual liberties."

Freedom

By Michael J. Hunter

Freedom...freedom is why most of our ancestors came to this country. While others came in bondage, we fought a terrible war to free the slaves and keep the nation together. We have the freedom to speak our minds, the freedom to write what we believe. We have freedom from tyrants and despots, the freedom to live where we want, the freedom to work at what we love. We have the freedom to send our daughters to school and the freedom for women to go out in public. Women have the freedom to go without a veil or the freedom to wear it if they want. And, for many, there is the freedom to worship—as a Muslim, a Jew, a Buddhist, or a Christian—or not to worship at all.

Freedom...the United States of America celebrates the freedom to live, the freedom to dissent, and the freedom to make mistakes. More than 5,000 Americans and many foreign nationals in New York City were freely and innocently making a living in the World Trade Center September 11th. A group of well-funded, narrow-minded disciples of the devil usurped their freedom to exist by murdering them, wantonly destroying families, buildings, aircraft, and businesses. Their lives were *taken* from them!

Then, some groups of people stepped into history against all odds to save others; strangers, some riding hijacked airliners, some working in the damaged buildings, many emergency medical technicians. Many were employees of the New York City Transit Police, the New York City Fire Department, and the New York City Police Department.

The day was one of powerful televised images that none of us will forget, but it was the sounds that made such an impression on me. The sound of a 200-ton aircraft hurtling at over 300 miles per hour 1,000 feet above Broadway to its doom. The sound of a 110-story building as it collapsed to the ground. The voice of a physician carrying a video camera as the building came down saying, "Here it comes...Oh, God, I hope I live...I'm sorry I came...." Then, a pause in blackness so that I thought the tape was ended. Then, in the blackness, his voice continued, "It's a sunny day, but it's black as night.... Wait! There's a bit of light." As the doctor staggers to his feet emerging into the gloom and dust and asks one person if he is all right, there is another sound—actually dozens of sounds. Fweep, fweep, fweep. Sounds that I couldn't at first make out. The NYPD cruisers were sitting there covered in debris, windows smashed, and people staggering away bewildered. Still that sound—fweep, fweep, fweep. It suddenly came to me what I was hearing. The sounds of "man-down" alarms coming from all of those smashed emergency vehicles and from the firefighters' emergency packs as if they were crying for the dozens of men and women who had just perished.

Freedom...freedom is what it is all about. America stands for freedom. Those hundreds of firefighters, police officers, and other volunteers chose freely to go in harm's way. They could have gone the other way, but they did not! Their lives were not taken. They were *given!* *Freely!* No greater love has a person than they will give their life for another.

No firefighter or police officer goes to work knowing that he or she will be called upon that day to give it all. These people want to come home at the end of the day. Their families want them home. Our officers did not sign up to fight using the rules of war, but they will accept any challenge. Certainly, a war against terrorism is worth winning. And, unfortunately, this time we are on the front line.

Almost certainly, the free will suffer more losses. The police and firefighters will continue to stand on the front line in America and do their part. They will stand up to this not-so-new hazard among their

already vast number of duties. There is a reason for this—to help keep the citizens of this nation free. Those who died did their part. Now, as we remember them, it is for the rest of us living to dedicate ourselves to stamping out this evil. ♦

Lieutenant Hunter, the Ohio State Highway Patrol post commander in Athens, Ohio, delivered this speech at a September 25, 2001, memorial service held at the Athens County fairgrounds for the public safety employees who died in the attacks on the World Trade Center in New York City on September 11, 2001.



The Front Line Is Ours

By Bryon G. Gustafson

A short time ago, we came together unacquainted, yet interrelated in our grand system of justice; an order tasked with the ponderous and foremost burden of humanity—the engagement of evil by good. Today, we part compelled and united in our striving, not by pretense or illusion but by dedication to duty, a tradition of honor, and esprit de corps. Our charge has been strengthened by our mutual resolve, zealous benevolence, and the very truths we hold self-evident—none of which will be shaken.

Still, upon return, there will be those in our communities who believe our times and future uncertain. They doubt the duration of America's bountiful blessings from above. They bear witness to failing families, erred education, and misguided morals, and, because of their consciousness, they cower and cringe. While this is comprehensible, now is not a time for reticence. It is a time for response. My friend the late Dr. W.T. Purkiser said, "To suppose that unruffled seas and blue skies are a token of divine approval is the cruel conceit of those with whom all things go well."¹ He further remarked, "An untested faith is an unsure faith. Faith grows strong

and steady only as it is exercised against the hard pressures of adverse circumstances."²

The adverse circumstances are here my friends. But, make no mistake, they always were; only now, the manifestation is distinct and our realization anew. Has our faith been misplaced for the past 275 years? Does it lie dormant? I think not. Benjamin Franklin said, "Those things that hurt, instruct." I say, let us feel the pain, find the lesson, and fight the good fight. The battle against evil, in all of its guises, begins at home. And so, the front line is ours.

There always will be evil in the world. Of this I have no doubt, but, likewise, I lack fear. M. Scott Peck insightfully wrote, "There really are people, and institutions made up of people, who respond with hatred in the presence of goodness and would destroy the good insofar as it is in their power to do so. They hate the light and instinctively will do anything to avoid it, including attempting to extinguish it. They will destroy the light in their own children and in all other beings subject to their power. Evil people hate the light because it reveals themselves to themselves. They hate goodness because it reveals their badness;

they hate love because it reveals their laziness. They will destroy the light, the goodness, the love in order to avoid the pain of such self-awareness.”³ I, for one, am not inclined to afford them the luxury to be evil and ignorant. Instead, I urge it to be our resolve to use each and every day given to abate evil and stay the course for good. This enterprise might seem daunting were we not constituents of such a capable and true assemblage. By no means will our endeavor be in vain.

I am drawn to the words of Supreme Court Justice Benjamin N. Cardozo. “The future is yours. We have long been called to do our parts in an ageless process... you will be here to do your share and to carry the torch forward. I know that the flame will burn bright while the torch is in your keeping.”⁴ Our process is justice. It is the “American Dream.” Not only do we guard the dream—the right to life, liberty, and the pursuit of happiness—we live it! And, the torch? It is the fire that burns in our hearts, minds, and souls. We cannot help but to advance it—day by

day, generation to generation—and as long as breath passes through our lips, our future is certain, staunch, and secure. Our light will shine, and the cause of good will prevail. ♦

Endnotes

¹ W.T. Purkiser, *When You Get to the End of Yourself* (Kansas City, KS: Beacon Hill Press, 1970), 12.

² *Ibid.*, 18.

³ M. Scott Peck, *The Road Less Traveled: A New Psychology of Love, Traditional Values and Spiritual Growth* (New York, NY: Simon and Schuster, 1978), 278.

⁴ Benjamin N. Cardozo, *The Nature of the Judicial Process* (New Haven, CT: Yale University Press, 1921), 179-180.

Sergeant Gustafson, risk manager for the Sutter Creek, California, Police Department, delivered this commencement speech on October 19, 2001, as the president of the 113th graduating class of the Delinquency Control Institute at the University of Southern California School of Policy Planning and Development in the Center for the Administration of Justice.

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Measuring the Deterrent Effect of Enforcement Operations on Drug Smuggling, 1991-1999 examines the effect of interdiction and other drug enforcement activities on cocaine trafficking. High-level cocaine smugglers in federal prison were interviewed to learn what factors affected their decision-making process. This Office of National Drug Control Policy report discusses how these factors vary by method and role of the smuggler. Interviews concluded that the greatest deterrents were threat of informants, prison terms of 25 years or longer, and the ability to be convicted without actually possessing a drug. Additionally, the report presents statistical data on counterdrug operations' effects on cocaine prices in the United States and their effect on displacing drug trafficking activity from one transportation route and method to another. This 172-page report (NCJ 189988) is available electronically at <http://www.whitehousedrugpolicy.gov>.

Law Enforcement

The Bureau of Justice Assistance (BJA) presents *Recruiting and Retaining Women: A Self-Assessment Guide for Law Enforcement*. This BJA bulletin highlights what will help federal, state, and local law enforcement agencies examine their policies and procedures to identify and remove obstacles to hiring and retaining sworn and civilian women employees at all levels in their respective organizations. Research has shown that hiring and retaining more women in law enforcement may be an effective means of addressing the problems of excessive force and citizen complaints. This 8-page bulletin (NCJ 188157) is available electronically at <http://www.ncjrs.org/textfiles1/bja/188157.txt> or by contacting the National Criminal Justice Reference Service at 800-851-3420.

Juvenile Justice

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) presents *Hybrid and Other Modern Gangs* (NCJ 189916), which describes the nature of modern youth gangs, particularly hybrid gangs. Hybrid gang culture is characterized by mixed racial and ethnic participation within a single gang, participation in multiple gangs by a single individual, vague rules and codes of conduct for gang members, use of symbols and colors from multiple—even rival—gangs, collaboration by rival gangs in criminal activities, and the merger of smaller gangs into larger ones. Thus, hybrid gang customs are clearly distinguished from the practices of their predecessors. This OJJDP Youth Gang Series Bulletin draws on survey data, research findings, and field reports to detail these critical differences, reviewing such issues as gang stereotypes and gang migration in the hybrid gang process. It is available electronically at <http://ojjdp.ncjrs.org/pubs/gangsum.html#189916> or by contacting the National Criminal Justice Reference Service at 800-851-3420.

Constitutional Rights to Counsel During Interrogation

Comparing Rights Under the Fifth and Sixth Amendments

By KIMBERLY A. CRAWFORD, J.D.

© PhotoDisc



The U.S. Supreme Court has recognized two constitutional sources of the right to counsel during interrogation. One source is the Court's interpretation in *Miranda v. Arizona*¹ of the Fifth Amendment right against compelled self-incrimination;² the other is contained within the language of the Sixth Amendment.³ Because the protections afforded individuals under these constitutional provisions differ, it

is critical that law enforcement officers understand the provisions and appropriately apply their protections.

This article examines both the Fifth and Sixth Amendment rights to counsel and the underlying principles that support these rights. This article also reviews the Supreme Court's interpretation of these rights and the effects they have on a law enforcement officer's ability to engage in interrogation

during various stages of a criminal investigation. Finally, suggestions are offered regarding policy considerations that incorporate the protections of the rights to counsel and optimize the potential of obtaining statements that are admissible in court.

Purpose of the Protections

Understanding the protections of the Fifth and Sixth Amendment rights to counsel and the

concomitant procedural rules begins with an appreciation of the principals that underlie those rights. In *Miranda*, the Supreme Court concluded that custodial interrogation creates an inherently coercive environment that violates the Fifth Amendment protection against compelled self-incrimination. In an effort to reduce the inherent coerciveness, the Court created the now famous *Miranda* warnings⁴ and required the government to give those warnings and obtain waivers prior to custodial interrogation. The warnings are designed in part to safeguard the right against compelled self-incrimination by ensuring custodial subjects that, if they choose to waive the right to silence, they will not have to face the government alone; they may have the assistance of counsel during interrogation.

The Sixth Amendment protections, on the other hand, do not relate to the coercive atmosphere of custodial interrogation. Rather, the provisions of the Sixth Amendment are intended to ensure fair prosecutions. Thus, once a criminal case has been initiated,⁵ a defendant has a right to the assistance of counsel at all critical stages⁶ of that prosecution.

Application of the Rights to Counsel

Because the impetus for the creation of the *Miranda* rights was the Supreme Court's concern that *custodial interrogations* are intrinsically coercive, the right to counsel contained within *Miranda* applies only when the subject of *interrogation* is in *custody*. The same concern prompted the Supreme Court to

determine custody, not from the perspective of the law enforcement officer but, rather, that of the reasonable subject.⁷ Whether or not law enforcement officers believe there is probable cause to arrest is irrelevant to the issue of custody. The determination is based on whether a *reasonable* person under the circumstances would sense the coerciveness of the environment that *Miranda* was designed to protect against.

Similarly, the Supreme Court has recognized an exception to the *Miranda* requirement when a cellmate informant, either an individual in custody or an undercover law enforcement officer, conducts the "custodial interrogation."⁸ Because the subjects of cellmate questioning do not know that the government is interrogating them, they cannot feel the coerciveness *Miranda* was designed to protect against. Consequently, the practice of using cellmate informants does not contravene the *Miranda* rule.

The Sixth Amendment right to counsel, however, does not hinge on the issue of custody. Because the objective of the amendment is to guarantee a fair prosecution, the right to counsel under the Sixth Amendment does not attach until the government signals its commitment to prosecute by the initiation of adversarial judicial proceedings.⁹ Once proceedings have begun "by way of formal charges, preliminary hearing, indictment, information or arraignment,"¹⁰ the defendant, whether in custody or not, has a right to counsel under the Sixth Amendment that has no recognized exceptions.

Scope of the Protections

The scope of the protections of the Fifth and Sixth Amendment rights to counsel likewise reflect the principles underlying those protections. Because the perceived coerciveness of custodial interrogation spawned the *Miranda* rule, the right to counsel under *Miranda* protects

“

...once a criminal case has been initiated, a defendant has a right to the assistance of counsel at all critical stages of that prosecution.

”



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

subjects of custodial interrogation regardless of the topic of interrogation. Whether subjects are questioned about the crimes they were arrested for, or totally unrelated criminal activities, is inconsequential because the rights under *Miranda* are not crime specific.

The Sixth Amendment right to counsel, on the other hand, is crime specific. Because the design of the amendment is to ensure fairness in the prosecution, the protections of the amendment extend only to the crimes with which the subject has been charged. Other uncharged, unrelated crimes, even those growing out of the same fact pattern as the crime or crimes charged, do not fall within the protections of the Sixth Amendment.¹¹

Waiver of Rights

In one respect, the rights to counsel under both the Fifth and Sixth Amendments are identical. The Supreme Court has placed on the government the burden of proving a knowing, intelligent, and voluntary waiver of the right to counsel, regardless of its origin.¹²

Invocation of the Right to Counsel

Unlike the waiver, the methods and burdens of proving an invocation of the right to counsel under the Fifth and Sixth Amendments vary greatly. With respect to the Fifth Amendment right, the Supreme Court has held that once the government proves a knowing, intelligent, and voluntary waiver of the right, the burden shifts to the defense to prove a subsequent clear and unequivocal invocation of the right to counsel.¹³ If a custodial subject

makes a vague reference to counsel after initially waiving the *Miranda* rights, it is insufficient to invoke the right to counsel and the government has no obligation to ask clarifying questions.¹⁴

An invocation of the right to counsel under the Sixth Amendment neither has to be clear nor unequivocal. The Supreme Court has held that a defendant who requests or accepts the appointment of counsel is, in fact, invoking the protections of the Sixth Amendment.¹⁵ Thus, a defendant may, without intending or wanting to, invoke the Sixth Amendment right to counsel.

“
...even unintentional violations of *Miranda* that are viewed as grossly negligent may result in successful civil suits against law enforcement officers.
”

Duration of Protection

The duration of the protections afforded an individual invoking the right to counsel depends on which right is invoked. In *Minnick v. Mississippi*,¹⁶ the Supreme Court held that an invocation of the right to counsel under *Miranda* endures as long as the individual invoking that right remains in continuous custody. Unless defense counsel is present, this protection precludes

government-initiated interrogation of the subject for the duration of uninterrupted custody.

The *Miranda* protection is neither crime nor agency specific. An invocation of the *Miranda* right to counsel does not only impede future interrogations by the law enforcement agency procuring the invocation. Rather, it precludes *any* representatives of the government from initiating interrogation without the presence of counsel.

As a result of the rule in *Minnick*, an invocation of the Fifth Amendment right to counsel provides indeterminate protection. Custodial subjects who invoke the *Miranda* right to counsel and, thereafter, are released on bond or bail lose the protection of their invocation and may be subjected to government-initiated interrogation at a later date. However, invoking subjects who remain in custody pending trial, or are convicted and sentenced to prison without ever being released from custody continue to benefit from the protections of their invocations for the entire term of imprisonment. Even if they commit crimes while in prison, subjects who invoke the *Miranda* right to counsel and remain in continuous custody cannot be subjected to government-initiated interrogation without their attorney present.

Because the protections of the Sixth Amendment are not related to custody, the duration of an invocation of the Sixth Amendment right to counsel is much more predictable. The protections of the Sixth Amendment cease when the prosecution is completed or charges are dismissed. Once invoked, the government cannot

initiate interrogation regarding charged offenses through the remainder of the prosecution unless defense counsel is present. However, once the prosecution is concluded or terminated, there are no lingering effects of an invocation under the Sixth Amendment.

It is important to note that while invocations of the right to counsel under both the Fifth and Sixth Amendments limit government-initiated interrogations, the Supreme Court has held that the protections of both amendments can be waived.¹⁷ Thus, while the government may not initiate interrogation under certain circumstances, individuals who previously have invoked either a Fifth or Sixth Amendment right to counsel are able to change their minds and initiate interrogation without the presence of counsel.¹⁸

Effects of Violations

The Supreme Court has held that statements taken in violation of either the Fifth or Sixth Amendment right to counsel cannot be used in the government's case in chief or as the principal cause of action. However, such statements are admissible to impeach defendants that take the stand to testify at trial.¹⁹ The practical effect of obtaining incriminating statements from defendants in violation of their rights to counsel, therefore, is that it prevents them from taking the stand in their own defense.

Although obtaining valuable impeachment material is a common goal of law enforcement, officers risk personal liability if they obtain such material through intentional or grossly negligent violations of the

Constitution.²⁰ Violations of the Sixth Amendment right to counsel have long been recognized as the basis for civil suits against law enforcement officers. Similarly, *intentional* violations of the *Miranda* rights also have been viewed in the past as sufficient to support civil actions against officers. Most recently, the Supreme Court recognized the *Miranda* rule as having reached "constitutional proportions."²¹ Therefore, even unintentional violations of *Miranda* that are viewed as grossly negligent may result in successful civil suits against law enforcement officers.



Policy Considerations

At times, the law as it relates to the Fifth and Sixth Amendment rights to counsel seems like a veritable quagmire. Through training and well-crafted policies, however, many of the common mistakes that lead to the suppression of incriminating statements can be avoided.

Because of the disparity in the protections afforded individuals who invoke their rights to counsel under either the Fifth or Sixth

Amendment, law enforcement officers must be well trained to recognize which right is being invoked and what limitations the invocation imposes on future investigations. Because of time constraints and other considerations, consulting with prosecutors during the course of interrogations may not always be a viable option.

Department policy makers should recognize that individuals who invoke their rights to counsel under *Miranda* are afforded considerably greater protection than those who invoke their right to silence.²² Consequently, department *Miranda* policies and forms should be drafted in a manner that makes it clear, in the event of an invocation, which right is being invoked.

Moreover, law enforcement agencies should adopt policies that require detailed record keeping regarding subjects who invoke their rights. Keeping detailed records will assist other officers, both within and outside the agency, who have an interest in interrogating the subject. Whenever possible, records should clearly indicate—

- whether the subject invoked the right to silence or counsel under *Miranda*;
- whether the subject was in custody at the time of invocation;
- whether there has been any break in custody;
- whether adversarial judicial proceedings have been initiated;
- what are the specific charges filed against the subject;

- whether the subject requested or accepted the appointment of counsel;
- the names and contact numbers of individuals in the prosecutors' offices that can provide information regarding the status of the prosecutions; and
- the names and contact numbers of the subjects' defense counsel.

Although the confusion inherent in having two constitutional rights to counsel may never be eliminated, training and policies designed to address the problems and provide the necessary information for law enforcement officers to make informed decisions may reduce the number of statements suppressed and protect law enforcement officers from the potential of civil liability. ♦

Endnotes

- ¹ 384 U.S. 436 (1966).
- ² U.S. CONST. amend. V provides in part: "No person...shall be compelled in any criminal case to be a witness against himself...."
- ³ U.S. CONST. amend. VI provides in part: "In all criminal prosecutions, the accused shall enjoy...the assistance of counsel for his defence."
- ⁴ Prior to interrogation, *Miranda* requires that custodial suspects be advised of the right to remain silent, that any statements made may be used against them at trial, that they have the right to have an attorney present during questioning, and, if they cannot afford one, an attorney will be appointed for them.
- ⁵ *Kirby v. Illinois*, 406 U.S. 682 (1972).
- ⁶ The Supreme Court has held that any attempt by the government to "deliberately elicit" information from an accused is a "critical stage" of the prosecution. See, *Brewer v. Williams*, 430 U.S. 387 (1977).
- ⁷ *Stansbury v. California*, 511 U.S. 318 (1994).

⁸ *Illinois v. Perkins*, 496 U.S. 292 (1990). Using the same rationale as the Supreme Court in *Perkins*, lower courts have extended the exception to noncustodial individuals cooperating with police by questioning in-custody suspects who are unaware of the police affiliation. See, e.g., *Alexander v. Connecticut*, 917 F.2d 747 (CA2 1990), cert. denied, 111 S. Ct. 2831 (1991).

⁹ *Supra* note 5.

¹⁰ *Supra* note 5, at 689.

¹¹ *Texas v. Cobb*, 121 S. Ct. 1335 (2001). In *Cobb*, the Supreme Court found that the Sixth Amendment right to counsel did not preclude officers from questioning a suspect who had previously invoked his Sixth Amendment right to counsel on a burglary charge about a murder that occurred during the charged burglary.

¹² *Miranda and Fareta v. California*, 422 U.S. 806 (1975).

¹³ *Davis v. United States*, 114 S. Ct. 2350 (1994).

¹⁴ *Id.*

¹⁵ *McNeil v. Wisconsin*, 111 S. Ct. 2204 (1991).

¹⁶ *Minnick v. Mississippi*, 111 S. Ct. 486 (1990).

¹⁷ *Edwards v. Arizona*, 101 S. Ct. 1880 (1981) and *Michigan v. Jackson*, 106 S. Ct. 1404 (1986).

¹⁸ When a subject reinitiates interrogation, it is important to document that reinitiation and obtain a waiver of rights indicating the subject's willingness to proceed without counsel.

¹⁹ See *Michigan v. Harvey*, 494 U.S. 344 (1990) and *Oregon v. Hass*, 420 U.S. 714 (1975).

²⁰ 42 U.S.C. §1983 or *Bivens v. Six Unknown Federal Narcotics Agents*, 102 S. Ct. 2727 (1982).

²¹ *United States v. Dickerson*, 120 S. Ct. 2326 (2000).

²² In *Michigan v. Mosley*, 423 U.S. 96 (1975) the Supreme Court held that reinterrogation of individuals who invoke their right to silence is permissible if officers wait a reasonable period of time. In *Mosley*, the Court deemed 2 hours reasonable.

Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

Wanted: Notable Speeches

The *FBI Law Enforcement Bulletin* seeks transcripts of presentations made by criminal justice professionals for its Notable Speech department. Anyone who has delivered a speech recently and would like to share the information with a wider audience may submit a transcript of the presentation to the *Bulletin* for consideration.

As with article submissions, the *Bulletin* staff will edit the speech for length and clarity, but, realizing that the information was presented orally, maintain as much of the original flavor as possible. Presenters should submit their transcripts typed and double-spaced on 8 1/2- by 11-inch white paper with all pages numbered. When possible, an electronic version of the transcript saved on computer disk should accompany the document. Send the material to:

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The Bulletin Notes

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



Deputy San Nicolas

Deputy Randy San Nicolas of the Adams County, Colorado, Sheriff's Department responded to a call at an apartment complex regarding an individual sleeping in a car. Upon arrival, he woke the sleeping male, who advised Deputy San Nicolas that he was homeless. After the subject provided his name and date of birth, Deputy San Nicolas returned to his patrol car to check the information. An apartment employee approached him and advised that the subject stated he was going to blow himself up. Deputy San Nicolas returned to the subject's car and saw that the subject had opened the flow regulator to a portable propane tank and was sitting inside the car with the tank next to him. He had rolled up all of the car windows, locked the car doors, and held a cigarette lighter in his hand. Because numerous citizens were in the immediate vicinity, Deputy San Nicolas began to evacuate the area. Then, after radioing for additional law enforcement and emergency services, he attempted to begin a negotiated conversation with the subject, who held a lighter and yelled that he was not going to cooperate and he was not going to jail. The subject threatened to kill himself and Deputy San Nicolas by blowing up the car. At this time, as the deputy stood 15 feet from the car, the subject lit the lighter and the interior of the car exploded. The subject opened the driver's side door and got out carrying the propane tank. The subject's clothing was on fire and the propane tank had flames on its exterior. Deputy San Nicolas ran to the subject and tackled him to the ground. The propane tank was knocked out of the subject's hand. Assistance arrived and helped Deputy San Nicolas extinguish the subject's clothing fire and place him in custody. Investigation later revealed several outstanding warrants for the subject's arrest and a suicide note inside his car. Deputy Randy San Nicolas' professionalism, courage, and ability to remain calm in a high-risk situation saved his own life and the subject's life and averted danger to numerous innocent citizens.



Officer Kline

Officer William Kline of the Richard Stockton College Police Department in Pomona, New Jersey, received a call to respond to an industrial accident. Upon arrival, Officer Kline found that the walls of a 15-foot construction trench had collapsed on a worker. Disregarding his own safety, Officer Kline entered the hole and attempted to dig free the trapped worker, even as additional dirt fell into the hole. As other construction employees stabilized the trench and firefighters arrived on the scene, Officer Kline was able to reach the trapped worker and extricate him. Unfortunately, despite Officer Kline's exemplary actions to save another's life, the worker perished from his injuries.

Nominations for the *Bulletin Notes* should be based on either the rescue of one or more citizens or arrest(s) made at unusual risk to an officer's safety. Submissions should include a short write-up (maximum of 250 words), a separate photograph of each nominee, and a letter from the department's ranking officer endorsing the nomination. Submissions should be sent to the Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

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Patch Call



The center of the New York, New York, Police Department patch features a shield emblazoned with the sails of a windmill, representative of the original Dutch colonists of New York. Supporting the shield on the left is a sailor depicting the early shipping trade in the city's great harbor. A Native American, portraying the original inhabitants of Manhattan, stands to the right. The five stars above the eagle symbolize the boroughs that comprise New York City. After the 9-11 tragedy, the department added the stars and stripes, date, and an eagle.



The memorial patch of the Port Authority of New York and New Jersey Police Department features the number 37, depicting the number of police officers who lost their lives in the tragic events of 9-11-01. The World Trade Center Towers are shown, and the American flag represents America uniting. The Port Authority's colors are depicted by the patch's blue background and gold trim. The memorial patch is worn on the right sleeve, and the department's original patch is worn on the left sleeve.