

# The Police Chief

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DECEMBER 2013

## IACP 2013

Philadelphia, Pennsylvania  
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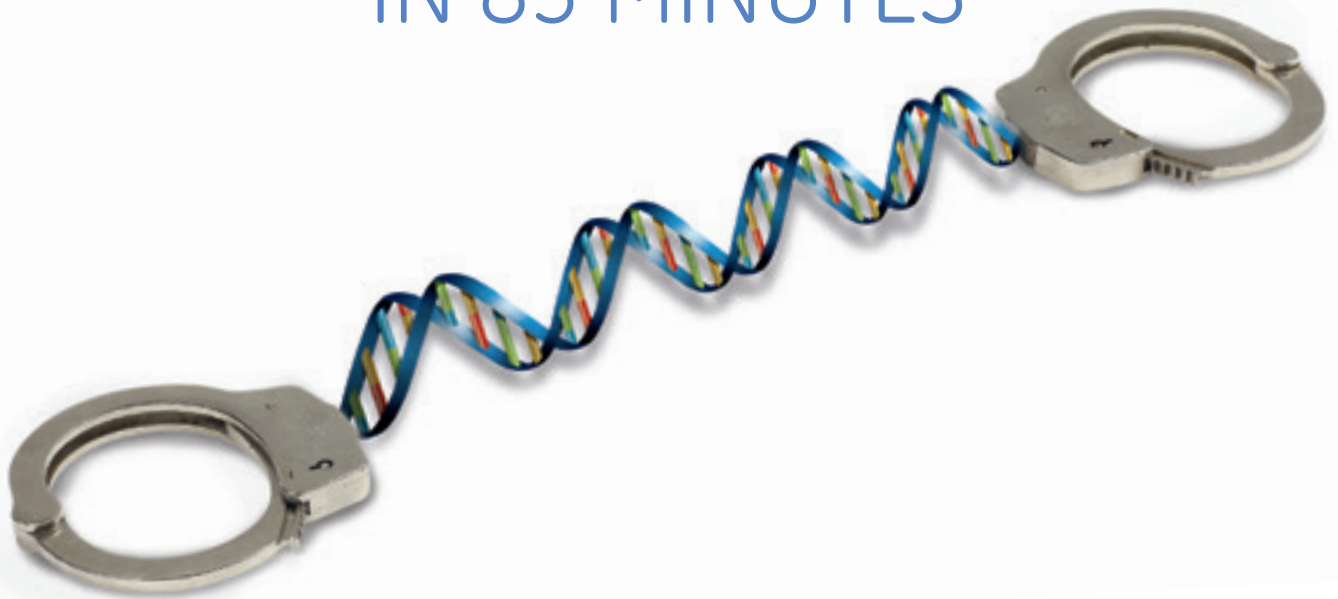
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imagination at work



The 120th annual IACP conference in Philadelphia, Pennsylvania, was a great success, providing over 13,000 attendees with the chance to network, share knowledge, socialize, and experience firsthand the new advances in police services and products.

The cover images feature events at the IACP 2013 Conference and Expo. Cover photographs by Convention Photo by Joe Orlando, Inc.

# The Police Chief

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## ARTICLES

- |   |                            |
|---|----------------------------|
| 27 Report of the 120th Annual IACP Conference: Philadelphia | 38 Special Events          |
| 28 Board of Officers  | 40 Thank You, Philadelphia |
| 30 General Assemblies                                       | 41 Resolutions             |
| 32 IACP Business  | 44 Life Members            |
| 34 Education  | 78 Exhibitor Update        |
| 36 Exhibit Hall   |                            |

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- |  |  |
|--|--|
| 48 The U.S. Department of Justice Community Relations Service: Assisting Communities in Resolving Conflicts and Restoring Peace<br>By Grande Lum, Francis Amoroso, and Rosa Melendez | 62 Connecting the Dots: The Challenges of Identifying and Responding to Stalking<br>By Paul Schnell and Michelle M. Garcia               |
| POLICE ETHICS SERIES: PART TWO OF FOUR   | MAJOR INCIDENTS  |
| 52 Ethical Defensibility: Using the Intelligence Led Policing Template to Avoid the Appearance of Unconstitutional Policing<br>By Thomas J. Martinelli and David L. Carter           | 66 Unconventional Crisis: Hyper Targeted Violence (HTV) in Hypercomplex Environments with Focus on Urban Terrain<br>By Dr. Rupali Jeswal |
| 58 Planning Ahead for Managing Victims and Their Families in Active Shooter Incidents<br>By Kathryn Turman   | 70 Red Teaming for Fusion Centers<br>By Matthew Miller, Caleb Campbell, and Leslie Gardner   |
|  | 80 Product Feature: Clothing and Accessories Make the Job Safer and Easier<br>By Scott Harris  |

## COLUMNS

- |   |   |
|---|---|
| 6 President's Message: Being Prepared for Active Shooter Incidents<br>By Yousry "Yost" Zakhary  | 12 Research in Brief: Vision 21: Transforming Victim Services<br>By John R. Firman      |
| 8 Legislative Alert: Boehner Rules out Action on Immigration Reform in 2013 and IACP Endorses Several Important Legislative Proposals<br>By Sarah Guy | 16 Chief's Counsel: Obesity as a Disability<br>By John M. (Jack) Collins                |
| 10 Officer Safety Corner: Officer Safety in Domestic Violence Responses<br>By Mark Wynn   | 20 From the Director: Cyber Training and Technical Assistance<br>By Denise E. O'Donnell |

## DEPARTMENTS

- |                            |                               |
|----------------------------|-------------------------------|
| 22 Advances & Applications | 88 Technology Talk            |
| 74 New Members             | 90 Index to Advertisers       |
| 82 Author Index            | 92 Highway Safety Initiatives |
| 85 Subject Index           |                               |

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## Being Prepared for Active Shooter Incidents

When I reflect back upon 2013, I think of how this year has been particularly devastating when it comes to active shooter incidents and violent attacks. These incidents are on the rise, and even more alarming, they seem to be getting more deadly. Active shooters seek out places of mass gatherings—our schools, shopping malls, airports, and movie theaters—with the goal of having a large and fatal impact. That is why it is imperative that your law enforcement agencies and communities are prepared with the knowledge they need to respond to and deter these events.

For those of you who attended the IACP 2013 Conference in Philadelphia, Pennsylvania, you are aware that a central focus of the conference was on strategies to help prevent, deter, respond, and recover from these critical and tragic incidents. Working closely with key partners from the Department of Justice (DOJ), Department of Homeland Security (DHS), Federal Bureau of Investigation (FBI), and chiefs of police who had firsthand experience dealing with these events, we conducted several workshops and panels on active shooter situations. Chief Michael Kehoe, Newton Police Department, Connecticut; Chief Daniel Oates, Aurora Police Department, Colorado; and Chief Todd Evans, Fountain Police Department, Colorado, all shared their insights and recommendations on what agencies should do before and during an active shooter event.

U.S. Attorney General Eric Holder also spoke on this topic at the First General Assembly during IACP 2013. He highlighted the partnership between the FBI and the IACP to provide guidance to the first officers who arrive on the scenes of these crimes. Attorney General Holder elaborated on how the DOJ is placing increased emphasis on evaluating threats and certain individuals, in order to disrupt planned shootings and other violent attacks.

Tragically, even as the attorney general was delivering his remarks, the United States was being shocked by yet another active shooter incident at the Sparks Middle School in Nevada. Attorney General Holder noted that “between 2000 and 2008, the United States experienced an average of approximately five active shooter

incidents every year.” He went on to state that “since 2009, this annual average has tripled, and we have already seen at least 12 active shooter situations so far in 2013.” Sadly, those statistics have quickly become outdated. In addition to the Nevada shooting, the nation has already experienced two more active shooter incidents: the Garden State Plaza mall shooting and the devastating incident at LAX airport, bringing our current total to at least 15 incidents in 2013.

Although each one of these incidents is unique and the response and methods may vary, it is imperative that we work together to share lessons learned and develop an aggressive national response and prevention model that will allow law enforcement agencies to prevent or mitigate the horror of active shooter situations.

To that end, the IACP National Law Enforcement Policy Center, in cooperation with the Bureau of Justice Assistance (BJA), is in the process of developing a Model Policy on Active Shooters. The Model Policy will build upon the lessons learned from previous active shooting

incidents, such as those at Columbine High School, Sandy Hook Elementary School, and the Aurora, Colorado, theater, and provide protocols for assessing the threat and performing rapid intervention tactics to limit serious injury or loss of life during situations where there is an active, ongoing deadly threat.

The Model Policy will address the fact that active shooters inflict casualties in rapid order, generally before officers or other emergency responders can even be summoned. In spite of this disadvantage, it has been recognized that even one or two armed officers can make a difference in the outcome of active shootings by taking swift but calculated individual or coordinated action. For example, during the Fort Hood, Texas, shooting, two officers in close proximity to the incident took immediate action that successfully stopped the threat. Given these and similar incidents, current thinking reemphasizes that, given proper justification as defined by law and departmental policy, taking immediate action during active shooter incidents, rather than waiting for specially equipped and trained officers, can save lives and prevent serious injuries. This policy emphasizes the fact that time lost by delayed action is likely to result in additional casualties. The IACP recommends that all officers receive active shooter training and consider training with the surrounding area first responders. We anticipate the release of the Model Policy on Active Shooter in the coming months, and I recommend you visit the IACP's National Law Enforcement Policy Center webpage for more information at [www.theiacp.org/policycenter](http://www.theiacp.org/policycenter).

The IACP stands ready to help. As we and our federal partners continue our work in this area, we want to make sure that you and your agencies are aware of the tools, training, and guidance that are already in place to help you respond to active shooter incidents and other critical threats. These include the following:

**IACP's Guide for Preventing and Responding to School Violence:** This guide was prepared in cooperation with the BJA, and provides a number of strategies and approaches for creating safer schools. In particular the report focuses on steps that law enforcement, teachers, administrators,



**Yousry “Yost” Zakhary, Director,  
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parents, students, and the community can take to prevent school violence. In addition, the report details critical recommendations related to threat assessment, crisis planning, and response during and after an incident. A copy of the report can be found at <http://www.theiacp.org/LinkClick.aspx?fileticket=MwvD03yXrME%3d&tabid=392>.

**Joint Countering Violent Extremism (CVE)**

**Portal:** DHS, in partnership with the FBI and the IACP, launched a Countering Violent Extremism (CVE) Training Resource web portal on the Homeland Security Information Network (HSIN). The purpose is to provide federal, state, local, tribal, territorial, and correctional law enforcement with the most current CVE training materials, case studies, analytic products, and other resources. The portal is restricted to law enforcement training only; to request access, email [CVEPortal@HQ.DHS.gov](mailto:CVEPortal@HQ.DHS.gov).

**DHS Active Shooter Program:** This program provides guidance for active shooter incidents. Available to both public and private sector employees, the DHS Active Shooter Program focuses on how to prevent and respond to active shooter situations. The program consists of a combination of in-person seminars, online training, an archived webinar viewable online at any time, and various pocket resources. More information can be found at <http://www.dhs.gov/active-shooter-preparedness>.

**DHS/FBI Joint Intelligence Bulletin: Recent Active Shooter Incidents Highlight Need for Continued Vigilance:**

The bulletin outlines some of the most common characteristics of active shooters identified between 2002 and 2012. This document is intended to help assist private sector security officials and federal, state, local, tribal, and territorial law enforcement in identifying protective and supportive measures relating to active shooters. A copy of the Joint Intelligence Bulletin can be accessed at <http://info.publicintelligence.net/DHS-FBI-ActiveShooters.pdf>.

**FBI's Behavioral Threat Assessment Center (BTAC):** The BTAC works daily with local law enforcement and others to assess individuals who may potentially be a threat and on the path to commit an act of violence.

The IACP will continue to work to create innovative best practices and model strategies for responding to gun violence of all kinds, particularly mass casualty shootings. These cowardly criminals often seek out the most defenseless targets: our children, the elderly, malls, and schools. The IACP wants to make sure that first responders are armed with the tools they need in order to safeguard the citizens and communities we are sworn to protect. ♦

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# Boehner Rules out Action on Immigration Reform in 2013 and IACP Endorses Several Important Legislative Proposals

By Sarah Guy, Manager, Legislative and Media Affairs, IACP

U.S. House of Representative's (House) Speaker John Boehner (R-OH) has ruled out any action in the House on immigration reform in 2013. This means the House will not consider the Senate-passed immigration reform bill (S. 744) or the House Democrat's immigration reform bill (H.R. 15).

Speaker Boehner's announcement came as no surprise, as he had repeatedly stated that he would not vote on any immigration overhaul bill or a conference report unless it had the support of the majority of the Republican Conference.

House Judiciary Committee Chairman Bob Goodlatte (R-VA) is writing a list of principles intended to guide the Republican Party on how to enact immigration reform. These principles will likely provide a framework for further discussions in the House in 2014.

At the 120th Annual IACP Conference and Expo in Philadelphia, Pennsylvania, the IACP passed a resolution urging elected officials to recognize and address the needs and concerns of the law enforcement community as they deliberate on changes to U.S. immigration policies. As the immigration reform debate resumes in 2014, the IACP will continue to work to make sure that the law enforcement community's needs are adequately reflected in any legislation.

## Justice for Victims of Trafficking Act

On November 19, 2013, Senators John Cornyn (R-TX), Ron Wyden (D-OR), Marco Rubio (R-FL), Mark Kirk (R-IL), and Amy Klobuchar (D-MN) along with Representatives Ted Poe (R-TX), Carolyn Maloney (D-NY), Rick Nolan (D-MN), Kay Granger (R-TX), and Candice Miller (R-MI), introduced bicameral and bipartisan domestic anti-trafficking legislation—the Justice for Victims of Trafficking Act, S. 1738 and H.R. 3530.

The Justice for Victims of Trafficking Act strengthens the Trafficking Victims Protection Act (TVPA) by adding the words "obtaining, patronizing, or soliciting" to the sex trafficking statute, making it absolutely clear that criminals who solicit, obtain, or purchase sexual acts from trafficking victims can and should be arrested, prosecuted, and convicted as sex trafficking offenders.

In addition to strengthening TVPA, the new bill would also increase the maximum penalties for human trafficking-related offenses and reduce affirmative defenses for persons who exploit children through interstate prostitution by requiring them to show clear and convincing evidence, rather than a preponderance of evidence, that they believed the child to be an adult. Increasing penalties and providing law enforcement with the tools they need to punish those who solicit or patronize sexual acts from trafficking victims send a strong message that these crimes will not be ignored and that all parties will be held responsible.

This proposed legislation also guarantees that funding is made available for victims' support programs for victims of human trafficking and child pornography. Resources for victim support would be available through the establishment of a "Domestic Trafficking Victims' Fund" within the U.S. Department of the Treasury financed by fines on persons convicted of child pornography, human trafficking, child prostitution, sexual exploitation, and human smuggling offenses.

The Domestic Trafficking Victim's Fund would also fund the creation of a block grant program to help states and local governments develop and implement comprehensive victim-centered programs to train law enforcement to rescue victims, prosecute human traffickers, and restore the quality of life of victims.

The IACP has submitted a letter of support for this legislation to the bill sponsors.

## Saving Kids From Dangerous Drugs Act of 2013

On November 12, 2013, Senators Dianne Feinstein (D-CA) and Chuck Grassley (R-IA) introduced the Saving Kids From Dangerous Drugs Act of 2013, S. 1686. This legislation would provide stronger penalties for drug dealers who intentionally manufacture, create, or market a controlled substance by combining them with beverages or candy products, package them to resemble legitimate products, or flavor and/or color them with the intent to sell them to minors.

The IACP has submitted a letter of endorsement to the bill's sponsors. S. 1686 is currently pending before the Senate Committee on the Judiciary.

## Protecting Our Youth from Dangerous Synthetic Drugs Act of 2013

The IACP has endorsed the Protecting Our Youth from Dangerous Synthetic Drugs Act of 2013, S. 1323. This bill would grant the Drug Enforcement Administration (DEA) the ability to establish a Controlled Substance Analogue Committee, composed of chemists and pharmacologists, to create and maintain an administrative list of controlled substance analogues with legal effect, increasing law enforcement's ability to prosecute individuals who produce or distribute synthetic drugs. S. 1323 would also enhance the government's ability to quickly identify synthetic substances prior to them becoming a threat to public health.

S. 1323 would preclude any substance designated as a controlled substance analogue by the committee from being imported into the United States unless done pursuant to a process outlined by the attorney general.

Also included in the legislation is a directive that the U.S. Sentencing Commission review and, if necessary, amend the federal sentencing guidelines to provide adequate penalties for those who commit any violation involving synthetic drugs.

The Protecting Our Youth from Dangerous Synthetic Drugs Act of 2013 is currently pending before the Senate Committee on the Judiciary.

## Synthetic Abuse and Labeling of Toxic Substances (SALTS) Act of 2013

The IACP recently endorsed the Synthetic Abuse and Labeling of Toxic Substances (SALTS) Act of 2013, S. 1322. The bill, introduced by Senators Klobuchar (D-MN), Feinstein (D-CA), and Lindsey Graham (R-SC), would amend the Controlled Substances Act to require consideration of a number of factors when determining whether a controlled substance analogue was intended for human consumption. Those factors include the marketing, advertising, and labeling of a substance and its known use. The bill takes into account the difference between the price at which the substance is sold and the price at which the substance is purported to be or advertised as is normally sold.

This legislation also states that evidence that a substance was not marketed, advertised, or labeled for human consumption, by itself, is not sufficient to establish that the substance was not intended for human consumption.



The SALTS Act will make it easier for the law enforcement community to prove that synthetic drugs are intended for human consumption and thus easier to prosecute those who distribute them. The bill is currently pending before the Senate Committee on the Judiciary.

### Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act

The IACP has submitted a letter of support to Senators Mary Landrieu (D-LA) and James Inhofe (R-OK) for the Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education (PROMISE) Act, S. 1307.

The Youth PROMISE Act focuses on the implementation of evidence-based, locally controlled youth and gang violence prevention and intervention practices and programs to help reduce and target youth violence and delinquency. This legislation would direct resources towards communities facing an increased risk of crime and gang activity so they could implement the best approach and strategy possible to prevent youth crime and violence from occurring. Law enforcement would have a direct role in addressing the community needs through the creation of the PROMISE Coordinating Councils, which would also encourage stakeholder collaboration by bringing together law enforcement, educators, health and mental health providers, parents, kids, and non-profit groups.

The Youth PROMISE Act is currently pending before the Senate Committee on the Judiciary.

### IACP Submits Joint Amicus Brief on *U.S. v. Castleman*

The IACP joined the Brady Center to Prevent Gun Violence, Major Cities Chiefs Association, and the Association of Prosecuting Attorneys in submitting an amicus brief on the *U.S. v. Castleman* case.

The U.S. Supreme Court will be deciding in *U.S. v. Castleman* whether the crime prohibited by a Tennessee statute criminalizing domestic violence falls within the federal definition of a "misdemeanor crime of violence," and if a person convicted under the Tennessee law is therefore banned from possessing firearms under the federal prohibition on domestic abusers in possession. Specifically, the case will examine whether an element of "violence" in a domestic violence conviction is necessary to trigger application of the domestic violence gun ban.

Should the defendant succeed in the case, the status of the federal domestic violence gun ban will be highly uncertain, and gun rights could be restored to certain types of domestic abusers. The joint brief supports the United States in arguing that domestic violence offenses that require any degree of force disqualify the perpetrator from owning firearms under the federal law. ❖

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## Officer Safety in Domestic Violence Responses

*By Mark Wynn, Nashville, Tennessee, Police Department, Lieutenant (Retired) and National and International Law Enforcement Trainer and Consultant on Violence Against Women and Faculty for IACP's National Law Enforcement Leadership Initiative on Violence Against Women*

Patrolman Robert T. Frazier was shot and killed on April 30, 1875, while attempting to arrest Joe Reed for assaulting his wife. He was the first officer killed in the line of duty from the Nashville Police Department; unfortunately, he would not be the last. While investigating this domestic violence call, Officer Frazier told Reed he was being sent to the workhouse. Reed refused to go and pulled a small pistol from his pocket. He shot Patrolman Frazier, killing him. Reed fled the scene, but was arrested several minutes later.<sup>1</sup> Since that time, over 138 years later, have law enforcement leaders done enough to educate young officers in understanding the connection between domestic violence and officers' personal safety?

Personal experience and studies show that most domestic violence homicides occur while victims are attempting to leave or after they have left an abusive relationship. Additionally, of those victims, 76 percent of femicide cases involved at least one episode of stalking within 12 months prior to the murder and 85 percent of attempted femicide cases involved one episode of stalking within that same period.<sup>2</sup>

All law enforcement officers have felt extraordinary frustration responding to domestic violence calls when an individual does not leave an abusive relationship. Officers give their best advice, but don't always understand that leaving is often the most dangerous time for the victim and the officer. Leaving is not an event; it is a complex process.

Sadly, losing friends who are killed responding to domestic violence calls can help officers focus on what is essential to survival and can aid in recognizing the safety gaps for victims and officers. With increasing frequency, it's not just a single officer, but multiple officers who are killed. In Birmingham, Alabama, three were

killed; Pittsburg, Pennsylvania, three more; in Pleasanton and Odessa, Texas, six total fellow officers were gunned down. All of these officers were responding to domestic violence calls. Most often the weapon of choice is the high-power, high-capacity rifle which can defeat normal patrol armor.

Clearly, not all domestic violence calls result in harm to the responding officer, so the question that must be asked is what happens just before that critical break point, *before* a victim is harmed and an officer is killed responding to a domestic violence call? An understanding of a typical sequence of events when responding to such a call can help answer this question. An officer picks up the call from dispatch, who relays that this is the sixth call from the same address that month. The frustrated officer confirms that she or he is very familiar with this family, and if no cars are available, the officer will "take care of it" him or herself. As the officer moves headlong into a potentially deadly situation, has she or he examined why there have been so many calls at this home and, more importantly, has the victim or the officer considered that the frequency of calls may indicate an escalation in the violence? As an Arizona officer related, "I should have called for backup and not approached the offender alone; I thought I knew him. I'd been there many times before, so I lowered my guard and that's when he stabbed me."

Case analysis reveals that domestic violence offenders use more force when they believe they are losing control. If the responding officer is not taking this fact into consideration, the officer is at an increased level of danger.

Predictions based on tested and reliable danger assessment protocols can be critical for the first responder. What is known about domestic violence offenders is that they will actively pose a threat to responding officers and fight to defend what they often believe they are entitled to do and how they are entitled to behave. In many cases, perpetrators have been raised in a culture of male privilege that has shaped their values and beliefs, creating a mind-set of ownership of a loved one and a lack of personal accountability.

Evidence of this active resistance was in full view on February 24, 2005, when David Hernandez Arroyo, Sr., opened fire on his ex-wife and son in front of the Smith County Courthouse in Tyler, Texas. Arroyo then engaged police and court officers in a shootout over a custody issue. Are officers trained to understand this type of deadly

behavior? If not, then there is more to be done in keeping them and the communities they protect safe. There are several steps that can be taken to strengthen support of victims and officers.

Strong collaborations and regular communication with domestic and sexual violence advocates can help assess the danger posed by perpetrators. Smart policing requires that the adversarial relationship that often exists between the advocacy and police communities must end. Experience demonstrates that many of the difficulties seen across the United States with the advocate-police relationship develop from a lack of understanding of the difficulties in the work each other does. Mending and maintaining this connection is the immediate responsibility of agency and organization leadership. Many advocates have walked in the shoes of the victim. They have kept victims alive for decades with and without police assistance. They deserve respect and have much to teach law enforcement agencies and officers.

A great example of what the advocacy community can teach law enforcement can be found in the "Power and Control Wheel."<sup>3</sup> The Power and Control Wheel was created in 1984 by staff at the Domestic Abuse Intervention Project (DAIP) in Duluth, Minnesota, and it has since been validated worldwide. It was designed to illustrate the tactics perpetrators use against victims. It has been discovered that the Power and Control Wheel also teaches us tactics that an offender uses to manipulate and control responding officers. The perpetrator will often use threats with the victim to control a situation. Law enforcement officers often encounter the same tactics, including coercion and intimidation. Perpetrators will minimize, deny, or blame the victim for the violence that occurred when police arrive on scene as they would with the victim to shift accountability. Isolation is used to keep the victim from the officers, the same way the victim is kept from family, friends, or other support. Police officers have also witnessed children being forced to make false statements or hold back information about what has occurred. And, unfortunately, officers often face resistance, are assaulted, and are killed when responding to domestic violence calls. The experience of an officer can have striking similarities to the experience of the victim. Officers need to be trained on these behaviors and realities in order to best approach and respond to each situation.

There are many examples of efforts to increase officer and victim safety throughout the United States. Three agencies, in particular, have implemented effective tactics: South Portland, Portland, and Westbrook Police Departments in Maine.<sup>4</sup> These agencies have collaborated with Family Crisis Services to create the Enhanced Police Intervention Collaboration (EPIC). Officers and advocates work together by visiting with the victim days after the arrest to assist the victim through the court system and conduct risk assessments to ensure continued support and protection. This is a force multiplier every agency in the United States should consider. An additional promising practice can be found in the Salem Police Department (Oregon) where the leaders have instituted a first responder's domestic violence checklist.<sup>5</sup> This checklist includes risk assessment, questions regarding the occurrence of strangulation, and "Before You Leave the Scene" reminders that include investigative tips and interviewing information.

Visionary leaders understand officers will rise to the level of their training. In order for first responders to meet the task, they must receive continued meaningful, comprehensive, and effective training throughout their careers. A great training curriculum has been used for many years at the Tennessee Law Enforcement Academy in Donelson, Tennessee.<sup>6</sup> Each year it offers a POST-certified 40-hour training course on Domestic and Sexual Assault Intervention.

The national standard of responding to a domestic violence call has changed since the 1970s.<sup>7</sup> In those years, officers were taught to respond, mediate, send the offender away, and leave as soon as possible—without making a report. Today's progressive agencies are assessing lethality, danger, and risk of the victims of domestic violence by employing methods such as the Lethality Assessment Program (LAP) and the Ontario Domestic Abuse Risk Assessment (ODARA).<sup>8</sup> LAP is currently being used throughout the state of Maryland, and officers in Maine in the next year will be trained in and use ODARA statewide. These tested methods have saved the lives of victims and likely officers as well. This is intelligence-led policing, and it is the future for first responders.<sup>9</sup>

The profession's response to domestic violence transformed in the 1980s as the IACP helped police chiefs write, implement, and evaluate the first real departmental domestic violence policies. That transformation continues today with the IACP's National Law Enforcement Leadership Institute on Violence Against Women and the National Law Enforcement First-Line Supervisor Training on Violence Against Women. These two programs employ experienced leaders and thinkers in the field of violence against women prevention and address critical and complex issues such as sexual assault, domestic violence, stalking, and officer-involved domestic violence.

Law enforcement leaders must ask themselves "Is my concern for the safety of domestic violence victims and for my officers fully reflected in my agency's policies and practices?" and "Does the work of my officers reflect these standards?" Changing the culture to ensure officer and victim safety is a great way to honor Robert T. Frazier and many others who have made the ultimate sacrifice.

Police leaders who are looking to strengthen their agency's response to violence against women crimes and improve officer safety can contact the IACP to receive more information about these programs or visit: [www.theiacp.org/VAWLeadership](http://www.theiacp.org/VAWLeadership).

#### Notes:

<sup>1</sup>ODMP, "Officer Down Memorial Page," Patrolman Robert T. Frazier, <http://www.odmp.org/officer/17925-patrolman-robert-t-frazier> (accessed November 14, 2013).

<sup>2</sup>Patricia Tjaden and Nancy Thoennes, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey* (U.S. Department of Justice, Office of Justice Programs, National Institute of Justice November 2000), <https://www.ncjrs.gov/pdffiles1/nij/183781.pdf> (accessed November 14, 2013); Allie Gasgreen, "The Seriousness of Stalking," *Inside Higher Ed*, October 8, 2012. <http://www.insidehighered.com/news/2012/10/08/stalking-campus-major-issue-expert-says-clery-event> (accessed November 14, 2013).

<sup>3</sup>Domestic Abuse Intervention Program, "Power and Control Wheel," <http://www.theduluthmodel.org/pdf/PowerandControl.pdf> (accessed November 14, 2013).

<sup>4</sup>South Portland Police Department, South Portland, Maine, "Family Crisis Services," [www.familycrisis.org](http://www.familycrisis.org) (accessed November 14, 2013). For more information, contact [jen\\_s@familycrisis.org](mailto:jen_s@familycrisis.org) or call (207) 712-8476.

<sup>5</sup>Salem, Oregon, Police Department "Domestic Violence Checklist," <http://www.markwynn.com/resources/report-forms>. Once you get the reports form page it is listed with others.

<sup>6</sup>"Domestic Violence and Sexual Assault Interdiction," used at the Tennessee Law Enforcement Academy, <http://www.markwynn.com/resources/lesson-plans> (accessed November 14, 2013).

<sup>7</sup>"Police Officer Safety at Domestic Disturbances—1970s – Tips and Tricks to Remain Safe," YouTube video, 20:37, <http://www.youtube.com/watch?v=EZUgpGUfTF8> (accessed November 14, 2013). This video describes how officers should approach a house and remain safe during domestic violence episodes in the 1970s. The mishandling of domestic disturbance calls accounted for 20 percent of all police fatalities at that time. The important steps of the who, what, where, when, and how of any complaint show why it's important to get the facts, so the officer answering the call can exercise caution, yet deal with the victim with compassionate authority.

<sup>8</sup>"Lethality Assessment for First Responders," Maryland Network Against Domestic Violence, <http://mnadv.org/lethality> (accessed November 14, 2013); The Ontario Domestic Assault Risk Assessment (ODARA), a procedure to predict future wife assaults, was developed by the Ontario Provincial Police and the Ontario Ministry of Health and can be accessed via this link <http://www.vawnet.org> (accessed November 14, 2013).

<sup>9</sup>IACP Training Key #653, "Domestic Violence Risk Assessment," purchasing information is available at <http://www.theiacp.org/tabid/452/Default.aspx> (accessed November 14, 2013).

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The IACP Research Advisory Committee is proud to offer the monthly "Research in Brief" column. This column features evidence-based research summaries that highlight actionable recommendations for *Police Chief* magazine readers to consider within their own agencies. The goal of the column is to feature research that is innovative, credible, and relevant to a diverse law enforcement audience.

## Vision 21: Transforming Victim Services

By John R. Firman, Director of Research, IACP

As the first ones on the scene of a crime, police officers are also often the first responders to the victims of crimes. This places a tremendous responsibility on the shoulders of officers, who already have a critical job to do, to act as the initial service providers to victims who are in a situation they never anticipated. These initial encounters can shape a victim's experience with the entire criminal justice system, and law enforcement's response to victims can have a far-reaching impact on the effectiveness of victim services.

In May 2013, the Office for Victims of Crime (OVC), part of the Office of Justice Programs in the U.S. Department of Justice, released *Vision 21: Transforming Victim Services Final Report*. The goal of the Vision 21 initiative was to permanently transform the way victims of crime are treated in the United States. The Vision 21 initiative engaged a broad spectrum of stakeholder participants, including law enforcement, victim service providers, advocates, criminal justice professionals, allied practitioners, and policymakers. Working together, these stakeholders had an opportunity to address crime victim issues through a lens broader than their own daily work. The Vision 21 discussions and research centered on four topics: (1) defining the role of the crime victims field in the overall response to crime and delinquency in the United States; (2) building the field's capacity to better serve victims; (3) addressing enduring issues in the field; and (4) identifying emerging issues in the field. The initiative identified:

- the major challenges to integrating research into the victim services field;
- the tremendous need for access to legal assistance for crime victims to address the wide range of legal issues that often arise following victimization;
- the impact of technological advances, increasing globalization, and changing demographics on the victim assistance field; and

- the capacity for serving victims in the 21st century and some of the infrastructure issues that must be overcome to reach that capacity.

Vision 21 participants expressed an urgent need to expand the knowledge base about crime victimization and effective response. They viewed research, development of evidence-based practices, and program evaluation as the foundation of successful victim service policies and practices. As the victim services field competes for scarce resources, it must have the knowledge and tools to document the value and cost effectiveness of its services. The highest priority of Vision 21 is promoting evidence-based strategies and programs that will expand the profession's fundamental understanding of who is affected by crime, how they are affected, what works to help victims recover from trauma, and what other issues affect the delivery of services to victims and the protection of their legal rights. These key concerns lay the foundation and set a clear tone for all other Vision 21 recommendations.

One of the major findings contained in the Vision 21 report is that crime victim services must be designed with a clear understanding of who is victimized and by whom. In support of this finding, the report recommends expanding the use of the Federal Bureau of Investigation's (FBI's) National Incident Based Reporting System (NIBRS) to complete a system of police administrative records describing crimes, victims, and police responses to victimization. This information will facilitate a greater understanding of the specific types of victimization and subgroups of victims who are not being identified by victim surveys. The data will also allow comparison between victims known to law enforcement with those being served by victim service agencies to more readily identify underserved groups.

A growing number of law enforcement agencies report crime to NIBRS, which is good news for the victim services community. Local data about crime victims and those who commit crimes against them can be instrumental in providing sound reasoning to justify and deploy scarce resources, to fine-tune training programs, and to support targeted research. While the FBI's Uniform Crime Report (UCR) summary data

include incidents and arrests for the eight Part I index crimes and arrests for others, NIBRS captures information on each victim and offender in 22 categories of crime. The categories are further divided into subclassifications, yielding victim information for 46 offenses. When law enforcement agencies report NIBRS data, community service providers and researchers can examine complex relationships in crime, victimization, and arrest practices by relying on an expanded range of variables. Further, NIBRS is a non-hierarchical system that captures and reports on each crime in an incident instead of deferring to the most serious crime committed.

NIBRS reports the place where an incident occurs (such as in a home, field, woods, bar or nightclub, hotel, etc.), the age of the victim(s), time of day of the offense, clearance rates of forcible sex offenses, and information regarding the use of weapons in violent crimes. This reporting provides critical data for communities committed to understanding and addressing issues of crime and victimization.

The Vision 21 initiative highlights the importance of having more law enforcement agencies report crime to NIBRS to capitalize on the wealth of information it collects. In the nearly 30 years since the initial recommendation to implement NIBRS, only 32 percent of UCR reporting agencies are NIBRS reporters, covering only 28 percent of the U.S. population. While a number of states have complete NIBRS coverage, the lack of nationally representative data substantially impedes federal efforts to assist states and localities in crime control and undermines state and local interests in considering their crime experience in a broader national context. How does this translate on the street? More data leads to more research, which leads to more effective tools to help law enforcement better serve victims of crime.

OVC enthusiastically supports the Bureau of Justice Statistics' (BJS) National Crime Statistics Exchange (NSC-X) Project, which aims to increase the level of local, state, and tribal criminal justice agency participation in NIBRS reporting. NCS-X will emphasize the importance of making reliable national estimates in a very short

period of time and place a premium on returning meaningful information and analytical support to the law enforcement community. Simultaneously, the NCS-X Project will support the delivery of high-quality training and technical assistance to state, local, and tribal criminal justice agencies; establish collaborative partnerships across agencies, disciplines, and jurisdictions; and implement policies and practices that allow replication of technological solutions to criminal justice system problems across the United States.

OVC's commitment to enhancing the landscape of what is known about crime victims, victimization, and services available to assist victims recover from their experiences is exemplified in its support of the expansion of the National Crime Victim Survey. OVC provided funding to BJS to expand this data collection beyond simply counting the number of crime victims to collecting more descriptive information about victims, the services they receive, and their reasons for accessing those services. The research will help identify the service gaps that are shared anecdotally, but have never been well documented empirically.

Additionally, OVC is supporting BJS' efforts to conduct the National Survey of Victim Service Organizations to understand more about the operational and organizational capacity of agencies that provide victim services to effectively respond to and support victims.

Vision 21 stakeholders clearly identified research and information gathering as indispensable to the future of the victim services field in order to continue to grow the capacity of providers to help crime victims rebuild their lives. Using scientifically sound and evidence-based programs and services can become the norm for the 21st century victim service provider, who will play a pivotal role in data collection and program evaluation to bring about a meaningful, lasting transformation of the victim services field. ❖

Read the full *Vision 21: Transforming Victim Services Final Report* online at [http://ovc.ncjrs.gov/vision21/pdfs/Vision21\\_Report.pdf](http://ovc.ncjrs.gov/vision21/pdfs/Vision21_Report.pdf)

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## Obesity as a Disability

By Attorney John M. (Jack) Collins, General Counsel,  
Massachusetts Chiefs of Police Association, Inc.

Employees that are obese—possibly as little as 30 pounds over the recommended body weight for their height, age, and sex—are now more likely to be recognized as disabled, with rights under the 2008 amendments to the Americans with Disabilities Act (ADA). In June 2013, the American Medical Association (AMA) voted to reclassify obesity as a disease “requiring a range of medical interventions to advance obesity treatment and prevention,” which could influence how obesity is treated under the ADA.<sup>1</sup>

Traditionally, courts were unwilling to find that obesity by itself is a disability and instead relied on underlying medical conditions caused or exacerbated by obesity to find an ADA-protected disability. Most viewed obesity as merely a voluntary condition caused by a lack of self-control. Some courts around the United States are now starting to find that obesity may be an ADA-protected disability that must be accommodated. This is not surprising, considering the other conditions arguably caused by personal choices (e.g., alcoholism) that are considered disabilities under the ADA. For example, consider the cases below:

- *BNSF Railway Co. v. Feit* (July 6, 2012) The plaintiff had a conditional job offer rescinded because of the “significant health and safety risks associated with extreme obesity.”<sup>2</sup>
- *Lowe v. American Eurocopter, LLC., No. 1:10CV24-AD* (N.D. Miss. Dec. 16, 2010) An employee (who filed multiple other discrimination claims) stated a sufficient ADA claim when she alleged that her obesity substantially limited the major life activity of walking, as well as claiming that she was ridiculed and ultimately terminated because of her obesity.<sup>3</sup>
- *EEOC v. Resources for Human Development, Inc., 827 F. Supp. 2d 688* (E.D. La. 2011) An employee that was severely obese at all relevant times and had multiple resultant disorders, including diabetes, congestive heart failure, and hypertension, prevailed when, relying on Equal Employment Opportunity Commission (EEOC) guidelines, the federal court in Louisiana held that severe obesity qualified as a disability, and there was no requirement that an underlying physiological basis be proven.<sup>4</sup>
- *EEOC v. BAE Systems Inc., CV No.:11-cv-3497* (S.D. Tex. 2012) A Virginia-based military vehicle manufacturer did not admit any wrongdoing, but agreed to pay a \$55,000 settlement to a morbidly obese materials handler fired from his \$21/hour job at a Sealy, Texas, plant for being too fat.<sup>5</sup>

Not every recent court case has gone in favor of the obese employee, however. In May 2013, in *Andrew O. v. Racing Corporation of West Virginia*, a state court in West Virginia ruled in the employer’s favor when a morbidly obese blackjack dealer sought accommodations from his employer with respect to his workplace uniform (the standard issue was too small; he needed a 7X tuxedo shirt) and break locations (he was unable to walk to and from the employee break area during his 25-minute break without shortness of breath and fatigue).

However, given the recent amendments to the ADA, through which the EEOC and many federal courts have significantly lowered the bar for proving a disability, it is not recommended to put too much stock in this

decision. Rather, employers should err on the side of caution and continue to provide reasonable accommodations to morbidly obese employees, as well as those with other conditions that may arguably fall within the scope of the ADA. It is hoped that this applies more to civilian employees than to police officers, as officers must be capable of physical exertion.

### EEOC Position and ADA Amendments

It is entirely likely that the EEOC, which has recognized morbid obesity as a disability, may now further expand its definition.

Two areas of the ADA Amendments Act (ADAAA) that likely will affect how obesity is treated are the expansions to the definitions of “major life activities” and “substantially limits.” “Major life activities” under the ADA Amendments Act include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. The term also now includes the “operation of a major bodily function,” such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

The final regulations also add sitting, reaching, and interacting with others to the list of major life activities and further define “operation of major bodily function” to include hemic, lymphatic, musculoskeletal, special sense organs and skin, genitourinary, and cardiovascular functions. The regulations emphasize that the list of major life activities is intended to be illustrative, not exhaustive, so other activities may be covered. Further, to be considered a major life activity, the activity does not have to be of “central importance to daily life.”

### Social Security Obesity Disability Definition

If an officer or other department worker is disabled because of obesity so severe that it prevents such person from working, he or she may well be entitled to Social Security Disability benefits (assuming they are covered or at one time worked under Social Security, of course).

### “Regarded as Claims

Following the enactment of the ADAAA, proving a “regarded as” claim will be much easier for employees who allege discrimination based on their obesity. Although an employee has to show a substantial impairment of a major life activity to show an actual disability, that is not required for post-ADAAA regarded as claims. An individual can be covered under the regarded as prong by establishing that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity.

Although the AMA’s action was intended to affect medical treatment for the obese, there’s a high probability it will make it easier for an obese employee to argue that he or she is disabled.

### What Are Reasonable Accommodations?

If an obese individual is considered disabled under the ADA, not only is it prohibited to discriminate against the individual based on the fact of obesity, but employers also must accommodate the individual so that he or she can perform the essential functions of the job. Obese individuals may



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have mobility problems such as difficulty walking or standing for extended periods or may have related health issues such as diabetes, heart conditions, and higher incidences of certain cancers, all of which may need accommodation.

The Job Accommodation Network (JAN), a free consulting service of the Office of Disability Employment Policy of the U.S. Department of Labor that provides information and advice to employers on custom job accommodations, gives several examples of possible accommodations for obese employees.<sup>6</sup> Accommodations include large-rated ergonomic chairs, seat-belt extenders for vehicles and industrial equipment, and large-rated ladders. For obese individuals who cannot walk long distances, they made need closer parking spaces to the station or desks or offices in more accessible areas of the workspace.

Of course, an employer's duty to accommodate an obese employee is not unlimited. For example, if the employee cannot perform an essential job function and there is no accommodation that allows the individual to perform the job, the essential function does not have to be removed from the employee's job duties. However, employers should be able to show that they have considered all potential accommodations to allow the obese employee to perform this essential function and that the function is essential.

Police departments with accurate job descriptions listing essential job functions for

police officers on "light duty" positions will fare better than those without such documents when it comes to refuting claims for discrimination for failure to accommodate. It may be a tougher challenge when it comes to dispatchers or other civilian employees, however.

### Recommendations

Certainly chiefs are aware that they can no longer refuse to hire overweight dispatcher applicants because they don't fit the department's para-military image. However, even more subtle matters may expose a city or town to discrimination claims. For example, gone are the days of ignoring an obese employee's request for a larger desk chair or other accommodations. In light of changes in the ADA and recent court decisions, police chiefs should confer with their municipality's labor counsel and human resources or personnel director (if they have one) to anticipate issues and discuss training supervisors to appropriately handle everything from hiring to requests for accommodations.

Furthermore, employers or chiefs do not have to accommodate the employee if they can show that the accommodation causes the organization undue hardship. Note, however, that this standard is fairly difficult to meet since it means significant difficulty or expense in, or resulting from, the provision of the accommodation. The undue hardship standard requires employers to show that the accommodation involves significant difficulty or expense; is unduly extensive, substantial, or disruptive; or would fundamentally alter the nature or operation of the business. Thus, buying a heavy-duty chair for a dispatcher is not likely to qualify.

Until more courts or state anti-discrimination agencies issue decisions, chiefs will not be able to predict with certainty the best way to handle requests for accommodations by obese employees. Although some district courts still appear reluctant to find obesity to be a disability, chiefs should add obesity to the list of characteristics that may not be the basis for any type of discrimination or harassment and should incorporate it into their department's anti-discrimination policies and training. Chiefs should also caution superior officers to avoid jokes or remarks that an employee is "too fat" to do something. Such a statement could be used to show, for example, that an employer regarded an employee as disabled.

Chiefs should take all requests for accommodation from obese individuals seriously, and they should not ignore legitimate requests because of negative stereotypes about the causes of obesity. Further, chiefs should be proactive if an obese employee is having trouble performing his or her job and determine if the problem is related to the employee's obesity.

Chiefs should require medical certification if it is not obvious that the obese individual is impaired. As with all requests for accommodations these days, chiefs and supervisors should engage in an "interactive process" (discussion

with the employee) to determine the appropriate accommodation. While not required to agree to their requests, chiefs should ask the employees what types of accommodations they have in mind. The ADA does not require a chief or employer to provide the best accommodation available or the one specifically requested by the disabled individual—an employer only has to provide an effective accommodation that meets the job-related needs of the individual. To this end, chiefs should be prepared to document their decision-making process. In particular, chiefs should be sure they can show that they looked at appropriate accommodations and can explain the rationale for denying any accommodation.

Chiefs should consult with the municipality's human resources, personnel director, or labor attorney before denying accommodation requests or taking disciplinary action against obese employees.

Recall that a department need not waive an essential job function as an accommodation. Some departments are still woefully inadequate when it comes to being able to document whether an obese individual can perform the essential functions of the job with or without an accommodation. Up-to-date and accurate job descriptions will prove very helpful.

Retaliation claims are very often made these days in all kinds of discrimination cases. Not only is the employee protected, but his or her friends and family members are protected from any form of retaliation. As with other forms of harassment, obese persons may make a claim if they are a target of harassment or retaliation. Chiefs should ensure that their municipality offers training for managers that teaches them to be sensitive when dealing with obese employees and makes sure they are not promoting ugly stereotypes about why an employee may be obese or taking action against them because of their appearance. ♦

### Notes:

<sup>1</sup>American Medical Association, "AMA Adopts New Policies on Second Day of Voting at Annual Meeting," press release, June 18, 2013, <http://www.ama-assn.org/ama/pub/news/news/2013/2013-06-18-new-ama-policies-annual-meeting.page> (accessed November 13, 2013).

<sup>2</sup>*BNSF Railway Co. v. Feit*, 281 P.3d 225 (2012).

<sup>3</sup>*Love v. American Eurocopter, LLC.*, No. 1:10CV24-AD (N.D. Miss. 2010).

<sup>4</sup>*EEOC v. Resources for Human Development, Inc.*, 827 F. Supp. 2d 688 (E.D. La. 2011).

<sup>5</sup>*EEOC v. BAE Systems Inc.*, CV No.:11-cv-3497 (S.D. Tex. 2012).

<sup>6</sup>Job Accommodation Network, "SOAR," <http://askjan.org/soar/index.htm> (accessed November 13, 2013).

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## Cyber Training and Technical Assistance

The Internet has revolutionized the ability worldwide to not only communicate, but also share all types of information. Unfortunately, these capabilities are also available to the modern-day criminal. These changes, generally considered good, have created a new, darker methodology for crimes to be committed by anyone with a computer, a cellphone or smartphone, a connection to the Internet, and a bit of technical expertise. The landscape is constantly evolving, and the responsibility to enforce the law and protect citizens has created a tremendous need for additional training and tools for law enforcement. Officials need to not only identify these types of crimes, but also have the tools, capabilities, and specialized skills to collect evidence, investigate, and assist with the prosecution of cybercrimes. Adding to the complexity of many of these crimes is the reality that a suspect may not be in that the official's jurisdiction, let alone the same state, or even the same country.

In October 2012, Richard McFeely, Executive Assistant Director of the Federal Bureau of Investigation's (FBI's) Criminal, Cyber, Response, and Services Branch, confirmed the concerns about the use of the Internet and computers when he stated, "It's important that everybody understand that if you have a computer that is outward-facing—that is connected to the web—that your computer is at some point going to be under attack... You need to be aware of the threat and you need to take it seriously."<sup>1</sup> Director of National Intelligence (DNI) James Clapper echoed the same concerns when he testified before the Senate Select Committee on Intelligence in March 2013. As part of his testimony, he stated that those meaning to do the United States harm are increasingly gaining "cyber expertise," which they use "to achieve strategic objectives by gathering sensitive information from public- and private-sector entities, controlling the content and flow of information, and challenging perceived adversaries in cyberspace."<sup>2</sup>

As a former federal prosecutor, I understand and appreciate the crucial role the FBI, Department of Homeland Security (DHS), DNI, and the entire intelligence community play in protecting the United States from cyber threats. However,

while federal agencies are uniquely situated to respond to international cyberthreats that are often behind and linked to many cybercrimes at the local level, this battle is not just at the federal level. As with many other types of crime, it is the men and women who make up the state, local, tribal, and territorial public safety communities who are on the front line facing the challenge presented by cybercrime every day. The contributions they make cannot be overstated.

The term *cybercrime* is frequently used to cover a wide range of criminal activity and sometimes creates confusion. The term *cyber* can encompass identity theft and fraudulent schemes; cyber bullying or stalking; computer hacking; system intrusions; denial of services; and even espionage and terrorism. Because the term is so broad, experts have suggested using the term *cybercrime* with appropriate modifiers to differentiate the type of crime or intrusion and the required law enforcement response or action, such as cyber investigation and forensics, cyber

infrastructure protection, cyber intrusion, and so forth. The use and consistent application of such terms would help everyone better understand the various dimensions of the cybercrime challenge and help us speak a common language in coordinating our activities. As we enhance our national capability to respond to the cyber challenge, speaking a common language is only one challenge; building expertise and capacity through training and technical assistance and coordinating our nations's resources and law enforcement response is another. We are collaborating with FBI, DHS, International Association of Chiefs of Police (IACP), and other federal, state, local, and tribal partners on these types of issues.

To specifically address these needs, the Bureau of Justice Assistance (BJA) is proud to be partnering with the IACP on the Law Enforcement Cybercrime Resource Center to help identify training, resources, tools, and technical assistance to assist law enforcement in developing the expertise necessary to meet the cybercrime challenge. The project will be a web-based portal designed for law enforcement officials to ask simple questions and get specific answers with a list of resources, no matter what level of technical experience the requestor may have.

With continued strains on law enforcement budgets, it is also important for us to work together to enhance the ability of law enforcement officers to prevent and respond to cybercrimes, intrusions, and attacks. BJA has been a leader in this area for a number of years. Since 1995, BJA has provided training, resources, and technical assistance to law enforcement to develop the technical and forensic capacity to deal with electronic crime. Over the past five years, BJA providers like the National White Collar Crime Center (NW3C) and SEARCH have offered free technical training to over 35,000 officers.<sup>3</sup> These classes include basic and advanced training for cyber investigations, forensics, data recovery, digital evidence collection, intrusion investigations, financial crimes, and classes for intelligence analysts. Many of these trainings have been offered regionally, reducing an agency's need to travel, thereby lowering costs and reducing time officers are away from the job. Feedback from participants



**Denise E. O'Donnell, Director,  
Bureau of Justice Assistance,  
Office of Justice Programs,  
U.S. Department of Justice**

continues to stress the need for training and resources and has highlighted the need to provide basic training online.

In 2010, we addressed the use of handheld devices with Drakontas and Drexel University. The focus was to provide law enforcement officers with basic knowledge of handheld electronic devices they may encounter and how they could find vital information for their investigations. This self-paced online class allows officers with varied technical experience to gain valuable knowledge. The response to that class has been so well received that some states are considering requiring this class for their officers.

Another project created in partnership with the Fox Valley Technical College, National Criminal Justice Training Center (NCJTC), provides online training for small and rural law enforcement and prosecutors in the area of cyber investigations. This project supported the development of a series of webinar events, distance learning modules, and roll-call videos for officers and prosecutors.

Jurisdictional challenges are another unique element of cybercrimes. Determining which agency should gather evidence and investigate, as well as identifying the proper jurisdiction for the investigation and prosecution, presents new challenges. As with other criminal cases, when elements of the crime cross state lines or international borders, the need to involve federal agencies is often essential. In recognition of this problem, BJA has leveraged resources by partnering with the Global Justice Information Sharing Initiative (Global), a federal advisory committee to the U.S. Attorney General on justice information, and by convening a Cyber Task Team under Global's Criminal Intelligence Coordinating Council (CICC). CICC brings leaders from diverse agencies together to examine facts and make recommendations on how to best address electronic-based crime. It also plays a role in helping to identify agencies' roles and responsibilities, the appropriate interaction needed between agencies, and the resources that can be provided to state, local, and tribal law enforcement.

BJA's National Training and Technical Assistance Center (NTTAC) offers additional resources for criminal justice and law enforcement officials and works to facilitate the delivery of high-quality, strategically focused training and technical assistance (TTA) to achieve safe communities nationwide. BJA NTTAC-provided assistance covers a broad set of topic areas including training, information dissemination, technical assistance, and facilitation of multi-agency and cross-jurisdictional teams and working groups. This extends to the area of cybercrime training (for investigations and forensics), awareness, and possibly technical assistance. Public safety agencies and their members can get additional information at <https://www.bjatrain.org>.

BJA looks forward to continuing to support our partner agencies and organizations in this crucial arena. We applaud the leadership of

IACP Executive Director Bart Johnson and IACP board members, who have demonstrated a willingness to help elevate this issue and ensure it receives the consideration it demands through the creation of the Law Enforcement Cybercrime Resource Center. By working together, with everyone's support, we can lead efforts to help address these critical challenges. ♦

**Notes:**

<sup>1</sup>"Cyber Security: Focusing on Hackers and Intrusions," FBI press release, October 26, 2012, <http://www.fbi.gov/news/stories/2012/october/cyber-division-focusing-on-hackers-and-intrusions> (accessed November 12, 2013).

<sup>2</sup>James R. Clapper, "Worldwide Threat Assessment," *Ambassadors Review* (Spring 2013), <http://www.americanambassadors.org/publications/ambassadors-review/spring-2013/worldwide-threat-assessment> (accessed November 12, 2013).

<sup>3</sup>National White Collar Crime Center (NW3C) can be accessed at <http://www.nw3c.org>; SEARCH can be accessed at <http://www.search.org>.

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## ADVANCES & APPLICATIONS

*Where do the good ideas come from?  
In this column, we offer our readers the opportunity to learn about—  
and benefit from—some of the cutting-edge technologies being implemented  
by law enforcement colleagues around the world.*



### **MapScenes Forensic CAD 2013 Offers New Productivity Tools, Combines Animation, Point Cloud Modules**

A new version of the MapScenes System for crash scene mapping and reconstruction, which includes Evidence Recorder (EVR) and Forensic CAD 2013, offers new productivity tools along with two add-on modules. The new modules include an animation module that builds compelling animated reenactments and a point cloud module for drawing features captured via stationary, mobile, or airborne laser scanners.

For Corporal Mary Willis of the Amarillo, Texas, Police Department, the new software has proven to be an easy-to-learn, powerful, and cost-effective mapping tool. She values the software's ease of working with a crash scene's mapped points; she simply imports the points and then closes the program, knowing she can return later to quickly complete the diagram. Aiding this effort is the library of codes that can be included with plotted annotations. "This ability is a big factor because it means most of the drawing is completed when we import it," Corporal Willis said. A library of 7,000 symbols specific to crash and crime scene diagramming, some in 3D, is offered.

The new software communicates with most total stations and data collectors, including the new Leica Nova MS50 MultiStation that combines total station measurements, laser scans, imaging, and the Global Navigation Satellite System (GNSS).

The ability to rotate a scene in MapScenes EVR is especially powerful, Corporal Willis said, "because it allows you to see the whole scene and all angles so we can make sure we haven't missed anything [while mapping the scene]."

Corporal Willis also noted that the software's animation and point cloud modules will be particularly valuable once her department begins using them because they can show views of a scene from various positions of on-scene witnesses. "We know the courts will be demanding this [capability] from us," Corporal Willis said. "Forensic CAD is an amazing

program for this," added Willis, who also uses the tool for crime scenes such as officer-involved shootings and homicides.

Another advantage of Forensic CAD 2013 is the calculation of coordinates from raw measurement data. "Not only will we have confidence in our abilities and equipment with this feature, but so will the courts," Corporal Willis said. "That's going to be a big thing."

For more information, visit [http://www.mapscenes.com/software\\_cad.php](http://www.mapscenes.com/software_cad.php).

### **Kansas Highway Patrol Rolls out digiTICKET eCitation Solution on Time and within Budget**

Saltus Technologies announces that digiTICKET is now installed on approximately 500 Kansas Highway Patrol (KHP) laptops, giving state troopers electronic ticketing capability across all 105 district courts in the state. The system is designed to reduce the amount of time needed for the officer to issue one or multiple citations, eliminate data errors, and reduce administrative costs.

KHP selected digiTICKET to maximize both officer and court system efficiency while recovering lost revenue due to clerical or handwriting errors. The solution also increases safety for both the community and law enforcement officers by reducing dangerous roadside time for everyone involved. Additionally, digiTICKET interfaces to the Kansas Law Enforcement Reporting (KLER) system that provides over 60 percent of Kansas transportation crash data to the Kansas Department of Transportation (KDOT).

"Saltus worked closely with the KHP and Judicial Branch personnel to implement a system that meets our State's diverse needs. The deployment time for the rollout was completed in four months," stated Mark L. Thurman, CIO, Kansas Highway Patrol. "Ultimately, digiTICKET was implemented for the State of Kansas on time and within budget, deployed and in-use by about 500 troopers and 100 plus Kansas District Courts with no major issues to date. Saltus has quickly and satisfactorily addressed all issues as they arose during implementation."

The KHP has also made digiTICKET available to all local law enforcement agencies in the state through a state contract. Through KHP's investment in the highly configurable solution, agencies all over the state can realize the same benefits as the KHP.

For more information, visit <http://www.saltustechnologies.com>.

### **New World Systems' CAD provides critical communications for Madison County, Illinois, during Severe Storm**

On Friday, May 31, 2013, a large storm brought high winds and tornado-like conditions to Madison County, Illinois. As the storm caused significant damage to power lines, trees, and homes, New World Systems' Aegis Computer-Aided Dispatch (CAD) solution provided telecommunicators and first responders with essential communications and response coordination capabilities.

Telecommunicators at the City of Edwardsville Police Department Communication Center, one of the county's 16 Public Safety Answer Points (PSAPs), took their system down for a short period of time to seek shelter as the storm intensified. Even though Edwardsville does not currently use New World's software, the Madison County Sheriff's Office and Glen Carbon Police Department, through a combination of New World's CAD and the county's fiber-optics network kept communications and operations up and running for emergency and non-emergency calls.

"Our self-contained system, up-to-date maps and the ability of the CAD software to handle an increase in activity enables the agencies using New World's CAD to keep operations running flawlessly for 9-1-1 throughout the County and take over for another center in these situations," said Terry McFarland, 9-1-1 director for Madison County. "Thankfully, the situation lasted a short time, but the level of confidence in the two systems working in conjunction with each other provides peace of mind and service with minor interruption."

New World's software handled the extremely high volume of calls and offered a CAD messaging system that proved vital in keeping track of officers and addressing emergency situations quickly and effectively. Because Madison County maps are up to date and embedded in New World's CAD, telecommunicators in Glen Carbon and the sheriff's office were able to access maps and critical location information for Edwardsville as well.

According to Glen Carbon Telecommunicator Coleen Schaller, New World's software played an instrumental role in their success with the versatility to handle the large-scale incident. "The transition from handling one department to interlinking three was seamless, and the company should be commended on their development of such high-performance software."

While it was a busy and chaotic time for the county communications centers, fast thinking and the right technology kept emergency operations running smoothly. No lives were lost during the storm. ❖

For more information, visit <http://www.newworldsystems.com>.

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May 18 – 23, 2014

Vaughan, Ontario, Canada  
July 20 – 25, 2014

The IACP Center for Police Leadership and Training, with funding from Motorola, proudly introduces a new leadership certification program, the Women's Leadership Institute (WLI). The WLI program is a five-day course, focused on the unique challenges facing women leaders in law enforcement. To develop current and future leaders, the curriculum focuses on enhancing the business, leadership, and personal effectiveness skills of female leaders. This interactive program uses senior women instructors and mentors from United States and Canadian law enforcement agencies and operates in an intensive experiential learning environment. It is open to female and male, sworn and non-sworn personnel serving in supervisory positions, and senior patrol officers aspiring to become supervisors.

## Topics Covered in Day Classes:

- ▶ Leading People, Groups & Change
- ▶ Effective Communication & Conflict Management
- ▶ Career Mapping
- ▶ Fair, Impartial & Ethical Policing
- ▶ Transformational Leadership
- ▶ Stress Management
- ▶ Designing a Strategic Plan for Careers
- ▶ Financial Management

Classes begin on Sunday evening and conclude early afternoon Friday. General tuition is \$875. Additional costs will include select meals incorporated into the Institute.

Training site and lodging for each location are negotiated by IACP. Lodging is negotiated based on per diem rates for each city.

**Registration for this Institute cannot be accomplished online.** To register and for more information, please contact Laura Renenger at 703-836-6767, x274/[renenger@theiacp.org](mailto:renenger@theiacp.org).

For information on the course, visit [www.theiacp.org/training](http://www.theiacp.org/training).



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**IACP Training  
Programs**

## **Colorado**

Colorado Association of Chiefs of Police  
*Faculty Development Workshop (FDW)*

Week 1: February 3 – 7, 2014

Week 2: February 10 – 14, 2014

## **Georgia**

Athens-Clark County Police Department  
*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: February 17 – 21, 2014

Week 2: March 23 – 29, 2014

Week 3: April 28 – May 2, 2014

## **Maryland**

Maryland Police and Correctional  
Training Commissions

*Faculty Development Workshop*

Week 1: January 27 – 31, 2014

Week 2: February 3 – 7, 2014

## **Maine**

Maine State Police

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: April 21 – 25, 2014

Week 2: May 19 – 23, 2014

Week 2: June 23 – 27, 2014

## **New York**

Cheektowaga Police Department

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: March 3 – 7, 2014

Week 2: May 5 – 9, 2014

Week 3: June 9 – 13, 2014

## **New Mexico**

Las Cruces Police Department

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: February 3 – 7, 2014

Week 2: March 3 – 7, 2014

Week 3: April 7 – 11, 2014

## **North Dakota**

North Dakota Highway Patrol

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: January 27 – 31, 2014

Week 2: February 24 – 28, 2014

Week 3: March 31 – April 1, 2014

## **Oklahoma**

Muskogee Police Department

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: March 17 – 21, 2014

Week 2: March 31 – April 4, 2014

Week 3: April 14 – 18, 2014

## **South Dakota**

South Dakota Highway Patrol

*Leadership in Police Organizations<sup>SM</sup> (LPO)*

Week 1: March 3 – 7, 2014

Week 2: March 31 – April 4, 2014

Week 3: April 28 – May 2, 2014

# ACHIEVING SUCCESS THROUGH PARTNERSHIP

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# IACP 2013

**OCTOBER 19-23**  
**EXHIBITS: OCTOBER 20-22**  
**PENNSYLVANIA CONVENTION CENTER**  
**PHILADELPHIA, PENNSYLVANIA**

# Report of the 120th Annual IACP Conference PHILADELPHIA





The IACP Board of Officers presided over the 120th annual IACP conference in Philadelphia, Pennsylvania, with 13,668 attendees. Throughout the conference, the members of the Board attended committee, section, and division meetings to discuss issues with members and law enforcement leaders from around the world. Representatives from 59 countries attended IACP 2013.



Craig Steckler



Yousry "Yost" Zakhary



2014 IACP Board of Officers

The IACP Past Presidents' participation is a vital part of the conference. Their years of leadership, experience guide our current leadership and planners in making the best conference possible for our attendees.

From left: Bruce Glasscock (2000–2001); Carl Wolf, former Vice President/Treasurer; Charles Gruber (1989–1990); Mark Marshall (2010–2011); Michael Carroll (2009–2010); Charles Reynolds (1988–1989); Harlin McEwen, Honorary President; Sylvester Daughtry, Jr. (1993–1994); Joe Casey (1987–1988); David Walchack (1995–1996); Ronald Neubauer (1998–1999); William Berger (2001–2002); Joseph Estey (2006–2007); Ed Mosca, Past Parliamentarian; Don Pierce, Honorary President; John Whetsel (1994–1995); Russell Laine (2008–2009).





Richard Beary



Ronal Serpas



Terry Cunningham



Jim Craze



Kent Barker



Nelson Garcia



Dwight Henninger



Peter Carnes



Michael D. Edmonson



Ellen Hanson



Bart Johnson

# GENERAL ASSEMBLIES

**IACP** 2013  
**OCTOBER 19-23**  
PENNSYLVANIA CONVENTION CENTER  
PHILADELPHIA, PENNSYLVANIA

President Craig Steckler presided over the general assemblies with keynote speeches delivered by Eric Holder, U.S. attorney general; James Comey, director of the Federal Bureau of Investigation; Edward Davis, commissioner of the Boston Police Department; Rand Beers, acting secretary of the U.S. Department of Homeland Security; and Michael Nutter, mayor of Philadelphia, Pennsylvania.



Craig Steckler



Ellen Hanson



Ralph Boelter



Eric Holder



James Comey



Sean Joyce



Rand Beers





The official business of the IACP was conducted during the annual conference. Members engaged in discussions, debates, and voting that resulted in the approval of 26 new resolutions. A condensed version of the resolutions are provided in this issue; they can also be found online at <http://www.theiacp.org/portals/0/pdfs/2013Resolutions.pdf>.

Director Yousry "Yost" Zakhary of the Woodway, Texas, Public Safety Department was sworn in as the new IACP President. The membership elected Chief Don De Lucca of Golden Beach, Florida, Police as fourth vice president. Additionally, Barbara Fleury, Chief Superintendent, Director of International Policing, Ottawa, Canada, was appointed as International Vice President and James McLaughlin, General Counsel/Executive Director, Elgin, Texas, was appointed as Parliamentarian.



Yousry "Yost" Zakhary



Barbara Fleury and Nelson Garcia



Don De Lucca



Ron Teachman





Craig Steckler, IACP President 2012-2013



Dwight Henninger



**IACP** 2013  
**OCTOBER 19-23**  
PENNSYLVANIA CONVENTION CENTER  
PHILADELPHIA, PENNSYLVANIA

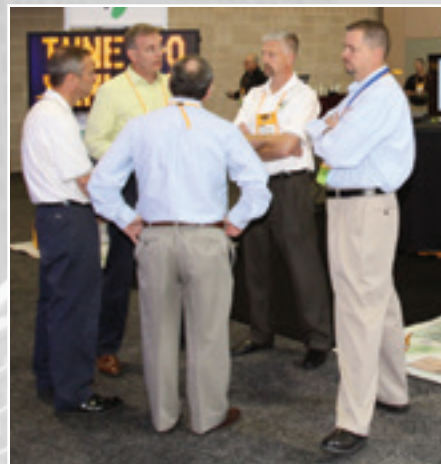
One of the top reasons to attend the annual conference is the array of educational sessions—the 2013 conference included 12 program tracks and 213 workshops, along with 4 plenary sessions. The workshops provide attendees with practical information that they can apply to their work and agencies.





**IACP 2013**  
**OCTOBER 19-23**  
PENNSYLVANIA CONVENTION CENTER  
PHILADELPHIA, PENNSYLVANIA

The annual IACP conference hosts the largest exposition of the world's leading providers of law enforcement equipment, services, and technology. IACP 2013 had exhibits by 725 companies, which allowed attendees to explore the latest services and products available to the law enforcement community. By the end of the conference, 67 percent of the exhibit space for the 2014 conference in Orlando, Florida, was sold.





# SPECIAL EVENTS

**IACP** 2013  
**OCTOBER 19-23**  
PENNSYLVANIA CONVENTION CENTER  
PHILADELPHIA, PENNSYLVANIA

The week of education, networking, and viewing exhibits officially began with the cutting of the ribbon by IACP President Craig Steckler and Commissioner Charles Ramsey, of the Philadelphia, Pennsylvania, Police Department, along with representatives of Motorola and the Harris Corporation.

Special events such as the Host Chief's Night, receptions, special dinners and luncheons, hospitality rooms, and the annual banquet added a good dose of fun to the conference.





# THANK YOU, PHILADELPHIA



The IACP wishes to thank the city of Philadelphia, the Philadelphia Police Department, the 2013 Philadelphia conference planning team, the Philadelphia Convention and Visitor's Bureau, the Philadelphia business community, and the conference sponsors who all contributed to a successful 120th Annual IACP Conference.



Philadelphia Police Chief Charles Ramsey



Philadelphia Mayor Michael Nutter





# RESOLUTIONS

The following resolutions were adopted by the IACP at the 120th annual conference in Philadelphia, Pennsylvania. The list is organized by the division, section, or committee that submitted each resolution.

## AVIATION COMMITTEE

### In Support of Small Unmanned Aircraft Systems in Law Enforcement

This resolution supports the use and operation of small Unmanned Aircraft Systems by law enforcement, and encourages law enforcement agencies to adhere to the International Association of Chiefs of Police Aviation Committee's "Recommended Guidelines for the Use of Unmanned Aircraft."

## CAPITOL POLICE SECTION

### Implementation of Administrative Screening at All State and National Capitols

This resolution recommends that all state and national capitols implement reasonable administrative screening protocols to detect, deter, and mitigate individuals who wish to cause harm/damage to its legislative processes, elected officials, employees, visitors, and facilities.

## COMMUNICATIONS AND TECHNOLOGY COMMITTEE

### Support for Development of a Next Generation 9-1-1 (NG9-1-1) System

This resolution supports the development of a Next Generation 9-1-1 (NG9-1-1) System and appreciates and commits to the opportunity for continued representation, input, and collaboration in ongoing efforts to prioritize the need to communicate the benefits of NG9-1-1 to police chiefs and public safety nationwide.

### Support to Maintain the Public Safety T-Band Spectrum

This resolution supports the NPSTC T-Band Report issued March 15, 2013, and strongly supports actions that seek to resolve the T-Band issue favorably for public safety by maintaining the T-Band spectrum for immediate, continued, and full use by law enforcement and other public safety entities.

### IACP Support for Alarm Industry Use of the FirstNet Nationwide Public Safety Broadband Network

This resolution strongly supports actions that seek to allow use by the Alarm Industry of the FirstNet Nationwide Public Safety Broadband Network.

## COMMUNICATIONS AND TECHNOLOGY COMMITTEE AND RAILROAD POLICE SECTION

### IACP Support for Improved Railroad Police Communications

This resolution strongly supports actions that seek to improve Railroad Police access to FCC Frequencies reserved for public safety interoperability as well as access to the FirstNet Nationwide Public Safety Broadband Network; and, the IACP hereby authorizes the IACP Communications and Technology Committee and the IACP Railroad Police Section to collaborate to represent the interests of the IACP in the furtherance of these improvements.

## CRIMINAL JUSTICE INFORMATION SYSTEMS COMMITTEE

### The Importance of CJIS Systems Officers to the National Data Exchange

This resolution strongly supports N-DEX and identifies it as a vital tool that will enhance the capabilities of the state, local, campus, tribal, and federal law enforcement officials as well as corrections, probation, and parole colleagues and declares it to be the nationally scaled system of information sharing and recommends to the members of the association increased engagement in the furtherance of N-DEX across the nation in an effort to strengthen the investigation of all criminal activities, increase homeland security, enhance officer safety, and promote information sharing across geographical and jurisdictional lines. Further, the International Association of Chiefs of Police calls upon all CJIS systems officers of any state or territory and strongly recommends to their respective CSA heads, to increase the availability of N-DEX to the criminal justice community in the purview of their areas of responsibility, underscoring the critical nature of this expanding database.

### Support for NCS-X Feasibility Study

This resolution supports the BJS in conducting a feasibility study to implement the NCS-X.

## DIVISIONS OF STATE ASSOCIATIONS OF CHIEFS OF POLICE

### Support for Creation of a Law Enforcement Uniform Injury Report

This resolution embraces and supports the creation of a Uniform Injury Report to allow for the collection, storage, and analysis of data by the IACP Center for Officer Safety and Wellness whenever an officer's wellness or safety is threatened by his or her involvement in a near-miss or suffers a duty-related illness or injury; preparation and submission of a Uniform Injury Report to the IACP shall be voluntary; data collected shall contain no personal identifying information; and all data shall be the exclusive property of the IACP for their use to advance officer safety and wellness programs and shall not be shared with any regulatory body, organization, or individual except as authorized by the IACP executive committee or otherwise required by law. Further, action to create, distribute, and collect completed Uniform Injury Reports shall commence within one year following the date this resolution was adopted by the IACP membership.

### Recognition of Law Enforcement Concerns in Immigration Reform Discussion

This resolution urges our elected officials to recognize and address the needs and concerns of the law enforcement community as they deliberate on changes to immigration policies of the United States.

## FIREARMS COMMITTEE

### Support of the Use of Microstamping Technology

This resolution finds that funding be made available for further research and field testing on this promising alternative ballistic approach to include: the durability of microstamped marks under various firing conditions; their susceptibility to tampering; field tests by police agencies; as well as a cost-benefit analysis to determine if it is a

# RESOLUTIONS

sound investment/decision (justification/feasibility) as compared to other technologies available to providing links between crime-scene evidence and the original crime weapon; furthermore, the IACP calls on the U. S. Department of Justice to provide the necessary funding, within this fiscal year, which will allow for the further in-depth research required of microstamping technology.

## Opposition of Legislation Explicitly Allowing Force against Law Enforcement Officers under Expansions to the Castle Doctrine or Self-Defense Laws

This resolution opposes any expansions to the Castle Doctrine or self-defense laws that explicitly allow force against law enforcement officers.

## FORENSIC SCIENCE COMMITTEE

### Funding for Forensic Sciences: Support of the Paul Coverdell Forensic Science Improvement Act

This resolution fully supports and strongly encourages funding non-DNA forensic services by funding the Paul Coverdell Forensic Science Improvement Act at the full \$35 million.

## HIGHWAY SAFETY COMMITTEE

### National "Move Over, Slow Down" Law Awareness Month

This resolution calls upon the National Highway Traffic Safety Administration (NHTSA) and the National Committee on Uniform Traffic Laws and Ordinances (NCUTLO) to identify these state laws and their provisions and to develop and promote—in conjunction with the IACP Highway Safety Committee—those requirements deemed essential to model legislation that will ensure the safety of law enforcement officers and other highway workers whose duties require them to utilize the roadside and that ultimately will improve the effectiveness of these statutes, as well as in the ability of motorists to be aware of—and comply with—them. Further, this resolution strongly supports and encourages IACP's membership to recognize the month of April each year as "National 'Move Over, Slow Down' Law Awareness Month," and supports interna-

tional efforts to ensure the roadside safety of law enforcement officers in countries around the world.

## Retention of the "National School Bus Yellow" Color Scheme

This resolution urges state and local legislators and all other public officials charged with school bus safety oversight in North America to enlist the assistance and acceptance of the 75-year-old National Congress on School Transportation, including all associated school transportation officials, industry advocates, law enforcement officials, and other professionals charged with school pupil transportation safety, prior to authorizing any change to the black-on-yellow color scheme of school buses within their jurisdictions.

## Validating the Public Safety Needs for Retro-Reflective Validation Tabs on License Plates

This resolution recognizes that the efficient and reliable identification of vehicles is a critical element of public safety and strongly opposes deleting the requirement for fully retro-reflective validation tabs, and strongly supports the adoption and incorporation of fully retro-reflective validation tabs indicating the month and year and additionally designed for use on the license plates of all motor vehicles registered and operated on highways and roadways.

## INDIAN COUNTRY SECTION

### Tribal Law Enforcement Information Sharing Working Group Recommendations

This resolution endorses the recommendations of the Tribal Information Sharing Working Group in their efforts to promote justice in protection of all peoples in the United States. Specifically, that the following recommendations be enacted:

- Federal and state information sharing entities are encouraged to fully engage with law enforcement entities in Indian Country in their areas of responsibility.
- National-level information sharing policies should include specific procedures, tools, and information standards that tribal authorities can use to ensure responsible information

sharing between Indian Country and the federal government.

- Police Officer Standards and Training (POST)-certified or equivalently trained tribal law enforcement officers should be recognized by federal and state law as peace officers within their respective states with the same right of access to systems, processes, training, communications infrastructure, and organizations as other peace officers and law enforcement agencies.

## NARCOTICS AND DANGEROUS DRUGS COMMITTEE AND THE DIVISION OF STATE ASSOCIATIONS OF CHIEFS OF POLICE

### Opposition to the Legalization of Marijuana by States for "Recreational" Purposes

This resolution opposes the legalization of marijuana and urges the White House and Department of Justice to bring legal action to preempt the state marijuana legalization laws that conflict with federal law and encourages federal prosecutors to enforce federal law concerning marijuana as Congress intended when it enacted the Controlled Substances Act.

## NARCOTICS AND DANGEROUS DRUGS COMMITTEE

### Bringing Awareness to Effective Tools Being Used to Combat Opiate Pain Reliever Overdose Deaths in the U.S.

This resolution states that IACP is concerned about the alarming rate of overdose deaths within the United States due to the abuse of opioid pain relievers, encourages greater awareness regarding trending painkiller abuse patterns as well as available tools, such as naloxone, that are effective in minimizing overdose deaths associated with opioid painkiller abuse.

## PATROL AND TACTICAL OPERATIONS COMMITTEE

### Support of Mandatory Active Shooter Training for All Law Enforcement Officers on a Regular Basis

This resolution calls upon all law enforcement agencies to mandate "active shooter"

training for all law enforcement officers under their authority.

## **POLICE INVESTIGATIVE OPERATIONS COMMITTEE**

### **Resolution to seek Legislative Guidance for Access to Electronic Communications, Geolocation, and License Plate Reader Evidence**

This resolution states that any change in laws governing access to electronic and geolocation evidence should be accompanied by provisions that ensure accountability and prompt response by service providers to legitimate law enforcement requests for evidence; that state and federal policy makers should ensure law enforcement's ability to obtain non-GPS geolocation evidence with a showing of less than probable cause; that the International Association of Chiefs of Police (IACP) supports the adoption of policies that encourage responsible use of LPR technology and data by law enforcement agencies; and that state and federal policy makers should take steps to strengthen privacy protections while ensuring the ability of law enforcement to collect LPR data and access historical and privately collected LPR data to support investigations.

## **POLICE PHYSICIANS SECTION**

*Co-Sponsors: Patrol and Tactical Operations Committee and SACOP SafeShield Committee*

### **Tactical Emergency Medical Training for Law Enforcement Personnel**

This resolution recommends that every law enforcement officer should receive tactical emergency medical training including critical core skills of early, life-threatening hemorrhage control and rapid evacuation of mass casualty victims to a casualty collection point. Tactical emergency medical skills are critical life-saving interventions in the officer-down situation, whether as officer applied self-aid or aid given to a fellow officer, or to victims of a mass casualty situation such as an active shooter or bombing event. Specific elements of training are the purview of each agency depending on availability of resources and training programs.

<http://www.policechiefmagazine.org>

## **PRIVATE SECTOR LIAISON COMMITTEE**

### **Support for Mental Health Courts**

This resolution supports the national efforts of establishing Mental Health Courts to reduce recidivism, to provide treatment for mentally ill offenders, and to reduce jail costs, while ensuring public safety.

### **Support for Alarm Licensing**

This resolution encourages the adoption of strong consumer protection laws that deter dangerous and deceptive sales practices regarding alarm systems; supports licensing requirements and other regulations governing those in the electronic security industry that are commensurate with the responsibilities the individual performs; and recommends that individuals with the ability to install, move, repair, replace, service, disarm, or reconfigure an alarm system or any individual component connected to an alarm system, at an end-user's premises, should be properly licensed. Furthermore, those selling systems or services, and those responsible for monitoring security systems should be appropriately screened and background-checked; and IACP endorses the alarm industry and its efforts to pass such legislation, recognizing state licensing and regulation will help protect the security and general well-being of the public.

## **SAFESHIELD COMMITTEE OF THE DIVISION OF STATE ASSOCIATIONS OF CHIEFS OF POLICE**

### **Support for Event Deconfliction Systems in support of Officer Safety and Wellness**

This resolution embraces and supports event deconfliction in order to further the officer safety efforts of law enforcement leaders; furthermore, event deconfliction is most effective if all law enforcement agencies within a region routinely participate in event deconfliction, and agency leadership should partner with other law enforcement leadership in their jurisdiction, region, or state to discuss what system is most appropriate. The state or urban area fusion center should be included in this identification process, since many centers serve as event deconfliction watch centers; upon identification of the appropriate deconfliction system, agency personnel should contact either the regional RISS or HIDTA Center

to obtain access. Agency leadership should support training for agency personnel on how to use the deconfliction tool and incorporate the use of the event deconfliction system into agency policies and procedures.

## **VICTIM SERVICES COMMITTEE AND FORENSICS COMMITTEE**

### **DNA Arrestee Sample Collection**

This resolution recommends that state legislatures and other bodies adopt laws to allow and fund the collection of DNA samples from all persons at the time of an arrest for a serious offense and, further, that the DNA profiles from these samples be uploaded and searched against DNA profiles from crime scene evidence contained in a DNA database such as the Combined DNA Index System (CODIS) in the United States to facilitate solving prior crimes and preventing future crimes.

A copy of the resolutions adopted by the IACP at the 120th annual conference in 2013 can be found on the IACP website at <http://www.theiacp.org/portals/0/pdfs/2013Resolutions.pdf>. For more information, contact Sarah Guy at 703-836-6767 or [guy@theiacp.org](mailto:guy@theiacp.org).

## Congratulations to IACP Life Members – Class of 2013. The following are to be commended for 20 years of active membership.

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The following Associate Members are to be applauded for their long-term commitment to the IACP.

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March 3–May 16, 2014
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- **Columbia, South Carolina**  
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June 2–August 15, 2014
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## Spring–Summer 2014 On-campus Course Schedule

### ON-CAMPUS COURSES EVANSTON, ILLINOIS

- **Supervision of Police Personnel**  
February 10–May 6, 2014 ONLINE  
March 3–14, 2014
- **Traffic Crash Reconstruction 3**  
February 24–28, 2014
- **Crash Investigation 1**  
March 10–21, 2014
- **Crash Investigation 2**  
March 24–April 4, 2014
- **CDR Technician Level 1**  
April 3, 2014
- **CDR Technician Level 2**  
April 4, 2014
- **CDR Data Analyst**  
April 7–11, 2014
- **Math and Physics Workshop for Crash Reconstruction**  
April 7–11, 2014
- **Vehicle Dynamics**  
April 14–18, 2014
- **Crime Scene Technology 1**  
April 14–18, 2014
- **Crime Scene Technology 2**  
April 21–25, 2014
- **Traffic Crash Reconstruction 1**  
April 21–May 2, 2014
- **Crime Scene Technology 3**  
April 28–May 2, 2014
- **Traffic Crash Reconstruction 2**  
May 5–9, 2014
- **Bloodstain Evidence 1**  
May 5–9, 2014
- **Bloodstain Evidence 2**  
May 12–16, 2014
- **Heavy Vehicle Crash Reconstruction**  
May 12–16, 2014
- **Pedestrian Vehicle Crash Reconstruction**  
May 19–21, 2014
- **Advanced Crash Reconstruction — Utilizing Human Factors Research**  
May 19–23, 2014
- **Traffic Crash Reconstruction Refresher**  
May 28–30, 2014
- **Forensic Art Techniques**  
June 2–6, 2014
- **Shooting Reconstruction 1**  
June 11–13, 2014
- **Shooting Reconstruction 2**  
June 16–18, 2014
- **Death Investigation**  
June 23–27, 2014
- **Executive Management Program**  
August 4–22, 2014

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# The U.S. Department of Justice Community Relations Service:

# Assisting Communities in Resolving Conflicts and Restoring Peace

By Grande Lum, Director of the Community Relations Service; Francis Amoroso, CRS Regional Director of the Northeastern Region, Chief of Police (Retired) of Portland, Maine; and Rosa Melendez, CRS Regional Director of the Northwestern Region, U.S. Marshal (Retired) of the Western District of Washington

On Sunday, August 5, 2012, an individual with alleged white supremacist ties entered a Sikh gurdwara, or temple, in the community of Oak Creek, Wisconsin, and opened fire on the congregation. Six worshippers were killed and four others were wounded, including a responding law enforcement officer.<sup>1</sup> Within hours of the shooting, Community Relations Services (CRS) was in contact with national and local Sikh organizational leaders, the U.S. attorney for the district, and numerous federal and local law enforcement officials. In addition, CRS helped facilitate communication between law enforcement and community members, providing contact information for key law enforcement officials. Later that same week, CRS and the U.S. attorney for the Eastern District of Wisconsin facilitated a key leadership meeting to discuss hate crimes, analyze community concerns over the shooting, and assess community needs for funerals. CRS and its federal and local partners then assisted in the planning and moderation of a larger community meeting at Oak Creek High School that was attended by more than 250 people from the greater Milwaukee area.

## A Hate Crime in a Quiet Community Elicits a Unique Mandate

The Oak Creek, Wisconsin, gurdwara attack serves as an example of the services CRS can provide to communities in the wake of a hate crime. Founded under the Civil Rights Act of 1964, the CRS supports state and municipal government officials, law enforcement executives, and community leaders with resolving disputes based on racial and ethnic tensions, to improve police-community relations. CRS also helps local leaders prevent and respond to alleged violent hate crimes committed on the basis of actual or perceived race, color, national

origin, gender, gender identity, sexual orientation, religion, or disability. CRS is not an investigatory or prosecutorial agency, and it has no law enforcement authority. The agency does not impose solutions or assign blame or fault. All CRS services are provided free of charge to the communities and are confidential. CRS works in all 50 states and the U.S. territories in communities large and small, rural, urban, and suburban. Most of CRS' work originates from requests by police chiefs, mayors, school administrators, local government authorities, community-based organizations, tribal communities, and civil and human rights groups.

In addition, CRS works with schools, colleges, and universities. Of the 728 cases the agency conciliated in 2012, 118 involved educational institutions. For example, in April 2012, the Broward County School District in Ft. Lauderdale, Florida, requested CRS' assistance in response to allegations of racial and ethnic tension between black Haitian and African American students and faculty in schools. CRS convened administrators, teachers, students, and concerned parents and facilitated a dialogue to address their concerns, as well as providing cultural professionalism training.

In May 2012, CRS was in Detroit, Michigan, in response to community concerns over the suicide of a young boy who had allegedly been bullied based on his gender.<sup>2</sup> CRS convened a series of meetings with the federal and local partners, who later participated in a CRS-facilitated hate crimes, bullying, and harassment dialogue. CRS also helped the parties develop a Community Resolution Call to Action—a commitment to provide community-wide anti-bullying education and awareness to parents and students.

In 2012, community tensions in Seattle,

Washington, over Native Americans' high dropout rates, and perceptions of disciplinary bias against them led CRS to convene leaders of the city's urban Indian community and education administrators. CRS conducted a series of workshops to identify opportunities to address the students' achievement gap and to create awareness of issues and perceptions among teachers throughout the school system. The workshops led to the development of a plan to mitigate the issues, which has become a nationally recognized model for addressing similar urban Indian student issues in school systems throughout the United States.<sup>3</sup>

CRS services are provided by highly skilled conflict resolution specialists who are trained to provide assistance in the four areas of mediation, facilitation, consultation, and training. They apply these principles as they work with leaders to resolve conflicts stemming from issues of race and other factors that contribute to hate crimes. In fact, the majority of CRS' cases involve working directly with law enforcement executives and community leaders following divisive occurrences, such as allegations of biased policing or community concerns about excessive use of force. When there is a need for communities and police departments to work through sensitive incidents or strengthen their partnership capacity, their leaders frequently turn to CRS.

CRS provides mediation services to help the parties achieve sustainable agreements to resolve conflicts. CRS conciliators do so by helping parties uncover underlying interests and develop options that resolve differences. Mediation is not used to determine who is right or who is wrong. The goal of mediation is to provide a framework that helps communities clarify misunderstand-



ings, establish mutual trust, and independently prevent and resolve future conflicts.

Facilitation is another service provided by CRS conflict resolution specialists. They facilitate discussions to help communities open lines of communication by listening to the issues of each community group and learning from each group about the problem and potential solutions to the conflict. These dialogues often include various local agencies, institutions, and community residents. Topics of these discussions may include race, police-community relations, perceived hate crimes, tribal conflicts, protests, demonstrations, and other issues that may be important to a community. By reframing and clarifying the issues, CRS can move communities forward toward resolving their problems in mutually acceptable ways. These conciliatory communications may be in-person, by telephone, or via email and may occur over a substantial period of time. Communication is a fundamental building block for developing community trust; it reduces tension and establishes important relationships that build community stability and promote harmony.

CRS conciliators also provide consulting services. Through consulting, CRS furnishes technical assistance, information on best practices, referrals, coaching, advice, and insight. For example, CRS might provide technical insight on the structure and function needed in order to establish a Human Relations Commission. Consulting services can help communities address police, community, or school conflicts.

In addition, CRS conflict resolution specialists provide training programs. Training is a tool for understanding and alleviating current disputes and for preventing future disagreements. These programs bring together representatives from local government agencies, community faith-based organizations, law enforcement, advocacy groups, and businesses in order to develop collaborative approaches for reducing conflicts and addressing the factors that have contributed to the disagreement.

### CRS and Law Enforcement: A Long History of Collaboration

In its almost 50-year history, the CRS has worked with law enforcement communities across the country. During the Elian Gonzalez custody and immigration controversy of 2000, CRS provided technical assistance in contingency planning to command staff and intelligence units of the Miami police department, facilitated meetings between Cuban leaders and Immigration and Naturalization Services officials, and was on-site at several demonstrations, fostering communication between police and protesters, and preventing incidents of violence. As reports of violence against Arabs, Muslims, and Sikhs in the United States intensified following the



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9/11 terrorist attacks, CRS deployed its forces to promote understanding. CRS prepared an Arab, Muslim, and Sikh Awareness and Protocol seminar, and created a law enforcement roll-call video titled *The First Three to Five Seconds*. The video helps police officers to reduce tension by differentiating between threats and cultural norms in non-crisis situations involving Arabs, Muslims, and Sikhs.

Following Hurricane Katrina in 2005, CRS worked to open lines of communication between disaster relief entities and minority communities. CRS collaborated with local law enforcement and federal government officials to implement rumor control measures surrounding the alleged presence of hate groups in cities and towns affected by Hurricane Katrina, and the agency outlined the demographics of major racial and ethnic communities in the Gulf Coast states and then trained program participants on the history of these communities’ relations, specifically their encounters with authority; perceptions of discrimination; and allegations of unaddressed grievances by local, state, and national government.

In 2007 and 2008, CRS assisted local law enforcement after the shooting death of Sean Bell in Queens, New York. The agency provided contingency planning assistance, self-marshal training, and on-site conciliation during community protests following Bell’s death. Following the acquittal of the three police officers indicted over the shooting, CRS sent a National Deployment team to New York to help local law enforcement and government officials ensure peaceful demonstrations. CRS responded to more than 25 community events in New York City and monitored and provided assistance during six highly publicized “Civil Disobedience for Sean” demonstrations that consisted of blocking public access to the Triborough, Manhattan, and Brooklyn Bridges.

Today, CRS continues to provide services for, and alongside, law enforcement communities. The agency is often asked to furnish technical assistance and aid law enforcement in logistical planning when there are demonstrations, marches, and rallies. CRS also provides its mediation, facilitation, training, and consulting services to law enforcement when there is community tension regarding a high-profile police investigation or controversial prosecution in the aftermath of actual or perceived hate crimes. In addition, CRS frequently works with law enforcement to improve police-community relations and communication, particularly when community members have made accusations of racial profiling, bias-based policing, and excessive use of force against community members of a different race, color, national origin, gender, gender identity, sexual orientation, or religion or against a community member with a mental or physical disability.

**CRS Training and Education Programs for Law Enforcement**

CRS provides a wide array of services, including training programs specifically designed to assist law enforcement and improve police-community relations.

**Law Enforcement Mediation Program:** CRS’ Law Enforcement Mediation Program is a two-day course that strengthens the problem-solving and mediation skills of law enforcement officers and commanders who serve diverse communities. CRS works with officers to identify opportunities to enhance the level of mutual trust and respect between their department and the community and to eliminate barriers to providing more effective police services. Many of the issues addressed can lead to the residual benefit of a reduced number of calls for service and an increase in patrol efficiency.

**Responding to Allegations of Racial Profiling:** Responding to Allegations of Racial Profiling is an eight-hour course that brings together law enforcement and community members to address perceived racial profiling and biased policing practices. This course can be tailored to the specific needs of a given community. It is helpful in reducing tensions and creating a shared understanding of factors that contribute to mistrust. It is an effective way to begin a police-community relations initiative or problem-solving process, and it encourages collaborative police-community relations.

**Arab, Muslim, and Sikh (AMS) Cultural Awareness Program:** The AMS Cultural Awareness Program is a four-hour course intended to familiarize law enforcement and government officials with some of the predominant customs and cultural aspects of Arab, Muslim, and Sikh communities. The program is effective as a tool for helping law enforcement avoid behavior and actions that might be deemed offensive—or as part of a broader initiative to strengthen the relationship between local officials and the Arab, Muslim, or Sikh communities that they serve.

**Hate Crimes Program:** The Hate Crimes Program is a two-day training program that provides state and local law enforcement officers with the skills and knowledge that are critical when addressing hate crimes. The program has been designed to familiarize officers with best practices for identifying, reporting, and investigating hate crimes. The program also covers strategies for effectively educating the public about hate crimes and their significance to community relations.

**Self-Marshalling Assistance and Training:** CRS assists local law enforcement, city officials, and demonstration organizers with planning and managing safe marches and demonstrations. CRS facilitates meetings between all parties involved and serves as a neutral entity to ensure that logistics are coordinated, information is shared appropriately, and that marches and demonstrations are conducted safely.

**Rumor Control:** CRS' Rumor Control Program assists in establishing measures that control inflammatory and inaccurate rumors. By employing a proactive and coordinated approach to publicity (and a formalized community-notification process), CRS ensures the dispersal of accurate and credible information.

**Student Problem Identification and Resolution of Issues Together (SPIRIT):** The SPIRIT program is a two half-day interactive student-based problem-solving program that engages students in developing solutions to problems associated with allegations of discrimination, harassment, and hate activity in schools. SPIRIT also engages school administrators, teachers, school resource officers, local officials, community leaders, and parents in the process of identifying and responding to these conflicts in school, and both students and administrators work toward creating the safest possible environment for learning.

**City Site Problem Identification and Resolutions of Issues Together (City SPIRIT):** City SPIRIT is a two-day problem-solving and resolution program that brings together representatives from local government agencies, community and faith-based organizations, law enforcement, and businesses to develop collaborative approaches

for reducing racial conflicts and addressing the factors that contribute to these conflicts. The parties may also develop approaches for preventing and responding to alleged violent hate crimes on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion, and disability. This program helps communities establish a lasting capacity to prevent and respond to conflicts.

### Healing Communities

Several months ago, Oak Creek, Wisconsin, commemorated the one year anniversary of the attack on the Sikh gurdwara. In the year since the shooting, CRS has continued to assist the community in establishing stronger and lasting bridges of communication between federal and local law enforcement officials, national and local Sikh officials, and the larger Oak Creek community. CRS conciliators have moderated dialogues, organized a forum on safety concerns for houses of worship, and provided conciliation services at vigils for the victims. In addition, the agency has responded to requests from mosques and gurdwaras across the United States who have expressed anxiety that a similar incident could occur in their communities. CRS has aided these congregations in voicing their concerns with local law enforcement and assisted them in educating their broader

communities about their religious traditions and beliefs through facilitated dialogues and cultural professionalism trainings. By learning how to peacefully communicate, communities are fostering an environment of positive communication and reducing the risk of conflicts now and in the future.

For information regarding CRS services, trainings, and support, please contact the CRS Headquarters Office at (202) 305-2935. Additionally, information regarding CRS' various regional and field offices is located on the agency's website (<http://www.justice.gov/crs/map.htm>). ♦

### Notes:

<sup>1</sup>John Edwards and Libby McNerny, "Oak Creek: Leading a Community in the Aftermath of a Tragedy," *The Police Chief* 80 (October 2013): 98–106.

<sup>2</sup>Gina Damron, Cecil Angel, and Matt Helms, "7-Year-Old Boy's Suicide Shocks Detroit Community," *Detroit Free Press, USA Today*, May 25, 2012, <http://usatoday30.usatoday.com/news/nation/story/2012-05-25/detroit-child-suicide/55200606/1> (accessed October 18, 2013).

<sup>3</sup>Community Relations Service, *Community Relations Service: FY 2012 Annual Report* (Washington, D.C.: U.S. Department of Justice, Community Relations Service, 2013), 23, <http://www.justice.gov/crs/pubs/crs-fy2012-annual-report.pdf> (accessed October 18, 2013).

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## Ethical Defensibility: Using the Intelligence Led Policing Template to Avoid the Appearance of Unconstitutional Policing

Thomas Martinelli, Adjunct Professor, Wayne State University, Detroit Michigan, Independent Training Consultant, Institute for Intergovernmental Research, Tallahassee, Florida, and Michigan State University's Intelligence Toolbox Program, East Lansing, Michigan, and Member, IACP Professional Standards, Ethics, and Image Committee; and David L. Carter, PhD, Professor of Criminal Justice, Michigan State University, East Lansing, Michigan, Director of the MSU Intelligence Toolbox Program, and Member, Justice Intelligence Training Coordination Working Group

**The concept of Ethical Defensibility provides all sworn personnel with the philosophical tools and analytical skills necessary to weigh value-based alternatives, resulting in the repetitive acts needed to protect, preserve, and defend the integrity of the police profession.**

Those in the Information Sharing Environment (I.S.E.) are tasked with the laborious duty of gathering, analyzing, interpreting, vetting, and disseminating information about alleged acts of criminality and criminal associations while simultaneously protecting the privacy rights of those they investigate. If there are truly any policies in the field of law enforcement that are philosophically based, with higher standards and modes of self-accountability, they are the policies, codes, and rules of the Intelligence Led Policing (ILP) paradigm. There is a critical, philosophical, and ethical reason for this, and all facets of the profession can take a page from this evolving paradigm in regards to constitutional accountability.

The ILP model demands such high legal and ethical standards because it encompasses the pre-crime realm of the conspiracy stages of criminality. Information gathering for the intelligence process involves balancing the privacy expectations of individuals (although they are in the planning stages of a criminal act or threat), with law enforcement's need to thwart such criminal acts before they come to fruition. As seen from the recent past, many pre-crime behaviors are legal actions but have future, illegal intentions (as was the case with the Oklahoma bombing). Appreciating the balance between enforcing the law, constitutionally, and protecting the integrity of the process, ethically, is the key for success in the ILP function. So too, constitutional vigilance by all law enforcement personnel, at the pre-crime stage of investigations and during traffic stops and interviews, involves knowing the philosophical parameters of police authority and adhering to such parameters in the performance of their everyday duties. The unique sensitivities associated with the ILP model provides insight into such duties.

The gathering of tips, leads, and suspicious activities, regarding potential gang activity, terrorist acts, and organized crime or Racketeer Influenced or Corrupt Organization (RICO) cases, delves into the handling of the Personal Identifying Information (PII) of target individuals during the pre-crime stage. When mishandled, mislabeled, or disseminated in violation of codes, regulations, and strict policies, the potential for serious liability exists and breaches the strict tenets of the ILP model. These guidelines, regulations, and policies are drafted to specifically protect the integrity and core values espoused within the I.S.E. and are policed by all who participate in the intelligence function. Knowing the law, respecting the rules of 28 CFR Part 23, and vigilantly honoring the core values associated with handling the PII of all citizens (target or innocent) is the key to avoiding allegations of

“unconstitutional policing” and is a defense in a court of law.

### Respecting the Spirit of the Law

On a law enforcement continuum of proofs, the pre-crime realm of ILP and conspiratorial acts is found to the far left of mere suspicion, reasonable suspicion, and probable cause. The further left on the proofs continuum, or the lesser amount of validity and reliability one has regarding a tip or lead, the higher the systemic accountability associated with privacy expectations. The handling of the PII of target individuals is a very sensitive process. It involves an acute understanding of both the legal and ethical ramifications of prejudicial decision-making processes and the costly liability associated with policy non-compliance, privacy rights violations, or worse, allegations of racism, classism, corruption, or negligence.

Many times, civil libertarians and critics of the ILP function cannot argue that specific intelligence methods are illegal from a criminal statutory definition. Rather, they will argue that the secrecy of the information gathering methods or expanded scope of legal authority in such investigations are “creepy” and have an air of impropriety about them. They do not champion the illegality of the acts; rather, they argue that the philosophical “spirit of the law” has been breached. Their

contention is that law enforcement methods of infiltration and warrantless searches used to sidestep the Fourth Amendment are an occupational breach justified by some in the ILP realm to protect and serve.

When law enforcement officials misuse their authority, circumvent the rules of their profession, and rely more on their personal prejudices and less on their training, education, and street experiences, they subject themselves and their agencies to accusations of racial profiling, constitutional rights violations, and negligence. For example, once in a great while, an officer might suggest that all Muslims are extremists or jihadists; thus, all Muslims (or Middle Easterners) must be scrutinized (or unconstitutionally searched or surveilled) because as jihadists, they all hate Americans, are terrorists, or have terrorist ties or sympathies.

It is this naïve, broad-brush mind-set that leads officers to commit acts of unconstitutional policing, engage in privacy rights violations, and subject their agencies to potential federal civil rights investigations and civil liability. It must zealously be avoided at all costs. Knowing the law, understanding the spirit behind the laws, respecting constitutional limitations, and policing each other, in the ILP realm and in policing in general, is a formula for professionalism, successes, and public appreciation. Minimizing all

litigation, through education and training, is managing risk.

Not unlike the ILP training paradigm, defining key concepts regarding your agency’s core values, high ethical expectations, and the need for strict adherence to “character policies” is a recipe for defensive success whenever an agency’s enforcement decisions are challenged in a court of law. These proactive steps demonstrate an agency’s due diligence to avoid negligence. Too many times, agencies spend an inordinate amount of training focused on the law (and its exceptions) and less on the spirit behind the laws themselves.

Today, judges and juries are looking at law enforcement’s intentions, motivations, and biases in civil rights violation cases, especially when there is a lack of articulable or definable criteria to support probable cause or even reasonable suspicion to take police action. Whether a traffic officer searches a vehicle with a drug sniffing dog or a special unit decides to infiltrate a suspicious group or gang or simply retains PII on its members, respecting both the law and the spirit behind the Fourth Amendment limitations is the key to success. U.S. Supreme Court case law and the core values of the profession reflect the higher standards of character and nobility law enforcement officers are held to and has become a key component in courtrooms around the United States.

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Simply put, the philosophy behind the Fourth Amendment's restrictions on searches and seizures is limited in scope to protect the sanctity of privacy all citizens enjoy, whether innocent, suspicious, or criminal. If the police arbitrarily expand their searches in such a fashion without articulable, definable, and defensible cause, such actions belie the spirit of the law. This was not the intent of the drafters of the Constitution, nor is it acceptable in today's courts of law. Ethical defensibility training incorporates conditioning officers to always contemplate the big picture; to balance their duty to protect and serve with their duty to obey the law, literally and figuratively; and to ethically serve. This training module emphasizes the need to protect the integrity of the profession, to engage in thought-out, knowledgeable decisions based on specific execution of the law, core values, and policy adherence and implementation. This lays the foundation for a credible defense in both criminal and civil courts.

### Defining Your Agency's Core Values for Uniform Implementation

Words are tools for success in all facets of policing, as well as in criminal and civil courts and labor law hearings. Words, labels, and categorizations, when used proficiently, can obtain successful convictions and search warrants and can be effectively used to defend against allegations of unconstitutional policing, wrongful discharge, sexual harassment, and disciplinary sentences. Yet, when used negligently or prejudicially, they can be very costly to law enforcement organizations in all courts of law, from slander and libel actions to intentional infliction of emotional distress and defamation within the business community. Agency trainers, first-line supervisors, and chiefs cannot afford to assume all sworn personnel understand and accept the philosophical tenets of the profession. Omitting such training blocks has proven to be costly, and it can be considered organizational negligence.

For example, 28 CFR Part 23 training for the I.S.E. encapsulates the intended spirit of the law while reinforcing the critical core values needed to engage in the gathering, analyzing, and disseminating of criminal information and intelligence. It is simply a rule, a code, an oath, but with words and policy implications that need to be strictly adhered to in order to preserve, protect, and uphold the integrity of the I.S.E. It is a code that directly applies to the highest standards regarding individuals' character in policing. The negligent, or worse, prejudicial use of words or labels in a police report, warrant request, or intelligence bulletin, more times than not, will result in constitutional rights violations litigation. Such negligence, gross or prejudicial, can lead to causes of action in libelous or slanderous lawsuits, intentional

infliction of emotional distress, and loss of business or reputation in the community, as mentioned above, as well as constitutional rights litigation for violations such as racial profiling, breaches of privacy, and due process-equal protection of the law.

The federal statute that addresses negligent acts of law enforcement personnel that subject citizens "to the deprivation of any rights, privileges or immunities" guaranteed to them through the U.S. Constitution is 42 U.S.C. 1983. (18 U.S.C. Sections 241 and 242 address the more serious intentional and conspiratorial deprivations of rights.) Most state laws strictly adopt the verbiage found in Section 1983. The ILP training model, and more specifically, 28 CFR Part 23, provides meticulous guidance and de facto standards used in the field of intelligence emphasizing a uniform template (for all intelligence functions) demanding a focused discretion, precision, and implementation of the core values associated with the "pre-crime realm" as a basis (and defense) for all intelligence-related decision-making processes.

The ILP codes, standards, and guidelines, when zealously followed, provide a uniform defense against plaintiff attorneys' allegations of privacy violations, racial profiling, and civil liberty deprivations. Such police discretion is obtained through rigorous training, field experience, and common sense. The decision-making processes emphasize the cognizant slant toward defensible, legal, and ethical contemplation, weighing all competing alternatives and arriving at an educated, defensible strategy. To establish liability, plaintiff attorneys try to create a nexus between their clients' alleged damages (or harm) and an agency's broken system or policy non-compliance.

They will attack an agency's poor training and poor adoption or teaching of core values and claim any resulting illegal or unethical acts were due to training deficiencies. They try to demonstrate to a civil jury that the agency's overall system of accountability is flawed, in comparison to agencies around the United States, and thus, organizational liability is clear. The argument is that if an officer repeatedly engages in unethical policy violations, this demonstrates a disrespect for laws, policies, rules, authority, and the profession itself; therefore, it is reasonable to believe he or she could engage in unconstitutional policing.

One of the criticisms civil libertarians raise regarding the relatively new ILP paradigm is that, because it is not precise in its implementation, it results in innocent Americans' privacy rights being trampled through data mining and a broad-brush approach to information gathering. They allege that the Constitution was drafted specifically as a guideline for precision so as to avoid such arbitrary and invasive violations. Unfortunately, such a nar-

row interpretation of the application of constitutional law would fail to benefit a democratic society of diversity, whose needs and wants continually evolve as time goes on. In fact, the drafters of the Constitution intentionally used words of generality, philosophy, and equity in order not to handcuff those whose job it was and still is to protect and serve, legally and ethically.

The philosophical nature of the Constitution as a document that both grants citizens' rights and allows for the needs of law enforcement to access certain information demands an ongoing balancing assessment, as demonstrated by the U.S. Supreme Court's statement that "while the Constitution protects against invasions of individual rights, it is not a suicide pact."<sup>1</sup> The court, here, emphasized that each case will be adjudicated on its facts and merits, and a reasonable conclusion will be drawn in relation to *constitutional law applications and the spirit behind the law*. The application of law cannot be bent over backwards to protect individual rights to the detriment of society's expectations to be free from crime and disorder. This is why U.S. Supreme Court case law employs words and concepts such as "reasonableness," "good faith," "due process," and "equity," allowing reasonable minds to use common sense and apply the law in a fair and equitable manner. This fair and equitable application of constitutional law balances law enforcement personnel's need to protect and serve with their duty to perform such tasks with integrity and professionalism.

It is critical that words and labels such as jihadist, terrorist, extremist, unindicted co-conspirator, Sovereign Citizen, the Bloods, or the Crips are specifically defined, with defensible criteria, within your agency's differing units and by those who work in the I.S.E. In the pre-crime realm, it is not only imperative that such definitions are defined as precisely as possible, but it is also incumbent that those who gather, collect, and store criminal information on target citizens zealously pursue the validity and reliability of the data they obtain. Just as the proper use of words are tools for success, they can also be used against law enforcement personnel in a court of criminal or civil law.

Intelligence analysts (not necessarily sworn personnel) are trained to be even more precise. Their mantra is, by necessity, "as precise as possible." Their training encompasses the use of inductive and deductive reasoning to analytically weigh each tip, lead, and suspicious activity report for validity, reliability, common sense, and its place in any potential threat picture. They are specifically trained in weighing competing hypotheses in regard to the suspicious activity reports they receive in relation to target citizens' behavioral signatures and are tasked to put together a threat puzzle without having all of the pieces. Preventing serious crimes in their jurisdictions is critical,

but intelligence analysts recognize they are obligated to protect the privacy expectations of innocent citizens whose names erroneously ended up in a tip or lead file. The words they use, the core values they bring to their job, and the constitutional respect and sensitivity they employ daily, exemplifies the highest ethical standards found in law enforcement. There is a template of success that all law enforcement personnel should emulate.

### Core Values Training to Minimize Risk in Court

Ethical Defensibility training needs to be as precise, as uniform, and as zealously implemented as possible during all law enforcement investigations. The curriculum should address the core values critical to the leader of the organization. One must consider how to define such core values in addressing ethical dilemmas in policing, both on and off duty, and examine how the agency's policies reflect the expectations placed on officers. For example, all officers have a mandatory duty to report misconduct—their own or their colleagues. Are there examples of best practices (or lessons learned) within the agency that best define and illustrate administrative expectations? Are the disciplinary processes designed to implement an agency's expectations in order to appropriately discipline employees for policy non-compliance and reduce the appeals process?

The citizens an agency serves (as well as the rank and file) need to know that the discretionary use of their public servants' police powers, day in and day out, are based on solid legal and ethical thought processes. These processes are a learned skill set acquired through years of training and experience passed down from generation to generation of officers. With so many conflicting values in the police profession, it is incumbent that the training curricula address core values expectations in order to provide a basis for these decision-making processes. It provides a template of continuity and a defense in legal proceedings. Long gone are the days of giving a recruit a badge, a gun, and the general orders and say, "now go do the right thing."

One of the major challenges with this training is that philosophical discussions of police core values are, more times than not, difficult and abstract, resulting in a lack of uniformity, consensus, and clarity. Officers who understand the expectations of their agency's leadership, when paired with an appreciation that the profession itself possesses competing, conflicting, and overlapping core values, provide a sound legal defense against charges of unconstitutional policing, noble cause corruption, and the wrongful discharge of duties.

In fact, most of the Department of Justice (DOJ) Consent Decree litigation against agencies across the United States address broken systems of both legal and ethical account-

ability. Offenses such as racial profiling, excessive force, privacy violations investigations, abuses of authority, poor investigative procedures, poor disciplinary processes, and a lack of meaningful subordinate evaluations involve more of a lack of core values implementation, rather than an overt failure to follow the law. Failing to follow the law is negligence; intentionally violating the spirit of the law is a more serious character flaw directly related to a breach of trust.

For this discussion, one must be cognizant of the modus operandi of plaintiff attorneys. In order to convince a judge or jury that an agency's organizational negligence resulted in his or her client's deprivation of constitutional rights, they will attack the policies, procedures, training curricula, supervision, and the overall implementation process or lack thereof. It is their goal to place in evidence a systemic failure of accountability on the part of the agency, which opened the door for unethical behavior by its officers. They argue that unethical cops are bad cops. They contend that an agency's leaders' deliberate choice not to engage in core values training, implementation, and zealous oversight of such character issues was an egregious omission and a direct cause for their client's damages. In essence, they argue that the agency was negligent in the protection of their client's guaranteed constitutional rights.

Their argument is "perception must be reality"; therefore, when there is proof or an appearance of a lack of professionalism, integrity, and respect for citizens, it lays the foundation they need to prevail in civil courts. With regular media reports of allegations of racial profiling, warrantless stops and searches, "testilying" (perjured officer testimony), and an overall daily disdain for minorities in the neighborhoods, plaintiff attorneys simply must prove there is a 51 percent more likelihood that a lack of comprehensive training, poor standard policy implementation, and inadequate supervision, coupled with cursory disciplinary slaps on wrists for serious policy non-compliance involving character issues, create a work environment rife with unethical officers, unaccountability, and misconduct.

Plaintiff attorneys also argue that chiefs and top administrators knew or should have known they had a "bad apple" in their ranks. Whether there are officer character issues regarding a "willingness to deceive" (which involves lying or omissions) or allegations of domestic violence, sexual harassment, or "keeping one's private life unsullied as an example to all," once an officer's disciplinary record is admitted into the court record, the agency has lost any benefit of the doubt.<sup>2</sup> Whether in interrogatory answers, in deposition testimony, or in court, once it has been



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established that the officer has a history of poor character judgment resulting in past serious policy violations, this becomes a difficult hurdle to cross. The character of officers is such an elemental part of these types of proceedings, that there have been databases used to collect evidence of officer character flaws from their divorce proceedings, child support litigation, and other private civil litigation for the defense attorneys to access should they seek to impeach a police witness.<sup>3</sup>

Granted, not all personnel files are subject to the procedural discovery rules in civil law cases. Much of the time it is up to the judge to decide the relevancy of their admission regarding character flaws, unethical acts, and a lack of core values implementation. However, with the DOJ's litigations so prominent in addressing unconstitutional policing and civil rights issues, it is not a stretch for judges to reasonably allow character issues into the court record, if relevant.

Even if the judge rejects the admission of personnel files, plaintiff attorneys have cleverly found a way to circumvent such obstacles. In the past, they have elicited sworn testimony from middle managers (in depositions or open testimony) regarding the subject officer's character and disciplinary record. If the middle managers know of the officer's disciplinary history, they must testify to that, and, if they were not aware of the officer's disciplinary history, the plaintiff attorney can then motion for leeway to delve into such a sensitive area.

The plaintiff attorney's goal is to demonstrate to the fact finder (the mediator, judge, or jury members) that (a) this officer has a lack of respect for the job, its expectations, and its high standards; (b) he or she repeatedly demonstrates this lack of respect through unethical acts and policy non-compliance, (perhaps evidenced by citizen complaints); and (c) the agency knew (or should have known) this was a poor employee and should not be trusted in public service, but they took no or minimal corrective action in re-training, reevaluating, or removing this individual.

Additionally, plaintiff attorneys depose the agency chief, asking about the drafting of policies, the chief's interpretation and implementation of relevant policies, possibly their definition of core values, and prior disciplinary measures taken against other employees who have violated policies pertinent to the misconduct allegation being adjudicated in the case before them. Then they depose assistant chiefs, captains, lieutenants, and sergeants in the chain of command and ask them the same questions in an effort to elicit *different answers*. Then, finally, they depose the officer or officers involved in the case and again try to elicit different answers to the same questions and same policies. By the time mediation of the case arrives, or the trial date, they have amassed evidence of subjective, arbitrary, possibly confusing, and individual inter-

pretations of the same policies for the same agency. They fortify their agency negligence argument (deliberate indifference) by demonstrating that a lack of training, poor policy education of subordinates, and individual supervisory subjectivity are the direct cause for their client's constitutional rights deprivation or other cause of legal action. There is no defense to such an argument if Ethical Defensibility training never occurred.

Ethical Defensibility training provides value added to an agency's successful efforts toward maintaining their professionalism. Whether the training is in defense strategies in courts or labor law hearings or intended to deter officers from ever engaging in misconduct or to give whistleblowers the courage to step forward and report colleague misconduct, it is a tool for uniformity and accountability that provides philosophical perspective for the entire workforce.

### Conclusion

Everyone makes mistakes, and at times, any person may act professionally unethical when backed in a corner. It is what is learned from those mistakes that make officers the professionals that they are. No one has all of the answers regarding the delivery of police services. Deliberate indifference, as a cause of action, entails a pattern or practice of an agency's broken disciplinary system, commencing with poor training curricula through to poor disciplinary accountability. The key is for vigilant supervision, a department-wide commitment to core values training and implementation, and an effort to maintain that professional pride that brought officers to public service in the first place.

The ILP philosophy of policing oneself, each other, and even other agencies is a strong template to follow. Precision in the words and labels the I.S.E. uses, a healthy respect for the privacy guarantees citizens and the media have come to expect, and a cognizant effort to minimize or eliminate police malpractice in the profession are a recipe for success. The old insurance industry saying, "pay us now or pay us later" is applicable here. Invest now in training subordinates using the Ethical Defensibility concepts to adopt the core values critical to you and your organization (both in the academy and in annual in-service training) and avoid the astronomical costs (of taxpayer monies and to the agency's public image) associated with unnecessary and avoidable civil litigation down the road. ♦

### Notes:

<sup>1</sup>*Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 162 (1963).

<sup>2</sup>The International Association of Chiefs of Police, Law Enforcement Code of Ethics, <http://www.theiacp.org/PublicationsGuides/ResearchCenter/Publications/tabid/299/Default.aspx?id=82&v=1> (accessed November 1, 2013).

<sup>3</sup>Lisa A. Judge, "Disclosing Officer Untruthfulness to the Defense, Is a Liars Squad

Coming to Your Town," *The Police Chief* 72 (November 2005): 10-11.

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# Planning Ahead

## for Managing Victims and Their Families in Active Shooter Incidents

By Kathryn Turman, Assistant Director, FBI Office of Victim Assistance

*The objectives of this article are to prepare police executives to meet victim and family needs, promote a victim assistance response that is coordinated and synchronized, and provide resources to assist in the planning and execution of victim/family management in the aftermath of an active shooter incident.*

**A**ctive shooter incidents provide law enforcement with a number of crime-specific challenges. Among these significant challenges faced by law enforcement agencies responding to active shooter incidents and other mass casualty crimes is managing victims and their families in the immediate aftermath. Although this aspect of the response is seldom addressed in critical incident planning and exercises, the manner in which victims and families are treated has been shown to play a major role in judging the overall response to these crimes. A victim management plan is especially important to criminal justice officials whose operational and investigative tasks will benefit from the trust, cooperation, and goodwill of victims, families, and eyewitnesses.

Victims and families confront painful challenges and decisions in the immediate aftermath of a violent crime. Some of these issues are predictable, while others are unique to the individual and the situation, but they can all be addressed by a team of agency representatives that anticipates and responds to collective and individual needs of victims.

For example, it was important to the parents of a nine-year-old girl that she be buried wearing the favorite earrings she had on when gunned down in a mass shooting. Because the victim assistance response team had been working on a plan for associating, cleaning, and returning personal effects, they were able to assist the family in retrieving their daughter's earrings in time for the funeral.

For families of victims murdered in the 2012 Sikh temple shooting in Wisconsin, honoring cultural and religious traditions related to mourning was critical to their healing and stability. Victim assistance professionals worked diligently to accommodate their needs, coordinating with the U.S. Department of State and relevant embassies to facilitate the travel of family members who play a vital role in their traditions.

The father of a six-year-old victim of the shooting at the Sandy Hook Elementary School in Connecticut had never owned a suit, but he could not imagine attending his child's funeral wearing anything else. It was important to the father to honor his son with the dignity he felt his only child deserved. A member of the FBI victim assistance team took the father to a local store and purchased a suit for him using federal emergency victim assistance funds. It was a small gesture, but it helped the grieving father get through one of the most painful days of his life.

While each incident will present different circumstances, there are several requirements all victims and families have in common, such as the need for accurate and timely information and the availability of a support system. The challenges of victim and family management are generally predictable and have practical solutions. Preparation and planning can make the difference in meeting these challenges.

The Federal Bureau of Investigations (FBI) has responded to crimes and disasters that impacted anywhere from a handful to hundreds of victims. Lessons learned have been incorporated into agency response plans, policies, and memoranda of understanding. A few months after the 9/11 attacks, the FBI established the Office for Victim Assistance (FBI OVA) and has since positioned 122 full-time victim specialists in field offices across the United States. The FBI OVA also established an operational victim assistance unit staffed by clinical and medical social workers, a forensic disaster specialist, and an operational psychologist with experience in hostage recovery and reintegration. The work of this unit is supplemented with Victim Assistance Rapid Deployment Teams consisting of FBI victim specialists who have been selected and trained for mass casualty crisis response. These teams have responded to federal crimes, aviation disasters, and supported state, local, and military responses to the shootings at Virginia Tech in Virginia, the American Civic Association in Binghamton, New York; Fort Hood in Texas; the Sikh temple in Milwaukee, Wisconsin; and the Sandy Hook Elementary School in Newtown, Connecticut.

Robert Jensen, in *Mass Fatality and Casualty Incidents: A Field Guide*, defines a successful response as "preserving the dignity of the deceased while meeting the rights and needs of the living, and the requirements of governmental investigations."<sup>1</sup> Operational tasks of law enforcement intersect with victims and their families around collecting and providing information, as well as victim identification, death notification, and management of personal effects. Synchronizing operational tasks and victim liaison and support is essential to both efforts.

### The Challenge of Convergence

Families and friends of victims will not wait to receive information but will attempt to get close to the scene of the incident, even if that means traveling long distances. The National Transportation Safety Board (NTSB) plans for an average of six to eight family members per victim. Family members will need a secure and private place to assemble and receive information and will have basic needs that must be met. Victim liaisons and service providers will be critical in supporting families, whether they are gathering near the scene, at a hospital, or residing in another city or state.

Directing and gathering victims and families to a central location facilitates the provision of information and support to victims and simplifies management of these issues for law enforcement. Victim and family assistance centers (FACs) have been established in response to other types of mass casualty incidents, and the concept is easily adaptable to active shooter crimes.

FACs are secure, private, and supportive places for families to wait for news, collect information needed by investigators and medical examiners, and receive updates from the responding agencies. It is helpful to identify potential locations for FACs in advance, considering security, accessibility for families, space for a briefing room, private areas for notification, and a separate area for children. FACs are generally intended to support families of the missing or deceased in the immediate aftermath until all victims have been recovered, accounted for, and identified, and families have been informed. These centers may need to remain open through the period of funerals and burials.

It is important to also consider victims and families who are unable to travel to the center. Phone conference bridges or secure websites are proven mechanisms to ensure all victims and their families are receiving the same information and services. A victim services provider should be assigned to hospitalized victims and their families. FBI vic-

tim specialists are located around the United States and have been called upon by local police departments to help with notifications and other assistance to distantly located family members.

An active shooter incident, especially when it evolves with intense media coverage, will result in a massive number of inbound calls from families, friends, and other citizens. Law enforcement agencies should determine in advance which call number will be used or issued to receive calls, how it will be staffed, and what format will be used for collecting missing persons' information.

### Identifying and Notifying Victims

Law enforcement must rapidly and accurately identify victims, including the missing, injured survivors, deceased victims, and the "walking wounded." This task is complicated by large numbers of affected individuals and the type of victim population (closed vs. open victim population).<sup>2</sup> The victim identification process is more likely to be protracted with open populations and when victims' bodies are disfigured, severely damaged, or fragmented. Additional challenges may include accounting for victims who left the scene and the length of time required to remove the deceased from the scene and process remains for identification and autopsy. All of these issues present challenges for man-

aging the expectations of families, while ensuring accurate forensic identification.

The family expectations can be managed by carefully (and repeatedly, if necessary) describing to family members the importance of processing the scene for forensic and investigative purposes and to ensure accurate identification of victims. Sensitive conversations with waiting families may need to take place to inform them if the victims are significantly disfigured or damaged. Eventually, the number of bodies recovered will begin to align with the number of families who have not located their loved ones. "Provisional" notifications can be made by telling these families what is known to be true at that point in time about the number of deceased victims. Additionally, the families should be informed about what needs to be done by officials to identify the victims and how long the process is estimated to take. It is best to avoid making promises that cannot be kept with regard to the timing of identification and release of victims' remains. Working collaboratively with the medical examiner to determine the most accurate and efficient identification process will help to avoid confusion and delays. Conducting antemortem data collection interviews with families in the presence of a professionally trained victim support provider may help the family feel they are making a significant contribution,

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as well as provide vital information for the forensic identification process.

The manner in which families are informed of a death will leave an indelible impression. Death notifications should be made using the tested model of teams comprising a police officer and victim services provider.

### Communication and Support

Families want and need information from an official source as soon as it becomes available and before it is shared with the media and public. Incorporating victim liaison and support into the command post will help ensure the flow of information to and from families. The command post should coordinate and communicate with the lead victim assistance agency. Regular briefings from a senior official are a critical tool for keeping families updated and managing expectations.

Victim populations may be diverse, so it is helpful to identify in advance potential populations in the community that may be targeted, along with providing resources for assisting them in the event of an active shooter incident. For example, at least two of the more recent active shooter incidents involved immigrant populations with little or no English language proficiency and limited access to official translators.

Interagency communication is necessary to provide adequate and timely information and support to victims. Victim information

should be shared for law enforcement and assistance purposes, as appropriate, while protecting victims and families and adhering to privacy laws. Instead of releasing victim information to a wide range of service agencies, it may be more effective to provide victims with information on available services and related contact information. When in doubt, ask victims and families for their permission to share their information, and document and retain their decisions.

The immediate response is only the beginning of a journey for victims and families who will continue to need support and information, especially if the incident results in an ongoing investigation and potential prosecution. It is important to establish and communicate a formal structure for ongoing communication with victims and families to relay investigative findings and other information, as appropriate.

### Coordination of Resources

Managing and supporting victims and families is a resource-intensive effort, but *more* is not always helpful. Resources should be carefully selected and utilized for effectiveness and the protection of victims and families. Many helpers and donations will arrive at scenes and places where victims and families gather. Many are well-intentioned; however, most will not be needed or helpful, especially when families are in an acute crisis

and have difficulty absorbing information and making decisions.

In the immediate aftermath of a crime, the needs of victims and families are basic: information, practical support, privacy, comfort, and a listening ear. Acute distress is a common and normal reaction to sudden, violent trauma and loss, but it does not necessitate mental health counseling, especially in the immediate aftermath. Life is never quite the same, but most people are resilient and will cope over time. Mental health providers can play an invaluable role in helping some victims in the future as they adapt to a “new normal.”

### Personal Effects Management

Surviving victims and families of the deceased may want personal effects returned to them. These items usually have significant meaning for family members as they may be the last items their loved ones touched. Some personal effects are easily matched to a particular victim, while other items may require additional steps to definitively link them to individual victims. Processes developed in the aftermath of aviation disasters and terrorist attacks have proven to be highly effective in associating, tracking, cleaning, and returning effects to surviving victims and families of the deceased. The FBI utilizes commercial vendors that specialize in processing personal effects in the aftermath of high-impact



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incidents to ensure the greatest number of valued personal effects can be returned to families in the most sensitive manner.

### **Practical Solutions**

The elements of a successful victim management response include the right people, the right plan, and the right focus.

#### ***The Right People: to manage, coordinate, and deliver information and assistance.***

The key to an effective response is designating the right people. A timely and meaningful response will require the combined effort of a team of people representing several disciplines and agencies with knowledge of victims' issues and the ability to provide relevant and appropriate liaison and services to victims. It will also require individuals who are trained to be flexible and are able to deal with ambiguity.

Not all law enforcement agencies have internal victim assistance personnel and resources. This can be addressed by designating a point of contact/manager to oversee the agency's response and to plan and coordinate with other partners. Victim services providers in many communities have developed crisis response plans and capabilities, which law enforcement agencies, as the lead responding agency to active shooter crimes, can refer to or incorporate.

Essential agency representatives should form a victim services management team to develop, monitor, and train on the response plan. During and after an incident, this team can manage and coordinate the response to victims, address evolving needs and issues, and inform and advise senior officials of issues as they arise. The management team should have the ability to commit, coordinate, or obtain needed resources. Relationships among providers should be formed and maintained in advance of a critical incident. The time to meet each other and decide what to do and how to do it is not on the scene of a mass casualty incident.

The victim services management team is also the mechanism for coordinating a broader range of organizations and agencies, including resources that may be available through the state crime victims' compensation agency and federal agencies. Some agencies and organizations will play a critical role in the immediate aftermath, while others may be needed once the initial crisis is over. The team should develop a process for handling spontaneous volunteers and donations.

#### ***The Right Plan: integrated into incident plans and response, informed by experience and best practices.***

An effective response begins with incorporating victim/family management and support into incident response plans for active shooter and other mass casualty crimes. In

planning and exercises for mass casualty incidents, the needs of victims and their families have sometimes been viewed as an afterthought or as something "the Red Cross will handle." As a result, responding agencies have been under-prepared to manage victims, or there has been a lack of synchronization between the incident response and victim service providers.

A mass casualty victim response plan should ensure that the relevant agencies are integrated and that their legal authorities and requirements are defined, along with specific roles and responsibilities. The lead agency should be identified. Other issues to address in planning include logistics, communication, cooperation, mutual aid arrangements, available resources, and transition to longer-term assistance.

The victim liaison and assistance should be incorporated into the overall response plan and linked to the incident command so that operational and investigative tasks of law enforcement and medical examiners or coroners are addressed and synchronized with victim and family interactions.

The plan should be adaptable, scalable, and flexible (a checklist format may provide the greatest flexibility). It should also be exercised on a regular basis. Detailed plans may look great in a binder, but they must be applicable in an actual crisis.

#### ***The Right Focus: addressing victim needs in a timely, compassionate, and professional manner.***

The response to victims and families matters. It matters to victims and families, responding agencies, media, other government officials, and the larger community. A successful response to victims and families benefits law enforcement operations and investigations and enhances the perception of the agency. It demonstrates agency commitment to victims and families, establishes trust, and enhances cooperation from victims and the public. This, in turn, will assist with identifying, locating, and communicating with additional victims and witnesses. Information and support to victims help families and other directly affected individuals cope with the worst experience of their lives and begins the process of healing throughout the community.

### **Federal Resources**

The Investigative Assistance for Violent Crimes Act, signed and enacted by the president of the United States on January 14, 2013, authorizes the FBI, at the request of an appropriate state or local enforcement official, to assist in the investigation of violent acts and shootings occurring in a public place, as well as mass killings and attempted mass killings. This authorization has been delegated by the attorney general to the director of the FBI and subsequently to FBI special agents in charge.

### **FBI Office for Victim Assistance**

The FBI Office for Victim Assistance (FBI OVA) has provided support to a number of communities in the aftermath of active shooter crimes. Support may include consultation with planning consultants, on-scene assistance by a Victim Assistance Rapid Deployment Team, financial assistance for families with emergency needs (travel/lodging, transportation of remains), and assistance to local officials with crime scene cleaning and processing and cleaning of personal effects. The FBI OVA can provide information on using the Virtual Command Post feature of Law Enforcement Online (LEO) to manage and provide information on the victim response. The FBI OVA also developed a number of publications on mass casualty victim assistance that may be helpful:

- "Mass Casualty Pre-Incident/Incident Checklist"
- "Crisis Communication with Victims and Families for Senior Executives"
- "Death Notification Pocket Guide"
- "Family Assistance Center: Recommended Strategies for Immediate Support"

### **Department of Justice Office for Victims of Crime**

The Office for Victims of Crime (OVC) in the U.S. Department of Justice administers the federal Victims of Crime Act funding, to include "Anti-terrorism and Mass Violence Emergency Assistance" funding grants. States receive annual grants for victim services and crime victim compensation programs but may also apply for additional funding in the aftermath of violence crimes to support assistance to victims and families. Access to a 24/7 call center specializing in victim/family support may be available to local, state, and federal agencies. Funding may also be available to provide assistance for responders. ♦

#### **FBI Office for Victim Assistance**

To obtain the publications listed in the article or for more information about the FBI OVA, please contact OVA Assistant Director Kathryn Turman at 202-324-1339 or [kathryn.turman@ic.fbi.gov](mailto:kathryn.turman@ic.fbi.gov).

#### **Department of Justice Office for Victims of Crime**

Details and information on additional resources are available on the OVC website at <http://www.ovc.gov>.

#### **Notes:**

<sup>1</sup>Robert A. Jensen, *Mass Fatality and Casualty Incidents: A Field Guide* (Boca Raton, FL: CRC Press, 2000), v.

<sup>2</sup>A "closed population" involves a situation in which victims were known or expected to have been at the scene. An "open population" involves a situation in which there are an unknown number of potential victims.

# Connecting the Dots:

# The Challenges of Identifying and Responding to Stalking

By Paul Schnell, Chief of Police, Maplewood Police Department, Maplewood, Minnesota; and Michelle M. Garcia, Director, Stalking Resource Center, National Center for Victims of Crime, Washington, D.C.

**S**talking is a pervasive, dangerous, and—far too often—lethal crime. It is a crime that occurs at dramatically high rates; in a one-year period, 6.6 million individuals were stalked in the United States, and 1 in 6 women and 1 in 19 men are stalked in their lifetimes.<sup>1</sup> Stalking often co-occurs with other crimes such as threats, property damage, physical assault, domestic violence, and sexual assault. The risk of harm is very real for stalking victims—approximately 25 to 35 percent of stalking cases involve some type of violence, and 3 out of 4 women murdered by an intimate partner were stalked in the year prior to their murder.<sup>2</sup>

Similar to domestic violence and sexual assault, stalking is underreported. Only 37 percent of male and 41 percent of female stalking victimizations were reported to law enforcement by the victim or by someone else.<sup>3</sup> There are numerous reasons why victims choose not to report stalking to law enforcement. Common reasons cited by victims include considering it a private or personal matter, reporting to another official, thinking of the incident as minor, lacking evidence, and believing that police would not think it was important or would be ineffective. Unfortunately, the last of these is not an unfounded belief—nearly 20 percent of stalking victims stated that police took no action when contacted. Only 28 percent of stalking victims perceived that the situation got better after reporting to law enforcement, while 49 percent of victims reported that the situation stayed the same and 23 percent of victims reported that it got worse.<sup>4</sup> In most cases, reporting stalking to law enforcement does not stop the behavior. Stalkers do not recognize or respect bound-

aries set by the victim, law enforcement, or the courts. One study of stalking offenders found that recidivism, defined as target contact after intervention, occurred in 60 percent of cases.<sup>5</sup>

Another reason why victims do not report stalking to law enforcement is that the victim is unclear that a crime has occurred. This inability to identify the behavior committed by the stalker as a crime can be particularly challenging for victims. The stalking behaviors most commonly experienced by victims include the following:

- unwanted phone calls and messages
- spreading rumors
- following or spying
- unwanted letters and email
- showing up at places where the victim is present
- waiting for the victim
- leaving unwanted presents<sup>6</sup>

It is easy to see how victims may fail to recognize these behaviors as crimes, given that many of the behaviors, in and of themselves, are not criminal acts. Showing up in public places, spreading rumors, and sending text messages or emails (absent a specific threat or in violation of a court order) are not crimes on their own. This under-identification of stalking also affects law enforcement and prosecutors. In two studies examining domestic violence cases, researchers found that in only 5 to 16 percent of identified stalking cases among reported domestic violence cases are the defendants actually charged with stalking.<sup>7</sup>

The very nature of stalking can make it challenging for law enforcement to identify. One challenge is that stalking is a “course of conduct” crime. All stalking laws in the United States have an element requiring repeated conduct or contact. Statutory language varies across states with common language such as “on more than one occasion,” “two or more acts or occasions,” or simply “a series of acts” or “repeated acts.” Only one state, Delaware, requires three or more separate incidents.<sup>8</sup> However, the law enforcement response to crime is largely incident based, which is incompatible with effective investigation of and intervention in stalking cases.

Typically, law enforcement responds to a call for service, addresses that call, and then moves on to another call. The focus is on the specific incident that precipitated the call and not necessarily any behaviors or incidents that may have occurred previously. If an officer responds to a stalking victim’s call regarding a single non-threatening email and does not ask about any other behaviors or incidents experienced by the victim, there is no ability to meet the course of conduct requirement, and therefore, no ability to identify or charge stalking. For law enforcement to identify and successfully investigate stalking crimes, a paradigm shift is needed in how law enforcement responds to these types of reports. Law enforcement must connect the dots between all of the stalker’s actions.

Another challenge is that stalking laws require that the course of conduct cause the victim, or would cause a reasonable person, to experience emotional distress or fear. The challenge with the notion of emotional distress and fear is that they are subjective. What one person might view as harmless or benign might cause another person distress or fear. For example, responders or others might regard an ex-boyfriend sending cards, letters, or flowers to his former significant other as an annoying or harmless attempt to regain the attention of his former love interest. However, if the recipient of those communications and gifts has taken repeated

## To estimate the prevalence of stalking in your jurisdiction

1. Take the population of your jurisdiction
2. Divide it by 1,000
3. Multiply that number by 26.5

This number provides a conservative estimate of the stalking victimizations occurring in one year in your jurisdiction.

steps to cut off and avoid contact, then the behaviors are understandably distressing. To fully recognize the way the crime is perpetrated and experienced, officers need to understand the experience of the victim. Context is critical in stalking cases. Stalking behaviors are easily minimized when not viewed within the contexts they occur (i.e., from the victim's perspective).

The minimization of stalking and related crimes occurs in a social context. Many stalking behaviors have been normalized and accepted as part of the process of growing up and learning about relationships. Stalking themes can be found in music, film, television, advertising, and other media, which usually portray the behavior as comedic or romantic. Law enforcement officials should be aware of this social context and demonstrate leadership by publicly discussing the crime's serious realities. Police leadership plays an essential role in the effective prevention of and response to the crime of stalking.

What else can law enforcement do to respond more effectively to stalking? First, it is critical that agencies have comprehensive policies and protocols in place. Published policy provides guidance and direction to officers, investigators, and supervisors, in addition to making a clear statement about what is valued and deemed important. In 2002, the U.S. Department of Justice, Office of Community Oriented Policing Services published *Creating an Effective Stalking Protocol*, a monograph created by the Stalking Resource Center of the National Center for Victims of Crime. This publication provides a Model Stalking Protocol that summarizes the definitions of stalking and other legal considerations, the basic elements of response protocol, the roles of police communications personnel, graduated response strategies, and key elements in investigations of stalking cases. The protocol also acknowledges the complexity of the crime of stalking, establishes an early and effective response to stalking as a top priority, and recognizes that all jurisdictions have unique characteristics, processes, and allied partners that shape the response realities in a given community.<sup>9</sup>

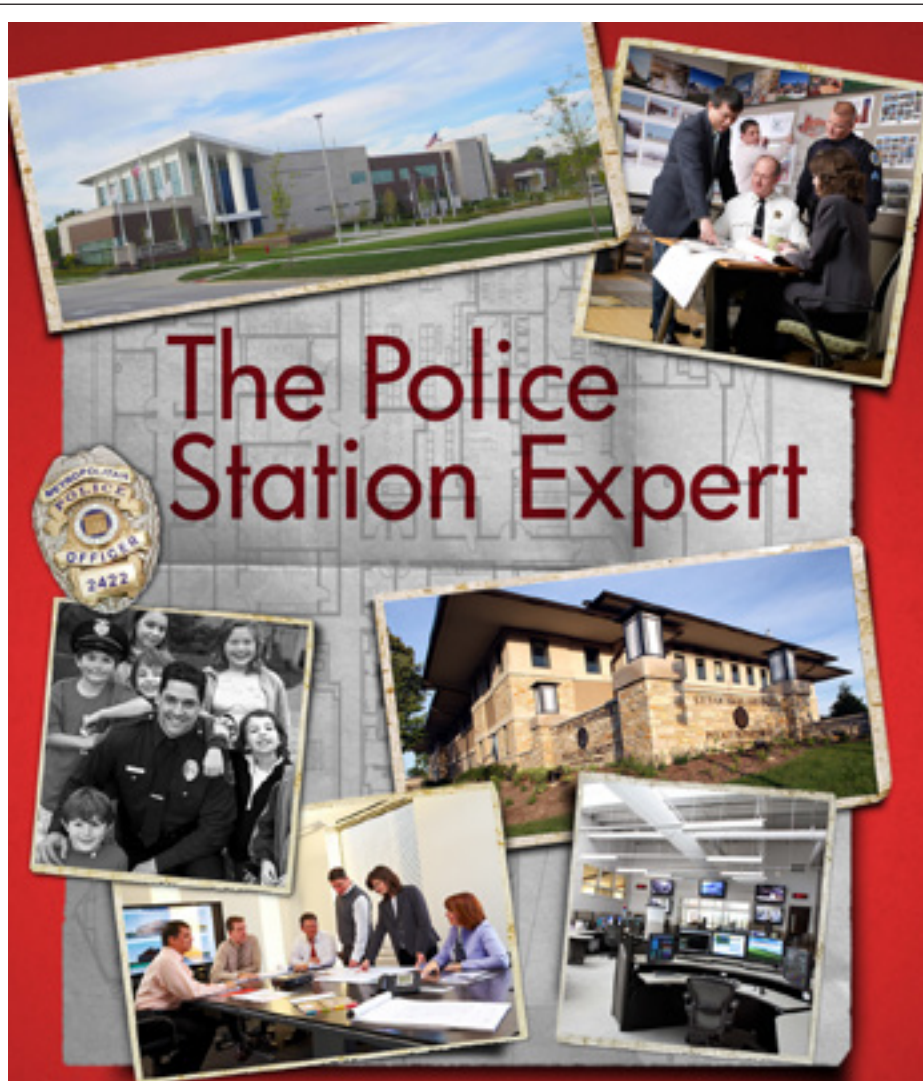
Second, law enforcement agencies must provide officers with current and practical stalking response training. Training must establish the prevalence and dynamics of stalking, with a focus on the importance of understanding the context in which the crime occurs, and also provide a basic awareness of the technology that is increasingly used to perpetrate it. Training should emphasize the need for complete and comprehensive investigations framed within a course of conduct response rather than an incident-based response. The investigations of these cases require strong partnerships between victims and police. The training should also provide reminders of ways police officers can maintain critical connec-

tions with stalking victims, with an emphasis on the importance of working with system- and community-based advocates.

Law enforcement effectiveness is enhanced by developing and fostering partnerships with other resources, as well. Given that stalking is so complex and dynamic, no single profession or agency can simultaneously address all the elements of this crime and the needs of victims. Partnerships between law enforcement, prosecutors, community corrections, mental and health care providers, and system- and community-based advocates, among others, are extremely beneficial. Particularly, strong advocacy and police partner-

ships can help victims with activities such as understanding their rights, securing protection orders, and safety planning.

A clear stalking response policy and sound training are practical ways to demonstrate the value of being victim-centered and offender-focused. Demonstrating this value makes law enforcement less likely to believe a case simply involves "a few inappropriate text messages." Instead, victim perspectives are recognized as valid, and offender conduct is seen as spanning a broad continuum. However, this continuum can be understood only through thoughtful investigations that include detailed documentation.



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Finally, law enforcement officials can take advantage of the numerous resources available to assist in enhancing responses to stalking. IACP (<http://www.theiacp.org>) provides materials and executive law enforcement training on a variety of crimes, including stalking. The Stalking Resource Center at the National Center for Victims of Crime (<http://www.victimsofcrime.org/src>) is a valuable source for policy development, training and technical assistance, and resource materials. ♦

**Notes:**

<sup>1</sup>Michele C. Black et al., *The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report* (Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2011). These statistics, from the “National Intimate Partner and Sexual Violence Survey,” are based upon a conservative definition of stalking that required respondents to report having felt very fearful or concerned that harm would come to the victim or someone close to her/him as a result of the offender’s behavior in order to be considered a victim of stalking. This conservative definition of stalking, requiring a victim to feel very fearful, is problematic for a number of reasons. First, stalking victims commonly minimize the risk of harm and the effects of stalking on their lives. Second, no state, territorial, or federal law qualifies fear to require a victim to be very fearful. Using a less conservative definition of stalking, which considers any amount of fear

(a little fearful, somewhat fearful, or very fearful), 1 in 4 women (25 percent) and 1 in 13 men (7.9 percent) reported being a victim of stalking in their lifetimes, with 6.5 percent and 2 percent of women and men, respectively, reporting stalking in the 12 months prior to taking the survey.

<sup>2</sup>J. Reid Meloy, *The Psychology of Stalking: Clinical and Forensic Perspectives* (San Diego, CA: Academic Press, 1998); Judith McFarlane et al., “Stalking and Intimate Partner Femicide,” *Homicide Studies* 3, no. 4 (November 1999): 300–316.

<sup>3</sup>Katrina Baum et al., *Stalking Victimization in the United States* (Washington, DC: Bureau of Justice Statistics, 2009), <http://www.ovw.usdoj.gov/docs/stalking-victimization.pdf> (accessed November 1, 2013). Of stalking victimizations that were reported to law enforcement, 83 percent were made by the victim. Individuals other than the victim who reported the crime included the victim’s family, a friend or neighbor, an employer or coworker, a social worker or counselor, a school official, or a security guard.

<sup>4</sup>Baum, *Stalking Victimization in the United States*.

<sup>5</sup>Kris Mohandie et al., “The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers,” *Journal of Forensic Sciences* 51, no. 1 (January 2006): 147–155, <http://www.victimsofcrime.org/docs/src/mohandie-k-meloy-r-green-mcgowan-m-williams-j-2005.pdf?sfvrsn=0> (accessed November 1, 2013).

<sup>6</sup>Baum, *Stalking Victimization in the United States*.

<sup>7</sup>Andrew Klein et al., *A Statewide Study of Stalking and Its Criminal Justice Response* (National Institute of Justice, 2009), <https://www.ncjrs.gov/pdffiles1/nij/grants/228354.pdf> (accessed November 1, 2013); Patricia Tjaden and Nancy Thoennes, *Stalking: Its Role in Serious Domestic Violence Cases* (Denver: Center for Policy Research, 2001), <https://www.ncjrs.gov/pdffiles1/nij/grants/187446.pdf> (accessed November 1, 2013).

<sup>8</sup>“Criminal Stalking Laws by State,” Stalking Resource Center, National Center for Victims of Crime, laws current through August 12, 2013, <http://victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/criminal-stalking-laws-by-state> (accessed July 26, 2013).

<sup>9</sup>National Center for Victims of Crime, *Creating an Effective Stalking Protocol* (April 2002), <http://victimsofcrime.org/docs/src/creating-an-effective-stalking-protocol.pdf?sfvrsn=2> (accessed August 7, 2013). The Model Stalking Protocol outlined in *Creating an Effective Stalking Protocol* was originally piloted by the Philadelphia Police Department. To learn more about the implementation and preliminary evaluation of the Philadelphia Police Department’s pilot testing of the Model Stalking Protocol see Sonia E Velazquez, Michelle Garcia, and Elizabeth Joyce, “Mobilizing a Community Response to Stalking: The Philadelphia Story,” *The Police Chief* 76 (January 2009): 30–37, [http://www.policechiefmagazine.org/magazine/index.fm?fuseaction=display&article\\_id=1702&issue\\_id=12009](http://www.policechiefmagazine.org/magazine/index.fm?fuseaction=display&article_id=1702&issue_id=12009) (accessed November 1, 2013).

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# Major Incidents >> >> >> >> >>

Major incidents are events that have an extreme impact on an organization. They play an important role in determining how effective law enforcement agencies operate, and preparation for such events has a significant role in reducing the risk to society and restoring the public's confidence in law enforcement.

Law enforcement will increasingly find themselves in situations of surprise, responding to events that have many layers of complexity, and working with paradoxes where regular planning and training mechanism might lead to a "stove-piped" response. Police organizations are operating in a highly dynamic environment that is precipitously changing and branded by uncertainty. Decision making in this uncertain environment requires creative tactics and creative thinking.

With this in mind, *Police Chief* presents two different approaches to major incidents by authors who have studied and/or implemented solutions to major incidents. The following articles discuss hyper targeted violence in the growing urban environment and how to prepare for these types of incidents and the use of Red Teaming as a strategy when planning for major incidents.

## Unconventional Crisis: Hyper Targeted Violence (HTV) in Hypercomplex Environments with Focus on Urban Terrain

By Dr. Rupali Jeswal, Intelligence and Terrorism Analyst, Clinical & Operational Psychologist, CEO: Xiphos-ISS, Bangkok, Thailand (trainer for professionals in mission-critical domains), Director of Counter Extremism Research and Trainings: International Association of Counter Terrorism & Security Professions, South-East Asia, Chief of Training Operations: DX-India

A period is launching in which, due to globalization, acculturation has occurred, and accessibility, due to the Internet, has led to transference of animosities and the spillover of geopolitics and emotions. Law enforcement will increasingly find themselves in situations of surprise, responding to events that have many layers of complexity, and working with paradoxes where regular planning and training mechanisms might lead to a "stove-piped" response.

The global environment is volatile, uncertain, complex, and ambiguous (VUCA). In this strategic environment, Instinct, Intuition, and

Intelligence are building blocks for effective operations to detect, deter, and neutralize an unconventional crisis. Battle lines of asymmetric warfare have encroached the urban terrains; the core of all happenings is based on human values and behavior, which are constantly shifting interchangeably among assess, alert, adapt, and attack modes.<sup>1</sup>

The terrain has great influence on how tactical operations will play out. Many studies bring to light the significance of certain abilities that leaders of today must possess, including the ability to deal with cognitive complexities, tolerance of ambiguity, intellectual flexibility, self-awareness, and an enhanced understanding of the relationship among organizational sub-systems that collectively construct the prevailing organizational climate.<sup>2</sup>

**Unconventional crises** are hypercomplex events, which are varied and dynamic, with multiple causes and effects, such as 9/11, the Mumbai attacks, and the recent shopping mall attack in Nairobi. Unconventional crises tend to challenge the collective rapid response system and resiliency of the communities involved. These events are insidious in nature because adversaries are often simultaneously deployed in multiple locations in multiple attack teams (i.e., Mumbai—five attack teams). They destabilize the society, morale, and notion of security for long periods and spread a transnational psychological trauma, expedited by media. They can traumatize responders and communities. It is necessary when handling these crises to increase the urgency level in thought, preparation, and action because these forms of crises do not adhere to one “ground zero” but have multiple ground zeros. By virtue of their scale, multiple players, rippling effects, and spillovers, these crises have unconventional characteristics. The speed and complexities increase in relation to each other. With this in mind, a fusion-thinking mode adopting several battlefield tactics should be placed in the law enforcement toolkit.

### Hyper Targeted Violence

The components of the Mumbai attack included multiple and highly mobile active shooters; multiple targets with combined weapons (Type 56 automatic assault rifles, Heckler & Koch MP5 machine guns, 9-mm pistols, hand grenades, IEDs that contained RDX and ball bearings to create shrapnel, bombs in taxis) and a deliberate use of fire to confuse responders, attract media, and cause maximum casualties. Exemplified by this attack, Hyper Targeted Violence (HTV) often employs a multitude of combinations of lethal conventional weapons against targeted populations, critical infrastructure, high-profile targets, and soft targets, along with an intentional use of force and well-planned tactics.

### Understanding Urban Terrain

Urban terrain challenges are instigated by the perpetrators to capitalize on the symbolic, strategic, psychological, and operational significance of the targeted urban terrain. The 2011 edition of the U.N. World Urbanization Prospects reported that “[b]etween 2011 and 2050, the world population is expected to increase by 2.3 billion, taking the current population from 7.0 billion to 9.3 billion. At the same time, the population living in urban areas is projected to gain 2.6 billion, increasing from 3.6 billion in 2011 to 6.2 billion in 2050.”<sup>3</sup> Thus, the urban areas of the world are expected to absorb the equivalent of the total population growth expected over the next four decades, while at the same time drawing in additional residents from the current rural population. As a result of this shift from rural to urban living, the worldwide rural population is projected to start decreasing in about a decade, with a projected 0.3 billion fewer rural inhabitants in 2050 than today. Furthermore, most of the population growth expected in urban areas will be concentrated in the cities and towns of the less developed regions. Asia, in particular, is projected to see its urban population increase by 1.4 billion, Africa by 0.9 billion, and Latin America and the Caribbean by 0.2 billion. Population growth is therefore becoming largely an urban phenomenon concentrated in the developing world.<sup>4</sup> Urbanization, as a part of the modern trend toward aggregation and complexity, has increased the number and accessibility of targets and methods.<sup>5</sup>

Although technological innovations have assisted in the tracking and halting of some terrorist groups and plans, these same innovations have helped other groups accomplish their goals more swiftly. Technology is a boon and a curse; in urban settings, instantaneous availability of unfolding events can aid the containment plan or hamper it, since every bit of information can be accessed by the adversaries of the approaching tactical force—for instance, during the Mumbai attacks, the controllers in Pakistan were watching the developing scenario on their television and giving instructions to the attackers. Plus, telecommunications can contribute significantly to the acceleration of unfolding crises, confusion, and even destabilization of systems (e.g., wireless communication can be compromised or mobile networks can become jammed, which can disrupt emergency operations, as it did during the July 2013 London bombings).

### Managing the Unconventional Crisis in an Urban Terrain

Situations with the potential to develop into crises need some sort of intervention, beginning with a decisive point to set the wheels in motion for an important change that will thwart the crisis and lead to recovery

and build resiliency for the community and the vanguards of society. But there are five phases of preparation and training that precede successful interventions:

1. Anticipation and Forecasting (performing table-top exercises, creating threat scenarios, evaluating events of the past, examining lessons learned and ways to adopt new and different approaches, InfoOps embedded as a core competency for law enforcement, understanding human behavior during mass panic which could jeopardize the success of tactical operations)
2. Strategic Guidance Planning (evaluating existing policies and constructing new ones, estimation of resources and gaps, units, and fusion of various units)
3. Planning Guidance (profiling crises, considering what interventions might be applied, important managing and controlling media)
4. Preparation (zone categorization according to assets, avenues of coordination)
5. Enacting (simulations/red teaming, thinking like the opposing force)

### Anticipating and Forecasting: Opposing Force Perspectives

There is an ample supply of examples of the crime-terror nexus with the pipeline snaking through all regions of the world. Perpetrators of HTV include categorical adversaries such as terrorists, crime syndicates, and street gangs, while other attacks may be the result of a collaborative approach. With the myriad tactics and arsenal of the opposing force (OPFOR), law enforcement professionals have to be better prepared than ever before. Additionally, perpetrators may have combat attire and military-style weapons, as in the case of the Mumbai attacks and in the 2011 attacks in Norway. Adversaries with those types of resources could also be using training tactics similar to those of the U.S. Marines and Army Rangers (i.e., four-man unit deployments and formations such as wedges, columns, echelons, and lines).

OPFORs may possess certain skills or mind-sets that allow them to consider and execute HTV. Potential skills held by HTV perpetrators include the following:

- Ability to endure psychological pressure
  - Ability to take control of adversary
  - Capable physical fighting skills
  - Good physical fitness
  - Good awareness
  - Ability to use different types of weapons
- HTV perpetrators tend to have certain mind-sets, as well, which include the following:
- Willing to fight without stopping until death
  - Planning and preparation—might be better armed and trained and will often

## Remember

- » Remember to prepare your heart for any operation.
- » Remember to refuge yourself from satan.
- » Remember jihad is wajib and not sunnah.
- » Remember to remind yourself of the great rewards of jihad.
- » Remember the tears of the children of Palestine.
- » Remember the scream of your Afghani sister.
- » Remember the bombarded houses in Mali.
- » Remember your sisters in the crusaders' prisons.
- » Remember you are a servant of Allah.

*The above, taken from the English-language al Qaeda publication Inspire, instructs its adherents to "prepare your heart for any operation."*

place materials in location prior to attack.

- Think that the more horrific the killings, the better. This leads to mass terror and transnational psychological trauma, which also destabilizes the society and the sense of security.
- Ideologically, politically, and religiously driven; also "brand driven" as evidenced when a particular group/organization claims responsibility for an attack.
- Willing to die—may even rig themselves with explosives—and show a lack of mercy for others—ruthlessness.
- Potentially use drugs for courage.
- Have a belief that they will be rewarded for the violence they commit; extreme violence also propels their "brand name" and helps acquire status and support from potential benefactors for future assistance. Terrorism is business.
- Desire to kill as many people as possible.
- Desire for press coverage.
- Look for the stronger hostages first and kill them.
- Lack respect for children or their lives.
- Willing to torture hostages.

HTV perpetrators don't have to be affiliated with al Qaeda or its offshoots to have this mind-set; the online training manuals can convert and coax any with a criminal motive. They don't play by any rules; they exploit of all known attack trajectories; they adapt and create. In the tactical "code book" of HTV perpetrators, focus should be given to the groups/organizations' operational

rhythm, as this is where affiliations (crime-terror nexus) are pursued.

The OPFOR may be well stocked and have access to numerous weapons. For instance, a Zeta Training Camp located outside of Higuera, Nuevo Leon, Mexico, had an artillery consisting of the following weapons:

- 124 long arms (AR-15, AK-47, shotguns)
- 15 pistols
- 2 Barrett .50 caliber rifles
- 77 40 mm grenades
- 32 fragmentation grenades
- 4 40 mm grenade launchers
- 3 RPG launchers
- 2 RPG rockets
- 3 M-72 LAW rockets
- 1,375 rifle magazines (various types)
- 5,643 rounds of ammunition (various types)
- 15 SUVs (6 armored)
- 10 homemade spike strips made of heavy chain with welded heavy-duty nails
- 72 bulletproof vests<sup>6</sup>

Intelligence gathered on al Qaeda suggests that the group has encouraged operatives to consider smaller, simpler, one-man operations for a number of reasons. The strategy moves the war to the enemy's territory and uses the fact that it is difficult and expensive for a government to provide security for a wide range of low-profile targets. It also contributes to the spreading of insecurity in communities. These "low-profile" targets become attractive for HTV attacks and have the same effect on the targeted society and the government as more complex attacks. This is understood by the perpetrators of HTV—the 2004 Madrid bombings were identified by the bombers as a "deterrence attack."

Small team or one-man operations require less planning, allow for increased speed, and provide a quick getaway. As there are typically multiple targets, these consume and waste the time of the security forces and create confusion and chaos. This "deterrence and resistance strategy" by the perpetrators is leading to the bleeding of society and the economy, as well as lowering public morale.

Another message relayed through these low-cost operations is that their simple operations and weapons are enough to terrorize and cripple the economy. It is also important to note that lone operators are encouraged to employ the art of ninjutsu for low-profile assassinations as it requires no use of weapons.

This approach means that public places like shopping malls; parking lots; and transportation centers are a concern, as they are targets that can be attacked by smaller, one-man operations while still producing a big effect. This is urban warfare, and due to the nature of the urban terrain, HTV events will increase in number. By necessity, rapid response will mean exactly as the term suggests—rapid!

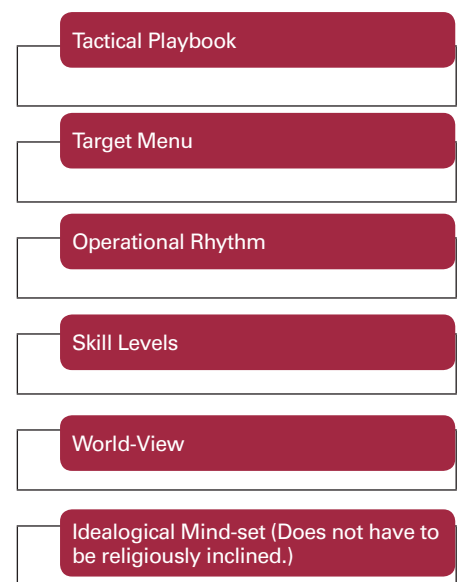
## Strategic Guidance and Planning

The speed at which every law enforcement unit can engage in self-assembly (spontaneous self-ordering of their substructures into superstructures to respond to the unconventional crisis) depends largely on planning for such events that involves the collective resources and interoperability of various response forces, policy makers, and the community. The planning phase should employ theoretical and empirical perspectives and approaches with diverse views and open debates.

To contain HTV situations, the coordinated teamwork and interoperability of various units and specialists should be a fluid performance, and this is achieved when strategic and planning guidance make roadmaps for unconventional crises. More than individual performance, small unit tactics must be practiced. In every crisis there is a "golden window" that can be monopolized to contain the event and reduce the magnitude of disaster. This golden window can be utilized only by the ones first on the scene, that is, the local police unit.

For instance, the first 15 to 45 minutes are the most hazardous and critical in a hostage situation, and, like all forms of critical crises, there is loss of control and chaos. In a hyper-complex environment, an unconventional crisis will involve multiple scenarios: buildings on fire, hostage situations, bomb explosions, shoot-outs, and more. During attacks, the police, firefighters, and emergency medical crews can face any or all of an array of automatic firearms, grenades, IEDs, stabbings, ambushes, incendiary weapons, and arson.

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*HTV perpetrators have certain elements in common, although the details may differ. The operational rhythm can provide valuable understanding for law enforcement.*

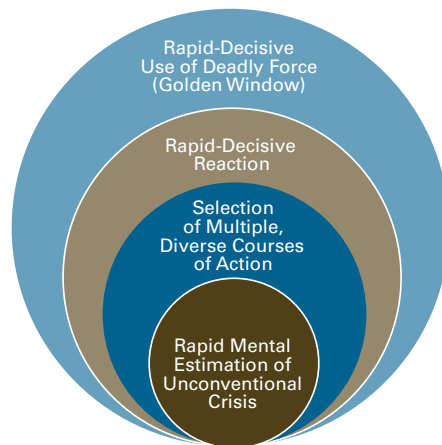
(LO) in the current turbulent and unconventional environment is to be innovative and to develop, react, and modify ideas collectively. The response system must be flexible enough to change and adapt to the paradoxical nature of the situation; have confidence in the “know-how” for their unit’s self-assembly; and the capabilities to initiate the right response. Responders must know when there is a need for interdependence on each other and when an independent maneuver must be initiated. These options are known as progressive systemization and progressive segregation, respectively. Each response force must be able to make decisions, plan, and act in a joint theatre with other response teams. The rapid interoperability of various response forces (police, firefighters, special units, emergency medical units, etc.) and shared strategies are required to contain and neutralize HTV assault incidents. History has shown that the attack initiation-to-termination timeline for most deadly attacks is short and deaths occur rapidly.

However, as multiple ground zeros emerge, units must also be able to engage in decentralization, which takes place when they have the resources and authority to break away and make their subsystem (a particular unit) more important than the collective system. During the strategic guidance and planning phases, these sorts of events must be hypothesized by context diagrams of the urban terrain according to its assets (symbolic, financial, psychological, etc.); the various case scenarios; and the types of processes for response that might be needed. Planning must consider any external entities in the form of structures or community that can act as a support system or create an obstacle to rapid response; what sort of data are stored of that particular urban terrain; and if there are mechanics set up for a smooth data flow to gather information as the situation develops.

#### MOSAIC Theatre of Operations

Planning exercises with hypercomplex maps for law enforcement must include spontaneous scenarios, courses of action, and fusion groups that have each been prepared beforehand for their roles, movements, coordination, and coalition—a sort of pre-rehearsed “spontaneous” combination, including the emerging roles as critical drivers for response efforts as the unconventional crisis develops. There should be an understanding that comfortable hierarchical distinctions will be blurred; the disruption might have no front lines and no linear transitions—but instead will be a multi-theatre hazard to be contained. Planning, response, and recovery might be blended into one package of analysis and decision making. Every officer must be trained to cultivate critical thinking processes, fear and perception management skills, and situational analysis and have the strategic leadership qualities necessary to take action.

The limitations on planning efforts must involve stakeholders and policymakers to be a part of the capacity building for a Multifaceted Organized System for Asymmetrical Imminent Crisis (MOSAIC) theatre of operations so as to understand the “make-up” (all potential hazards) of unconventional crises on an urban terrain and to utilize, understand, and differentiate between strategic, operational, and tactical policing.



Rings of Relevance

#### Preparation

To contain the initial critical stage of HTV dimensions, officers must not be placed at a disadvantage due to inadequate planning and training. In other words, they must be prepared, as these dimensions are successive, rapid, and unpredictable.

In Mumbai, gunmen armed with Type 56 assault rifles (Chinese version of Kalashnikov AK-47) and backpacks loaded with ammunition and grenades arrived by dinghy and spread out within the city, where they then barricaded themselves. Local special forces took several hours to arrive, so the first response and initial fight-back was left to the police officers who were armed with bolt-action rifles. Most of the hostages killed in the Mumbai attacks died within 30 minutes of capture. The hostage rescue plan suffered from serious defects, including (a) a failure to set up an operational command center and (b) storm teams that went in blind, having no understanding of the basic structural layout of the two major buildings (the Taj Mahal Palace Hotel and the Trident-Oberoi Hotels). Simply put, they were not prepared.

The concept of operations regarding preparations for community protection and preparedness during critical crisis is constructed on an understanding of decisive zonal terrains and commanding terrains. An area and its structures can be used as assets—force multipliers if an attack occurs in that particular zone—or, as demonstrated in the Mumbai example, can be hazards if the response team is unprepared.

A mathematical approach to this view of terrains follows:

If a field is a line (one dimensional), a village is a square (two dimensional), and a village with a population of fewer than 3,000 surrounded by valleys, forest, and so forth, is a cube (three dimensional), then towns and cities with a population of more than 3,000 and into the millions (i.e., urban terrain) are hypercubes (four dimensional). The structure of a hypercube can be drawn, but it is difficult to imagine. Likewise, urban terrain challenges the resourcefulness and ingenuity of law enforcement. To think the unthinkable in planning and preparation is a key process and requires four-dimensional thinking. Whoever controls certain critical objectives will have an important strategic and/or tactical advantage. Due to the inherent complexity of urban terrain, multiple avenues of approach (AOA) exist for this battlefield, along with fields of fire for the attacker and defenders.

To handle urban warfare, new “thinking steps” must be undertaken to explore new means of planning, developing alliances, and educating/training the vanguards of society (law enforcement) and the community. Unconventional crises are evolving in nature, which calls for a trans-disciplinary approach that is a fusion of many disciplines along with the existing interdisciplinary and multidisciplinary approaches. Specialized disciplinary methods develop a tool set of analysis and operations, which while important, is inadequate as a tool for unconventional crises. Security is like oxygen—once you realize it is decreasing, then it is already too late!

Planners need to think about antecedents, force multipliers, and force transformation during hasty attacks, which have rings of relevance. A hasty attack requires a rapid mental estimate; a rapid selection of a course of action; and rapid, decisive, violent action to maximize the opportunity.

In addition to combatting unconventional crises, responders need to distinguish community outreach programs that can be *empowered* and those that should be merely *engaged*. There is a vast difference between empowering and engaging; both serve as force multipliers, but have different *modus operandi*.

#### Enacting

Unconventional crises most frequently hit urban environments, and they do not follow a rulebook. These kinds of crises are fluid, morphing, overlapping, and creating new, unanticipated situations. It is recommended that law enforcement create predictive models of potential risk assessment and crisis management and map game-ending scenarios, which could potentially aggravate crises instead of containing them.

A simulations-developed focus should also include local resource management in

the planning, incorporating local human resources, local logistics, local organizations' management, technological management, intelligence and information, and media management.

Trainings in tactical diagramming for security forces of critical infrastructures, symbolic buildings and sites, and various zones of a city should be incorporated into dry drills to prepare law enforcement and other emergency responders for a hyper-complex event. A crisis platform should bring together directorates and departments (geographical and horizontal departments) to create a concept of operation for an HTV unconventional crisis where effectiveness is the ability to enact real-time, ad hoc decisions and actions. A unified vision of operations and an understanding of clear directives and procedures among various response forces are key for effective and rapid response. Combating this lethal multi-hazard dynamic environment requires a nontraditional approach. The main or standard tactic can change in a blink of an eye, so an effective response requires a mind-set that can quickly assess, decide, communicate, coordinate, and act. This first rapid response can drastically alter the mission plan and tactics.

Training in Critical Leadership Intelligence can be bottom-up or top-down, individual or group, and, critical leadership has three domains: strategic, operational, and interpersonal.

## Conclusion

Police organizations are operating in highly dynamic environments that are precipitously changing and branded by uncertainty. Decision making in an uncertain environment requires not just tactics, but also using one's mind. Officers must begin to think like their adversaries, to understand the avenues of approach in and on an urban terrain. They must also employ *coup d'oeil*, which is perceptive insight of any given situation. Hypercomplex events and unconventional crises destabilize the entire system; thus, there has to be a blueprint for the "fallback" position of all responding forces. Of these forces, police and other law enforcement are a point of focus because the new line of decisions and defense is going to come from the front lines. Every officer is a leader and must be trained for high performance during these "unthinkable crises." ♦

## Notes:

<sup>1</sup>Dr. Rupali Jeswal and Damien Martin, "Behavioral Complexity on the Battlefield,"

*Defense and Security Alert* (May 2013): 28–31, [http://www.dsalert.co.in/files/May\\_2013\\_Dr\\_Rupali\\_Jeswal\\_Damien\\_Martin.pdf](http://www.dsalert.co.in/files/May_2013_Dr_Rupali_Jeswal_Damien_Martin.pdf) (accessed November 8, 2013).

<sup>2</sup>Walter F. Ulmer, "Military Leadership into the 21st Century: Another Bridge Too Far?" *Parameters* 38 (Spring 1998): 7, [http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/2010winter/Ulmer\\_Jr.pdf](http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/2010winter/Ulmer_Jr.pdf) (accessed November 8, 2013).

<sup>3</sup>David Satterthwaite, "The Transition to a Predominantly Urban World and its Underpinnings," *Human Settlements Discussion Paper Series: Theme: Urban Change* 4 (International Institute of for Environment and Development, 2007), <http://pubs.iied.org/pdfs/10550IIED.pdf> (accessed November 8, 2013).

<sup>4</sup>United Nations, Department of Economic and Social Affairs/Population Division, "Executive Summary," in *World Urbanization Prospects* (United Nations, 2011), <http://esa.un.org/unup> (accessed November 8, 2013).

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<sup>6</sup>Cristo Panevino, *Zeta Camp* (March 28, 2012),

## Further Reading:

- "Dealing with Surprises and Unconventional Crises," workshop report (Washington D.C.: July 1, 2009), [http://irgc.org/wp-content/uploads/2012/09/unconventional\\_crises\\_workshop\\_report\\_final.pdf](http://irgc.org/wp-content/uploads/2012/09/unconventional_crises_workshop_report_final.pdf).
- Erwan Lagadec, *Leadership in Unconventional Crises, A Transatlantic and Cross-Sector Assessment* (Washington, D.C.: Center for Transatlantic Relations, 2009).
- Sid Heal, *An Illustrated Guide to Tactical Diagramming* (New York: Lantern Books, November 2005).

4 slides.

# Red Teaming for Fusion Centers

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The San Diego Law Enforcement Coordination Center (SD-LECC) is a Department of Homeland Security-recognized fusion center and a member of the California State Threat Assessment System (STAS). It comprises numerous agencies that collaborate to provide resources, expertise, and information to local, state, and federal partners. The SD-LECC offers a variety of services, including analysis and generation of intelligence products and intelligence briefings, investigative case support, and de-confliction for law enforcement operations. This article discusses the process of

developing Red Team tabletop exercises for the center and how the process and results benefited both the fusion center and participants, while also improving awareness of potential threats among public safety and security personnel throughout the region.

## Evaluating the Benefits of Red Teaming

The SD-LECC continuously evaluates new and innovative ways to address homeland security issues. Within this process, the center determined there would be value in using Red Team techniques. "[R]ed [T]eaming involves thinking or acting like a terrorist in an effort, for example, to identify security weaknesses and potential targets. Red Teaming can be used in either analytical exercises or field-level exercises."<sup>1</sup> The old adage of "training for the last war" can easily be applied to the realm of homeland security. Underestimating one group's capabilities and overemphasizing a different group's threat due to historical precedents leads to a reactive rather than proactive posture. As a result, historical failures to identify threats within the proper context have led to successful and unexpected attacks. Red Teaming challenges preconceived ideas resulting from solely evaluating historical precedents and allows for the

development of new, proactive ways to consider issues or threats.

The Red Team concept has allowed the SD-LECC to use an old technique and apply it in a new way in a regional homeland security environment through a series of tabletop exercises. When the SD-LECC planning team began looking at Red Team techniques, the team was unsure as to which of the numerous definitions of Red Team would meet its needs. The center's goal was to develop a means to challenge assumptions and to discover potential regional indicators, warnings, and targets in a non-traditional manner. The center was not looking to infiltrate the regional critical infrastructure sites, nor did it want a force-on-force tabletop war-game. Rather, the center wanted to gather street-level insights and experience related to threats and compare them with the list of indicators and warnings drafted in think tank-style intelligence centers far from the local jurisdiction.

If a terrorist incident occurs or is interdicted, officials spend months trying to identify methods to stop that type of attack in the future, which is a reactive response. The SD-LECC wanted to look for proactive analyses of indicators and warnings. It was in this search for alternative analyses that the

idea of a Red Team tabletop exercise emerged. Red Team exercises provide numerous benefits for fusion centers and partner agencies by providing participants with opportunities to take on the ideology of threat actors to evaluate reasoning and logistics behind plots and attacks. This type of threat emulation promotes a type of asymmetric thinking not required in routine daily work.

More important, a series of Red Team tabletop exercises provides benefits to the fusion center, thereby assisting the fusion center's entire area of responsibility. The participants playing the roles of threat actors can provide a large collection of tactics, techniques, and procedures that are recorded during the exercise. The opportunity to interview a terrorist prior to an attack at a regional, fusion center level is not possible. However, in the case of a homegrown violent extremist (HVE) for example, local Terrorism Liaison Officers (TLOs) and Infrastructure Liaison Officers (ILOs) possess a similar knowledge base. HVEs, by definition, are not foreign-trained professional terrorists. HVEs, such as the Boston Bombers, had local knowledge and access to Internet resources such as the jihadist periodical *Inspire*. Although they are on the opposite end of the spectrum, TLOs and ILOs look at these same resources in their roles as law enforcement and security management personnel. The same assumption applies to other domestic actors, such as a "lone wolf" or cyber threat groups. Red Team exercises can provide the SD-LECC Strategic Intelligence and Critical Infrastructure planning team with data to compare against any current regional assumptions.

For example, a threat assessment sent to the fusion center from a federal partner may describe the threat posed by the Animal Liberation Front (ALF) to biotech companies with a standard list of indicators and warnings applicable to anywhere in the United States. Through the course of a Red Team exercise involving an ALF domestic terrorist attack, patrol officers would use their knowledge

to provide information specific to the fusion center's area of responsibility. The fusion center would then be able to identify potential local targets, tactics, and attack methods that were previously unknown to the fusion center staff. Conversely, it is possible that the Red Team exercise would show that there are no likely ALF targets in the region.

Arguably, the most valuable benefit of a fusion center's Red Team exercise is the post-analysis back brief. This provides the lessons learned and analysis to local public safety officials and their respective executive leadership. The lessons learned, provided in the form of an intelligence briefing, enable those who did not participate in the exercise to access the knowledge gained from the post-exercise analysis. Additionally, an executive-level briefing explaining the concept of the Red Team and the corresponding region-specific lessons learned enables law enforcement leadership to possess a greater understanding of potential threats in the region so that they can better task scarce resources to more viable threats in their area of responsibility.

### Development of the SD-LECC's First Red Team Exercise

With the vast benefits of using Red Team techniques in a fusion center setting apparent, the SD-LECC planning team's next step was to develop the plans for a Red Team exercise. The exercise needed to begin with a presentation introducing Red Team techniques and a general overview of the threat actor or actors' attack processes and culminate in a Red Team tabletop exercise. The SD-LECC's existing programs enabled the exercise to succeed through the collaborative effort between the TLO program, the ILO program, and the Strategic Intelligence Team.

The SD-LECC TLO program provides basic terrorism-related awareness training to law enforcement officers, firefighters, state investigators, federal agents, military investigative or security services, or anyone working closely with the public safety and homeland security



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community. The SD-LECC ILO program provides similar training to critical infrastructure operators in the region. The TLOs and ILOs, although not experts in terrorism, attend meetings and receive terrorism awareness training. TLOs and ILOs also educate others within their agencies or corporations, thereby enhancing situational awareness, early warning, and operational preparedness. The planning team decided that the TLOs and ILOs would act as the threat actors for the Red Team exercise.

The SD-LECC Strategic Intelligence Team regularly generates intelligence products, provides briefings on current threats and trends, and serves as a contact to coordinate the flow of information within the San Diego region and throughout the nation. This team would develop and conduct the exercise, including serving as facilitators. They would then evaluate and present the results after the exercise.

### Designing the Red Team Exercise

For the development of the exercise, the planning team needed to contemplate what threats to emulate for this new type of exercise. For the first SD-LECC Red Team exercise in 2012, the planning team decided to address the lone wolf threat.

A number of factors went into identifying the "lone wolf" as the threat for the first Red Team exercise. The lone wolf has been a difficult type of attack to identify or interdict. A true lone wolf will not produce as many indicators or warnings as an organized team of terrorists attempting to coordinate logistics and conduct an attack. Many reports regarding lone wolf activities or events contain long lists of potential indicators, many of which include common activities or activities that would be difficult to view. The SD-LECC's goal was to identify potential indicators and targets specific to the San Diego region.

After deciding to choose the lone wolf as the threat type for the exercise, the planning team had to determine the scope for this type of alternative analysis method. A look at historical attacks and continuing discussions within the SD-LECC Strategic Intelligence Team led to advocates for multiple ideological perspectives from which a "lone wolf" can emerge. With the term *lone wolf* potentially encompassing any extremist ideology, it needed to be divided into different categories. As a result, the planning team determined that the exercise would include three different lone wolf ideologies:

**Single-Issue Extremist:** The single-issue extremist has a very strong belief about one issue that pushes him or her to act violently against any individuals or groups with opposing viewpoints. Extremists in this category could include animal rights extremists, environmental rights extremists, and abortion rights extremists. A San Diego example of this type of extremism is the 206-unit

condominium complex that burned in 2003. The Environmental Liberation Front (ELF) claimed responsibility for the \$50 million fire with a 12-foot banner at the site that read "If you build it—we will burn it."<sup>2</sup>

**Anti-Government Extremist:** There are a range of anti-government extremists, from those who believe in the absolute illegitimacy or lack of necessity of the government to those who are vehemently opposed to a particular politician or political party. A significant recent example of this type of extremist was the car bomb and shooting spree of Anders Behring Breivik in Norway. In 2011, this lone wolf was responsible for twin attacks that resulted in the deaths of 77 individuals.<sup>3</sup>

**Islamic Extremist:** This individual, possibly a convert, is self-radicalized through Internet postings and online publications from groups like al Qaeda and al Qaeda associates. The most dramatic example of a self-radicalized Islamic extremist is Major Nidal Hasan, a gunman who killed 13 U.S. soldiers and wounded 30 others at Fort Hood, Texas, in 2009.<sup>4</sup>

The planning team also needed to determine the size and setup of the exercise. Considering the size of the facility and the feasibility of managing a large group of people, the planning team determined that the best layout would include six teams, each containing seven to eight TLOs or ILOs and an analyst planning team member acting as a facilitator. Two groups acted as single-issue extremists, two groups as anti-government extremists, and the final two groups as Islamic extremists. This enabled different groups to determine target selection, logistics, and attacks with different ideological perspectives.

The exercise was broken into sections according to the attack cycle and logistics of preparation. These sections included determining whether to include any other people in the plot, how they would finance their operations, from where necessary materials would be obtained, transportation to and from the attack site, ways to evade law enforcement, and what local targets the participants would choose to attack. Throughout the exercise, a PowerPoint presentation featured questions to guide the conversation at each table, and the facilitators encouraged TLOs and ILOs to continue thinking within their ideology, using their knowledge from jobs as public safety officials and security managers to find ways to fulfill logistical needs and commit an attack. Each section had a set time limit to ensure that the conversations stayed on track and the exercise was completed in a timely manner. As with all exercises, the event ended with a brief after-action discussion between the participants and facilitators.

The success and positive feedback from the Lone Wolf Red Team Exercise led to the development of a second Red Team exercise focused on threats to mass transit. Both

of these Red Team exercises increased situational awareness among participants. The back briefs that followed provided public safety personnel, security managers, and agency executives with a better understanding of potential threats to the region. The entire process enlightened the fusion center to many different perspectives that may have not been otherwise obtained.

### The Future of Red Teaming at the SD-LECC

Red Team exercises greatly benefit the individuals and organizations involved. The participants benefit from spending a day thinking about a problem from threat actors' perspectives, which provides them with some insights that can help in their day-to-day work. For the fusion center, the collected discussion points provided an entirely new data set for analysis and comparison with the homeland security community's previously held assumptions about trends, tactics, and targets. All of this is done with a local perspective and provides a broader overview of potential attack ideas that can serve as localized indicators and warnings. Both the lone wolf and mass transit Red Team exercises have been successful for the participants, the analytic staff, and the recipients of the after-action intelligence briefings. As a result, the series of Red Team exercises at the SD-LECC continues with a cyber Red Team in late 2013. ♦

#### Notes:

<sup>1</sup>Michael K. Meehan, "Red Teaming for Law Enforcement," *The Police Chief* 74, no. 2 (February 2007): 22–28.

<sup>2</sup>Pauline Repard, "Militants Say They Set \$50 Million Condo Blaze: Earth Liberation Front Posts Claim on Web Site," *The San Diego Union-Tribune*, September 9, 2003, [http://legacy.utsandiego.com/news/metro/20030909-9999\\_1m9elf.html](http://legacy.utsandiego.com/news/metro/20030909-9999_1m9elf.html) (accessed November 2012).

<sup>3</sup>Mark Lewis and Sarah Lyall, "Norway Mass Killer Gets the Maximum: 21 Years," *New York Times*, August 24, 2012, <http://www.nytimes.com/2012/08/25/world/europe/anders-behring-breivik-murder-trial.html> (accessed October 31, 2013).

<sup>4</sup>Billy Kenber, "Nidal Hasan Sentenced to Death for Fort Hood Shooting Rampage," *Washington Post* August 28, 2013, [http://articles.washingtonpost.com/2013-08-28/world/41525767\\_1\\_nidal-hasan-death-sentence-2009-shooting-rampage](http://articles.washingtonpost.com/2013-08-28/world/41525767_1_nidal-hasan-death-sentence-2009-shooting-rampage) (accessed October 31, 2013).

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**The IACP notes the passing of the following association members with deepest regret and extends its sympathy to the families and coworkers left to carry on without them.**

Howard A. Cornell, Chief of Police (ret.), Broomfield, Colorado (life member)

Steven Fleming, Chief of Police, Gainesville, Texas

Francis B. Looney, Past President, International Association of Chiefs of Police (1973-1974), Commissioner (ret.), Nassau County, New York; Farmingdale, New York (life member)

Douglas A. Sprague, Chief of Police (ret.), Sayreville, New Jersey; South Amboy, New Jersey (life member)

Paul Wagner, Chief of Police (ret.), U.S. Department of Defense, Roy, Utah

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# Exhibitor update

The **Police Chief** keeps you on the cutting edge of law enforcement technology with monthly product announcements. For **free**, in-depth information, visit us online at <http://www.policechiefmagazine.org>. Items about new or improved products are based on news releases supplied by manufacturers and distributors; IACP endorsement is in no way implied.



## **Lighting system**

Code 3, Inc., offers the Coordinated Emergency Lighting System (CELS), complete vehicle lighting packages for the Ford PI Utility and Chevy Tahoe. CELS comes in five lighting packages. The CELS control box works with any switching system and takes the programmability of a lightbar and applies it to all of the accessory emergency vehicle lighting equipment. The exterior rear window light, the Citadel, now has NarrowStik functionality with multicolor lighthoods that allow for traffic directing capabilities. Synchronization of all of the lighthoods is now possible with the CELS system. Four of the five CELS packages include a SuperVisor U for the front windshield, a Citadel for the rear windshield, two MultiColor Par36 fog lights, two MultiColor XT4 side mirror lights, and a CELS control box. The CELS control box has multiple pre-programmed flash patterns. The compact control box is engineered to mount virtually anywhere in the vehicle and weighs only one pound. For more information, visit <http://code3pse.com>.

## **Secure evidence management solution**

Kustom Signals, Inc., offers Eyewitness Data Vault, an intuitive secure evidence management solution. The Eyewitness Data Vault can be used in a variety of situations, from a single workstation with several users to a large-scale enterprise-class solution with thousands of users and multiple ingestion sites. It is designed to automatically and securely manage digital evidence locally or across a network. It supports simple and advanced searches, multi-camera synchronous playback, and easy file duplication and provides database access to authorized users over a network. It manages evidence from all Kustom digital in-car, motorcycle, and body-worn videos, in addition to non-proprietary sources for effective and convenient case management. It is compatible with Active Directory and LDAP, easily integrated with established login credentials, and local network and cloud storage ready. For more information, visit [http://kustomsignals.com/products/product/eyewitness\\_data\\_vault](http://kustomsignals.com/products/product/eyewitness_data_vault).

## **Award-winning proactive policing and operations management solution**

The Public Technology Institute (PTI) awarded the City of Ann Arbor the Technology Achievement Award in the category Public Safety Technology and Emergency Management. The city has successfully set out to fully incorporate the CrimeView Dashboard solution into police operations that have integrated “best crime analysis practices” in an effort to both analyze crime trends and strategically deploy critical police resources. CrimeView Dashboard is a proactive policing and operations management solution that combines multiple data sources into customized views that can be configured to monitor criminal activity related to specific locations or crime trends in near-real time. The dashboard’s flexible organizational framework (briefing books, pages, widgets) provides for custom configuration. This powerful fusion of data and analysis enables new precision crime workflows to optimize daily policing strategies. For more information, visit <http://www.theomegagroup.com>.

## **Mobile forensic solution**

AccessData Group, Inc. the leading provider of digital forensics, cyber security, and e-discovery software, announced the Mobile Phone Examiner Plus (MPE+) v.5.4 software release. With this release, AccessData’s market-leading mobile forensics solution adds iOS 7 devices to its extensive list of supported devices. In addition, this MPE+ release introduces several new advances in iOS device handling. Mobile forensics examiners can now unlock devices using keys that can be found in any computer where the device was previously synced, and examiners can enter known passwords directly into the MPE+ interface to decrypt data on the fly. Furthermore, if an iTunes password is not known, MPE+ can still obtain and extract application data from all caches related to each App Store application installed on the device, MMS, SMS, Contacts, and more. For more information, visit <http://www.accessdata.com>.



### ***Crash scene mapping package***

Laser Technology, Inc. (LTI), has just released new components to their mapping package that includes an LTI TruPulse 200X laser, BAP data collector, and TruAngle device. The TruPulse 200X is a compact, waterproof laser capable of accuracy within a centimeter that features an illuminated in-scope data display. The rugged, competitively priced BAP unit runs LTI's QuickMap 3D software. Both of these new additions integrate with the LTI TruAngle, a horizontal angle device that allows investigators to measure most of the crash scene from a single control point. LTI's products allow departments of all sizes to afford an effective mapping system for their crash scene investigations. For more information, visit <http://www.lasertech.com>.

### ***Software developer's kit***

PlateSmart Technologies offers a unique Software Developer's Kit (SDK) that is engineered to allow seamless integration between PlateSmart's software-only License Plate Recognition (LPR) Technology and any existing video security system. The new SDK will handle the extraction and storage of LPR data from video footage and does not require proprietary hardware/software packages to function. It provides an LPR portal for any video security system from the smallest surveillance network to the largest and most sophisticated video management system (VMS) on the market. It can work seamlessly with third-party systems and open-standard, off-the-shelf security cameras. For more information, visit <http://www.platesmart.com>.



### ***Motorcycles***

Zero Motorcycles is releasing three new fleet motorcycles for the 2014 model year—the Zero SP, Zero DSP, and a military spec motorcycle. With the ability to ride both on and off the road, Zero's fleet program offers unique advantages over internal combustion-driven machines. The 100 percent electric powertrain is nearly silent, exhaust free, produces minimal heat, has instant torque from zero rpm, and is highly maneuverable. With a "fuel" cost of a penny per mile and a maintenance-free powertrain, a Zero offers the ability for governments, agencies, and organizations to save money while also gaining a tactical advantage. The company also announced a new "R" configuration of their award-winning Zero S model that offers riders 56 percent higher torque and 24 percent more power. Available in a new deep red color, the Zero SR offers riders 106 foot-pounds of torque through a wide power band and does 0–60 mph in 3.3 seconds using Zero's highly efficient direct drive system. The Zero SR, as well as the entire new lineup, includes improved suspension, well-integrated new design elements, and a sleek new dash.

For more information, visit <http://www.zeromotorcycles.com>.

### ***Traffic management solution app***

All Traffic Solutions announces its DriveTimes app that extends the capability of its cloud-based traffic management solution. DriveTimes allows display of travel times for custom routes to be updated constantly on any All Traffic Solutions variable message signs, anywhere, without the need for any fixed speed-sensing infrastructure. This feature allows law enforcement and emergency management to deploy very sophisticated communication tools at a fraction of the cost and complexity of previous alternatives, making it viable for fixed, mobile, or spontaneous use. For more information, visit <http://www.alltrafficsolutions.com>. ♦

## Product Feature:

# Clothing and Accessories Make the Job Safer and Easier

By Scott Harris,  
Freelance Writer

Note: *Police Chief* magazine, from time-to-time, offers feature-length articles on products and services that are useful to law enforcement administrators. This article features clothing and accessories for officers.

Serving as a police officer is hard work on many levels. No one needs to be reminded of the risks officers face, be it during a routine arrest or a major shooting event like those increasing in frequency across the United States and making headlines around the world.

However, the average officer is challenged by more than just criminals and situations that crop up on his or her watch. The basic functions of the job itself, and the hardware it demands, can exact its own toll. Police spend hour after hour on their feet, in the elements, and on the run—and it all happens with a duty belt weighing 15 pounds or more.

Clothing and accessories operate at the nexus of these challenges, between a need to maximize officer safety and a desire to make the job more comfortable and efficient.

Perhaps the clearest example of this overlap is body armor. Though a critically important element of officer protection, the average piece of body armor can also make for a cumbersome accessory.

"It's the single most uncomfortable item officers have to wear," said Stephen Blauer, owner and head of research and development at Blauer Manufacturing, a Boston-based producer of tactical products including body armor and clothing for law enforcement and public safety professionals.

The marked increase in public gun violence in recent years has led the federal government to strengthen requirements for agencies seeking federal dollars to help pay for body armor purchases. Specifically, jurisdictions applying for matching funds through the Justice Assistance Grant Program or the Bulletproof Vest Partnership, respectively administered by the Department of Justice's Bureau of Justice Assistance and Office of Justice Programs must now certify that they have a "mandatory wear" policy in place that requires officers to wear body armor if their agencies intend to use federal matching funds to purchase body armor.

That is not only potentially cumbersome, but can present a strategic disadvantage.

"If there's a gun battle, you hope the perp shoots for the torso, because that's the area the body armor protects," Blauer said. "But if the perp can see that the officer is wearing armor, they are more likely to shoot for the head or groin."

With these factors in mind, Blauer developed ArmorSkin, which both conceals body armor from view and improves officer comfort. "It allows officers to wear armor on the outside of their shirts," Blauer explained. "ArmorSkin covers the hidden body armor with an external layer of shirting fabric that looks like a regular shirt. It helps maintain your tactical advantage, and if it's 100 degrees outside, you can just pop it off."

New threats undoubtedly call for new responses. A new brand of armor, called the PatrolBat, provides a ballistic shield small enough to carry in a patrol car and large enough to protect any officer who may need to respond to an armed individual, including, in extreme cases, an active shooter.

"It gives the officer a dominating presence in a gun battle," said Rick Armellino, CEO of Baker Ballistics, the Pennsylvania manufacturer that makes the PatrolBat, along with similar products. "There is no area left vulnerable; it protects the groin and all major arteries simultaneously. Traditional shields are defensive; our shield is offensive. It's the only shield that works with a patrol rifle."

Baker Ballistics created the PatrolBat, in part, as a response to a new shift in law enforcement tactics brought on by the national increase in shootings. "Officers are expected to get into a situation quicker now, whether it's a school, a mall, or a workplace," Armellino said. "The old model of establishing a team and establishing a perimeter doesn't work, because the shooter is shooting more people. The officer has to go in at the sound of gunfire, and that means putting yourself in a more dangerous situation."

Armellino said that in the wake of shootings like the 2012 massacre at Sandy Hook Elementary School in Connecticut, Baker has experienced a "dramatic" increase in PatrolBat orders, particularly from law enforcement agencies whose officers would face extended wait times for backup to arrive in an active shooter or similar situation. Armellino said the Vancouver, British Columbia, police department recently ordered PatrolBats for each of its 85 patrol vehicles.

Other leading body armor and protective gear manufacturers include the DuPont company (the original inventor of Kevlar), the



Vermont-based Damascus Protective Gear, and American Safety Vest in Rhode Island.

Making an accessory or item of clothing more user-friendly means more in law enforcement than merely increasing comfort or convenience. Better design or construction on standard-issue items can help reduce injuries and increase an officer's ability to get the job done.

One such example is a watch. Watches can seem like an afterthought, but that's exactly the point. A well-made watch means never having to worry about what's on your wrist.

"Police officers don't want to have to press any buttons or worry about any watch batteries," said Hugo Reiner, president of ArmourLite Watches, a Florida-based company that makes heavy-duty watches for law enforcement and other uses. "Officers don't have time to take a watch to the shop, and with everything else they have to wear, they don't need anything else that's blocky."

ArmourLite's Isobrite line provides one example. The watch face is illuminated using tritium, a special chemical that provides clear and continuous lighting for up to 20 years without the need for batteries. The watch also benefits from durable, yet unobtrusive, construction.

"It's designed to be as strong as possible while still being light on an officer's wrist," Reiner said. "And there's a special anti-reflective film in the glass, so that during an operation it doesn't reflect."

Footwear may be another item that doesn't naturally elicit a great deal of focus—until, that is, it causes a problem. At Blauer Manufac-

turing, boots contain a new lacing system that works on a reel, which allows officers to secure a better fit while getting in and out of their boots more quickly.

When developing the boot, Blauer researchers looked to the sports world for inspiration. A tough heel in the vein of those used by NASCAR drivers increases durability, while a tennis shoe sole provides ideal support for officers because tennis player movements (lateral, forward and back quickly) closely mimic those of an officer. "A majority of injuries are from the knee down, because of pursuing and wrestling with that huge load on your waist," Blauer said.

A better glove can also make an officer's daily life much easier. Lynette Warneke Gray, a former policeman's wife and president of the Oregon-based Glo Concepts, said her company's GloGlovs are "the most visible on the market." The red, reflective "stop sign" sewn into the glove's palm makes the glove multifunctional and eliminates the need for additional equipment when directing traffic.

"If an officer is re-routing traffic with a wand, his arm is killing him after 45 minutes," Warneke Gray said. "This glove can help with that. It's visible from up to a quarter of a mile away, day or night."

Other clothing manufacturers offering special products for law enforcement include Somes Uniforms based in New Jersey, the Ohio-based Rocky Brands Inc., the Pro Wear Gear firm in Canada, and Red the Uniform Tailor in New Jersey. ♦

## Product Feature:

# Source List for Clothing and Accessories

For contact information, view this article in the December 2013 issue online at <http://www.policechiefmagazine.org>.

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All State Police Equipment Co.  
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Awards & More  
Barb's Harley Davidson  
Bates Footwear  
Belleville Boot Company  
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San Diego Leather Inc.  
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Aden, Hassan, Inviting the Community into the Police Strategic Planning Process, Oct: 28

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Amendola, Karen, Research In Brief: Which Shift is Better? Mar: 14

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Arnold, Jon, The Five C's of Law Enforcement Leadership, Nov: 22

Ashton, Richard J., Highway Safety Initiatives: Arresting Rising Traffic Fatalities, Jan: 64

FBI's LEOKA Offers Insight into Officer Deaths, Feb: 64

Four Considerations for Making Safe, Effective, and Legal Traffic Stops, Aug: 119

Highway Fatalities Continued to Decline in 2011, May: 60

License Plates Yield Felony Arrests, Sept: 68

Marijuana and Driving, Dec: 92

National TIM Responder Training Courses, April: 112

NTSB Issues Safety Recommendations to IACP, Mar: 64

Ashton, Richard J., Preventing Carnage, July: 23

## B

Bailey, Patricia J., Eyewitness Identification: An Update on What Chief's Need to Know, July: 60

Batiste, John, The Loss of Trooper Tony Radulescu, May: 22

Beasley, Norman, Police Ethics Series: Ethical Defensibility: Putting Police Ethics on Trial, Nov: 60

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Born, John, Highway Safety Initiatives: Officer Safety: Every Shift, Every Day, July: 70

Safety First, July: 40

Safety Is Important when It Is Personal: Taking a Leadership Role in Highway Safety, July: 24

Brave, Michael, Chief's Counsel: Constant Constrictive Pressures to Avoid or Reduce Use of Force and the Quagmire of So-Called Best Practices, April: 12

Bray, Shawn, From the Director: INTERPOL Washington: When Transnational Crime Comes to Our Communities, May, 18

Bristow, Keith, The Creation of the National Crime Agency in the United Kingdom, Aug: 60

Bryan, James "Tim," Law Enforcement's Continuing Role in Homeland Security, Feb: 18

Bulman, Phil, Research in Brief: DNA and Property Crimes, April: 16

Bush, Charlie, Enhancing Criminal Justice and Homeland Security Capabilities:

N-Dex Fulfilling Its Vision to Support Law Enforcement, Feb: 34

Buzby, Richard, Law Enforcement's Response to Natural Disasters: Little Egg Harbor Township, Aug: 104

Byrne, Patrick G., Increased Globalization of Organized Crime and Terrorism: Europol and the EU Perspective, Aug: 64

## C

Campbell, Caleb, Red Teaming for Fusion Centers, Dec: 70

Carter, David L., Police Ethics Series: Ethical Defensibility: Using the Intelligence Led Policing Template to Avoid the Appearance of Unconstitutional Policing, Dec: 52

Castellano, Cherie, Law Enforcement's Response to Natural Disasters: Hurricane Sandy, New Jersey's Cop 2 Cop and the New Jersey State Association of Chiefs of Police, Aug: 107

Caughlin, Sharon, When Work Ethic and Entitlement Collide, Nov: 32

Chapman, Brett, Research in Brief: Eyewitness Identifications: A National Survey on Procedures, Sept: 14

Cohen McCullough, Debra R., In an Era of Austerity: Chief-to-Chief Lessons on the Consolidation of Law Enforcement Services, Oct: 108

Collins, John M., Rethinking the Ownership of Crimes Labs: No Matter Who Is in Charge, Jurisdictional Commitment Is Key, Sept: 30

Collins, John M. "Jack," Chief's Counsel: Caring for an Adult Child under the Family and Medical Leave Act, June: 16, Obesity as a Disability, Dec: 16

Comer, Colin, Training for Change, Jan: 36

Corkrean, Joseph C., Situational Policing in Rural Areas, Nov: 36

Cordner, Gary, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12

Coupe, Robert M., Officer Safety Corner: Colonels Wear Vests, Too, Jan: 16

Courage, Martine, IACP Donation Helps Educate Children of Fallen Officers in Haiti, Aug: 74

## D

Davidson, Nyerere, Research in Brief: Eyewitness Identifications: A National Survey on Procedures, Sept: 14

Davis, Brett, Unmanned Aircraft Systems: All the Boxes Checked, but Challenges Remain, June: 60

Davis, James, The Role of the Fusion Center in Counterterrorism Operations, Feb: 20

Deck, Elaine, Solutions for the Smaller Agency, April: 26

Diedrich, Dawn, Developing Policy on Using Social Media for Intelligence and Investigations, June: 28

Dinkins, James A., Homeland Security Investigations: Fight Human Trafficking with a Full Arsenal, Feb: 54

Dowling, Anne, A Practical Application: Facial Recognition Technology, June: 42

Driscoll, Dustin, Technology Talk: Resolving Missing and Unidentified Person Cases Using Today's Technologies, May: 54

Dye, Emily K., The Synthetic Drug Craze: What Chiefs Need to Know, Sept: 60

## E

Ederheimer, Joshua, From the Director: Partnerships and Community Policing, Oct: 20

Edmonson, Mike, Highly Visible Traffic Enforcement Drives Truck and Bus Safety, July: 20

Law Enforcement Partnerships: Now the Norm, Not the Exception, Aug: 102

Edwards, John, Oak Creek: Leading a Community in the Aftermath of a Tragedy, Oct: 98

Ekelund, Ben, Future of Policing in America: Bringing the Voice of Smaller Agencies to the National Dialogue, April: 56

Solutions for the Smaller Agency, April: 26

Elton, Pamela, How Multidisciplinary Teams Achieve Success in Indian Country, Mar: 42

## F

Fachner, George, Officer Safety Corner: Building Knowledge on Ambush Assaults of the Police: A Research Initiative by COPS, CNA, and the IACP, May: 16

Farrow, Joe, Highway Safety Initiatives: Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers, Nov: 68

Fellner, Gary M., The U.S. Supreme Court's Seminal Decision in *District of Columbia v. Heller*: Has It Changed the People's Second Amendment Right to Own a Gun? Mar: 48

Ferrell, Jr., Craig E., Chief's Counsel: The Future Is Here: How Police Officers' Videos Protect Officers, Oct: 16

Finch, Rob, Violent Domestic Extremism and the Role of Social Media within Law Enforcement, June: 32

Firman, John R., Vision 21: Transforming Victim Services, Dec: 12

Flowers, Kory, Violent Domestic Extremism and the Role of Social Media within Law Enforcement, June: 32

Flynn, Stephen E., Talking Points: Delivering the Message to Terrorists—The Boston Way, June: 20

Force, Mike, Officer Safety Corner: Compassion in Law Enforcement, Sept: 10

Fox, Bryanna H., Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12

Frazzano, Tracy L., A Paradigm Shift for First Responders: Preparing the Emergency Response Community for Hybrid Targeted Violence, May: 36

Fridell, Lorie, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12

Fugate, W. Craig, From the Administrator: Law Enforcement's Role in Responding to Disasters, Aug: 100

## G

Garcia, Michelle M., Connecting the Dots: The Challenges of Identifying and Responding to Stalking, Dec: 62

Gardner, Leslie, Red Teaming for Fusion Centers, Dec: 70

Gately, Tim, Combating Financial Fraud and ID Theft through Regional Partnerships, June: 64

Gerard, Daniel W., Cincinnati HAZARD: A Place-Based Traffic Enforcement and Violent Crime Strategy, July: 44

Gialamas, Dean M., The Changing Face of Forensic Science: What Police Chiefs Need to Know about National Forensic Science Initiatives, Sept: 26

Gill, Robert K., Officer Safety Corner: Interview Rooms: Design for Safety and Utility, Nov: 10

Gorban, Ben, Technology Talk: Why Cybersecurity Should Be at Top Priority for Your Agency, Dec: 88

Gustafson, Bryon G., Research in Brief: Realizing SAFE Driving: Effects of Multi-

Disciplinary Research and Interventions in California, May: 14

Guy, Sarah, Legislative Alert: Appropriations Battle Ahead: House and Senate Disagree on Funding Levels for Law Enforcement Programs, Aug: 8

Boehner Rules Out Action on Immigration Reform in 2013 and IACP Endorses Several Important Legislative Proposals, Dec: 8

IACP Efforts to Combat Legalization of Marijuana Continue, Oct: 8

IACP Meets with Vice President Biden on Immigration Reform, Sept: 8

Shutdown Drags on as Congress Remains at an Impasse, Nov: 8

Gwinn, Casey, Lifesaving Leadership to Break the Cycle of Family Violence: Partnerships between Law Enforcement and Communities, Oct: 32

## H

Hamilton, Ian, Officer Safety Corner: Officer Safety and Wellness—IACP Conference 2013, Philadelphia, PA, Oct: 10

Hanes, Melodee, From the Acting Administrator: Law Enforcement's Opportunity to Improve Juvenile Justice, Mar: 18

Harris, Scott, Product Feature: Clothing and Accessories Make the Job Safer and Easier, Dec: 80

Communications Hardware and Software, Mar: 38

Forensics and Investigation Tools Flourish in the Field, Sept: 22

New Technologies Bring Hollywood to Life, Oct: 92

Purchasing, April: 66

Training and Testing, Feb: 44

Products Old and New Help Protect Officers in Hostile Terrain, Aug: 86

Officer Protection, May: 50

Transportation, July: 56

Mobile Computers, June: 56

Hartnett, Susan, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12

Hayes, Chuck, Efforts Continue to Address Drugged Driving, But Is It Enough? July: 28

Hegarty, Tim, Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12

Hill, Linda, Highway Safety Initiatives: Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers, Nov: 68

Hogben, Christopher, Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12

Horn, Sarah R., Law Enforcement's Continuing Role in Homeland Security, Feb: 18

Hunt, Ted R., Communication, Context, and Crime Scenes: Enhancing Opportunities to Identify and Collect Touch DNA Evidence, Sept: 42

Hyde, Pamela, From the Director: Law Enforcement and Behavioral Health, Working Together, Jan: 18

## J

Jackson, Thom, Officer Safety Corner: Sovereign Citizens on Traffic Stops, Feb: 14

Jeswal, Rupali, Unconventional Crises: Hyper Targeted Violence (HTV) in Hyper-complex Environments with a Focus on Urban Terrain, Dec: 66

Johnson, Bart R., Remembering Our Past and Preparing for the Future—The Relocation of IACP Headquarters, Aug: 20

Jones, Eric, Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations, May: 32

## K

- Kaminski, Robert J., Research in Brief: Recent Findings on Police Foot Pursuits, Jan: 14
- Keenan, Vernon M., Developing Policy on Using Social Media for Intelligence and Investigations, June: 28
- Kipper, Bobby, When Work Ethic and Entitlement Collide, Nov: 32
- Kitchell, Gerald, Youth Assessment Model: Assessment, Referral and Diversion, Mar: 46
- Koper, Christopher S., Research in Brief: What Works Best at Violent Crime Hot Spots? A Test of Directed Patrol and Problem-Solving Approaches in Jacksonville, Florida, Oct: 12
- Evidence-Based Policing in Smaller Agencies: Challenges, Prospects, and Opportunities, April: 42
- Kroovand Hipple, Natalie, Environmental and Natural Resource Crimes: The Hidden Threat to Public Safety, Natural Resources and the Environment, Aug: 110
- Kruger, Karen J., Chief's Counsel: Essential Job Functions, Disabling Conditions and the Americans with Disabilities Act, Jan: 12
- Kuntz, Scott, Video Evidence Is Everywhere: Training and Respect Are Needed, Sept: 38
- Kurkowski, Arthur, Officer Safety Corner: Keeping Yourself and Your Family Safe Off-Duty, June: 14

## L

- Lambert, Steve, The Northern Virginia Military Shootings Series: Operational Validation of Geospatial Predictive Analytics, Feb: 48
- Lansdowne, Bill, Lifesaving Leadership to Break the Cycle of Family Violence: Partnerships between Law Enforcement and Communities, Oct: 32
- Larson, Mark R., Eyewitness Identification: An Update on What Chief's Need to Know, July: 60
- Lembang, Cosmas, The Indonesian National Police Standardized Emergency Management System: Conception to Implementation, Jan: 44
- Letic, Steve, E-Learning in the Equivalency Academy, Jan: 48
- Liederbach, John, Research in Brief: Sex-Related Police Misconduct, Aug: 14
- Lin, Te-Hua, Experience Sharing in Combating Cross-Border Telecommunications and Internet Fraud Crime in Taiwan, Aug: 70
- Lissy, Karen, Combating Financial Fraud and ID Theft through Regional Partnerships, June: 64
- Technology Talk: Incident-Based Reporting—The Foundation of Effective Police Operations and Management, Sept: 64
- Long, Matthew, Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12
- Lott, Leon, Officer Safety Corner: Planning for a Critical Incident Involving an Officer, July: 14
- Lum, Cynthia, Evidence-Based Policing in Smaller Agencies: Challenges, Prospects, and Opportunities, April: 42
- Lum, Grande, The U.S. Department of Justice Community Relations Service: Assisting Communities in Resolving Conflicts and Restoring Peace, Dec: 48
- Lumpkin, Brian, Can Police Officers Be Effective Mentors for At-Risk Youth? Mar: 26

## M

- Maass, Kevin T., Officer Safety Corner: Data from Officer Deaths Can Inform Improved Safety Measures, Mar: 16
- Maddox, Gary P., Officer Safety Corner: Dogs and the Police Response: A Guide for Safe, Successful, and Humane Encounters, Aug: 10
- Mann, Mark P., Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations, May: 32
- Marston, Katie, Center for Officer Safety and Wellness, May: 24
- Martin, Bradley, Developing Policy on Using Social Media for Intelligence and Investigations, June: 28
- Martinelli, Thomas J., Police Ethics Series: Ethical Defensibility: Putting Police Ethics on Trial, Nov: 60
- Ethical Defensibility: Using the Intelligence Led Policing Template to Avoid the Appearance of Unconstitutional Policing, Dec: 52
- Mastrofski, Stephen, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12
- Mayer, Martin J., Chief's Counsel: Police "Whistleblowers" and the First Amendment, Nov: 16
- Secure Communities Program: Mandatory or Optional? Feb: 10
- McCarty, William, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12
- McClelland, Rebecca, Center for Officer Safety and Wellness, May: 24
- Officer Safety Corner: Officer Safety and Violence Against Women Crimes, April: 18
- McCue, Colleen, The Northern Virginia Military Shootings Series: Operational Validation of Geospatial Predictive Analytics, Feb: 48
- McCutcheon, Jeni, Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations, May: 32
- McDevitt, Jack, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12
- McDonald, Jeff, The Juvenile Assessment Center and Information Sharing: The Whys, the Whats and How It Works in Jefferson County, Colorado, Mar: 22
- McGarrell, Edmund F., Environmental and Natural Resource Crimes: The Hidden Threat to Public Safety, Natural Resources and the Environment, Aug: 110
- McInerney, Libby, Oak Creek: Leading a Community in the Aftermath of a Tragedy, Oct: 98
- McShane, Owen, A Practical Application: Facial Recognition Technology, June: 42
- Mealy, Debbie, E-Learning in the Equivalency Academy, Jan: 48
- Mecklenburg, Sheri H., Eyewitness Identification: An Update on What Chief's Need to Know, July: 60
- Melekian, Bernard, In an Era of Austerity: Chief-to-Chief Lessons on the Consolidation of Law Enforcement Services, Oct: 108
- Melendez, Rosa, The U.S. Department of Justice Community Relations Service: Assisting Communities in Resolving Conflicts and Restoring Peace, Dec: 48
- Mertz, Janice, Collaboration to Recover U.S. Exploited Youth: The FBI's Innocence Lost National Initiative, Mar: 24

- Miller, Lebew, The Northern Virginia Military Shootings Series: Operational Validation of Geospatial Predictive Analytics, Feb: 48
- Miller, Matthew, Red Teaming for Fusion Centers, Dec: 70
- Miller, Todd A., Collaborative Partnerships to Solve Community Issues, Oct: 26
- Mitchell, Annie, Building a Crime Analyst: One Training Module at a Time, Nov: 34
- Mitchell, Renée J., Research in Brief: Hot-Spot Randomized Control Works for Sacramento, Feb: 12
- Morag, Nadav, Fighting Terrorism: International Models for Law Enforcement, June: 24

## N, O & P

- Newbold, Mark H., Chief's Counsel: The Mosaic Theory and Electronic Public Safety Technology, Mar: 12
- Nolan, James, Situational Policing in Rural Areas, Nov: 36
- Norton-Hewins, Katherine, Body Armor Standards: Home and Away, Aug: 26
- O'Brien, Mallory, Research in Brief: What Do We Get out of Homicide Reviews? June: 12
- O'Donnell, Denise E., From the Director: Cyber Training and Technical Assistance, Dec: 20
- Oh, Michael J., Chief's Counsel: *Missouri v. McNeely*: What Does This Mean for DUI Enforcement? Aug: 16
- Orpinuk, Kerry, Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12
- Penn, Everette B., Can Police Officers Be Effective Mentors for At-Risk Youth? Mar: 26

## R

- Renfro, Julie, No Rape Case Goes Unanalyzed: A Rapid Approach to Sexual Assault Evidence, Sept: 52
- Ridgeway, Greg, From the Acting Director: National Institute of Justice Seeks to Make America Safer, Aug: 18
- Rizzo, Michael, Officer Safety Corner: Officer Safety and Violence Against Women Crimes, April: 18
- Roberts, David J., Technology Talk: 37th Annual LEIM Training Conference and Exposition—Recap, Aug: 114
- Advances in Law Enforcement Information Technology Will Enable More Accurate, Actionable Analysis, Feb: 58
- Automated License Plate Recognition (ALPR) in Policing, April: 104
- Cloud Computing in Law Enforcement: Survey Results and Guiding Principles, Mar: 56
- Expanding Law Enforcement Cyber Capabilities, Oct: 114
- Incident-Based Reporting—The Foundation of Effective Police Operations and Management, Sept: 64
- LEIM Section Plans 37th Annual Training Conference & Technology Exposition, Jan: 58
- The Policy Foundation of Technology Implementation, Nov: 64
- Roby, Don, Unmanned Aircraft Systems: All the Boxes Checked, but Challenges Remain, June: 60
- Roland, Jocelyn, Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations, May: 32
- Rondenell, Stephanie, The Juvenile Assessment Center and Information Sharing: The Whys, the Whats and How It Works in Jefferson County, Colorado, Mar: 22

- Rosenbaum, Dennis, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12
- Roush, Jamie, Research in Brief: What Works Best at Violent Crime Hot Spots? A Test of Directed Patrol and Problem-Solving Approaches in Jacksonville, Florida, Oct: 12
- Rybar, Jill, Highway Safety Initiatives: Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers, Nov: 68

## S

- Santoro, Scott, FLETC's Role with The Blue Campaign: DHS' Unified Effort to Combat Human Trafficking, Nov: 54
- Schultz, Paul, Transforming Underperforming Smaller Police Agencies into High-Performance Organizations, April: 28
- Schneidmiller, Donald, Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations, May: 32
- Schnell, Paul, Connecting the Dots: The Challenges of Identifying and Responding to Stalking, Dec: 62
- Seay, Jason T., Chief's Counsel: *Maryland v. King*—The Constitutionality of DNA Collection for Law Enforcement Purposes, Sept: 16
- Silva, Michael D., Chief's Counsel: Undercover Online: Why Your Agency Needs a Social Network Investigations Policy, May: 12
- Sims, Gary, No Rape Case Goes Unanalyzed: A Rapid Approach to Sexual Assault Evidence, Sept: 52
- Skogan, Wesley, Research in Brief: The National Police Research Platform: Improving the Science of Police Administration, July: 12
- Snyder, G. Matthew, A Paradigm Shift for First Responders: Preparing the Emergency Response Community for Hybrid Targeted Violence, May: 36
- Spotts, David J., Chief's Counsel: Has the Supreme Court Cleared the Air on K-9 Drug Sniffs? July: 10
- Staneik, Richard, Countering Violent Extremism: A Community Partnership Approach, Oct: 42
- Steckler, Craig T., President's Message: Boston and the Importance of Officer Safety, May: 6
- IACP Constitutional Review: Time to Make Your Voice Heard, Sept: 6
- IACP: Breaking the Silence on Law Enforcement Suicides, July: 6
- IACP: Get Connected-Get Involved, June: 6
- IACP Summit on Wrongful Convictions, April: 6
- Juvenile Justice and the Prevention of Child Exploitation, Mar: 6
- Stemming the Unacceptable Level of Gun Violence, Feb: 6
- Think Globally, Get Active, Aug: 6
- The Year in Review, Oct: 6
- Your Pivotal Role in IACP Membership Growth, Jan: 6
- Steinberger, Eva, No Rape Case Goes Unanalyzed: A Rapid Approach to Sexual Assault Evidence, Sept: 52
- Stelter, Leischen, The Growing Need for Independent Research and Analysis to Aid Chiefs in Evaluating Public Safety Consolidation Models, Jan: 30
- In Their Own Words—Police Chiefs Transition to Emergency Management Leadership, Nov: 28

Stewart, Michelle, How Multidisciplinary Teams Achieve Success in Indian Country, Mar: 42

Stinson, Phillip M., Research in Brief: Sex-Related Police Misconduct, Aug: 14

Stoiloff, Stephanie, Are You Running a Quality Forensic Science Operation? What Chiefs Need to Know about QA and Accreditation, Sept: 34

Supriyono, Nono, The Indonesian National Police Standardized Emergency Management System: Conception to Implementation, Jan: 44

Sutherland, Daniel, Using Principles of Community Policing to Address Online Radicalization to Violence, Feb: 28

Swobodzinski, Kimberle, Building a Crime Analyst: One Training Module at a Time, Nov: 34

## T & U

Taylor, Bruce, Research in Brief: What Works Best at Violent Crime Hot Spots? A Test of Directed Patrol and Problem-Solving Approaches in Jacksonville, Florida, Oct: 12

Ticer, Robert, Highway Safety Initiatives: Professional Practices and Perceptions in Standardized Field Sobriety Test (SFST) Training, Oct: 120

Trinkle, Georjean, Collaborative Partnerships to Solve Community Issues, Oct: 26

Turman, Kathryn, Planning Ahead for Managing Victims and Their Families in Active Shooter Incidents, Dec: 58

Ursino, Brian A., Highway Safety Initiatives: Reduce Suspended Drivers and Increase Officers' Proactive Time, June: 72

U.S. Department of Veterans Affairs, IACP Joins the U.S. Department of Veterans Affairs to End Homelessness among Veterans, Aug: 24

U.S. Marshals Service, The Investigative Operations Division, Risk Mitigation Can Lead to Fewer Officer Fatalities, May: 28

## V & W

Van Der Leest, Ernie, Officer Safety Corner: Interview Rooms: Design for Safety and Utility, Nov: 10

Van Steenburg, Jack, Highly Visible Traffic Enforcement Drives Truck and Bus Safety, July: 20

Vermilye, Erin, Solutions for the Smaller Agency, April: 26

Vitek, Jo, Community Capacity Building and Partnerships in Action, Oct: 50

Voegtlin, Gene, Legislative Alert: Congress Considers EPCA Changes, June: 8

Firearms Legislation Withdrawn in Senate, May: 8

Senate Appropriators Approve Continuing Resolution, April: 8

Supreme Court Upholds Post-Arrest DNA-Collection: High Court Sides with IACP Amicus Brief, July: 8

Wagers, Michael, Law Enforcement's Continuing Role in Homeland Security, Feb: 18

Technology Talk: Expanding Law Enforcement Cyber Capabilities, Oct: 114

Ward, Meredith, Legislative Alert: IACP-Endorsed Child Protection Act of 2012 Passes in Congress, Seeks Signa-

ture from President, Jan: 10

IACP Partners with White House to Seek Law Enforcement Leadership Perspective on Immigration Reform, Mar: 8

IACP Releases Firearms Position Paper, Feb: 8

Ware, Bryan, Terrorism and the Technology Gap, June: 18

Weiss, Alexander, Staffing the "Small" Department: Taking Stock of Existing Benchmarks and Promising Approaches, April: 34

Weltzer, Robert E., Highway Safety Initiatives: Professional Practices and Perceptions in Standardized Field Sobriety Test (SFST) Training, Oct: 120

Wilburn, Amber, Situational Policing in Rural Areas, Nov: 36

Williams, Susan, Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners, Nov: 12

Wilson, Jeremy M., Staffing the "Small" Department: Taking Stock of Existing Benchmarks and Promising Approaches, April: 34

In an Era of Austerity: Chief-to-Chief Lessons on the Consolidation of Law Enforcement Services, Oct: 108

Wynn, Mark, Officer Safety Corner: Officer Safety in Domestic Violence Responses, Dec: 10

## Z

Zakhary, Yousry, President's Message: The Year Ahead, Nov: 6

Being Prepared for Active Shooter Incidents, Dec: 6

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## Active Shooter Incidents

A Paradigm Shift for First Responders: Preparing the Emergency Response Community for Hybrid Targeted Violence (Tracy L. Frazzano and G. Matthew Snyder) May: 36  
 Planning Ahead for Managing Victims and Their Families in Active Shooter Incidents (Kathryn Turman) Dec: 58  
 President's Message: Being Prepared for Active Shooter Incidents (Yousry Zakhary) Dec: 6

## Awards

2012 IACP Awards, Jan: 52  
 Highway Safety Initiatives: License Plates Yield Felony Arrests (Richard J. Ashton) Sep: 68  
 Research in Brief: 2013 IACP/Sprint Excellence in Law Enforcement Research Award Winners (Matthew Long, Christopher Hogben, Kerry Orpinuk, Bryanna H. Fox, Tim Hegarty and Susan Williams) Nov: 12

## Chief's Counsel

Caring for an Adult Child under the Family and Medical Leave Act (John M. "Jack" Collins) June: 16  
 Constant Constrictive Pressures to Avoid or Reduce Use of Force and the Quagmire of So-Called Best Practices (Michael Brave) April: 12  
 Essential Job Functions, Disabling Conditions and the Americans with Disabilities Act (Karen J. Kruger) Jan: 12  
 Has the Supreme Court Cleared the Air on K-9 Drug Sniffs? (David J. Spotts) July: 10  
*Maryland v. King*—The Constitutionality of DNA Collection for Law Enforcement Purposes (Gerald M. Bender and Jason T. Seay) Sep: 16  
*Missouri v. McNeely*: What Does This Mean for DUI Enforcement? (Michael J. Oh) Aug: 16  
 Obesity as a Disability (John M. "Jack" Collins) Dec: 16  
 Police "Whistleblowers" and the First Amendment (Martin J. Mayer) Nov: 16  
 Secure Communities Program: Mandatory or Optional? (Martin J. Mayer) Feb: 10  
 The Future Is Here: How Police Officers' Videos Protect Officers (Craig E. Ferrell, Jr.) Oct: 16  
 The Mosaic Theory and Electronic Public Safety Technology (Mark H. Newbold) Mar: 12  
 Undercover Online: Why Your Agency Needs a Social Network Investigations Policy (Michael D. Silva) May: 12

## Community Policing

Inviting the Community into the Police Strategic Planning Process (Hassan Aden) Oct: 28  
 Oak Creek: Leading a Community in the Aftermath of a Tragedy (John Edwards and Libby McInerney) Oct: 98  
 Using Principles of Community Policing to Address Online Radicalization to Violence (Daniel Sutherland) Feb: 28

## Conferences

Officer Safety Corner: Officer Safety and Wellness—ICAP Conference 2013, Philadelphia, PA (Ian Hamilton) Oct: 10  
 Technology Talk: 37th Annual LEIM Training Conference and Exposition—Recap (David J. Roberts) Aug: 114

Technology Talk: LEIM Section Plans 37th Annual Training Conference & Technology Exposition (David J. Roberts) Jan: 58

## Consolidation of Services

In an Era of Austerity: Chief-to-Chief Lessons on the Consolidation of Law Enforcement Services (Jeremy M. Wilson, Bernard Melekian, and Debra R. Cohen McCullough) Oct: 108  
 The Growing Need for Independent Research and Analysis to Aid Chiefs in Evaluating Public Safety Consolidation Models (Leischen Stelter) Jan: 30

## Drug-Related Topics

Chief's Counsel: Has the Supreme Court Cleared the Air on K-9 Drug Sniffs? (David J. Spotts) July: 10  
 Efforts Continue to Address Drugged Driving, But Is It Enough? (Chuck Hayes) July: 28  
 Highway Safety Initiatives: Marijuana and Driving (Richard J. Ashton) Dec: XX  
 Legislative Alert: IACP Efforts to Combat Legalization of Marijuana Continue (Sarah Guy) Oct: 8  
 The Synthetic Drug Craze: What Chiefs Need to Know (Emily K. Dye) Sep: 60

## Eyewitness Identification

Eyewitness Identification: An Update on What Chief's Need to Know (Sheri H. Mecklenburg, Patricia J. Bailey, and Mark R. Larson) July: 60  
 Research in Brief: Eyewitness Identifications: A National Survey on Procedures (Nyerere Davidson and Brett Chapman) Sep: 14

## Forensics

Are You Running a Quality Forensic Science Operation? What Chiefs Need to Know about QA and Accreditation (Stephanie Stoiloff) Sep: 34  
 Communication, Context, and Crime Scenes: Enhancing Opportunities to Identify and Collect Touch DNA Evidence (Ted R. Hunt) Sep: 42  
 From the Acting Director: National Institute of Justice Seeks to Make America Safer (Greg Ridgeway) Aug: 18  
 Legislative Alert: Supreme Court Upholds Post-Arrest DNA-Collection: High Court Sides with IACP Amicus Brief (Gene Voegtlin) July: 8  
 No Rape Case Goes Unanalyzed: A Rapid Approach to Sexual Assault Evidence (Eva Steinberger, Julie Renfro, Meg Aceves, and Gary Sims) Sep: 52  
 Product Feature: Forensics and Investigation Tools Flourish in the Field (Scott Harris) Sep: 22  
 Research in Brief: DNA and Property Crimes (Phil Bulman) April: 16  
 Rethinking the Ownership of Crimes Labs: No Matter Who Is in Charge, Jurisdictional Commitment Is Key (John M. Collins) Sep: 30  
 Technology Talk: Resolving Missing and Unidentified Person Cases Using Today's Technologies (Dustin Driscoll) May: 54  
 The Changing Face of Forensic Science: What Police Chiefs Need to Know about National Forensic Science Initiatives (Dean M. Gialamas) Sep: 26  
 Video Evidence Is Everywhere: Training and Respect Are Needed (Scott Kuntz) Sep: 38

## From the Director

Cyber Training and Technical Assistance (Denise E. O'Donnell) Dec: 20  
 INTERPOL Washington: When Transnational Crime Comes to Our Communities (Shawn Bray) May: 18  
 Law Enforcement and Behavioral Health, Working Together (Pamela Hyde) Jan: 18  
 Partnerships and Community Policing (Joshua Ederheimer) Oct: 20  
 Highway Safety  
 Cincinnati HAZARD: A Place-Based Traffic Enforcement and Violent Crime Strategy (Daniel W. Gerard) July: 44  
 Efforts Continue to Address Drugged Driving, But Is It Enough? (Chuck Hayes) July: 28  
 Highly Visible Traffic Enforcement Drives Truck and Bus Safety (Jack Van Steenburg and Mark Edmonson) July:  
 Highway Safety Initiatives:  
 Arresting Rising Traffic Fatalities (Richard J. Ashton) Jan: 64  
 FBI's LEOKA Offers Insight into Officer Deaths (Richard J. Ashton) Feb: 64  
 Four Considerations for Making Safe, Effective, and Legal Traffic Stops (Richard J. Ashton) Aug: 119  
 Highway Fatalities Continued to Decline in 2011 (Richard J. Ashton) May: 60  
 License Plates Yield Felony Arrests (Richard J. Ashton) Sep: 68  
 Marijuana and Driving (Richard J. Ashton) Dec: 92  
 National TIM Responder Training Courses (Richard J. Ashton) April: 112  
 NTSB Issues Safety Recommendations to IACP (Richard J. Ashton) Mar: 64  
 Officer Safety: Every Shift, Every Day (John Born) July: 70  
 Professional Practices and Perceptions in Standardized Field Sobriety Test (SFST) Training (Robert E. Weltzer and Robert Ticer) Oct: 120  
 Reduce Suspended Drivers and Increase Officers' Proactive Time (Brian A. Ursino) June: 72  
 Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers (Linda Hill, Jill Rybar, and Joe Farrow) Nov: 68  
 Preventing Carnage (Richard J. Ashton) July: 23  
 Safety First (John Born) July: 40  
 Safety Is Important when It Is Personal: Taking a Leadership Role in Highway Safety (John Born) July: 24

## Homeland Security

A Paradigm Shift for First Responders: Preparing the Emergency Response Community for Hybrid Targeted Violence (Tracy L. Frazzano and G. Matthew Snyder) May: 36  
 Enhancing Criminal Justice and Homeland Security Capabilities: N-DEX Fulfilling Its Vision to Support Law Enforcement (Charlie Bush) Feb: 34  
 Homeland Security Investigations: Fight Human Trafficking with a Full Arsenal (James A. Dinkins) Feb: 54  
 Law Enforcement's Continuing Role in Homeland Security (Michael Wagers, James "Tim" Bryan, and Sarah R. Horn) Feb: 18  
 Red Teaming for Fusion Centers (Matthew Miller, Caleb Campbell, and Leslie Gardner) Dec: 70  
 The Northern Virginia Military Shootings Series: Operational Validation of Geospatial Predictive Analytics (Colleen McCue, Lehigh Miller, and Steve Lambert) Feb: 48

The Role of the Fusion Center in Counterterrorism Operations (James Davis) Feb: 20  
 Unconventional Crisis: Hyper Targeted Violence (HTV) in Hypercomplex Environment with Focus on Urban Terrain (Rupali Jeswal) Dec: 66

## International Policing

Body Armor Standards: Home and Away (Katherine Norton-Hewins) Aug: 26  
 Experience Sharing in Combating Cross-Border Telecommunications and Internet Fraud Crime in Taiwan (Te-Hua Lin) Aug: 70  
 IACP Donation Helps Educate Children of Fallen Officers in Haiti (Martine Courage) Aug: 74  
 Increased Globalization of Organized Crime and Terrorism: Europol and the EU Perspective (Patrick G. Byrne) Aug: 64  
 Fighting Terrorism: International Models for Law Enforcement (Nadav Morag) June: 24  
 The Creation of the National Crime Agency in the United Kingdom (Keith Bristow) Aug: 60  
 The Indonesian National Police Standardized Emergency Management System: Conception to Implementation (Nono Supriyono and Cosmas Lembang) Jan: 44

## Juvenile Issues

Can Police Officers Be Effective Mentors for At-Risk Youth? (Brian Lumpkin and Everette B. Penn) Mar: 26  
 Collaboration to Recover U.S. Exploited Youth: The FBI's Innocence Lost National Initiative (Janice Mertz) Mar: 24  
 How Multidisciplinary Teams Achieve Success in Indian Country (Pamela Elton and Michelle Stewart) Mar: 42  
 The Juvenile Assessment Center and Information Sharing: The Whys, the Whats and How It Works in Jefferson County, Colorado (Stephanie Rondenell and Jeff McDonald) Mar: 22  
 Law Enforcement's Opportunity to Improve Juvenile Justice (Melodee Hanes) Mar: 18  
 Lifesaving Leadership to Break the Cycle of Family Violence: Partnerships between Law Enforcement and Communities (Bill Lansdowne and Casey Gwinn) Oct: 32  
 Youth Assessment Model: Assessment, Referral and Diversion (Gerald Kitchell) Mar: 46

## Law Enforcement's Response to Disasters

From the Administrator: Law Enforcement's Role in Responding to Disasters (W. Craig Fugate) Aug: 100  
 Law Enforcement's Response to Natural Disasters: Brick Township (Nils R. Bergquist) Aug: 106  
 Hurricane Sandy, New Jersey's Cop 2 Cop and the New Jersey State Association of Chiefs of Police (Cherie Castellano) Aug: 107  
 Little Egg Harbor Township (Richard Buzby) Aug: 104

## Leadership

Evidence-Based Policing in Smaller Agencies: Challenges, Prospects, and Opportunities (Cynthia Lum and Christopher S. Koper) April: 42  
 The Five C's of Law Enforcement Leadership (Jon Arnold) Nov: 22  
 Future of Policing in America: Bringing the Voice of Smaller Agencies to the National Dialogue (Ben Ekelund) April: 56

In Their Own Words- Police Chiefs Transition to Emergency Management Leadership (Leischen Stelter) Nov: 28  
 Rethinking the Ownership of Crimes Labs: No Matter Who Is in Charge, Jurisdictional Commitment Is Key (John M. Collins) Sep: 30  
 Staffing the "Small" Department: Taking Stock of Existing Benchmarks and Promising Approaches (Jeremy M. Wilson and Alexander Weiss) April: 34  
 Transforming Underperforming Smaller Police Agencies into High-Performance Organizations (Paul Schultz) April: 28

## Legislative Alert

Appropriations Battle Ahead: House and Senate Disagree on Funding Levels for Law Enforcement Programs (Sarah Guy) Aug: 8  
 Boehner Rules Out Action on Immigration Reform in 2013 and IACP Endorses Several Important Legislative Proposals (Sarah Guy) Dec: 8  
 Congress Considers EPCA Changes (Gene Voegtlin) June: 8  
 Firearms Legislation Withdrawn in Senate (Gene Voegtlin) May: 8  
 IACP Efforts to Combat Legalization of Marijuana Continue (Sarah Guy) Oct: 8  
 IACP Meets with Vice President Biden on Immigration Reform (Sarah Guy) Sep: 8  
 IACP Partners with White House to Seek Law Enforcement Leadership Perspective on Immigration Reform (Meredith Ward) Mar: 8  
 IACP Releases Firearms Position Paper (Meredith Ward) Feb: 8  
 IACP-Endorsed Child Protection Act of 2012 Passes in Congress, Seeks Signature from President (Meredith Ward) Jan: 10  
 Senate Appropriators Approve Continuing Resolution (Gene Voegtlin) April: 8  
 Shutdown Drags on as Congress Remains at an Impasse (Sarah Guy) Nov: 8  
 Supreme Court Upholds Post-Arrest DNA-Collection: High Court Sides with IACP Amicus Brief (Gene Voegtlin) July: 8

## Officer Safety

Body Armor Standards: Home and Away (Katherine ) Aug: 26  
 Center for Officer Safety and Wellness (Katie Marston and Rebecca McClelland) May: 24  
 Highway Safety Initiatives:  
 FBI's LEOKA Offers Insight into Officer Deaths (Richard J. Ashton) Feb: 64  
 Four Considerations for Making Safe, Effective, and Legal Traffic Stops (Richard J. Ashton) Aug: 119  
 NTSB Issues Safety Recommendations to IACP (Richard J. Ashton) Mar: 64  
 Officer Safety: Every Shift, Every Day (John Born) July: 70  
 Officer Safety Corner:  
 Building Knowledge on Ambush Assaults of the Police: A Research Initiative by COPS, CNA, and the IACP (George Fachner) May: 16  
 Colonels Wear Vests, Too (Robert M. Coupe) Jan: 16  
 Data from Officer Deaths Can Inform Improved Safety Measures (Kevin T. Maass) Mar: 16  
 Dogs and the Police Response: A Guide for Safe, Successful, and Humane Encounters (Gary P. Maddox) Aug: 10  
 Interview Rooms: Design for Safety and Utility (Robert K. Gill) Nov: 10  
 Keeping Yourself and Your Family Safe Off-Duty (Arthur Kurkowski) June: 14  
 Officer Safety in Domestic Violence Responses (Mark Wynn) Dec: 10  
 Officer Safety and Violence Against Women Crimes (Michael Rizzo and

Rebecca McClelland) April: 18  
 Officer Safety and Wellness—IACP Conference 2013, Philadelphia, PA (Ian Hamilton) Oct: 10  
 Planning for a Critical Incident Involving an Officer (Leon Lott) July: 14  
 Sovereign Citizens on Traffic Stops (Thom Jackson) Feb: 14  
 Responding to Calls with Suicidal Suspects: Practical Command and Psychological Considerations (Jeni McCutcheon, Jocelyn Roland, Mark P. Mann, Donald Schneidmiller, and Eric Jones) May: 32  
 Risk Mitigation Can Lead to Fewer Officer Fatalities (U.S. Marshals Service, The Investigative Operations Division) May: 28  
 The Loss of Trooper Tony Radulescu (John Batiste) May: 22

## Partnerships

Collaborative Partnerships to Solve Community Issues (Georjean Trinkle and Todd A. Miller) Oct: 26  
 Combating Financial Fraud and ID Theft through Regional Partnerships (Karen Lissy and Tim Gately) June: 64  
 Community Capacity Building and Partnerships in Action (Jo Vitek) Oct: 50  
 Experience Sharing in Combating Cross-Border Telecommunications and Internet Fraud Crime in Taiwan (Te-Hua Lin) Aug: 70  
 Law Enforcement Partnerships: Now the Norm, Not the Exception (Mike Edmondson) Aug: 102  
 Lifesaving Leadership to Break the Cycle of Family Violence: Partnerships between Law Enforcement and Communities (Bill Lansdowne and Casey Gwinn) Oct: 32

## Police Week

National Peace Officers Memorial Day, May: 17  
 Police Week 2013, April: 24

## President's Message

Being Prepared for Active Shooter Incidents (Yousry Zakhary) Dec: 6  
 Boston and the Importance of Officer Safety (Craig T. Steckler) May: 6  
 IACP: Breaking the Silence on Law Enforcement Suicides (Craig T. Steckler) July: 6  
 IACP Constitutional Review: Time to Make Your Voice Heard (Craig T. Steckler) Sep: 6  
 IACP: Get Connected-Get Involved (Craig T. Steckler) June: 6  
 IACP Summit on Wrongful Convictions (Craig T. Steckler) April: 6  
 Juvenile Justice and the Prevention of Child Exploitation (Craig T. Steckler) Mar: 6  
 Stemming the Unacceptable Level of Gun Violence (Craig T. Steckler) Feb: 6  
 Think Globally, Get Active (Craig T. Steckler) Aug: 6  
 The Year Ahead (Yousry Zakhary) Nov: 6  
 The Year in Review (Craig T. Steckler) Oct: 6  
 Your Pivotal Role in IACP Membership Growth (Craig T. Steckler) Jan: 6

## Product Feature

Clothing and Accessories Make the Job Safer and Easier (Scott Harris) Dec: 80  
 Communications Hardware and Software (Scott Harris) Mar: 38  
 Forensics and Investigation Tools Flourish in the Field (Scott Harris) Sep: 22  
 Mobile Command Centers of Today (Margaret White) Jan: 22  
 Mobile Computers (Scott Harris) June: 56  
 New Technologies Bring Hollywood to Life (Scott Harris) Oct: 92  
 Officer Protection (Scott Harris) May: 50

Products Old and New Help Protect Officers in Hostile Terrain (Scott Harris) Aug: 86  
 Purchasing (Scott Harris) April: 66  
 Training and Testing (Scott Harris) Feb: 44  
 Transportation (Scott Harris) July: 56

## Research in Brief

DNA and Property Crimes (Phil Bulman) April: 16  
 Eyewitness Identifications: A National Survey on Procedures (Nyerere Davidson and Brett Chapman) Sep: 14  
 Hot-Spot Randomized Control Works for Sacramento (Renée J. Mitchell) Feb: 12  
 Realizing SAFE Driving: Effects of Multi-Disciplinary Research and Interventions in California (Bryon G. Gustafson) May: 14  
 Recent Findings on Police Foot Pursuits (Robert J. Kaminski and Geoffrey P. Alpert) Jan: 14  
 Sex-Related Police Misconduct (Phillip M. Stinson and John Liederbach) Aug: 14  
 The National Police Research Platform: Improving the Science of Police Administration (Dennis Rosenbaum, Megan Alderden, Gary Corder, Lorie Fridell, Susan Hartnett, William, Mastrofski, and Wesley Skogan) July: 12  
 Vision 21: Transforming Victim Services (John R. Firman) Dec: 12  
 What Do We Get out of Homicide Reviews? (Mallory O'Brien) June: 12  
 What Works Best at Violent Crime Hot Spots? A Test of Directed Patrol and Problem-Solving Approaches in Jacksonville, Florida (Christopher S. Koper, Bruce Taylor, and Jamie Roush) Oct: 12  
 Which Shift Is Better? (Karen Amendola) Mar: 14

## Social Media

Developing Policy on Using Social Media for Intelligence and Investigations (Vernon M. Keenan, Dawn Diedrich, and Bradley Martin) June: 28  
 Violent Domestic Extremism and the Role of Social Media within Law Enforcement (Rob Finch and Kory Flowers) June: 32

## Technology

A Practical Application: Facial Recognition Technology (Owen McShane and Anne Dowling) June: 42  
 Chief's Counsel: The Mosaic Theory and Electronic Public Safety Technology (Mark H. Newbold) Mar: 12  
 Technology Talk:  
 37th Annual LEIM Training Conference and Exposition—Recap (David J. Roberts) Aug: 114  
 Advances in Law Enforcement Information Technology Will Enable More Accurate, Actionable Analysis (David J. Roberts) Feb: 58  
 Automated License Plate Recognition (ALPR) in Policing (David J. Roberts) April: 104  
 Cloud Computing in Law Enforcement: Survey Results and Guiding Principles (David J. Roberts) Mar: 56  
 Expanding Law Enforcement Cyber Capabilities (Michael Wagers and David J. Roberts) Oct: 114  
 Incident-Based Reporting—The Foundation of Effective Police Operations and Management (David J. Roberts and Karen Lissy) Sep: 64  
 LEIM Section Plans 37th Annual Training Conference & Technology Exposition (David J. Roberts) Jan: 58  
 Resolving Missing and Unidentified Person Cases Using Today's Technologies (Dustin Driscoll) May: 54

The Policy Foundation of Technology Implementation (David J. Roberts) Nov: 64  
 Why Cybersecurity Should Be a Top Priority for Your Agency (Ben Gorban) Dec: 88  
 Terrorism and the Technology Gap (Bryan Ware) June: 18  
 Unmanned Aircraft Systems: All the Boxes Checked, but Challenges Remain (Brett Davis and Don Roby) June: 60

## Terrorism

Countering Violent Extremism: A Community Partnership Approach (Richard Stanek) Oct: 42  
 Fighting Terrorism: International Models for Law Enforcement (Nadav Morag) June: 24  
 Increased Globalization of Organized Crime and Terrorism: Europe and the EU Perspective (Patrick G. Byrne) Aug: 64  
 President's Message: Boston and the Importance of Officer Safety (Craig T. Steckler) May: 6  
 Talking Points: Delivering the Message to Terrorists—The Boston Way (Stephen E. Flynn) June: 20  
 Terrorism and the Technology Gap (Bryan Ware) June: 18  
 The Role of the Fusion Center in Counterterrorism Operations (James Davis) Feb: 20  
 Violent Domestic Extremism and the Role of Social Media within Law Enforcement (Rob Finch and Kory Flowers) June: 32

## Training

Building a Crime Analyst: One Training Module at a Time (Annie Mitchell and Kimberle Swobodzinski) Nov: 34  
 E-Learning in the Equivalency Academy (Debbie Mealy and Steve Lettic) Jan: 48  
 From the Director: Cyber Training and Technical Assistance (Denise E. O'Donnell) Dec: 20  
 Highway Safety Initiatives:  
 National TIM Responder Training Courses (Richard J. Ashton) April: 112  
 Professional Practices and Perceptions in Standardized Field Sobriety Test (SFST) Training (Robert E. Weltzer and Robert Ticer) Oct: 120  
 Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers (Linda Hill, Jill Rybar, and Joe Farrow) Nov: 68  
 Product Feature: Training and Testing (Scott Harris) Feb: 44  
 Solutions for the Smaller Agency (Elaine Deck, Ben Ekelund, and Erin Vermilye) April: 26  
 Training for Change (Colin Comer) Jan: 36  
 Video Evidence Is Everywhere: Training and Respect Are Needed (Scott Kuntz) Sep: 38

## Victim Issues

Connecting the Dots: The Challenges of Identifying and Responding to Stalking (Paul Schnell and Michelle M. Garcia) Dec: 62  
 Lifesaving Leadership to Break the Cycle of Family Violence: Partnerships between Law Enforcement and Communities (Bill Lansdowne and Casey Gwinn) Oct: 32  
 Planning Ahead for Managing Victims and Their Families in Active Shooter Incidents (Kathryn Turman) Dec: 58  
 Research in Brief: Vision 21: Transforming Victim Services: Using Law Enforcement Data to Expand Victim Services Research (John R. Firman) Dec: 12



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# Why Cybersecurity Should Be a Top Priority for Your Agency

By Ben Gorban, Project Coordinator,  
State & Provincial Police Division,  
IACP

In a little over a decade, from 2000 to 2012, the number of Internet users around the world increased 566.4 percent, growing from 360 million to over 2.4 billion. This growth resulted in societies that are significantly more reliant on technology and more connected than ever before.<sup>1</sup> This connectivity has facilitated the automation and storage of vast amounts of raw data and the use of increasingly complex analytic tools and technologies, has provided critical resources to improve operations and achieve greater efficiencies, and has dramatically increased information sharing capabilities. For all of the advantages associated with increased automation and greater connectivity, it has also rendered individuals, businesses, and law enforcement agencies much more vulnerable to cyber attacks, intrusions, and cybercrimes.

As IACP Immediate Past President, Chief (ret.) Craig T. Steckler recently noted, “businesses and individuals rely on computers for almost everything they do, making us all susceptible to national cyberthreats and cybercrimes.”<sup>2</sup> In fact, it is the broad range of implications for both homeland security and hometown security that makes cybersecurity an increasingly key priority for state, local, tribal, and territorial (SLTT) law enforcement agencies. For SLTT law enforcement agencies, cybersecurity encompasses three spheres: (1) protecting and responding to individuals and businesses in their jurisdictions who have fallen victim to cyberthreats and cybercrimes; (2) protecting their own agency’s information systems, networks, online resources, and information; and (3) integrating state and local efforts with federal initiatives designed to enhance and ensure national security.<sup>3</sup>

## Protecting Individuals and Industry

Two of the most common cybercrimes that specifically target individuals are social media fraud and spear phishing. The personally identifiable information available on many social media profiles—full name, date of birth, hometown, school and employment information, and even relationship status—can all be leveraged by criminals to steal identities, obtain false documents, open fraudulent bank accounts, obtain lines of credit, and even file fraudulent tax returns. Along

similar lines, spear phishing is “the fraudulent practice of sending electronic messages claiming to be a legitimate company in order to induce individuals to reveal sensitive data such as user names, passwords, and credit card details.”<sup>4</sup>

Public and private industries are often the target of cyber intrusions and attacks. Public and private industries provide the hardware, software, and networks that support an ever-growing portion of our day-to-day lives. Shopping, banking and financial services, and utilities are increasingly moving online to streamline their processes and provide 24-hour accessibility to consumers. In many cases, these companies manage thousands of user names and passwords, credit and debit card information, and personal information such as names and shipping addresses, all stored on their networks, making them susceptible to cyber attacks and intrusions. Utility and power grids have also moved many day-to-day operations to networks and the Internet in an effort to save costs and streamline processes. This convenience, however, also makes these operations more susceptible to attacks and intrusions from outside parties.

It is the duty of SLTT agencies to “shield citizens and businesses from these threats and crimes.”<sup>5</sup> Agencies and officers need to know what questions to ask, what information to collect, and how to file the appropriate reports. SLTT agencies should also know the appropriate contacts and channels of reporting with appropriate state and federal agencies that may be better equipped to conduct a full investigation when needed.

## Protecting Agency Networks and Information

Advances in technology have also enabled law enforcement agencies of all sizes to leverage email, launch websites, and store troves of information electronically. A significant majority of SLTT agencies have already turned to computer-based automated records management systems (RMS), computer-aided dispatch (CAD) applications, and computer- and web-based crime analysis and reporting programs.<sup>6</sup> Additionally, the availability of larger networks and the emergence and cost-effectiveness of cloud computing have facilitated the electronic storage of certain types of evidence, significant portions of case files, victim and perpetrator information, information about confidential informants and undercover personnel, criminal histories, and other sensitive data and information.

This landscape poses many security challenges for SLTT agency networks and

information. SLTT agencies are being targeted by hackers and other criminals who seek to damage the ability of law enforcement to conduct their daily activities. According to a survey developed by the IACP Computer Crime and Digital Evidence (CCDE) Committee and the Canadian Association of Chiefs of Police (CACAP), most respondents recognized that cyber attacks pose a real and serious threat to law enforcement.<sup>7</sup> The survey (which was designed to better understand the nature of the cyberthreats facing SLTT law enforcement agencies, the actions these agencies have taken to combat the threat, and recommendations for additional actions to ensure the security of vital information resources) indicates that despite the awareness of the risks, only half of the responding agencies had implemented policies, practices, and technologies to sufficiently minimize their risk.<sup>8</sup>

The survey also indicated that some respondents were unable to answer questions about their agencies’ network security and potential breaches of agency information. A relatively high percentage of respondents indicated that they did not know the answers to a number of questions. Nearly 20 percent of respondents were unaware of whether their agency had ever been the victim of a cyber attack or intrusion. Even those who were aware that their agency had been the victim of a cyber attack or intrusion experienced difficulties in identifying the source of the attack.

In light of the fact that 25 percent of respondents revealed that one or more of their agency systems had fallen victim to an attack in which confidential information was accessed, it is critical that SLTT agencies and chief executives take steps to proactively protect their agency networks and information.<sup>9</sup> Chief executives should be:

- *Educated* and aware of technology issues confronting their agencies. This includes understanding the general risks, being familiar with policy issues associated with cyber security, and being aware of critical steps to ensure that cybersecurity requirements are met by agency IT services;
- *Involved* in planning to assess and address vulnerabilities of agency information systems and resources, networks, infrastructure, and systems security. They should regularly conduct, or contract with government or industry partners to provide assessments and stress tests that evaluate and identify gaps, vulnerabilities, and weaknesses in agency IT resources;
- *Committed* to ensuring that proper policies,



practices, and technologies are developed, deployed, and rigorously enforced to mitigate risks, and ensure secure and resilient information systems; and

- *Persistent* in their efforts.

Ensuring the security of networks and information resources is an ongoing task. Assistant Chief Scott Duggan, of the Scottsdale, Arizona, Police Department, recently noted that “One of the greatest challenges facing policing today, is our ability to keep pace with changing technology, technology that will transform the law enforcement profession.”<sup>10</sup> Keeping abreast of emerging threats and vulnerabilities and making sure that appropriate steps are taken within the department to address them are essential to maintaining robust and secure information systems and networks.

### Supporting National Security Efforts

The efforts of SLTT agencies also contribute to and complement numerous efforts being conducted by federal law enforcement and intelligence agencies. The significance of the cyberthreats confronting the United States has been reinforced by Director of National Intelligence, James Clapper, and FBI Director, James Comey. In his unclassified annual threat assessment to Congress in March 2013, Director Clapper noted, “State and nonstate actors increasingly exploit the Internet to achieve strategic objectives, while many governments—shaken by the role the Internet has played in political instability and regime change—seek to increase their control over content in cyberspace.”<sup>11</sup> This was reiterated by Director Comey, who noted, “We have connected all of our lives—personal, professional, and national—to the Internet. That’s where the bad guys will go because that’s where our lives are, our money, our secrets.”<sup>12</sup>

As demonstrated by the 2003 power outage that affected more than 50 million people in the United States and Canada, software malfunctions can cause massive problems and significantly affect the economy.<sup>13</sup> While this malfunction was merely an accident, it highlights the potential implications and impacts that a successful attack could have on the United States. Although distributed denial of service (DDoS) attacks and other cyber intrusions have brought down or temporarily defaced a variety of local, state, and federal government websites, an attack with an impact similar to or greater than the previously mentioned power outage could bring the economy to a standstill. More worrisome, attacks and intrusions that successfully reach military and defense tactics and information, financial systems, and other important data could debilitate the United States.

### Conclusion

As former FBI Director Roberts S. Mueller noted earlier this year, “Improved collaboration and information sharing among federal agencies such as the CIA, NSA, DHS, and the FBI has been vital to our collective success against terrorism over the past decade. But equally critical to our success has been the integration of our state and local law enforcement counterparts through the establishment of Joint Terrorism Task Forces.”<sup>14</sup>

It is imperative that, as the challenges posed by cybercrimes and cyber attacks continue to emerge and expand, SLTT agencies recognize the important roles they play in addressing and countering these threats. The IACP Law Enforcement Cyber Center is designed to support SLTT law enforcement leaders by increasing their awareness, enhancing their knowledge, building their capacity, and expanding their access to tools and resources to effectively combat cybercrime.<sup>15</sup> ♦

### Notes:

<sup>1</sup>World Internet Facts, as of June 30, 2013, <http://www.internetworldstats.com/stats.htm> (accessed November 5, 2013).

<sup>2</sup>Craig T. Steckler, “IACP Announces Stop.Think.Connect. Campaign Partnership with Department of Homeland Security,” press release, IACP, October 21, 2013, <http://theiacp.org/About/WhatsNew/tabid/459/Default.aspx?id=2011&v=1> (accessed November 5, 2013).

<sup>3</sup>International Association of Chiefs of Police, *Cyber Security: Addressing the Needs of Law Enforcement*, October 2013, <http://www.theiacp.org/portals/0/pdfs/CyberSecurityBriefFINAL.pdf> (accessed November 5, 2013).

<sup>4</sup>“Glossary,” IACP Center for Social Media, <http://www.iacpsocialmedia.org/Resources/GlossaryTerms.aspx> (accessed November 5, 2013).

<sup>5</sup>Steckler, “IACP Announces Stop.Think.Connect. Campaign Partnership with Department of Homeland Security.”

<sup>6</sup>David J. Roberts and Karen Lissy, “Incident-Based Reporting—The Foundation of Effective Police Operations and Management,” Technology Talk, *The Police Chief* 80 (September 2013): 64–65, [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=3068&issue\\_id=92013](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=3068&issue_id=92013) (accessed November 5, 2013).

<sup>7</sup>The IACP Computer Crime & Digital Evidence Committee (CCDE) includes chiefs and other ranking law enforcement practitioners, private industry subject matter experts, and solution providers. CCDE is actively developing resources for law enforcement, including research assessing current practices, emerging trends, and strategic priorities, as well as the development of guides to cyber security for law enforcement and “Tech Minute” videos addressing cybersecurity, cyberthreats, and related topics. In addition to CCDE, a variety of other IACP committees guide and contribute to its efforts to assist law enforcement, including the Communications and Technology Committee, Criminal Justice Information System (CJIS) Committee, Terrorism Committee, Private Sector Liaison Committee (PSLC), and the Law Enforcement Information Management (LEIM) Section.

<sup>8</sup>Results of the survey were presented in a workshop at the 2013 LEIM Conference and Technology Exposition. Slides from the presentation are available at <http://theiacp.org/Portals/0/pdfs/LEIM/2013Presentations/2013%20LEIM%20Conference%20Workshop%20%20Technical%20Track%20-%20State%20of%20LEA%20INFOSEC.pdf> (accessed November 5, 2013).

<sup>9</sup>Ibid.

<sup>10</sup>“IACP Law Enforcement Tech Minute: The Current Climate in Cyber Security” YouTube video, 9:55,

<http://youtu.be/o295sAFxgEU> (accessed November 5, 2013).

<sup>11</sup>James R. Clapper, Director of National Intelligence, *Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community*, Senate Select Committee on Intelligence, 113th Cong. (March 12, 2013), 1, <http://www.intelligence.senate.gov/130312/clapper.pdf> (accessed November 5, 2013)

<sup>12</sup>Greg Miller, “FBI Director Warns of Cyberattacks; Other Security Chiefs Say Terrorism Threat Has Altered,” National Security, *Washington Post*, November 14, 2013, [http://www.washingtonpost.com/world/national-security/fbi-director-warns-of-cyberattacks-other-security-chiefs-say-terrorism-threat-has-altered/2013/11/14/24f1b27a-4d53-11e3-9890-a1e0997fb0c0\\_story.html](http://www.washingtonpost.com/world/national-security/fbi-director-warns-of-cyberattacks-other-security-chiefs-say-terrorism-threat-has-altered/2013/11/14/24f1b27a-4d53-11e3-9890-a1e0997fb0c0_story.html), (accessed November 5, 2013).

<sup>13</sup>Electricity Infrastructure Operations Center, Pacific Northwest National Laboratory, U.S. Department of Energy, “Looking Back at the August 2003 Blackout,” June 2013, <http://eioc.pnnl.gov/research/2003blackout.stm> (accessed November 5, 2013).

<sup>14</sup>Robert S. Mueller, “Working Together to Defeat Cyber Threats,” remarks at RSA Cyber Security Conference, February 29, 2013, <http://www.fbi.gov/news/speeches/working-together-to-defeat-cyber-threats> (accessed November 5, 2013).

<sup>15</sup>More details regarding recent IACP activities addressing cybersecurity, and the development of the IACP Law Enforcement Cyber Center, which is funded by the U. S. Bureau of Justice Assistance, can be found at <http://www.theiacp.org/portals/0/pdfs/CyberSecurityBriefFINAL.pdf> (accessed November 5, 2013).

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	Page #		Page #		Page #
<b>3M Motor Vehicle Systems &amp; Services</b> www.3m.com/mvss/LE.....	CV2	<b>FGM Architects</b> 630-574-8707 www.fgmarchitects.com.....	63	<b>Laser Labs</b> 877.974.5580 www.Laser-Labs.com.....	18
<b>3SI Security Systems</b> 800.523.1430 www.3sisecurity.com.....	53	<b>GE Healthcare</b> 800.526.3593 www.gelifesciences.com.....	3	<b>Laser Technology</b> 877.696.2584 lasertech.com/pc.....	93
<b>Active Continuous Training</b> 212.916.3190 www.activecontinuoustraining.com.....	77	<b>IACP Center for Police Leadership &amp; Training</b> 703.836.6767 ext. 280 www.theiacp.org/training.....	24-25	<b>Leach Mounce Architects</b> 805.656.3522 www.leachmouncearchitects.com.....	11
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<b>California University of PA</b> 724.938.4710 www.calu.edu/go.....	51	<b>IACP Net</b> 800.227.9640 www.iacpnet.com.....	57	<b>Red the Uniform Tailor</b> 800.272.7337 www.rtut.com.....	59
<b>Chrysler</b> 800.999.FLEET (3533) www.fleet.chrysler.com.....	14-15	<b>IACP Online Subscription</b> 800.THE.IACP www.policechiefmagazine.org.....	91	<b>Redflex Traffic Systems</b> 866.703.8097 www.REDFLEX.com.....	CV3
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## Marijuana and Driving

By Richard J. Ashton, Chief of Police (Retired), Frederick, Maryland; and Grant/Technical Management Manager, IACP

The highway-safety question *du jour* is not whether police officers support or oppose the legalization of either marijuana or medical marijuana. After all, the legalization of medical marijuana with varying provisions has occurred in 20 states and the District of Columbia since 1996 and is currently pending in 4 more states, even though marijuana and tetrahydrocannabinol (THC) remain classified as Schedule I controlled substances under U.S. law.<sup>1</sup>

Recreational marijuana sales became legal in both Colorado and Washington in 2012.<sup>2</sup> Those Coloradans 21 years old or older may privately possess—or transfer without remuneration—one ounce or less of marijuana or privately cultivate up to six marijuana plants, with no more than three being mature.<sup>3</sup> Washington permits “an adult to possess up to one ounce of cannabis (and/or up to 16 ounces of marijuana-infused product in solid form, and 72 ounces of marijuana-infused product in liquid form) for their own personal use in private.”<sup>4</sup>

Instead, today’s issue is how police officers are dealing—or will deal—with the reality of those who drive vehicles after using marijuana. It clearly poses a grave challenge to traffic law enforcement efforts that strive to ensure safe highways in spite of those legally entitled to use marijuana under state laws. A recent study in Colorado underscores the seriousness of the issue:

- Overall traffic fatalities in Colorado decreased 16 percent between 2006 and 2011. However, during these same six years, traffic fatalities involving those drivers testing positive for just marijuana increased 114 percent.
- Colorado’s traffic fatalities involving drivers testing positive for marijuana in 2006 represented only 5 percent of total traffic fatalities. However, by 2011, that percentage had more than doubled to 13 percent.
- Drivers testing positive for marijuana in 2006 were involved in 28 percent of fatal vehicle crashes involving drugs. However, by 2011, that percentage had increased to 56 percent.<sup>5</sup> Significantly, less than half of Colorado’s fatalities were tested between 2006 and 2011 for the presence of drugs.<sup>6</sup> Unfortunately, the failure to test meaningful numbers of fatally injured drivers for drugs is not limited only to Colorado.

Drug testing of fatally injured drivers in the United States ranged from 56 percent in 2005 to 63 percent in 2009.<sup>7</sup>

Police chief executives need to familiarize themselves with the issues that involve marijuana and driving, so they can create and launch effective strategies that ensure the safety of highway users if marijuana is legalized in their jurisdictions. Several of these issues are set forth below for consideration:

**Promote *per se* laws.** Encourage the enactment of *per se* drugged driving statutes rather than those based on the *affected by* standard.<sup>8</sup> *Per se* drugged driving statutes, which currently have been adopted in 18 states, simply make the presence of any illegal drug—or of any illegal drug above an established cutoff level—in a driver’s body evidence of impaired driving.<sup>9</sup> This zero tolerance standard negates the need to prove a driver’s impairment by illegal drugs, which is fortuitous since “there is no scientific basis for specifying a bodily fluid concentration that is indicative of impairment.”<sup>10</sup> On the other hand, *affected by* driving under the influence of drugs (DUID) statutes require proof that a driver took a drug, including a lawfully prescribed one, and that it impaired the driver’s ability to operate a vehicle.<sup>11</sup> The Federal Motor Carrier Safety Administration provided a successful model in its promulgation for commercial vehicle drivers of a *per se* standard for illegal drugs, as well as an *affected by* standard for prescription drugs, more than two decades ago; these regulations illustrate the highway safety benefits of such a dual approach.<sup>12</sup>

A related issue involves the cutoff level: whether to establish one and the point at which to set it. Only 3 of the 15 states enacting *per se* drugged driving statutes adopted cutoff levels.<sup>13</sup> For marijuana, both Nevada and Ohio set 10 nanograms per milliliter (ng/mL) for urine and 2 ng/mL for blood; for marijuana metabolites, 15 ng/mL for urine and 5 ng/mL for blood.<sup>14</sup> For THC, Pennsylvania established 5 ng/mL for blood; Washington enacted a 5 ng/mL for blood *per se* statute; and Colorado passed a 5 ng/mL for blood *affected by* law.<sup>15</sup> However, research suggests that setting a cutoff level at less than 5 ng/mL for blood would fail to identify many drivers who smoked cannabis because THC is rapidly cleared from the blood.<sup>16</sup>

**More drug recognition experts (DREs).** States’ legalization of marijuana presents an opportunity to expand substantially the number of trained and credentialed drug recognition experts (DREs) under the Drug Evaluation and Classification Program (DECP) that the IACP

has operated since 1989.<sup>17</sup> Prospective DREs receive more than 100 hours’ intensive training—based upon the standard field sobriety tests (SFSTs)—in how to conduct systematic and standardized 12-step evaluations consisting of physical, mental, and medical components.<sup>18</sup> One of the benefits that DREs offer is the ability to indicate which of the seven classes of drugs may be affecting an individual, so that laboratory testing can be focused and its costs reduced.<sup>19</sup> The DECP has been evaluated and deemed effective in identifying drug-impaired drivers.<sup>20</sup> Currently, all 50 states and the District of Columbia participate in the DECP, which has credentialed 7,247 DREs, including 1,419 instructors.<sup>21</sup>

**Train officers in Advanced Roadside Impaired Driving Enforcement.** In this era of ever-shrinking budgets, the 16-hour Advanced Roadside Impaired Driving Enforcement (ARIDE) program is ideal for law enforcement agencies that already have trained their officers in the SFST, but cannot afford to invest the considerable time required to train additional DREs. ARIDE is a force multiplier that relatively quickly can enhance DUID enforcement efforts, inasmuch as it was created to compensate for the gap in knowledge between SFST and DRE training. While successfully completing the ARIDE program does not qualify officers as DREs, officers’ proficiency in administering the SFST will be enhanced, and their ability to discern when a DRE’s expertise is required will be improved.<sup>22</sup> The ARIDE program presently is taught in at least 34 states, and an online version of the ARIDE program has just become available to allow the training of exponentially more officers.<sup>23</sup>

**Support telephonic search warrants.**<sup>24</sup> A non-DRE officer who lawfully detains a driver unable to complete successfully the SFST and registering a blood alcohol concentration (BAC) of .02 grams per deciliter (g/dL) on a preliminary breath test and who observes no obvious evidence of drug use is able to obtain additional evidence to support the probable cause initially developed for a DUID charge, when a statute providing for a telephonic search warrant trumps the driver’s refusal to submit a blood sample. Seven (Arizona, Illinois, Indiana, Ohio, Pennsylvania, Rhode Island, and Utah) of fifteen states in which it is illegal *per se* to operate a motor vehicle with certain drugs, including marijuana, in one’s system authorize telephonic search warrants to secure an evidentiary blood sample.<sup>25</sup>

**Train police officers as phlebotomists.**<sup>26</sup> If law enforcement agencies expect their officers to

effect a greater number of DUID arrests, officers must possess the tools essential to secure evidence quickly. Officers generally are limited to obtaining blood, urine, or oral fluid samples. In fact, all 15 states that enacted *per se* drugged driving statutes permit the collection of blood samples; 6 (Arizona, Delaware, Georgia, Illinois, Iowa, and Minnesota) of those states allow the collection of urine samples; and 16 states authorize the collection of other bodily substances.<sup>27</sup>

The issue of training police officers as phlebotomists is intrinsically related to that of telephonic search warrants because "THC is rapidly cleared from the blood after smoking marijuana," and "nearly all marijuana users test below 5 ng/mL of active THC in blood only a few hours after their last use."<sup>28</sup> For example, if a blood sample is taken from an arrestee 30 to 90 minutes after apprehension, the THC concentration, like the BAC, will be lower than it was at the time of arrest, so time is of the essence.<sup>29</sup> Officers trained in phlebotomy can expedite the process of collecting an evidentiary blood sample to ensure it complies with any period of time prescribed by law. Six (Arizona, Indiana, Ohio, Pennsylvania, Rhode Island, and Utah) of fifteen states in which it is illegal *per se* to operate a motor vehicle with certain drugs, including marijuana, in one's system, permit blood to be withdrawn by officers trained in phlebotomy.<sup>30</sup> Such a procedure improves the quality of the evidentiary sample, which is fair both to arresting officers and to defendants and encourages officers to pursue a DUID charge, an alcohol-impaired

driving violation, or both, depending upon how a state's statute was enacted.

**Decide how to handle seized plants.** Police chief executives must be wary of statutes that require the return of evidence in the event of acquittals. Such laws, in effect, require law enforcement agencies to maintain medical marijuana plants, including those seized during traffic stops, throughout the entire trial process to avoid payment of damages in the event of "not guilty" verdicts.<sup>31</sup> Consequently, police chief executives must coordinate with legislators, prosecutors, and crime laboratories to determine how evidence of seized marijuana plants needs to be processed by law enforcement agencies to ensure that statutes are not violated, evidence is admissible at trial, and liability does not attach.<sup>32</sup>

**Dog sniffs for marijuana.** For the past 30 years, police officers successfully have conducted U.S. Supreme Court-sanctioned dog sniffs for various illegal drugs during lawful traffic stops.<sup>33</sup> However, the legalization of marijuana creates a dilemma: What if a dog sniff in Colorado or Washington results only in the seizure of less than one ounce of marijuana? Is there liability in this situation for the canine officer and/or the law enforcement agency? What is the status of other evidence, such as counterfeit money, discovered during the subsequent search of the vehicle? Police chief executives must decide how to deal with such detections. Washington State Patrol Chief John R. Batiste reported that arrests based upon the discovery of marijuana by current drug detection canines are justified only

when other factors exist, that is, the smell of marijuana alone, like the smell of alcohol alone, will not justify an arrest; and new canines no longer will be trained in the detection of marijuana.<sup>34</sup>

**Second-hand smoke.** Police officers could encounter drivers *unintentionally* operating under the influence of marijuana. As bizarre as this seems, the driver of a limousine or a motor home in Colorado could be affected by second-hand marijuana smoke lawfully created by passengers seated behind the driver.<sup>35</sup>

**Promote continued research into roadside drug tests.** Currently, "it is not possible to identify a valid impairment standard for marijuana or any other drug equivalent to the 0.08 g/dL limit for alcohol."<sup>36</sup> Therefore, police chief executives must advocate for continued "research to improve the standards and reliability for drug testing, including the development of a reliable and widely-available roadside test for the detection of the presence of drugs in drivers' systems" such as oral fluid (saliva).<sup>37</sup>

The foregoing discussion certainly is not intended to be all inclusive; its purpose is to alert police chief executives to issues that could arise if the legalization of marijuana or medical marijuana is contemplated in their jurisdictions, so they can proactively advocate sound approaches to balance the legislative proposals with highway safety. Remember, the overarching issue is marijuana *and* driving. ♦

**Notes:**

<sup>1</sup>ProCon.org, "20 Legal Medical Marijuana States

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and DC," September 16, 2013, <http://medicalmarijuana.procon.org/view.resource.php?resourceID=000881> (accessed October 16, 2013); ProCon.org, "Four States with Pending Legislation to Legalize Medical Marijuana," *Medical Marijuana*, August 21, 2013, <http://medicalmarijuana.procon.org/view.resource.php?resourceID=002481> (accessed October 16, 2013); 21 U.S.C. § 812 I (c) (10) & (17), <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap13-subchapI-partB-sec812.pdf> (accessed October 28, 2013); a controlled substance found in schedule I is a drug or other substance that has a high potential for abuse, no currently accepted medical use in treatment in the United States, and for which there is a lack of accepted safety for its use under medical supervision. 21 U.S.C. § 812 (b) (1) (A–C), <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title21/pdf/USCODE-2010-title21-chap13-subchapI-partB-sec812.pdf> (accessed October 28, 2013).

<sup>2</sup>Niraj Chokshi, "After Legalizing Marijuana, Washington and Colorado Are Starting to Regulate It," *GovBeat, The Washington Post*, October 9, 2013, <http://www.washingtonpost.com/blogs/govbeat/wp/2013/10/09/after-legalizing-marijuana-washington-and-colorado-are-starting-to-regulate-it/> (accessed October 18, 2013).

<sup>3</sup>NORML, "Colorado Laws & Penalties," <http://norml.org/laws/item/colorado-penalties> (accessed October 18, 2013).

<sup>4</sup>NORML, "Washington Legalization," <http://norml.org/legal/item/washington-legalization> (accessed October 18, 2013).

<sup>5</sup>Rocky Mountain High Intensity Drug Trafficking Area, *The Legalization of Marijuana in Colorado: The Impact* (August 2013), 5, <http://www.rmhidta.org/html/FINAL%20Legalization%20of%20MJ%20in%20Colorado%20The%20Impact.pdf> (accessed October 18, 2013).

<sup>6</sup>*Ibid.*, 7.

<sup>7</sup>"Drug Involvement of Fatally Injured Drivers," NHTSA, *Traffic Safety Facts*, November 2010, DOT HS 811 415, 1, <http://www.nrd.nhtsa.dot.gov/Pubs/811415.pdf> (accessed October 29, 2013).

<sup>8</sup>Institute for Behavior and Health, Inc., Drugged Driving Committee, *Drugged Driving Research: A White Paper*, by Robert L. DuPont et al., for the National Institute on Drug Abuse (March 31, 2011), 7, 25, [http://www.whitehouse.gov/sites/default/files/ondcp/issues-content/drugged-driving/nida\\_dd\\_paper.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/issues-content/drugged-driving/nida_dd_paper.pdf) (accessed October 29, 2013).

<sup>9</sup>Governors Highway Safety Association, "Drug Impaired Driving Laws," October 2013, [http://www.ghsa.org/html/stateinfo/laws/dre\\_perse\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/dre_perse_laws.html) (accessed October 27, 2013).

<sup>10</sup>"Drug Per Se Laws: A Review of Their Use in the States," NHTSA, *Traffic Tech*, September 2010, no. 393, 1, [http://www.nhtsa.gov/staticfiles/traffic\\_tech/tt393.pdf](http://www.nhtsa.gov/staticfiles/traffic_tech/tt393.pdf) (accessed October 26, 2013).

<sup>11</sup>DuPont, *Drugged Driving Research*, 23, 25–26, 43.

<sup>12</sup>*Ibid.*, 39; also see 49 CFR § 392.4. Drugs and Other Substances, <http://www.law.cornell.edu/cfr/text/49/3924> and 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing, <http://www.law.cornell.edu/cfr/text/49/382> (both accessed November 13, 2013).

<sup>13</sup>John Lacey, Katharine Brainard, and Samantha Snitow, *Drug Per Se Laws: A Review of Their Use in States*,

July 2010, DOT HS 811 317, 5, [http://www.nhtsa.gov/staticfiles/nti/impaired\\_driving/pdf/811317.pdf](http://www.nhtsa.gov/staticfiles/nti/impaired_driving/pdf/811317.pdf) (accessed October 26, 2013).

<sup>14</sup>*Ibid.*, 82, 88.

<sup>15</sup>*Ibid.*, 185; Washington State Legislature, RCW 46.61.502. Driving under the influence. <http://apps.leg.wa.gov/RCW/default.aspx?cite=46.61.502> (accessed October 26, 2013); and Robert L. DuPont, "Marijuana Use Is a Serious Highway Safety Threat: 5 ng/ml Marijuana Impairment Limits Give Drivers a Free Pass to Drive Stoned," *Commentary*, June 10, 2013, 2, <http://druggeddriving.org/pdfs/IBHCommentaryMarijuanaandDruggedDriving61013.pdf> (accessed October 27, 2013).

<sup>16</sup>DuPont, *Drugged Driving Research*, 13.

<sup>17</sup>The International Drug Evaluation and Classification Program (DECP), "About DECP," <http://www.decp.org/about> (accessed October 26, 2013).

<sup>18</sup>DECP, "DRE Training & Certification," <http://www.decp.org/training/> (accessed October 26, 2013).

<sup>19</sup>DuPont, *Drugged Driving Research*, 18.

<sup>20</sup>*Ibid.*, 31–32.

<sup>21</sup>DEC Program Manager Carolyn Cockroft, personal interview with author, October 28, 2013.

<sup>22</sup>DECP, "DRE Training & Certification."

<sup>23</sup>Colorado Amendment 64 Implementation Task Force, *Task Force Report on the Implementation of Amendment 64*, March 13, 2013, 84, <http://www.colorado.gov/cms/forms/dor-tax/A64TaskForceFinalReport.pdf> (accessed October 29, 2013); U.S. Office of National Drug Control Policy (ONDCP), *National Drug Control Strategy* (Washington, D.C.: 2013), 67, [http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/ndcs\\_2013.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/ndcs_2013.pdf) (accessed November 13, 2013).

<sup>24</sup>For additional information, see J.H. Hedlund and D.J. Beirness, *Use of Warrants for Breath Test Refusal: Case Studies*, October 2007, DOT HS 810 852, <http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/810852.pdf> (accessed January 19, 2012).

<sup>25</sup>Lacey, Brainard, and Snitow, *Drug Per Se Laws*, 14, 75, 91, 96, 100, 105.

<sup>26</sup>For additional information, see Robert L. Ticer, "The Role of the Law Enforcement Phlebotomist," *The Police Chief* 72 (September 2005): 122–125, [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article\\_id=708&issue\\_id=92005](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=708&issue_id=92005) (accessed January 13, 2012).

<sup>27</sup>Lacey, Brainard, and Snitow, *Drug Per Se Laws*, 14, 48, 62, 67, 71, 79; DuPont, *Drugged Driving Research*, 39.

<sup>28</sup>DuPont, "Marijuana Use Is a Serious Highway Safety Threat," 1.

<sup>29</sup>DuPont, *Drugged Driving Research*, 13.

<sup>30</sup>Lacey, Brainard, and Snitow, *Drug Per Se Laws*, 14, 75, 91, 96, 100, 105–106.

<sup>31</sup>Lance Benzel, "Fights over Medical Marijuana Case Evidence Could Be Costly," *The Gazette*, January 4, 2013, <http://gazette.com/fights-over-medical-marijuana-case-evidence-could-be-costly/article/149335#jQjgU8U-r68esq9x.99> (accessed October 27, 2013).

<sup>32</sup>Colorado Bureau of Investigation Forensic Laboratory, "Criminalistic and Trace Evidence," A. Drugs and Controlled Substances, 1. Plant Matter, *Physical Evidence Handbook*, version 5.1 (August 2007), <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename>

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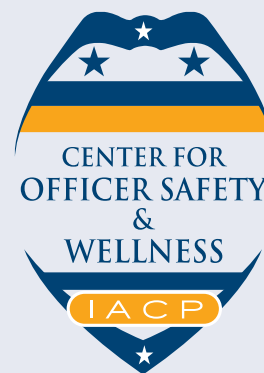
<sup>33</sup>*United States v. Place*, 462 U.S. 696, 707 (1983); *Indianapolis v. Edmond*, 531 U.S. 32, 40 (2000); and *Illinois v. Caballes*, 543 U.S. 405, 410 (2005).

<sup>34</sup>Chief Batiste made these points during the IACP State and Provincial Police Directorate's Annual Meeting, October 19, 2013, Philadelphia, Pennsylvania.

<sup>35</sup>Colorado Revised Statutes, C.R.S. 42-4-1305.5.

<sup>36</sup>DuPont, "Marijuana Use Is a Serious Highway Safety Threat," 1.

<sup>37</sup>ONDCP, *National Drug Control Strategy*, 67, 69.



## Line of Duty Deaths

"They will be remembered—not for the way they died, but for how they lived."

The IACP wishes to acknowledge the following officers, who made the ultimate sacrifice for their communities and the people they served. We extend our prayers and deepest sympathies to their families, friends, and colleagues.

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Date of Death: October 29, 2013  
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