

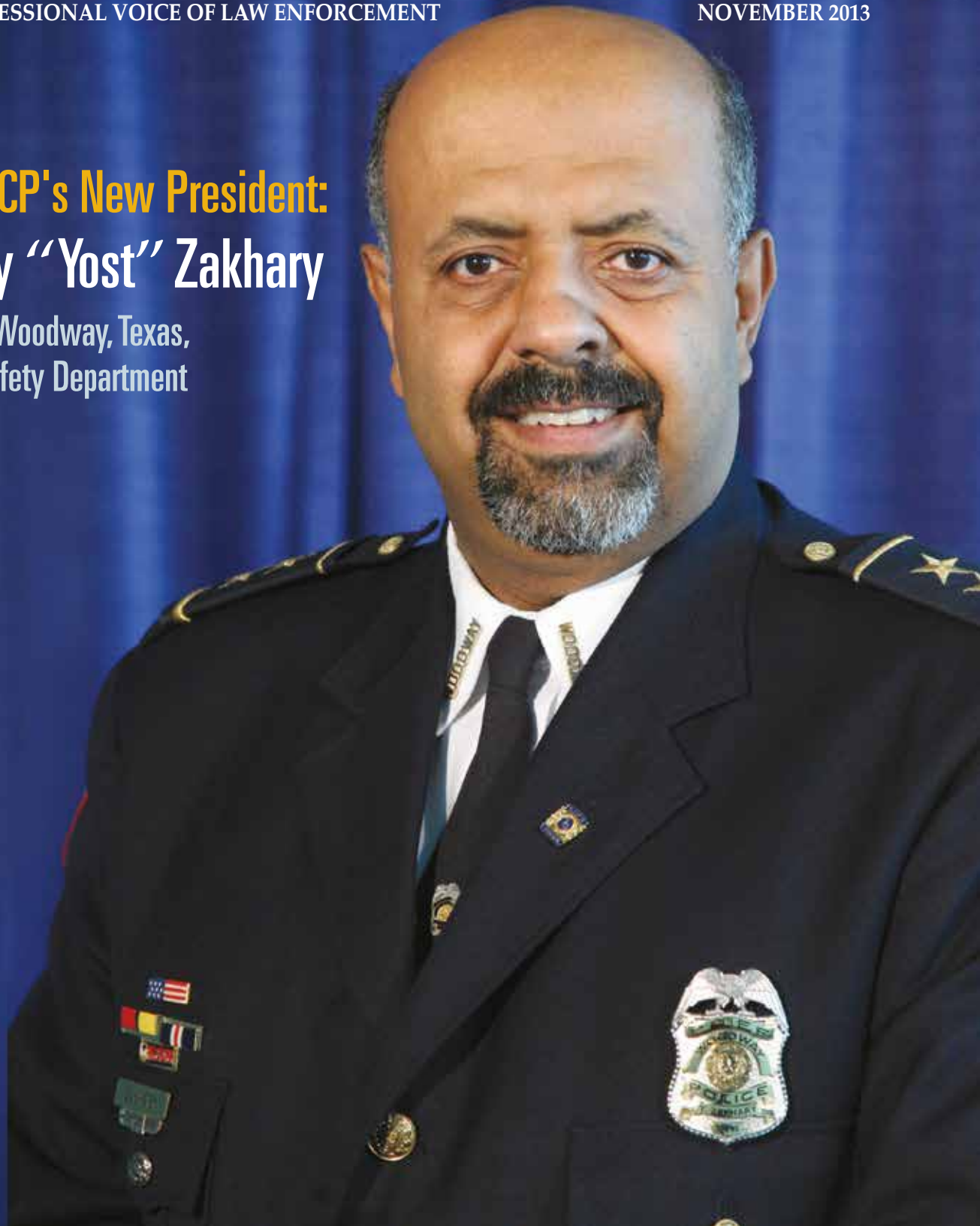
# The Police Chief

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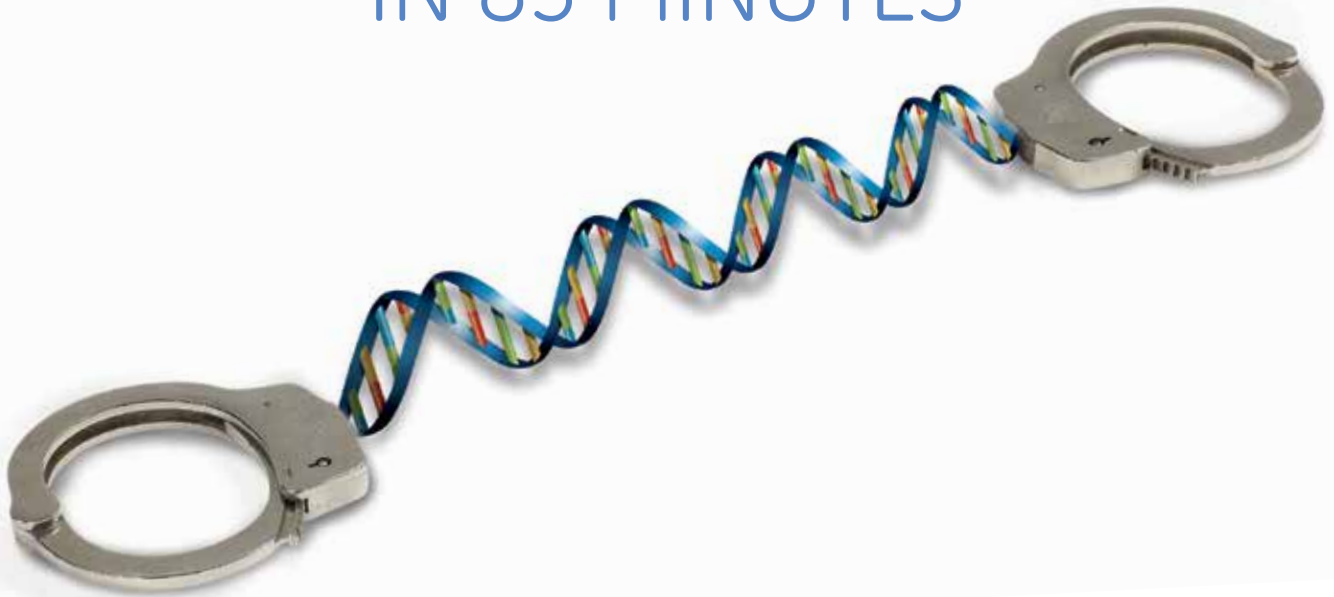
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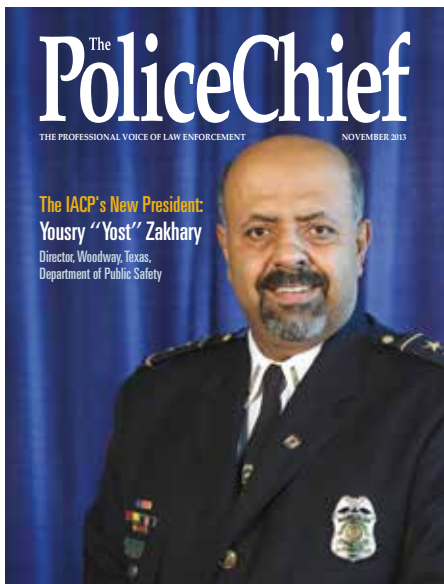
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This issue of *The Police Chief* contains articles on a multitude of law enforcement topics, including officer safety during interviews, the First Amendment rights of public servants, cutting-edge technologies, the 5 Cs of Law Enforcement Leadership, and ethics, among other topics important to police chiefs and the law enforcement community.

The cover photograph features new IACP President, Director Yousry "Yost" Zakhary of the Woodway, Texas, Public Safety Department. Cover photograph by Convention Photo by Joe Orlando, Inc.

# The Police Chief

NOVEMBER 2013  
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## The Year Ahead

First and foremost, the IACP is about the members and serving them. As you know, the United States has gone through some unprecedented events this past year; some have been as the result of the economy, such as the shutdown of the federal government, and some have been human tragedies like those that occurred in Boston; Sandy Hook; the Navy Yard in Washington, D.C.; and Nairobi, Kenya, this past year. Terrorists across the world continue to threaten our safety.

It is events like these that bring into clarity the importance of the IACP in making certain that we represent our membership in a responsible and credible way by providing the information and services they need to confront these issues as they occur in our communities.

During the coming year, I will focus my attention on four new initiatives:

- Violence and crime on our streets
- Mental health of our arrestees and how it affects your officers
- SACOP's role in the IACP's Center for Officer Safety and Wellness
- Membership

I will also continue to focus on two initiatives that were started prior to my tenure, but remain relevant to our membership: officer suicide and human trafficking.

**Violence and crime on our streets:** Around the world, many communities are confronted by unacceptable levels of crime and violence on our streets. Typically, a disproportionate amount of this violence involves young males killing other young males. In the United States, homicide is the second leading cause of death for young males 15–24 years old. This is simply unacceptable. It is imperative that we work with our partners in the criminal justice system to reduce the level of violence through an array of proven approaches. These range from early intervention to aggressive enforcement and prosecution to enhanced penalties for those that commit crimes with a firearm.

**Mental health of arrestees and effects:** Around the globe, our officers continue to experience an increase in interacting with people with mental illness, in crisis, on mental hold, under an emergency detention order, or who are suicidal. All too often, we have seen how the failure to provide appropriate care to those with mental illness can lead to lives of confusion, frustration, and anger. Tragically, we have seen these situations lead to incidents that result in the loss

of their lives and the lives of others. It is imperative that law enforcement, health professionals, and our community leaders work collectively to find alternative options, such as mental health facilities or other treatment programs that will keep these individuals out of jail and on the path to a better, safer life.

**SACOP's Role in COSW:** The IACP developed a Center for Officer Safety and Wellness that brings together all of the efforts of the IACP worldwide. A significant part of this effort is the role of SACOP. As a result, I have asked Vice President Kent Barker to work closely with SACOP General Chair Peter Carnes to enhance the work of the IACP Center for Officer Safety and Wellness and to further promote the work of the center and incorporate all the previous hard work done by SafeShield to recognize the need for a culture of safety within our ranks. We must insist that a culture of safety and wellness is paramount for all law enforcement agencies. No injury to or death of a law enforcement professional is acceptable, and we must work to accept and embrace this fundamental cultural shift.

**Membership:** The membership of the IACP is the lifeblood of the association. You are the leaders who will shape the law enforcement profession and the IACP for years to come.



*Yousry "Yost" Zakhary, Director,  
Woodway, Texas,  
Public Safety Department*

Much has changed over the past few years for our association: we have a new executive director and a new headquarters building, and we have revamped our rules and modified our constitution. However, the one area we have not examined is one that is essential to our association. Although over the past two years we have increased our membership to record levels, we have not conducted a complete review of our membership policies or processes.

To that end, I have asked Chief Steckler to work closely with the following individuals to examine aspects of membership, including membership recruitment; marketing to increase membership; and dues structure and tiers—all in line with our strategic plan:

- IACP First Vice President Rich Beary
- Texas Police Chiefs Association Executive Director James McLaughlin
- California Police Chiefs Association Executive Director Leslie McGill
- IACP Past President Russell Laine
- IACP International Vice President Barbara Fluery

It is my hope that these individuals will develop proposals that will empower the IACP to expand and grow in the coming years. And, as an important first step in this effort, I have a request of each of you. I ask each of you to recruit at least one new member to join the IACP in the coming year.

I want to leave you with one final thought. From firearms violence to civil disturbances, from the advent of cybercrime to the scourge of terrorism, police agencies around the globe are facing unprecedented challenges as they strive to fulfill their mission of protecting their communities. While our task is daunting, I am not dismayed. I view the challenges ahead of us as great opportunities for us to rise and overcome. For 120 years, the IACP has led the way for the law enforcement profession in meeting the challenges of its day. I am confident that with your assistance and support, we will live up to this proud tradition and **"the IACP will continue to serve the leaders of today and develop the leaders of tomorrow."**

As your President, I am honored and thrilled to serve the Association and its members over the next year. I look forward to working with the Board of Officers, Executive Committee, and the IACP staff to address any and all issues and challenges that face us in the coming year. ❖

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## Shutdown Drags on as Congress Remains at an Impasse

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

The U.S. government reopened on October 17, 2013 after a 16-day shutdown. This article, written during the shutdown, discusses the political and budgetary stances of the parties in both bodies of Congress. Please visit the Police Chief online at <http://www.policechiefmagazine.org> for an update.



As we approached the midnight deadline on September 30, it became clear that House and Senate Congressional Leaders were not going to pass a short-term continuing resolution (CR) to keep the government running beyond the start of the new fiscal year.

When alarm clocks rang the morning of October 1, around 800,000 federal employees that were deemed non-essential woke up to realize they did not have to go to work and would remain furloughed until Congress could work out its differences and pass a CR. Among those furloughed, were approximately 14 percent of the Department of Homeland Security (DHS) workforce and 15 percent of the Department of Justice (DOJ) workforce.

The disagreement between the two bodies of Congress continues and remains focused around the congressional Republicans' desire to attach a provision to repeal or delay parts of the Affordable Care Act (ACA) to the CR. President Obama and congressional Democrats insist that any change to the ACA is a non-starter.

For now, House Republicans and some Senate Republicans remain steadfast that any deal to reopen the government include the healthcare delay or repeal language, while the president and Democrats demand a clean bill.

House Republicans have tried several different strategies, including trying to pass piecemeal spending measures that would reopen certain parts of the federal government; however, these proposals have been rejected by Senate Democrats and President Obama who oppose any short-term spending bills that do not provide money for the whole government.

Congressional Democrats feel as if they have already compromised by offering a CR with the lower spending levels called for by the sequester.

As the shutdown continues to drag on, it appears as if the battle over reopening the

government will become intertwined with the need to increase the statutory debt ceiling. The Treasury Department has indicated that the debt ceiling needs to be raised by October 17, or the government will run out of borrowing authority and will have to operate with cash on hand. With no immediate end in sight to the shutdown, the debt ceiling is becoming part of the ongoing discussions.

One possibility is that both sides could agree to temporarily reopening the federal government and increasing borrowing authority. However, this may be only a short-term fix to allow more time to negotiate a more comprehensive budget deal.

Regardless, passing a full-year CR or individual FY 2014 appropriations bills will continue to be a priority in the remaining days of the first session of the 113th Congress. The IACP will continue to be steadfast in its advocacy for funding for programs of importance to the law enforcement community.

U.S. law enforcement agencies are already operating with increasingly shrinking budgets, while being asked to do more each day to safeguard their communities. And while IACP is sensitive to the current federal funding dilemma, funding must continue for the Edward Byrne Memorial Justice Assistance Grant (Byrne-JAG); Community Oriented Policing Services (COPS) grants; Violence Against Women Act programs; state and local preparedness grant programs through DHS; and the National Highway Traffic Safety Administration.

In addition, Congress will likely resume many of the hearings that were cancelled due to the shutdown. Hearing topics are expected to include the legalization of marijuana, NSA surveillance, stand-your-ground laws, and human trafficking. ♦

The U.S. government shutdown ended on October 17, 2013. Find an update regarding the shutdown and its effects at the Police Chief's website:

[http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article\\_id=3173&issue\\_id=112014](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=3173&issue_id=112014)





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## Interview Rooms: Design for Safety and Utility

By Robert K. Gill, Assistant Criminal District Attorney, Tarrant County, Texas; and Ernie Van Der Leest, MS, Criminal Investigator/Forensic Video Analyst, Tarrant County, Texas Criminal District Attorney's Office

"The job is not finished until the paperwork is complete" is often heard from Assistant Chief Investigator Jim Rizy—a reminder of how important attention to detail is in daily life at the courthouse. When it comes to the safety of law enforcement personnel, attention to detail is an important consideration for all interactions with those who are detained, arrested, interviewed, and prosecuted. This article explains how attention to detail enhances safety and productivity in a secure interview room setting.

Video and audio-recorded interviews of suspects and witnesses have become a routine occurrence in law enforcement facilities around the United States. Whether a department has three sworn officers or one thousand, the safety and usefulness of an interview room obviously depends on the skills of the interviewer. Equally important are the design of the room and the equipment used to record the events in the room. Interview rooms are intended for eliciting critical information related to a criminal offense from suspects and witnesses. In order to assist the interviewer with this process, the interview room needs to be conducive to the interview process. A smartly designed interview room will allow officers to maintain a high standard of safety while at the same time producing a quality recording that a prosecutor will be able to successfully offer at trial for a jury's consideration.

There are important considerations in constructing an interview room whether the department is retrofitting existing space or constructing a new structure. First and foremost, the design of the room should be focused on the safety of all persons who are in and around the room during an interview. Conducting a safe interview does not require a large room. Like most endeavors in law enforcement, the design and functionality of an interview room does not have a one-size-fits-all standard. Variances can be great depending on a department's size, budget, and interview volume. Surveys conducted by the IACP for its current work on the National Institute of Justice's (NIJ) Criminal Justice Interview Room Recording System Standard ([https://justnet.org/standards/Interview\\_Room\\_Video\\_Systems.html](https://justnet.org/standards/Interview_Room_Video_Systems.html)) found interview rooms of all shapes and sizes. The average interview room size was found to be approximately 8 feet by 10 feet with a 10-foot ceiling. An interview room should be no larger than 144 square feet, but ideally around 100 square feet. This size of room is adequate for three people with a small table and chairs. The interviewers' chairs should be movable while the interviewee's chair should be stationary. The table should be positioned against one wall so that it does not become a barrier between the primary interviewer and the interviewee.

More important than the size of the interview room is its design. The positioning of the person to be interviewed is perhaps the most important design safety consideration. For safety reasons, the law enforcement officer that will be conducting the interview should always be positioned between the interviewee and the exit door. This is necessary to allow the officer a means of egress if the interviewee becomes violent and also allows backup officers a clear line of sight to the interviewee when entering the room.

These considerations are especially important because more interview rooms are being converted to network-based recording systems that allow remote viewing of the interview process. The days when the observers of the interview were just the around the corner listening for any signs of trouble are numbered.

Another necessary measure for officers' safety is the ability to secure the interviewee to a location within the interview room. This is done by creating a means to secure a set of handcuffs or a leg restraint to an anchor within the interview room. For example, during a recent renovation of the main interview room at the Criminal District Attorney's office in Tarrant County, Texas, a simple but effective anchor was installed to the floor with three feet of chain attached to it. This simple device is designed to connect to a set of leg restraints thereby anchoring the interviewee in a position in the interview room. Additionally, the interviewee's chair should be fixed in the desired spot in the interview room. This is important not only for interview room security, but also for the purpose of producing the highest quality recording possible. If the interviewee will always be in a particular spot in the interview room, cameras and microphones can be permanently mounted for optimum recording quality.

Security of this interview room was further enhanced by moving the room's lighting controls to the adjoining hallway and installing a high-security deadbolt and a peep-hole on the exterior of interview room door. As an additional safety measure, a panic button is recommended to be installed inside the interview room within arm's reach of the interviewer. If an interview is conducted one-on-one, an exterior monitoring station located close to the interview room should be manned by a fellow officer.

The interview room should also be designed and constructed to produce the best quality video and audio recordings. Exterior sound infiltration is a major concern not only for the recording process; but also for the interview process as a whole. For all interviews, whether recorded or not, the interviewer needs a quiet place that is free of any distraction. For officers' safety, removable, sound-absorbing wall panels were ruled out in the construction because the necessary mounting hardware can be converted into an improvised weapon. It was more cost-effective to remove the existing drywall and insulate the interview room walls with the latest in sound-deadening insulation.

A further benefit to removing the interior wall covering of the interview room was that the electricians and forensic video experts were given direct access to the interior of the walls to install electrical wiring, cameras, microphones, and network connections.

The above-mentioned NIJ project for interview rooms covers the number of cameras and microphones that should be installed in an optimal interview room. For example, the interview room at the Criminal District Attorney's office in Tarrant County, Texas, is adequately covered by two cameras. One camera captures an overall view of the interview room so that viewers are able to see all occupants of the room. The second camera is dedicated to the location of the interviewee. This camera's function is to place enough pixels on target to provide the jury the best image possible of the interviewee in order to capture his or her posture, facial expressions, and body language. Proper positioning of microphones within the room will optimize the sound quality of the recording. In order to prevent

tampering with the microphone, choose a high-quality, flush-mounted wall microphone placed close to the interviewee's chair. This placement will assist in picking up subtle words that many times are very low in volume. With special thanks to Seattle, Washington, homicide detective Al Cruise, the interview room is equipped with an extra microphone that allows investigators to connect a digital recorder outside the room. This extra microphone also serves as a backup to the DVR. The recording device for the audio/visual information should have a redundant backup.

The finished interview room was painted with non-reflective 18 percent gray paint to comply with the national standard for background color preference for mug shots. Bright lighting and a small table useful for writing or as a laptop stand were installed. To minimize distractions, there is nothing else in the room; therefore, there is nothing available to be fashioned into an improvised weapon.

The last and perhaps most important piece of interview room equipment is a gun locker mounted just outside the room. All make promises to go home to their families at night. Unfortunately, in this line of work, that is not always possible. Securing weapons before entering an interview room is vital. If all weapons are properly secured outside the interview room, they are not available to an interviewee inside the room. Additionally, before putting an interviewee in a closed area within a law enforcement building, the interviewee should be patted down for anything that could do harm to anyone within the interview room area. Entering the interview room with an interviewee is no different than entering a squad car with a subject. Proper safety measures and constant vigilance are essential to avoid tragedy.

As a good rule of thumb for officer safety—and regardless of its location—the interview room should be designed and equipped as if it were contained inside a jail or correctional facility. There are many national, state, and local provisions specifying design and practical considerations for correctional settings. One should always consult these resources before making final design decisions for an interview room.

For more information on the NIJ-funded Video Standards for Law Enforcement Applications project, contact Mike Fergus at [fergus@theiacp.org](mailto:fergus@theiacp.org). ❖

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# RESEARCH IN BRIEF

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.

## New Initiatives in Risk Assessment, Offender Profiling, and Micro Hot-Spot Policing

*By Matthew Long, Detective Chief Inspector, Kent Police, Kent, United Kingdom; Christopher Hogben, Detective Chief Superintendent, Kent Police, Kent, United Kingdom; Kerry Orpinuk, Captain, Daytona Beach Police Department, Daytona Beach, Florida; Bryanna Hahn Fox, Assistant Professor, Criminology Department, University of South Florida, Tampa, Florida; Tim Hegarty, Captain, Riley County Police Department, Manhattan, Kansas; and Susan Williams, PhD, Kansas State University, Manhattan, Kansas*

*This month's Research in Brief (RIB) column takes a different approach. Instead of presenting just one research effort, we are presenting short summaries of three—specifically the three police-based research studies that have won this year's Gold, Silver, and Bronze Excellence in Law Enforcement Research awards. In later editions of *Police Chief* we will revisit each individual program to provide you with more detailed information on these award-winning projects.*

The IACP is pleased to announce the following IACP Excellence in Law Enforcement Research Award winners.

### Gold Award Winner:

Kent Internet Risk Assessment Tool (KIRAT) is a risk assessment tool that strives to identify, from the available intelligence, those individuals most at risk of committing contact sexual offenses allowing the police to take action to protect children. The purpose of the tool is also to assist with risk management, prioritization, and

workload management within indecent images of children (IIOC, child abuse material, or child pornography) investigations. From 2009 to 2011 Kent Police partnered with the University of Liverpool to devise a new, innovative, academically validated risk assessment tool to help front-line detectives in assessing the risk offenders posed. It has now been rolled out to 40 law enforcement agencies across the United Kingdom. KIRAT is estimated to have saved the United Kingdom £1,500,000.00, which can be re-invested into child protection. It has standardized risk assessment in child abuse material cases across the United Kingdom with over three quarters of law enforcement agencies using the tool and more in training. During the lifetime of the project Kent Police's Detectives have safeguarded over 330 children.

### Silver Award Winner:

The Evidence-Based Offender Profiling Program was established by the Daytona Beach Police Department in partnership with Bryanna Hahn Fox and David Farrington of Cambridge University, as a pioneering research collaboration to scientifically develop and test the first data-driven profile for burglary in the United States. Every year, over 2.5 million burglaries occur in the U.S., though less than 13% of those crimes are ever solved. With a financial impact over \$5 billion, there are serious economic consequences to this prevalent but highly unsolved offense. Results of the experiment show that the police department using the burglary profiles cleared nearly four times as many burglaries as the departments that did not, despite having nearly identical arrest rates at the start of the experiment. A follow-up cost-benefit analysis showed that such an improvement in clearance rate could result in over \$6.3 million in direct savings for a mid-size police department.

### Bronze Award Winner:

Initiative: Laser Point was developed and implemented by the Riley County Police Department (Kansas) in partnership with Kansas State

University. This geospatial crime reduction project focused on whether or not micro hot-spot policing works in non-urban regions such as Manhattan, Kansas (population 53,000) and whether or not officer behavior within the treatment area mattered. Results were significant and positive that hot-spot policing at micro places, using 15 minute treatments, decreased calls for services and Part I/Part II crimes when comparing the same geographic areas over a four-year period. Results also showed that officer behavior did not matter—significant reductions in crime and calls for service occurred whether the officer was actively engaged or merely present in a marked patrol unit. Despite the recent Manhattan, Kansas area growth, the crime rate has steadily declined over the last four years, in large part due to initiatives like this. As demonstrated in this study by a police/university team with no cost to the public, evidence-based policing such as hot-spot strategies may address containment, proactivity, and cost-efficient policing practices, while preserving community relationships. ♦

### Action Items:

1. The KIRAT program has saved the United Kingdom £1,500,000.00 since its inception. Departments interested in the KIRAT program should contact the Kent Police Department to learn more. [http://www.kent.police.uk/news/latest\\_news/130719\\_kirat.html](http://www.kent.police.uk/news/latest_news/130719_kirat.html)
2. The Evidence-Based Offender Profiling Program is projected to result in over \$6.3 million in direct savings for a mid-size police department. Departments interested in the program should contact the Daytona Beach Police Department to learn more. <http://www.codb.us/index.aspx?nid=280>
3. Initiative: Laser Point has significantly reduced the crime rate in Manhattan, KS its inception. Departments interested in Initiative: Laser Point should contact the Riley County Police Department. <http://www.rileycountypolice.org/programs-services/rcpd-specialized-unitsprograms/initiative-laser-point-rcpds-intelligence-led>

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# Police "Whistleblowers" and the First Amendment

By Martin J. Mayer, General Counsel to the California State Sheriffs' Association and the California Police Chiefs Association, Fullerton, California

On August 22, 2013, the Ninth Circuit U.S. Court of Appeals, in a unanimous en banc decision (11-0), held, in *Dahlia v. Rodriguez*, that officers may have First Amendment protection against employer retaliation when speaking out about alleged department misconduct and corruption.

The en banc panel overruled earlier decisions by a district court judge and a three-judge panel ruling that City of Burbank, California, detective Angelo Dahlia's disclosure of officer misconduct was not protected by the First Amendment. The three-judge panel held that "Dahlia's disclosure to the Los Angeles Sheriff's Department (LASD) of his fellow officers' misconduct was not subject to First Amendment protection because he had a professional duty, as a matter of California case law, to report misconduct. The district court also held that Dahlia's placement on administrative leave did not constitute an 'adverse employment action.'"<sup>1</sup>

In reaching that conclusion, the district court had relied on the case of *Huppert v. City of Pittsburg*.<sup>2</sup> However, the en banc court overruled *Huppert* in reaching this decision and held that (1) after *Garcetti v. Ceballos*, courts must make a "practical" inquiry when determining the scope of a government employee's professional duties; (2) that *Huppert* erred in concluding that California broadly defines police officers' duties as a matter of law for the purpose of First Amendment retaliation analysis; and (3) placement on administrative leave, even with pay, can constitute an adverse employment action.<sup>3</sup>

## Public Employees and First Amendment Rights

The en banc court reviewed the rights of public employees pursuant to the First Amendment, which initially involved a two-step analysis. In the case of *Pickering v. Board of Education*, "the Supreme Court defined a balancing test for First Amendment retaliation cases involving public employees. The task for us is to seek 'a balance between the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.'"<sup>4</sup>

"In the classic whistleblower case the state has no legitimate interest in covering up corruption and physical abuse. As an inevitable result of the Court's jurisprudence and sound public policy, the First Amendment generally protects public employee whistleblowers from employer retaliation."<sup>5</sup>

The court noted that since the *Pickering* decision, "we have further refined the Court's balancing test into a five-step inquiry. We ask: (1) whether the plaintiff spoke on a matter of public concern; (2) whether the plaintiff spoke as a private citizen or public employee; (3) whether the plaintiff's protected speech was a substantial or motivating factor in the adverse employment action; (4) whether the state had an adequate justification for treating the employee differently from other members of the general public; and (5) whether the state would have taken the adverse employment action even absent the protected speech."<sup>6</sup>

In 1983, the U.S. Supreme Court decided the case of *Connick v. Myers*, which involved a deputy district attorney who was upset over her transfer and prepared a questionnaire that she distributed to the other assistant district attorneys in the office concerning office transfer policy, office morale,

the need for a grievance committee, the level of confidence in supervisors, and whether employees felt pressured to work in political campaigns. She was terminated for refusing the transfer and because her distribution of the questionnaire was considered an act of insubordination.

The district court and the court of appeals found that the questionnaire, not the refusal to accept the transfer, was the real reason for respondent's termination. The court held that the questionnaire involved matters of public concern and that the state had not "clearly demonstrated" that the questionnaire interfered with the operation of the district attorney's office. The U.S. Supreme Court reversed.

Citing *Pickering*, the Court stated that "in determining a public employee's rights of free speech, the problem is to arrive at a balance between the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees."<sup>7</sup>

"When a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee's behavior. Here, except for the question in respondent's questionnaire regarding pressure upon employees to work in political campaigns, the questions posed do not fall under the rubric of matters of 'public concern.'"<sup>8</sup> As such, once it was decided that the speech did not involve matters of public concern, there was no need to engage in the balancing of interests.

The Court noted, however, that "(i)n *Pickering*, the Court held impermissible under the First Amendment the dismissal of a high school teacher for openly criticizing the Board of Education on its allocation of school funds between athletics and education and its methods of informing taxpayers about the need for additional revenue. *Pickering's* subject was "a matter of legitimate public concern" upon which "free and open debate is vital to informed decision making by the electorate."<sup>9</sup>

## Facts in Dahlia

Following an armed robbery on December 28, 2007, Angelo Dahlia, a Burbank Police Detective, reported to Lieutenant Jon Murphy that he had observed other officers, including Lieutenant Omar Rodriguez, assaulting and beating the robbery suspects while interrogating them at the police department. "Murphy responded by telling Dahlia to 'stop his sniveling.'"<sup>10</sup>

The physical beatings continued, and, at one point, "Chief of Police Stehr appeared at a briefing and, upon learning that not all of the robbery suspects were in custody, said, 'Well then beat another one until they are all in custody.'"<sup>11</sup> After witnessing the ongoing misconduct and abuse, Dahlia again reported his concerns to Lieutenant Murphy who responded negatively and did nothing to stop the beatings.

"In April 2008 officers learned that BPD's Internal Affairs (IA) unit was planning to investigate the unlawful physical abuse and the other illegal procedures relating to the Porto's robbery investigation. Around the same time, Rodriguez began going out of his way to monitor Dahlia and ultimately threatened him not to say anything to IA."<sup>12</sup>

After Dahlia was interviewed by IA, he was confronted by Lieutenant Rodriguez and Sergeant Edgar Penaranda, who demanded to know what he said to the IA investigator. Dahlia, fearing for his safety, denied saying





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anything. Subsequently, he was interviewed two more times and, each time, was confronted and/or threatened by Rodriguez and others.

In January 2009, rumors circulated more widely that the FBI had been contacted about commencing an investigation. At some point, Murphy told Dahlia, "It's on. The Feds are doing an investigation and heads are going to roll. Don't say anything." Penaranda told Dahlia, "It's gonna be bad. You can't say anything." Rodriguez also approached Dahlia and told him "not to talk to the feds."

On April 2, 2009, Rodriguez called Dahlia into his office, told Dahlia to sit down, and closed the door and the blinds. Rodriguez then retrieved his gun from its holster, looked at Dahlia, and placed the gun in a drawer. [Rodriguez then threatened Dahlia and said he could create a case resulting in Dahlia's going to jail.] Dahlia reported this incident to the Burbank Police Officers' Association president, who reported it to the Burbank City Manager.

On May 11, 2009, LASD interviewed Dahlia about the Porto's robbery investigation. During the interview, Dahlia disclosed the defendants' misconduct, threats, intimidation and harassment. Four days later, Dahlia was placed on administrative leave pending discipline.<sup>13</sup>

In November 2009, Dahlia filed his § 1983 complaint alleging the following seven claims:

1. Retaliation against a public employee for speech disclosing police misconduct, in violation of the First Amendment;
2. Retaliation against a public employee for disclosing information to a government or law enforcement agency, in violation of California Labor Code section 1102.5;
3. Retaliation against a public employee for making an oral or written complaint to a governmental agency, in violation of California Labor Code section 6310;
4. Retaliation against a public employee for disclosing an abuse of authority or a substantial and specific danger to public health or safety, in violation of California Government Code section 53298;
5. A violation of the Bane Act, California Civil Code section 52.1(b), which prohibits interference with the exercise of constitutional rights;
6. Intentional infliction of emotional distress; and
7. Negligent infliction of emotional distress.

Motions were made for summary judgment by the city and individual defendants based on *Huppert*. "(T)he district court determined that Dahlia's § 1983 claim was barred because (1) he spoke pursuant to his official duties and thus was not constitutionally protected, and (2) placement on paid administrative leave is not an adverse employment action. The district court accordingly dismissed Dahlia's § 1983 claim with prejudice, and declined to exercise supplemental jurisdiction over Dahlia's state law claims."<sup>14</sup>

As the en banc court noted, "a panel of this court reluctantly affirmed on the ground that it was bound by *Huppert v. City of Pittsburg* to conclude that Dahlia spoke pursuant to his official duties." Additionally, the panel stated that "'the result that reports of police misconduct are not protected by the First Amendment is dangerous.' Contrary to the district court, the panel found that placement on administrative leave and the resulting consequences, 'if proven, . . . may very well constitute an adverse employment action.'"<sup>15</sup> Following the decision by the three-judge panel, the Ninth Circuit then granted rehearing en banc.

### The En Banc Court's Analysis

"It is well settled that the state may not abuse its position as employer to stifle 'the First Amendment rights [its employees] would otherwise enjoy as citizens to comment on matters of public interest.'" *Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009) (alteration in original) (quoting *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)). Moreover, the public has a strong interest in hearing from public employees, especially because "[g]overnment employees are often in the best position to know what ails the agencies for which they work." *Waters v. Churchill*, 511 U.S. 661, 674 (1994). "It may often be the case that, unless public employees are willing to blow the whistle, government corruption and abuse would persist undetected and undeterred."<sup>16</sup>

In *Garcetti v. Ceballos*, Ceballos, a deputy district attorney, reported to his superiors, as part of his job as a calendar deputy, that a police affidavit contained "serious misrepresentations" and, as such, the case should not

be prosecuted. His superiors disagreed, and following "a heated meeting attended by Ceballos," they decided to proceed with the prosecution. At a hearing on a defense motion to challenge the warrant, Ceballos recounted his observations about the affidavit, but the trial court rejected the challenge. Ceballos was subsequently disciplined for his actions, and he sued for violations of his First Amendment rights.<sup>17</sup>

"In *Garcetti*, the Supreme Court narrowed the First Amendment protections for public employees. The Court added an additional requirement to the *Pickering* balancing test, holding that the First Amendment does not protect employee speech when that speech is 'pursuant to . . . official duties.'"<sup>18</sup> The Court held that "[t]he controlling factor in Ceballos' case is that his expressions were made pursuant to his duties as a calendar deputy."<sup>19</sup>

"Ceballos did not act as a citizen when he went about conducting his daily professional activities, such as supervising attorneys, investigating charges, and preparing filings. In the same way he did not speak as a citizen by writing a memo that addressed the proper disposition of a pending criminal case. When he went to work and performed the tasks he was paid to perform, Ceballos acted as a government employee. The fact that his duties sometimes required him to speak or write does not mean his supervisors were prohibited from evaluating his performance."

The Court concluded that "The proper inquiry is a practical one. Formal job descriptions often bear little resemblance to the duties an employee actually is expected to perform, and the listing of a given task in an employee's written job description is neither necessary nor sufficient to demonstrate that conducting the task is within the scope of the employee's professional duties for First Amendment purposes."<sup>20</sup>

"Three years after *Garcetti*, a panel of this court decided *Huppert v. City of Pittsburg*, another § 1983 First Amendment retaliation case. The *Huppert* majority affirmed the grant of summary judgment to the defendant, holding that California police officers acted pursuant to their official duties when they investigated and reported on corruption within the police department by (1) assisting the District Attorney as ordered, (2) defying the police chief's orders and continuing an investigation at the behest of an immediate supervisor, (3) cooperating with the FBI, and (4) testifying before a grand jury."<sup>21</sup>

The *Huppert* majority "relied on a 1939 California court of appeal decision to conclude, as a matter of law, that an officer acted pursuant to his official duties in cooperating with the FBI and testifying before a grand jury, [relying on *Christal v. Police Comm'n of City of San Francisco*]."<sup>22</sup>

The full statement in *Christal* follows:

*The duties of police officers are many and varied. Such officers are the guardians of the peace and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them. Among the duties of police officers are those of preventing the commission of crime, of assisting in its detection, and of disclosing all information known to them which may lead to the apprehension and punishment of those who have transgressed our laws. When police officers acquire knowledge of facts which will tend to incriminate any person, it is their duty to disclose such facts to their superiors and to testify freely concerning such facts when called upon to do so before any duly constituted court or grand jury. It is for the performance of these duties that police officers are commissioned and paid by the community.*<sup>23</sup>

However, the en banc panel stated that "In relying on *Christal*'s sweeping description of a California police officer's professional duties, the *Huppert* majority failed to heed *Garcetti*'s mandate that 'the proper inquiry [to determine the scope of an employee's professional duties] is a practical one.' The Court's stated reason for requiring such an inquiry is precisely because 'employers [cannot] restrict employees' rights by creating excessively broad job descriptions.'"

As such, "we overrule *Huppert* to the extent that it improperly relied on a generic job description and failed to conduct the 'practical, fact-specific inquiry' required by *Garcetti*. In so holding, we reject the defendants' argument that California police officers are unique for the purposes of First Amendment retaliation claims." (emphasis added)<sup>24</sup>

The en banc panel further noted that *because of the fact-intensive nature of the inquiry [regarding the employee's duties], no single formulation of factors can encompass the full set of inquiries relevant to determining the scope of a plaintiff's job duties. However, we find that existing case law and common sense dictate a few guiding principles relevant to the case before us.*

*First, particularly in a highly hierarchical employment setting such as law enforcement, whether or not the employee confined his communications to his chain of command is a relevant, if not necessarily dispositive, factor in determining whether he spoke pursuant to his official duties. When a public employee communicates with individuals or entities outside of his chain of command, it is unlikely that he is speaking pursuant to his duties.*<sup>25</sup>

As such, the en banc panel stated that "when a public employee raises complaints or concerns up the chain of command at his workplace about his job duties, that speech is undertaken in the course of performing his job. . . ." <sup>26</sup> However, if "a public employee takes his job concerns to persons outside the work place in addition to raising them up the chain of command at his workplace, then those external communications are ordinarily not made as an employee, but as a citizen."<sup>27</sup>

"Second, the subject matter of the communication is also of course highly relevant to the ultimate determination whether the speech is protected by the First Amendment." For example, "when an employee prepares a routine report, pursuant to normal departmental procedure, about a particular incident or occurrence, the employee's preparation of that report is typically within his job duties."

"Third, we conclude that when a public employee speaks in direct contravention to his supervisor's orders, that speech may often fall outside of the speaker's professional duties. Indeed, the fact that an employee is threatened or harassed by his superiors for engaging in a particular type of speech provides strong evidence that the act of speech was not, as a 'practical' matter, within the employee's job duties notwithstanding any suggestions to the contrary in the employee's formal job description."

"(W)e think that it is relevant to the resolution of Dahlia's case that Dahlia disclosed misconduct to LASD in contravention of the numerous threats and admonitions from his superiors not to reveal the misconduct to anyone. Even assuming arguendo that Dahlia might normally be required to disclose misconduct pursuant to his job duties, here he defied, rather than followed, his supervisors' orders. As part of a 'practical' inquiry, a trier of fact must consider what Dahlia was actually told to do."

"Because the district court granted a Rule 12(b)(6) motion to dismiss, our task is not to resolve any factual dispute, but merely to determine whether Dahlia's allegations support a reasonable inference that he acted outside of his professional duties in each instance."

"Ultimately, Dahlia disclosed the defendants' misconduct, threats, and harassment to LASD when interviewed about the Porto's robbery investigation. In doing so, Dahlia clearly spoke outside the chain of command and, indeed, to an outside agency altogether. Whether Dahlia ultimately acted pursuant to his job duties when he disclosed misconduct to LASD may well turn on whether discovery reveals that Dahlia's supervisors instructed him to meet with and disclose information to LASD or in fact Dahlia did so of his own volition. Construing the complaint in Dahlia's favor, his disclosure to LASD is protected by the First Amendment."<sup>28</sup>

The en banc panel also concluded that that, "under some circumstances, placement on administrative leave can constitute an adverse employment action." One factor to be considered is "whether the action is 'reasonably likely to deter employees from engaging in protected activity.'"

Although the court notes that it has not previously held that placing one on administrative leave with pay is an adverse employment action, "Dahlia's assertions—that administrative leave prevented him from taking the sergeant's exam, required him to forfeit on-call and holiday pay, and prevented him from furthering his investigative experience—if proved, would constitute an adverse employment action."

The court concluded by stating that "we overrule *Huppert v. City of Pittsburgh* and hold that Dahlia has sufficiently stated a claim pursuant to 42 U.S.C. § 1983, namely that he was retaliated against for his protected speech. We remand to the district court for further proceedings consistent with this opinion."<sup>29</sup>

## Conclusion

The court remanded the matter back to the district court for further proceedings, which will include a trial to determine, among other things, the scope of Dahlia's job responsibilities. For example, the court stated that "whether Dahlia ultimately acted pursuant to his job duties when he disclosed misconduct to LASD may well turn on whether discovery reveals that Dahlia's supervisors instructed him to meet with and disclose information to LASD or in fact Dahlia did so of his own volition."

It is also possible that the City of Burbank will petition the U.S. Supreme Court for review, and, if it is accepted by the Court, this decision will be held in abeyance. Outside counsel for the city was reported as stating that such an appeal is possible.

Assuming, however, that the reasoning of the en banc panel is not modified or changed, agencies must recognize that the First Amendment protections, generally afforded "whistleblowers," will be applied to law enforcement officers depending on facts and circumstances. One concern raised by law enforcement administrators is whether a "whistleblower" is protected under the First Amendment for expressing his or her opinion regarding misconduct, whether or not it is accurate.

Another concern, raised by labor attorneys, is the impact of an internal policy mandating that all complaints of alleged officer misconduct must be reported through the chain of command and not shared with outside persons or the media. Such a policy would, ostensibly, exist to allow the agency to investigate such claims of misconduct and discipline those involved, if the complaints are sustained.

It would seem axiomatic that law enforcement officers should report abuses by other officers and it should not be subject to debate. The only issue appears to be whether or not it is considered a job duty and whether or not the First Amendment protects those reporting such misconduct from internal adverse employment action if those reports are made outside the chain of command. That, apparently, will be determined on a case-by-case basis.

The First Amendment is a complex area of law; it is even more so when it involves public sector employees. As such, it is imperative that law enforcement management seek out advice and guidance from legal counsel on such matters. ♦

## Notes:

<sup>1</sup> *Dahlia v. Rodriguez*, D.C. No. 2:09-cv-08453-MMM-JEM (9th Cir. 2013).

<sup>2</sup> *Huppert v. City of Pittsburgh*, 574 F.3d 696 (9th Cir. 2009).

<sup>3</sup> *Garcetti v. Ceballos*, 547 U.S. 410 (2006).

<sup>4</sup> *Dahlia*, citing, *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968); and *Connick v. Myers*, 461 U.S. 138, 142 (1983).

<sup>5</sup> *Dahlia* (2013).

<sup>6</sup> *Id.*

<sup>7</sup> *Connick v. Myers*, 461 U.S. at 142.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 145, citing *Pickering*, 391 U.S. at 571-572.

<sup>10</sup> *Dahlia* (2013).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Garcetti*, 547 U.S. at 421.

<sup>18</sup> *Dahlia* (2013).

<sup>19</sup> *Garcetti*, 547 U.S. at 421.

<sup>20</sup> *Id.* at 421-422.

<sup>21</sup> *Dahlia* (2013).

<sup>22</sup> *Id.*

<sup>23</sup> *Christal v. Police Comm'n of City of San Francisco*, 92 P.2d 416 (Cal. Dist. Ct. App. 1939).

<sup>24</sup> *Dahlia* (2013).

<sup>25</sup> *Id.*

<sup>26</sup> *Dahlia*, quoting *Davis v. McKinney*, 518 F.3d 304, 313 (5th Cir. 2008).

<sup>27</sup> *Dahlia*, quoting *Davis*, at 313 (citing *Freitag*, 468 F.3d 528).

<sup>28</sup> *Dahlia* (2013).

<sup>29</sup> *Id.*

*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.*



## **Warrior Wound Care's ORAL I.V. Helps Maricopa County Sheriff's Office Stay Well Hydrated**

The Maricopa County Sheriff's Office has purchased the ORAL I.V. hydration aid product. ORAL I.V. works in conjunction with water to support hydration in environments or conditions where physical exertion or the possibility of dehydration exists.

Deputy Mike Puente is currently assigned to the office's SWAT division and serves as lead sniper instructor. His career has allowed him to teach and interact with multiple teams and snipers from all over Arizona and the United States.

Being one of the largest counties in the United States often brings numerous companies to Maricopa as a test bed for products and equipment.

According to Deputy Puente, "ORAL I.V. was introduced to us about two years ago by Warrior Wound Care and has been used on numerous occasions. Working and living in the desert is hard enough as it is, but doing all that for extended hours on missions, in training, or conducting schools for other agencies, makes it that much harder. ORAL I.V. has allowed our team to stay on task despite extreme temperatures and extended hours in the heat. It immediately hydrates and allows us to proceed with the mission at hand. We have been so impressed with the product, that at every SWAT school or sniper school we put on, we are sure to hand out samples so the other 'boots on the ground' can also complete their mission of saving lives."

Continued Deputy Puente, "When other teams and officers are having a hard time maintaining hydration or focus, we no longer worry about that because it has become common practice to take ORAL I.V. before a mission or a training day. Our office and specifically our SWAT team have never found such a useful and effective product as ORAL I.V. For our team, it is a necessity."

**For more information, visit [www.warriorwoundcare.com](http://www.warriorwoundcare.com).**

## **LP Police Introduces an All New Investigative Database Website for Law Enforcement**

LP Police has developed an entirely new design and online user experience with the addition of the newest data with billions of records.

All of the searches have been restructured to provide users with the most sought after information. This includes a broad range of search categories, comprising more than 25 new searches professionals are looking for. A new, all-inclusive report now contains over two dozen data points on a subject, so all of the information is in one place.

LP Police has applied more than two years of customer feedback and focus group input to perfect its new website. Subscribers can now search billions of the latest records to ensure the fastest and most accurate information every time. Law enforcement agencies can benefit from superior data and

fast data access when it counts. Quick Tip sections on the top of every page assist investigators through every step of a search.

Robin Rodarte Investigator for the Santa Ana Police Department commented: "LP Police has been instrumental in assisting our agency with their information services for the past 6 years. The data provided is extremely effective in helping advance my cases."

Joe Boofer crime analyst for the Scottsdale Police Department commented: "We have utilized your services for the past several months, the LP Police online service is regularly used on daily basis. I have personally been able to locate individuals, businesses in the course of my research investigations that I could not find with other information services, especially in the telephone searches. The cost of the LP Police online service is extremely reasonable and the customer service is excellent."

The search results include full social security numbers, dates of births, motor vehicle records, associates, assets, licenses, court records (criminal/civil), phones, prior residences, real estate holdings, recorded bankruptcies, liens, judgments, businesses, and more in a secure, interactive, searchable database.

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**For more information, please visit <http://www.lppolice.com>.**

## **Sarasota County, Florida, Finding Answers with New Fingerprint System from MorphoTrak**

Sarasota County, Florida, Sheriff Tom Knight has a new tool that is allowing his office to find answers to unsolved crime cases. The county recently completed an upgrade of their 10-year old Automated Fingerprint Identification System (AFIS), installing the world's most up-to-date and accurate fingerprint matching technology, the Morpho Biometric Identification Solution (MorphoBIS), from MorphoTrak, a subsidiary of Morpho (Safran).

The AFIS includes ten-print, palm-print, and latent fingerprint processing, and allows searches of criminal databases at the county, the Florida Department of Law Enforcement, and the FBI level. The MorphoBIS system architecture allows the county to easily incorporate additional biometrics in the future such as facial recognition, tattoo, and iris recognition as needed.

"We are very pleased with our new system. Continuing our 17-year partnership with MorphoTrak was the right decision for the Sarasota County Sheriff's Office," said Captain Jeffrey Bell of the Criminal Investigations Bureau.

"We are getting hits on old crime scene prints that were previously unidentified in our old system," adds Brenda Viana, AFIS Supervisor.

"Morpho has continued to invest in increasing algorithm accuracy and overall performance for our AFIS technology. This translates directly to more crimes solved, more offenders off the streets, and improved public safety for Sarasota County as well as the hundreds of customers and their constituents that we serve worldwide," says Daniel Vassy, President and CEO of MorphoTrak. "As the fingerprint provider to the FBI and the majority of the law enforcement agencies in the U.S., we are quite proud that our cutting-edge technology is helping create safer communities." ♦

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# The Five Cs of Law Enforcement Leadership

By Jon Arnold, Director, Department of Public Safety,  
Golden West College, Huntington Beach, California

When new recruits embark on a law enforcement career and begin their police academy training, they receive instruction on a variety of topics. These learning domains are designed to equip them in performing their duties and prepare them for the numerous challenges they will encounter in the field. They learn techniques that help them establish their command presence; develop ways to overcome fear, establish courage, and to properly “communicate” using the radio; and how to effectively communicate with the public and criminal suspects. As peace officers move in their career from line-level into supervision-, management-, and executive-level positions, leaders can be overwhelmed by complex demands including budget restrictions, personnel concerns, meetings with community groups, and other large-scale projects. While these tasks are important, leaders may forget that those topics that were so critical to learn as rookies may still have a significant impact on their performance as leaders of their organizations.

At a recent swearing-in ceremony of a new officer at a neighboring agency the chief of police included comments in his opening remarks about how important the “five Cs” are to his department. They included the following:

- Courage
- Character
- Commitment
- Compassion
- Communication

He commented on the importance of each trait as the rookie officer was embarking upon a new and very challenging career. At the conclusion of the ceremony, the brief mention of these traits resonated not only because they are critical to a law enforcement officer but also because each can be difficult to fully embrace as officers advance through their careers. Police chiefs who have been married for a number of years have seen how the daily challenges of children, school activities, housework, the mortgage, bills, and other issues have impacted their interaction with their spouses. While important, these issues can interfere with the level of commitment and communication displayed early in their marriage. Similar to a long-standing mar-

riage, the chief’s priorities may change over time as higher-level projects may interfere with their recollection of the import of these earlier priorities.

## Courage

When new police officers begin their careers, they see “courage” simply as the ability to chase a suspect down a dark alley at 2:00 a.m. and not be afraid. New officers view this trait as a fundamental requirement of police work and assume all recruits possess courage or they would not have chosen this profession. As officers progress in their careers, courage has additional meanings—including the ability to make correct and ethical decisions when confronted with an issue. When officers later attain rank and are responsible for others, courage also means dealing properly with those they supervise. This can include supporting those when they behave appropriately but also includes ensuring proper performance and discipline of those who commit misconduct. Dealing with these issues is not easy and requires leaders to incorporate this type of courage as a core principle.

## Character

Character is a set of qualities that makes somebody or something distinctive, especially somebody’s qualities of mind and feeling. According to Michael Josephson, “character is a morally neutral term describing the nature of a person in terms of major qualities. So everyone, from iconic scoundrels like Hitler and saints like Mother Teresa, have a character.”<sup>1</sup> When thinking of character as it relates to police work, individuals are normally viewed as having character traits that others can count on or are positive traits that they would want in a colleague or leader. These are the types of traits mentioned when others are described as a solid performer, a great cop, a good sergeant, a great chief, and so forth.

Character is something that has to be developed and earned over a long period of time. In the Bible, Romans 5:3-4 states, “Because we know that suffering produces perseverance; perseverance produces character; and character, hope.” As it reads, one develops character after enduring some type of prolonged adversity, which then produces

true character. Character is the type of trait that can result from how one handles adversity. Some encounter adversity through a crisis or conflict, by being injured or offended, or even through some emotional or physical pain. Character is developed in how one responds to these events or challenges. The common quote that “character is forged on the anvil of adversity” is accurate as one does not develop a strong character from avoiding difficult issues. Sometimes the easier path is not the one that results in character building. A portion of the United States Military Academy Cadet Prayer states, “Make us to choose the harder right instead of the easier wrong.”<sup>2</sup> When adversity strikes, those who possess the proper character will make the right and ethical decision or will lead the agency in the proper direction in the face of a crisis.

The character of a police chief can permeate the organization. A chief with solid and upstanding character traits can be seen by the department members as one who always considers what is best for the community and the agency. The decisions made are always for the right reason and can stand up to any subsequent review. When a crisis occurs, he or she is out in front of the issue and leading the department in the proper direction. Similarly if a chief lacks character, the organization will wonder what will happen when a crisis or difficult situation occurs and what lasting ramifications might linger. Good character can take years to develop but, like a reputation, can be ruined in a hurry. According to the late UCLA Coach John Wooden, “The true test of a man’s [or woman’s] character is what he [or she] does when no one is watching.”<sup>3</sup> Character is a trait that everyone strives to attain, but, just like good leadership, it cannot be simply learned from a book or obtained by attending a training course on the topic.

## Commitment

Commitment is a pledge that is made by one party to another—normally in exchange for something. Husbands and wives make a lifelong commitment to each other. Friends will commit to each other, or strangers make commitments in business or sales situations. A police officer makes a commitment to the department; the community; and, through the oath of office, to the constitution

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of their state and the U.S. Constitution. As one progresses up through the ranks, there are more people and groups that one must commit to serve. Police chiefs have to be fully committed to serve their departments and communities. Their commitment includes hiring and promoting the best individuals they can find. The level of commitment they give will continue past the time they serve on the department. Their selection of department members and who they promote will continue to lead the department after they retire and will continue to serve the community in the way they influenced it.

Author John C. Maxwell has written and lectured on leadership. In his book, *The 21 Irrefutable Laws of Leadership: Follow Them and People Will Follow You*, one of the most overlooked laws is the law of legacy. As chiefs, they must know the legacy they want to leave and be very intentional on that legacy. What will the chief be remembered for? That is the question. People will not remember what the chief said he or she wanted to do, but they will remember what the chief actually did. The focus should be on the things that chiefs are passionate about and what they act on. These are the actions by which they will be remembered—and, then, they must choose who will carry on that legacy. The best way to leave a legacy is to create it, so their impact and influence on the department will continue on after they retire.

### Compassion

Compassion can be defined as sympathetic pity and concern for the sufferings or misfortunes of others accompanied by a strong desire to alleviate the suffering. In police work, police officers will see much suffering and encounter many who are facing misfortune. One of the challenges is to train new officers in a manner so they do not lose the ability to have compassion for others. Many new officers become hardened to the misfortune of others simply as a defense mechanism to avoid the stress of coping. By becoming “hard” in these situations, the officers lose the desire to alleviate the suffering. In an effort to care about the community they serve, officers need to be able to feel this emotion at the correct time. Leaders need to emphasize this ability and avoid the old-school concept of simply “hook ‘em and book ‘em.” The concept of community policing has been around for so long that many officers have never worked without this concept. Still, the stress and effects of the job can harden even the most caring officers. Officers are always ready to receive training on the latest officer-safety tactics, firearms instruction, or investigative techniques—but rarely do they give much thought to maintaining awareness of their emotional health. It is incumbent upon leaders to maintain focus on this issue.



## Communication

Actor Strother Martin's line in the movie *Cool Hand Luke*, "What we've got here is failure to communicate"<sup>4</sup> is a comment police chiefs do not want to hear being applied to them. Communication is a critical function but a difficult concept at which to become an expert. Too many times people think of communication as simply a method of imparting a thought or direction to others. One of the most critical, but often overlooked, parts of communication is listening. Just watch the old routine by Abbot and Costello "Who's on First?" and it's easy to see why proper listening is so important.

Communication is not simply telling others what they need to do. Effective communication requires that a chief clearly states his or her mission to the organization. Then steps must be taken to ensure that the instructions or directions were clearly understood. Were the necessary tools or procedures provided? Inspect the work to see if the task is being performed properly. Lastly, proper feedback, additional resources, clarifying directions, or anything else that is required must be given. Often, the troops comment, "the chief (or captain, lieutenant, sergeant) never stops by or listens to us." Communicating with every member of a department can be a daunting task especially for the larger agencies. Yet, this is still important, and steps can be taken to develop a number of communication methods to stay in touch.

As pointed out in "A Fighter Pilot's Guide to Effective Communication" by Lieutenant Colonel Rob "Waldo" Waldman, the following methods can result in very positive results:

1. **Have a mass briefing at least once a month.** Gather your troops and communicate the latest trends, organizational goals, equipment upgrades, etc. Your wingmen need to hear important news—whether good or bad—from you first. This is also a great time to publicly recognize your top performers.
2. **Conduct feedback sessions on a regular basis.** Sit down with your wingmen [staff] and let them know how they are doing. Are they meeting your expectations? Ask them about their goals and challenges and how you can help. Then solicit feedback on you as a leader. What would they like to see from you? Avoid letting your ego get in the way of their feedback.
3. **Walk the flight line [your station or police facility].** Get your hands dirty with your wingmen [staff]. Spend time with them on the job and observe how they do business. Ask questions. Show them your appreciation by connecting with them as people first and employees second.
4. **Debrief your missions.** Remove your "rank" and conduct a nameless, blameless, and rank-less debrief

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after every critical mission. Find out if objectives were met, and analyze why they weren't. Search for trends and communicate these to the rest of your organization.<sup>5</sup>

While these suggestions are directed at a group of aviators who participate in various flight missions, they still hold true for police chiefs. The old adage is still accurate that "you don't get what you expect but what you inspect!" By personally visiting all elements of the department and speaking with employees at all levels, chiefs can gain a better understanding of what is really happening and convey the message that they do indeed care about agency personnel.

A 2011 poll conducted by Maritz Research on employee trust in management reported that 25 percent of the employees had less trust in management than they did the previous year. The study showed that only 10 percent of employees trust management to make the right decision in times of uncertainty.<sup>6</sup> A 2004 study by the Society for Human Resource Management "Employee Trust and Organizational Loyalty," showed that only 27 percent of the employees agree that their organization's leadership is ethical.<sup>7</sup> In Leigh Branham's book *The 7 Hidden Reasons Employees Leave*, he lists reason number 7 as "There is a loss of trust and

confidence in senior leaders."<sup>8</sup> These studies indicate that leaders are not doing all that they can to demonstrate ethical leadership or that they cannot be trusted to make the proper decisions. Trust must be earned and maintained by leaders through proper example and continual dialogue with their employees. Support and trust by the members of the department can take many years to develop but can be quickly eroded by a lack of communication.

Jim Trinka, Chief Learning Officer for the FBI conducted a study of manager-employee surveys in government and industry. He stated that managers have a much better chance of vastly improving their leadership effectiveness by targeting their development efforts on a much smaller list of leadership competencies. For example, by focusing on improving the behaviors associated with the "Developing Others" and "Communication" competencies, managers can increase overall leadership effectiveness scores by 50-60 percent.<sup>9</sup> The associated behaviors of these two competencies relating to employee development and performance management are creating an environment and strategy to support continuous on-the-job learning and strategically using communication to produce enthusiasm and foster an atmosphere of open exchange and support.

Robert Hosking, executive director of Office Team, states that "the most successful bosses excel at motivating others to achieve great results." Further, Office Team identified the following seven traits potential leaders must have:

1. **Integrity.** The best managers foster trust among employees by placing ethics first.
2. **Sound judgment.** Top leaders can be counted on to make tough decisions based on logic and rationale.
3. **Diplomacy.** Handling challenging situations with tact and discretion is a must. Effective managers don't take all the credit for results—they consistently acknowledge individual and team contributions.
4. **Adaptability.** It's essential that leaders be able to think on their feet. They should be innovative while also encouraging team members to develop creative solutions.
5. **Strong communication.** To motivate and guide employees, influential managers freely share their vision with others.
6. **Good listening skills.** Successful bosses realize they don't have all the answers and seek input from colleagues.
7. **Influence.** Great managers build strong networks within the organization to gain support for their ideas.<sup>10</sup>

The challenges for police chiefs are many and the list continues to grow. To be suc-

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cessful, today's law enforcement leaders must have the *courage* to choose the right path and to make the tough decisions. They must possess the type of *character* that has been developed over time by dealing with difficult situations head-on and making the correct choices. They must make the *commitment* to the organization and the community to spend the time and energy to meet their needs and effect proper change. Leaders must possess true *compassion* and desire to steer their departments in the proper direction to achieve organizational needs. Leaders can accomplish these tasks by using proper *communication* methods to state their mission, determine if their message was properly understood, and provide further guidance and feedback to ensure effectiveness.

By remembering and using these five Cs of law enforcement leadership, police chiefs can be more effective, maintain the trust of the organization, and leave a legacy for their departments that ensures that the improvements made will continue. ♦

**Notes:**

<sup>1</sup>Michael Josephson, "What Will Matter," blog, November 28, 2011, in *Commentaries: The Nature of Character* (Josephson Institute), <http://whatwillmatter.com/2011/11/commentary-what-is-character-751-2> (accessed September 18, 2013).

<sup>2</sup>Cadet Prayer, United States Military Academy—West Point, <http://www.usma.edu/chaplain/SitePages/Cadet%20Prayer.aspx> (accessed September 18, 2013).

<sup>3</sup>Walter Pavlo, "Character Is What You Do When EVERYONE Is Watching," *Forbes* (October 23, 2013), <http://www.forbes.com/sites/walterpavlo/2012/10/23/character-is-what-you-do-when-everyone-is-watching> (accessed September 18, 2013).

<sup>4</sup>Donn Pearce and Frank R. Pierson, *Cool Hand Luke* (Jalem Productions, Warner Brothers, 1967), moving image, 126 min.

<sup>5</sup>Rob "Waldo" Waldman, "A Fighter Pilot's Guide to Effective Communication," blog, *Harvard Business Review*, October 26, 2010, <http://blogs.hbr.org/2010/10/a-fighter-pilots-guide-to-effe> (accessed September 18, 2013).

<sup>6</sup>*Employee Engagement Poll* (Maritz Research, June 2011), [http://www.maritzresearch.com/~media/Files/MaritzDotCom/White%20Papers/ExecutiveSummary\\_Research.pdf](http://www.maritzresearch.com/~media/Files/MaritzDotCom/White%20Papers/ExecutiveSummary_Research.pdf) (accessed September 18, 2013).

<sup>7</sup>Mary Elizabeth Burke and Jessica Collison, *Employee Trust and Organizational Loyalty Poll Findings* (Alexandria, VA: Society for Human Resource Management, August 2004), 7.

<sup>8</sup>Leigh Branham, *The 7 Hidden Reasons Employees Leave: How to Recognize the Subtle Signs and Act before It's too Late* (New York: AMACOM, 2012).

<sup>9</sup>Jim Trinka, *What's a Manager to Do?* [http://govleaders.org/whats\\_a\\_manager\\_to\\_do\\_print.htm](http://govleaders.org/whats_a_manager_to_do_print.htm) (accessed September 18, 2013).

<sup>10</sup>OfficeTeam, "Keep the Corner Office: OfficeTeam Survey: Most Workers Don't Want

Their Boss's Job," press release, October 10, 2011, <http://officeteam.rhi.mediaroom.com/bosssday> (accessed September 18, 2013).

**Jon Arnold** is the director of Public Safety with Golden West College. He retired as a captain after serving over 30 years with the Huntington Beach, California, Police Department and was awarded both the Medal of Valor and Medal of Merit. Jon holds a bachelor of science degree in Criminology and a master of science degree in Business Management. He is a graduate of the FBI National Academy and the California POST 2-year Command College. Jon has been an invited speaker for several conferences in California, Utah, and Oregon on topics of leadership and personnel issues. He has authored nine articles that have been published in professional journals including *Police Chief* magazine, *Law and Order* magazine, *Sheriff*, and the *FBI Law Enforcement Bulletin*.

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# Police Chiefs Transition to Emergency Management Leadership

By Leischen Stelter, American Military University,  
Manassas, Virginia

It is becoming increasingly common for police chiefs and law enforcement officers to take on leadership roles within emergency management. A greater number of police chiefs and those with long law enforcement careers find themselves uniquely qualified to head emergency management programs. However, this is a relatively new phenomenon in public safety.

"Very traditionally, emergency management was actually something relegated to either civil defense departments or handled by the fire service because it had more of a rescue type of component," said Dennis Alvarez, an Emergency & Disaster Management (EDM) professor at American Military University, who was a deputy sheriff for five years. "There wasn't really a law enforcement component to it, and we didn't start seeing that transition until the country started having more terrorist events. I think that's when law enforcement saw that emergency management was an integral component to managing an incident."<sup>1</sup>

While some law enforcement officers choose to take on leadership roles in emergency management, many find themselves thrown into it.

## Salt Lake City, Utah

"It was a baptism by fire," said Cory Lyman, Director of Emergency Management for Salt Lake City, Utah, describing the transition from law enforcement into emergency management.<sup>2</sup> Lyman was in law enforcement for 27 years, 21 of them with the Salt Lake City Police Department, along with 6 years as the chief of police in Ketchum, Idaho.

Throughout his law enforcement career, he held a variety of positions that gave him a wide-ranging perspective on the facets of law enforcement and homeland security. He spent years as the team leader in command of the SWAT team and the commander of the bomb squad. He was also heavily involved in the planning process for the 2002 Winter Olympics, which were under extreme scrutiny so soon after the terrorist attacks of 9/11. This involvement gave him experience working with nearly all the disciplines of public safety.

But it was not until he moved to Ketchum to take the role of chief that he got his first taste of emergency management responsibilities. Ketchum is a small city without a director for emergency management, so the responsibilities fell on Lyman.

In 2008, six years into his tenure as chief in Ketchum, Lyman was approached by Salt Lake City officials asking him to consider taking the head position in the newly restructured Department of Emergency Management.

He said no.

But after being persuaded, Lyman decided to take on the role. "It happened more by chance than by design," he said. "It was never part of my career plan—I did not plan to be in emergency management."<sup>3</sup>

## Ansonia, Connecticut

Chief Kevin Hale, a 23-year career officer, also did not expect to take on emergency management responsibilities. For the last two years, Hale has held dual roles as the chief of police and the part-time director of emergency management for Ansonia, Connecticut, a city of about 19,000 just west of New Haven. Chief Hale ended up volunteering to take on emergency management responsibilities after the previous director left the position without a direct successor. Chief Hale works closely with the city's Public Safety Committee to plan and direct emergency response.

After he took on emergency management responsibilities, Hale found himself uniquely qualified for the role. Emergency management requires an immense amount of collaboration among law enforcement, fire services, ambulance service, public works, schools, elected officials, financial agencies, utilities, private businesses, and others.

"In order to coordinate all those entities you have to be organized because [in a crisis] you're in charge of managing it," Hale said. "It was really kind of a seamless transition for me to [take on emergency management] because I had been chief for 10 years at that point and I have known many of those folks for a long time."<sup>4</sup>

Major hurdles were overcome and lessons learned during the transition to emergency management for both of these law enforcement executives.

## Realize Your Weaknesses and Surround Yourself with Subject Matter Experts

To be successful in emergency management leadership, first accept that one will never be an expert in every discipline.

"You have to know that you have a lot to learn," said Lyman. "You can't possibly know everything about terrorism or hazmat or floods—no one person could do that."<sup>5</sup>

Being thrust into an emergency management role forces one to truly take on a multidisciplinary perspective and learn how to effectively evaluate the resources within the state, county, and city.

To understand who has what, emergency managers must build strong relationships. Do not expect others to come to you. Lyman learned that if he wanted to build relationships, he had to make himself as available as possible.

"There are a lot of conferences and meetings in the county and state and within your FEMA region," he said. "That's where you need to meet and greet and exchange business cards, before an event."<sup>6</sup>

You also have to respect other's area of expertise and work with them to find solutions.

"It's like managing any department: You have to let people do their jobs," Hale emphasized. "I'm not going to try to micromanage public works or the fire department. You have to take a step back and see the bigger picture. You're not ignoring the details, but you have to see the bigger picture."<sup>7</sup>

Emergency managers also have to be prepared that the process is not going to be fluid and simple.

"It's not always peaches and cream," said Hale, who had taken over emergency management responsibilities only a week before Hurricane Irene hit Connecticut in August 2011, causing widespread damage.<sup>8</sup> During the aftermath of that devastation, Hurricane Alfred hit in late October and caused large snowfalls and extended black-outs for days—setting new records that had just been broken by Hurricane Irene. It was a rough time to be in emergency management and even more challenging to be new at it.

"People are working 48 hours without sleep, so there are going to be issues, but you have to try to work through things," recommended Hale.<sup>9</sup>

### Challenges for Law Enforcement Officers Making the Transition

One of the biggest challenges law enforcement officials face when transitioning to careers in emergency management is accepting that their job is never done.

"In law enforcement, you get a lot of closure," said Lyman. "If you conduct a big case, it comes to a conclusion: It either goes to court and it is resolved, or you've done all you can do and the case closes and you move on."<sup>10</sup>

But in emergency management your job is never complete. "It's much more of an incomplete task all the time. You have to learn to accept incremental gains," he said.<sup>11</sup> For example, a tornado is going to cause damage no matter how much planning or mitigation is done—no one can overpower Mother Nature. Emergency managers must accept that there is only so much they can do to prepare their area, ensure coordinated response, and plan for short recovery times.

**Moving Away from Response Mode.** Another challenge for law enforcement is getting away from the "response" mentality.

"Emergency management does not just involve red lights and yellow tape, it also involves restoration and recovery," Lyman said. "That's the biggest part of the job—emergency management is much broader than the initial response."<sup>12</sup>

Lance Valcour spent 33 years as a police officer with the Ottawa, Ontario, Police Service, the 15th largest police jurisdiction in North America. He is now the executive director of the Canadian Interoperability Technology Interest Group (CITIG), which focuses on improving communications interoperability in public safety communities. He has seen emergency management from all different perspectives.

"In the police world, when there's an incident you go to it and then you leave. You're not there for the cleanup," said Valcour. "However, in disaster management, the

recovery is often the largest piece and it can be extensive—it often takes years to fulfill."<sup>13</sup>

**Shift in Authority Powers.** "In some ways, this shift in authority can be the most challenging for someone coming out of the police community," said Valcour.<sup>14</sup> Many law enforcement officers are accustomed to walking into a situation and taking charge because that is what they are trained to do, that is what they need to do to stay safe and keep others safe. "But in the emergency management community, one of the first things I learned was how important everybody is around the table," he said.<sup>15</sup> Emergency managers need to understand how

to coordinate resources and get things done without necessarily having direct control of all those resources. That can be tough.

Those with a law enforcement background must understand that the role of the emergency manager requires more of a project management approach than an authority approach.

"If I'm a captain in law enforcement and I direct a detective to do something, they do it. They work for you," Lyman said. "But in emergency management, if you need help from the public works department, you have to have a good relationship and you can't direct them to do anything, you can only ask for their help."<sup>16</sup>

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## Why Emergency Management Is a Natural Fit for Law Enforcement Leaders

"Transitioning to emergency management from any of the three disciplines [police, fire, paramedic] is, in many respects, very easy because it is the same principles of team work and communication and event management and those are all the backgrounds of what tri-service professionals do," said Valcour.<sup>17</sup>

Law enforcement officers are especially well equipped for this transition because of their boots-on-the-ground experience. They have the experience of being out on the street and responding to incidents.

"Officers know what it's like to be in the field and know what they have to work with and what resources are needed. That's critical in developing an effective emergency management program because you have to have good plans for people working outside the office," said AMU professor Alvarez.<sup>18</sup>

As a whole, public safety agencies across the board are shifting to an all-threats, all-hazards response approach. As a result, many more law enforcement agencies are training their officers in emergency response skills including the incident command system (ICS) because it's important (and often mandated) that they have such skill sets.

Even if law enforcement officers are not interested in a career shift to emergency management responsibilities, they are (and should be) much more involved than they once were traditionally.

"Even if you're not in emergency management, you have to be a part of the process, and you should have an interest in it because you're dealing with the safety and security of your community," said Chief Hale.<sup>19</sup>

## You Are Never Done Learning

Being thrown into emergency management comes with a steep learning curve.

"You have to have a completely open mind," said Chief Hale. There is no such thing as "this will never happen here," according to Hale. "Throw that out the window and prepare for everything." But, of course, you cannot plan for everything. The key, Hale believes, is to never be surprised by anything. "I always have a contingency plan in the back of my mind," he said.<sup>20</sup>

When Hale first took over emergency management responsibilities, one of the first hurdles was the communication system. The public safety committee had to make some adjustments to the radio and other devices to ensure that they could communicate with all the different agencies. Since then, his department has participated in two statewide drills, which have successfully tested their communication systems.

"Between those tests and recent storms, I feel pretty confident we can handle most anything," said Hale, adding, "but at the same time I know how to ask for help."<sup>21</sup>

## The Role of Education

Lyman and Hale both fell into emergency management. This can be both a good thing and a bad thing. First of all, those who volunteer or find themselves in emergency management roles tend to have diverse backgrounds and experience (often in law enforcement, fire services, etc.), which lend themselves to strong collaboration. These strengths are not necessarily formed in the classroom. However, formal academic training can help emergency managers understand the theory; analyze case studies and other research projects on past disasters and subsequent responses; and also become aware of training about government grants, training requirements, legalities, and other information.

"For the police executive who is thinking they would like to make the transition and either change careers or, after retirement, [a solid] education and going to get their degree in emergency management would absolutely make the transition seamless," said Valcour.<sup>22</sup>

In Salt Lake City, Lyman does not have an academic background in emergency management either.

"It doesn't hurt for someone to go and further their education in emergency management," he said.<sup>23</sup> "If I was making this transition 10 years ago, I probably would've done it... You just have to decide where you are on your career continuum."

In EDM classes at AMU, Professor Alvarez said he has seen a spike in students with law enforcement backgrounds taking emergency management courses.

"I would say about 25 percent of my classes have students with some law enforcement background and are either actively involved in civilian law enforcement or are active-duty military police," he said.<sup>24</sup> Professor Alvarez recommends that students take a variety of emergency management classes and not just focus on one aspect of emergency management.

Also, it's important to remember that emergency management is still an evolving academic discipline. For example, just last year, Professor Alvarez was in the first graduating class of FEMA's National Emergency Management Academy.

"FEMA has been around for 35 years, that just shows how new this discipline is," he said. "As we progress and move forward I think we'll continue seeing a lot of changes to the academic structure in the field."<sup>25</sup>

## For Those Considering Making a Career Change to Emergency Management

For officers actively seeking a career shift into emergency management, education is becoming more of a requirement. Also, as with many disciplines, having a formal education can give one a competitive advantage in the job search.

"We're seeing a positive trend—and it will only continue—that there's the requirement for formal education for emergency management positions. The expectation of formal education is on the rise," said Giles Hoback, an EDM professor at American Public University (APU).<sup>26</sup> Professor Hoback is also a retired lieutenant with the U.S. Coast Guard, and he focused on intelligence, tactical law enforcement, and Department of Homeland Security missions.

Professor Hoback decided after his Coast Guard career to make the leap into emergency management.

"I knew it was something I wanted to do, so I went back to school and got a master's in emergency and disaster management," he said. "All my experience was great and it certainly helped me, but having the formal education piece would demonstrate my willingness to commit to doing the job. I wanted to show that I had a good grasp on what I would be expected to do."<sup>27</sup>

If you are a law enforcement officer interested in emergency management, you do not have to make the leap all at once. "Start early and start small," advised Professor Hoback. "There are many free, online resources one can access. Start familiarizing yourself with emergency management operation plans. Talk to local emergency managers and get a feel for their jobs and look for ways to collaborate with them."<sup>28</sup> ♦

## Notes:

<sup>1</sup>Dennis Alvarez, professor, American Military University, phone interview, August 30, 2013.

<sup>2</sup>Cory Lyman, Director of Emergency Management, Salt Lake City, Utah, phone interview, August 29, 2013.

<sup>3</sup>Ibid.

<sup>4</sup>Chief of Police Kevin Hale, Ansonia, Connecticut, phone interview, August 29, 2013.

<sup>5</sup>Lyman, interview.

<sup>6</sup>Ibid.

<sup>7</sup>Hale, interview.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

<sup>10</sup>Lyman, interview.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid.

<sup>13</sup>Lance Valcour, executive director, CITIG, phone interview, August 29, 2013.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid.

<sup>16</sup>Lyman, interview.

<sup>17</sup>Valcour, interview.

<sup>18</sup>Alvarez, interview.

<sup>19</sup>Hale, interview.

<sup>20</sup>Ibid.

<sup>21</sup>Ibid.

<sup>22</sup>Valcour, interview.

<sup>23</sup>Lyman, interview.

<sup>24</sup>Alvarez, interview.

<sup>25</sup>Ibid. For more information about FEMA's Emergency Management Professional Program, visit <http://training.fema.gov/empp/basic.asp>.

<sup>26</sup>Giles Hoback, professor at American Public University, phone interview, August 15, 2013.

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

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# When Work Ethic and Entitlement Collide

By Bobby Kipper, President, Kipper Group, Newport News, Virginia, and Director, National Center for the Prevention of Community Violence; and Sharon Caughlin, M.B.A., E.F.O., Division Chief, Support Services, Chesapeake Fire Department, Chesapeake, Virginia

Leadership within law enforcement faces the challenge of how to motivate and manage employees throughout organizations. Unfortunately, the leader may be faced with those who perform their tasks with a sense of entitlement while the leadership is seeking performance-driven employees.

## The Entitlement Employee

Entitlement translates into individuals who expect a high level of incentives while producing minimal effort. This produces individuals who want to be rewarded while performing at minimum standards.

A key challenge for law enforcement leadership is determining a pathway to identify employees who operate under the “get by” syndrome and those who seek to rise well beyond what is expected. Another key issue for leadership is to motivate all employees toward high performance. While performance-driven thinking is the overall goal, it can be accomplished only by understanding how employees can drift away from this style of thinking and behavior.

The first step in understanding entitlement is recognizing that a sense of entitlement is both individually and culturally driven. Employees who expect a reward without performance are displaying a sign of learned behavior that has been established both by society and the organizations they serve. Within certain elements of society, there is a general pattern of believing that everyone should be rewarded many times without providing a solid level of performance or production.

While many in leadership will be quick to chastise new employees for their “what have you done for me lately” thinking, many times the seasoned employees who should be providing work performance as an example are overlooked. The problem can be even deeper in some organizations where there exists a lack of work performance by mid-line managers.

For some in police leadership, this has led to simply accepting the status quo or a lack of expectations of and performance from certain employees within their organizations. After all, it is easier to simply say, “that’s just the way Officer XXXXX is and there is nothing that can be done about it.” The problem with this style of thinking and lack of leadership vision is that it becomes very contagious

to all employees and will quickly identify the department’s culture as one that embraces minimal efforts. The major question is how do you develop a way of embracing performance-driven thinking within the organization? Where does this form of transitional attitude and behavior begin?

## Performance-Driven Leadership

The core of performance and the attitude that is associated with it stems directly from the drive and motivation of those that are called to lead. Performance-driven thinking—at its very core—separates the idea of employee management and transforms it to the identification of employee leadership. Simply stated, managers direct the status quo; leaders motivate performance. Managers accept how it is; leaders move to how it needs to be.

In order for a leader to instill performance-driven thinking into their subordinates, they must first understand that performance has to be observed at the top level of leadership before it becomes a core value of the organization. Leaders who fail to interact on a regular basis with all levels of employees will find it very difficult to transcend their organizations from just getting by to performance-driven thinking. An example was recently cited in an eastern Virginia locality when a number of police service leaders were called to different roles and responsibilities within the community. At the same time, there were several department personnel away from the community for various reasons, basically creating a staffing shortage. While calls for service continued at the normal rate during the staff shortage, for many organizations the normal response of leadership is to struggle through with the existing response capacity. However, for this department the chief of police, with more than three decades of service, left the administrative wing and responded to calls with other service personnel. This chief left the production stage and stepped right back into the performance stage, letting everyone around him understand that leadership is not beyond performance, it is at the very core of performance. In simple terms, this translates to all department personnel that the person leading the organization had never forgotten where he came from and the basic mission of the department is the most important mission. This action sent a



message to all other managers and leaders within the organization that the same would be expected of them. Performance-driven can be identified as everyone willing to do what is necessary to get the job done and service delivered, regardless of the rank or seniority level within the organization. This same example occurs in police departments every day when senior police officers step up and allow those who have less time in service to observe what true performance and energy can do to get the task accomplished.

### Core Values

What separates this chief and these senior police officers from others who routinely will stand out as performing above what is required? What is the definition beyond minimal effort within an organization and what can leaders do to motivate people toward performance-driven thinking? There are five core values of performance-driven leadership:

1. Know the strengths and weaknesses of everyone in your command;
2. Design a plan of action for employees to overcome their areas of weakness;
3. Embrace and reward employee performance beyond the minimal;
4. Set and lead toward employee expectations beyond minimum standards; and

5. Raise the bar of performance in even your most productive employees.

The essence of true leadership is the ability of leaders to get the most out of every individual they are called to lead. This means that even when dealing with top performers, be prepared to issue challenges that will take them to an even higher level. When the best employees are not challenged, they quickly fall back into the culture of accepting what is without pursuing what could be. This goes to the very core of the issue of succession management with law enforcement. The movement toward selecting the right individuals to become future leaders in a law enforcement organization is all about leading and driving employees toward performance.

### Five Keys of Performance-Driven Thinking

What leader would feel satisfied with promoting a non-performer within the organization? What leader would be satisfied with promoting an employee who had exhibited a sense of entitlement? While many organizations struggle to find successful employees to cultivate for promotion and leadership positions, the basic argument could center on whether an individual was driven to performance or simply performs well enough to get by. To begin this process, consider the five keys of performance-driven thinking in public safety:

1. Performance-driven thinking begins with the recruitment and hiring process of individuals into the organization;
2. Training toward performance has to be established by challenging an individual's critical thinking skills while providing the opportunity to perform toward the organization's mission;
3. Traditional methods of evaluation must be changed to hands-on coaching toward performance for all employees;
4. Organizational promotional processes should be based on a higher degree of performance recognition toward the organization's mission and not simply during the process itself; and
5. Performance-driven thinking will be at the core of an organization's culture when it is applied from the highest ranking officer to the newest recruit.

Understanding the need to move an organization toward performance-driven thinking is to move beyond just dealing with the issue of marginal employees and bringing an organization to the point where individual performance is no longer an option. This new strategy is more than a program. It is a way for all police departments to do business. ❖

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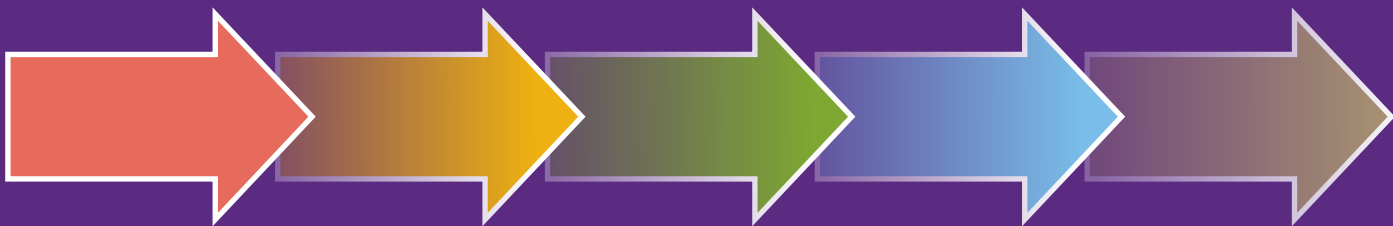
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# Building a Crime Analyst: One Training Module at a Time



By Annie Mitchell, Supervising Crime Analyst, Los Angeles County, California, Sheriff's Department;  
and Kimberle Swobodzinski, Crime and Investigative Analyst, Forensic Technician (Retired), Gardena,  
California, Police Department

Surprisingly, there are many different responses to the question "What is a crime analyst?" The answers provided by law enforcement members will vary based on the different levels of need within the organization. Even within the organization itself, the knowledge and skill set and the level of needs of a crime analyst would be answered differently based on the many needs of the organization. If you asked, "What is the role of the crime analyst?" you would also hear a variety of tasks and needs, based on the office of the request. Responses may be based on the needs of the unit and department—specific to the actual location of the crime analyst within the organization.

The role of the crime analyst, by definition, has evolved over the decades, as have the duties and expectations of a crime analyst. The role of crime analysts today is that of chameleons, adapting to the many needs of the organizational mission they serve. Today's crime analyst can change roles at the sound of a police radio call, moving from stationary and reactive crime series identification to tactical analysis, becoming the primary intelligence center for a "hot" call crime or the center point for a multi-jurisdictional crime series unit. The crime analyst is a vital and much needed resource in any

investigative unit where the skill set of data mining, social media, and Internet searching are needed. Many analysts are assigned to the Investigations Units or Detective Bureau, but agencies are also demonstrating a demand for their expertise in units such as Narcotics, Gangs, and Homicide or as a part of a multi-jurisdictional task force, fusion center, or Special Problems Unit.

Today's crime analyst is no longer the closeted departmental statistician providing the annual, monthly, and yearly increase and decrease in crimes, although this is still a model daily task for the analyst and plays a big part in the analyst's ability to "predict crime." Today's crime analyst is seen as a recognized support member of the unit and everyday crime fighter in the law enforcement arsenal. In keeping with change, the expectation of the role of the crime analyst has also evolved. Public television has helped to enlighten viewers to the value and role a crime analyst can play for a particular crime-fighting unit or law enforcement agency. One of the most popular television influences is in the television show *Criminal Minds*. This prime time television show showcases the role of Penelope Garcia, whose analytical skills and data-mining expertise make her not only a vital

and highly regarded member of the team, but also displays how the role of the analyst can provide key data that leads to many suspects, locations, and additional unsolved crimes. Crime analysts today are moving from the role of statisticians to becoming an integral part of criminal investigations. This portrayal has also helped to market crime and intelligence analysis as a career field. In today's crime-fighting cache, the crime analyst is the mining expert of data hidden in the world of social media files, public records files, phone records, criminal association records, criminal history data, and much more. The role of the crime analyst also takes on a predictive role, anticipating future crime patterns and probable locations of occurrence. While statistics are still a part of the day-to-day activities, crime analysts are digging deeper into the meaning behind the increase and decrease of crime in order to assist in providing strategic and tactical information to their customers. This skill set alone can be a tremendous departmental asset when used to deploy manpower to deter crimes in a particular area, set up undercover plans in areas of probable occurrence or simply provide a display of high visibility to eradicate and disrupt crime from occurring on a particular day and dur-

**Annie Mitchell** is a 30-year employee of the Los Angeles County Sheriff's Department working as a supervising crime analyst. Annie has worked as a station analyst and was assigned as a member of the FBI—Joint Drug Intelligence Group (JDIG). She has provided analytical support to various task forces and has worked search warrant operations at both the station level and headquarters level. She is the past president of the Southern California Crime and Intelligence Analysts' Association. Annie has been a guest speaker at the California Gang Investigators Conference as well as at the International Association of Crime Analysts and the Crime and Intelligence Analyst conferences. Annie is also a member of the curriculum design team for the Building a Crime Analyst course.

**Kimberle Swobodzinski** has more than 30 years' experience in law enforcement working in both the analytical world and the forensic world. She recently retired from the Gardena, California, Police Department with 23 years of service working as both a crime and investigative analyst and a forensic technician. Her duties included both working as an investigative support analyst to the Investigations Bureau and working crime scenes. She received the 2009 CPOA Award of Distinction for her role in implementing a regional crime-mapping program in her area. She is the curriculum designer for the Building a Crime Analyst course.

ing peak crime times. Whatever the mission, the crime analyst has become an invaluable tool within the law enforcement arsenal.

How do we build a valued crime analyst? The answer is simple—*one training module at a time*. The concept of “Building a Crime Analyst—one training module at a time” is a project sponsored by the San Diego Regional Training Center. The goal of this project is to design a fundamental skills and knowledge training course that would build a crime analyst, using learning modules and learning activities taught by subject matter experts in the field of crime and intelligence analysis. The skill set of critical thinking will also be a key module within the course. This training course will not only develop a working skill set for the student to handle the day-to-day tasks and expectations of the analyst, but also provide the training to assist with tactical analysis support during major incidents or serial investigations.

Working with the San Diego Regional Training Center, a recognized team of subject matter experts and course designers came together from agencies across the state and asked the question “What is a Crime Analyst?” With those answers, the group defined the modern day role of the crime analyst and carved out a 40-hour training course to “build a crime analyst.” The subject matter experts, a group of individuals with mixed job titles, law enforcement roles, and different levels of training and experience met to achieve this goal. Using recommendations from the experts and envisioning the end product, the course designers began their mission to design a solid model skill set and training foundation that would build a crime analyst to fit the needs and standards of law enforcement agencies statewide. After evaluating the recommendations and descriptions of a crime analyst from the experts, the designers created a training course to meet this need. In keeping with the goal, the designers began with the questions, what *is* a crime analyst and what is the *role* of a crime analyst. These two questions were the driving force in designing and identifying the training knowledge and skill set an everyday analyst would need to complete the identified role and mission of a crime analyst. The designers identified solid and daily core functions, foundation blocks of an analyst’s daily routine, and designed a series of training modules to provide both walk-away skill sets and knowledge of the subject content to build “today’s crime analyst.” The end result: a 40-hour, subject matter expert-led, hands-on Crime Analyst Foundation training course. The course content includes training in the following areas:

- The Role of the Crime Analyst— Navigating within the Law Enforcement Environment

- Crime Trends, Series, and Patterns, Analyzing Data and Linking Crimes Together
- Predictive Analysis Skills—Forecasting Crimes Based on Statistical Data
- Critical Thinking and Writing Skills for Crime Analysts
- Investigative and Data Resources— Data-mining for Intelligence
- Social Media for Law Enforcement Analysts
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- Tactical Analysis—Real Time Analysis Support Using Data-mining
- Designing Crime Analysis Products for Any Departmental Budget

These are the foundational skill sets identified as being a part of the daily tasks of today’s crime analyst and are the building blocks that make up this training. For further information about this training class and to schedule personnel to attend this valuable training, contact the San Diego Regional Training Center, San Diego, California, <http://www.sdrtc.org>. ♦

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# Situational Policing in Rural Areas

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The Town of Granville, which is located in Monongalia County, West Virginia, has approximately 1,700 residents and a large business area. As of May 2013, the Granville Police Department consists of eleven full-time sworn officers and two part-time sworn officers. In April of 2013, Chief Craig Corkrean of the Granville Police Department in Granville, West Virginia, in conjunction with Dr. James Nolan of West Virginia University, wanted to examine neighborhood safety in Granville. They created a mostly quantitative survey that was mailed to households in all residential areas of Granville. The residents were given one month to complete and submit the surveys. They mailed 332 total surveys, received 132 total completed surveys, and 47 were returned to sender. The overall goal of this survey was to confirm and identify neighborhood types based on Dr. Nolan's Situational Policing Theory. The survey questions were based on situational policing theories about different neighborhood dynamics. According to Nolan, the three stages of neighborhood development are

dependence, conflict, and interdependence. Dependence occurs when residents rely on the police to solve problems of public order. Conflict occurs when residents are in conflict with the police because they perceive them as being ineffective in maintain-

ing public order. Interdependence occurs when residents rely on each other to ensure enforcement of community values, norms, and laws. These terms helped to identify the relationship the residents have with the police and help to predict the behavior of residents within these neighborhoods. These survey results helped to reinforce the theory of situational policing.<sup>1</sup>

Figure 1: Granville Neighborhood Zones



In Granville, there are four police zones separated by physical barriers and neighborhood differences. Figure 1 is an illustration of these police zones. These zones were designated based on Chief Corkrean's experience as a patrol officer. Zone 1, a residential section, was perceived to be a dependence neighborhood where the residents depend on the police by using formal responses (calling 9-1-1) and generally do not intervene in an informal manner. Zone 2, a residential section, was perceived to be an interdependence neighborhood because the residents look out for one another and take care of neighborhood problems and issues informally (confront the individual). Zone 3, which mostly consists of West Virginia University student housing, was perceived to be a conflict neighborhood because of the negative relationship the department has with the residents. Zone 4, a business section, was not included in this research.

A specific section of questions designed to confirm whether the perceived neighborhood types in the respective zones were correct was included in the survey.

The questions and data analysis are as follows:

If a group of neighborhood children were skipping school and hanging out in a public place, how do you think your neighbors would respond?

1. Confront the children alone
2. Confront them with neighbor(s)
3. Call parents or guardians
4. Call neighbors (organize meeting)
5. Call authorities (police, school, mayor)
6. Nothing, they would not intervene.
7. Other: \_\_\_\_\_

Table 1: Skipping School Parameter Estimates

	Skip School*	B	Std. Error	Wald	df	Sig.	Exp(B)	95% Confidence Interval for Exp(B)	
								Lower Bound	Upper Bound
Informal response	Intercept	-1.207	.299	16.339	1	.000			
	Interdependence	.619	.304	4.138	1	.042	1.857	1.023	3.371
	Conflict	.233	.280	.691	1	.406	1.262	.729	2.185
	Dependence	.071	.281	.063	1	.802	1.073	.618	1.863
Formal response	Intercept	-1.371	.323	18.066	1	.000			
	Interdependence	.360	.309	1.363	1	.243	1.434	.783	2.626
	Conflict	-.282	.307	.841	1	.359	.755	.413	1.377
	Dependence	.666	.305	4.781	1	.029	1.946	1.071	3.535

\* The reference category is "Do nothing."

According to the data in Table 1, interdependence neighborhoods are nearly two times more likely to respond informally (along or with neighbors) than do nothing. Dependence neighborhoods are nearly two times more likely to respond formally. Finally, although not statically significant, conflict neighborhoods are equally likely to do nothing as to call the police or respond informally.

If one of your neighbors was heard talking about killing himself/herself, what do you think your neighbors would do?

1. Confront person(s) alone
2. Confront person(s) with neighbor(s)
3. Call parents or guardians
4. Call neighbors (organize meeting)
5. Call authorities (police, school, mayor)
6. Nothing, they would not intervene.
7. Other: \_\_\_\_\_

According to the data in Table 2, interdependence neighborhoods are almost three times more likely to respond informally and formally than to do nothing in a serious situation such as suicide. Although not statistically significant, conflict neighborhoods are more likely do to nothing than respond at all, informally or formally.

If one of your neighbors is being beaten or threatened by a current or ex-spouse, how do you think your neighbors would respond?

1. Confront person(s) alone
2. Confront person(s) with neighbor(s)
3. Call victim's relatives for assistance
4. Call neighbors (organize meeting)
5. Call authorities (police, school, mayor)
6. Nothing, they would not intervene.
7. Other: \_\_\_\_\_

According to the data in Table 3, although not statically significant, interdependence neighborhoods are two times more likely to have an informal response than to do nothing to domestic violence. Dependence neighborhoods are more likely to call the police than do nothing and are less likely to have an informal response than to do nothing.

If a child was showing disrespect to an adult, how likely is it that people in your neighborhood would scold that child?

1. Confront the children alone
2. Confront them with neighbor(s)
3. Call parents or guardians
4. Call neighbors (organize meeting)
5. Call authorities (police, school, mayor)
6. Nothing, they would not intervene.
7. Other: \_\_\_\_\_

According to the data in Table 4, although not statistically significant, dependence neighborhoods are more likely to call the police than do nothing when a child is disrespectful; and conflict neighborhoods, although not statistically significant, would be less likely to do nothing than have an informal or formal response.

**Table 2: Suicide Parameter Estimates**

							95% Confidence Interval for Exp(B)		
Suicide*		B	Std. Error	Wald	df	Sig.	Exp(B)	Lower Bound	Upper Bound
Informal response	Intercept	1.678	.477	12.355	1	.000			
	Interdependence	1.336	.556	5.768	1	.016	3.804	1.279	11.317
	Conflict	-.354	.368	.923	1	.337	.702	.341	1.444
	Dependence	.157	.347	.206	1	.650	1.171	.593	2.312
Formal response	Intercept	1.533	.483	10.091	1	.001			
	Interdependence	1.288	.561	5.278	1	.022	3.624	1.208	10.874
	Conflict	-.236	.375	.396	1	.529	.790	.379	1.646
	Dependence	.638	.357	3.199	1	.074	1.892	.941	3.806

\* The reference category is "Do nothing."

**Table 3: Spousal Violence Parameter Estimates**

							95% Confidence Interval for Exp(B)		
Spousal Violence*		B	Std. Error	Wald	df	Sig.	Exp(B)	Lower Bound	Upper Bound
Informal response	Intercept	.272	.740	.135	1	.713			
	Interdependence	.867	.690	1.580	1	.209	2.381	.616	9.206
	Conflict	-.142	.572	.062	1	.803	.867	.283	2.660
	Dependence	-.519	.568	.835	1	.361	.595	.195	1.813
Formal response	Intercept	2.825	.561	25.364	1	.000			
	Interdependence	-.043	.602	.005	1	.944	.958	.294	3.121
	Conflict	-.642	.490	1.719	1	.190	.526	.202	1.374
	Dependence	.476	.465	1.047	1	.306	1.610	.647	4.008

\* The reference category is "Do nothing."

**Table 4: Disrespectful Child Parameter Estimates**

							95% Confidence Interval for Exp(B)		
Disrespectful Child*		B	Std. Error	Wald	df	Sig.	Exp(B)	Lower Bound	Upper Bound
Informal response	Intercept	-.566	.241	5.507	1	.019			
	Interdependence	.014	.253	.003	1	.955	1.014	.617	1.667
	Conflict	-.252	.238	1.121	1	.290	.777	.488	1.239
	Dependence	.375	.243	2.382	1	.123	1.455	.904	2.344
Formal response	Intercept	-2.527	.567	19.882	1	.000			
	Interdependence	.024	.490	.002	1	.961	1.024	.392	2.673
	Conflict	-.199	.475	.176	1	.675	.819	.323	2.080
	Dependence	.826	.477	2.995	1	.084	2.283	.896	5.817

\* The reference category is "Do nothing."

If there was a fight in front of your house and someone was being beaten or threatened, how would your neighbors likely respond?

1. Confront them alone
2. Confront them with neighbor(s)
3. Call relatives
4. Call neighbors (organize meeting)
5. Call authorities (police, school, mayor)
6. Nothing, they would not intervene.
7. Other: \_\_\_\_\_

According to the data in Table 5, although not statistically significant, interdependence neighborhoods are two times more likely to have informal or formal response to fighting than to do nothing. The conflict neighborhoods are more likely to do nothing than have any type of response, while the dependence neighborhoods are more than twice as likely to have an informal response and three times as likely to have a formal response.

The survey data were then correlated with the participants' response to what zone in which they resided. The zone neighborhood types, which were categorized by Chief Corkrean's experience prior to this research, were confirmed by the data: Zone 1-Dependence, Zone 2-Interdependence, and Zone 3-Conflict. Once this confirmation was made, crime statistics were analyzed and correlated to the survey data.

The following charts display the number of incidents in Zones 1, 2, and 3 from May 1, 2012 to May 1, 2013. More crimes were reported in Zone 1 than Zones 2 and 3 combined. Zone 1's high amount of crime further suggests Zone 1 is a dependence neighborhood because it frequently has formal responses to incidents. The crime statistics also support the data from the surveys, which defined Zone 1 as more likely to make formal responses than to do nothing when an incident occurs.

**Figure 2: Zone 1**



Zone 2 was perceived to be an interdependence neighborhood. (See Figure 3.) The low number of incidents in Zone 2 suggests that neighbors work together using informal methods to help prevent crime and keep their neighborhood safe. Zone 2 in comparison to

**Table 5: Fight Parameter Estimates**

Fight*	B	Std. Error	Wald	df	Sig.	Exp(B)	95% Confidence Interval for Exp(B)	
							Lower Bound	Upper Bound
Informal response	Intercept	1.702	1.111	2.346	1	.126		
	Interdependence	.972	.866	1.260	1	.262	2.643	.484 14.424
	Conflict	-.691	.722	.916	1	.338	.501	.122 2.063
Formal response	Intercept	3.967	1.035	14.683	1	.000		
	Interdependence	.716	.834	.737	1	.390	2.047	.399 10.499
	Conflict	-1.282	.688	3.475	1	.062	.277	.072 1.068
	Dependence	1.169	.591	3.914	1	.048	3.218	1.011 10.243

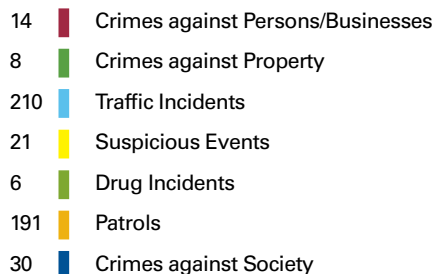
\* The reference category is "Do nothing."

**Figure 3: Zone 2**



Zones 1 and 3 has very few patrols, which means the neighborhood is not as dependent on the police as the other neighborhoods. These crime statistics support the data from the survey because residents use formal responses in serious situations and informal responses in less serious situations.

**Figure 4: Zone 3**



Zone 3 was perceived to be a conflict neighborhood. (See Figure 4.) Many incidents occurred in Zone 3, which is mostly comprised of college-aged students. A majority of the incidents in Zone 3 are self-initiated by the police on patrol, which means that the officers are not being dispatched by 9-1-1. According to the survey data, residents of Zone 3 are more likely to do nothing than make a formal or informal response in most situations, which is

what the crime data suggest. This is representative of a negative relationship between the residents of Zone 3 and the police department.

As a result of this data analysis, it is clear that the goal of the police should be to develop and maintain a positive working relationship with the community in order to establish interdependence neighborhoods, as seen in Zone 2. As a result of this research, Chief Corkrean is assigning two officers to each zone to further the transition to interdependence in every zone. Community activities such as meetings and recreational activities can provide the platform for positive and constructive dialogue between the police and community.

Zone 1, a dependence neighborhood, must evolve into an interdependence neighborhood by not relying so heavily on formal responses and starting to rely on informal responses to less serious incidents. Neighborhood meetings that establish a dialogue among residents is the first step in transitioning to interdependence. Once these residents develop and maintain a relationship with one another, they too will start policing the neighborhood, thus relying less on formal responses from the police themselves.

Zone 3, a conflict neighborhood, will be a challenge to transition to interdependence, but it is not impossible. Because Zone 3 consists mostly of a transient population (college students), there must be constant efforts to positively interact with the residents in order to achieve interdependence. ♦

**Note:**

James Nolan, Ronald Althouse, Rachel E. Stein, and Susie Bennet, *Situational Policing Neighborhood Survey (SPNS)* (West Virginia University, 2007).

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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.**

Ted J. Anderson, Chief of Police (ret.), Harrington Park Borough, New Jersey; Hollywood, Florida (life member)

Vincent Bennett, Business Development Manager, Cisco, Madison, New Jersey

Donald M. Buckland, Commander (ret.), California State Police, Diamond Bar, California (life member)

John M. Deliman, Chief of Detectives (ret.), Middlesex County Prosecutor's Office, Monroe Township, New Jersey (life member)

Otis L. Felix, Commissioner (ret.), Department of Public Safety, St. Thomas, Virgin Islands (life member)

Robert K. Gibson, Chief of Police (ret.), Genoa City, Wisconsin (life member)

George L. Infante, Deputy Superintendent (ret.), New York State Police; Leicester, NY; (life member)

Hal H. Nees II, Chief of Police (ret.), Durango, Colorado; Estes Park, Colorado (life member)

William J. Scioscia, Chief of Police (ret.), East Hanover Township, New Jersey; Somerset, New Jersey (life member)

William J. Sidoran, Chief of Police (ret.), Brunswick, Georgia; Melbourne, Florida (life member)

George W. Ward, Chief of Police (ret.), Elberton, Georgia (life member)



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Have you previously been a member of IACP?  Yes  No

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visit the IACP website [www.theiacp.org](http://www.theiacp.org).**

## Membership Requirements

### Active Membership

Commissioners, superintendents, sheriffs, chiefs, and directors of national, state, provincial, county, and municipal police departments.

Assistant chiefs of police; deputy chiefs of police; executive heads, and division; district or bureau commanding officers. Generally the rank of lieutenant and above is classed as active membership.

Police chiefs of private colleges and universities who are qualified as law enforcement officers within their respective states/provinces.

Officers who command a division, district, or bureau within the department. Command must be specified on the application.

Chief executive officers of railroad police systems and railway express company police systems.

### Associate Membership

Police officers employed by police agencies below the rank of lieutenant.

Superintendents and other executive officers of prisons.

Chief executives, departmental officers, and technical assistants of city, county, state, provincial, and national agencies with administrative or technical responsibility for police-related activities.

Prosecuting attorneys, their deputies, and deputy sheriffs.

Professors and technical staffs of colleges and universities engaged in teaching or research in criminal law, police administration, and other phases of criminal justice.

Staffs of crime institutes, research bureaus, coordinating councils, and law enforcement associations.

Chief executive officers of industrial or commercial security police agencies and private police or detective agencies.

Employees of companies providing services to law enforcement agencies.

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# Product 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.



## **Courier bag**

The Heavy-Duty Courier Bag from Rifkin is designed to be one of the toughest and most secure bags ever produced. The universal carry-all is designed to withstand daily use by commercial couriers and a virtual lifetime of wear and tear from the not-so-frequent user. This Rifkin bag is manufactured with a built-in, high-security lock that is trusted worldwide by 30,000 commercial businesses, financial institutions, and government agencies. From cash to classified documents, the Heavy-Duty Courier Bag is the go-to option for secure transit. The large-capacity, commercial grade courier is available in multiple sizes, materials, and colors to meet your operational needs. Bags may be embroidered. **For more information, please visit [www.arifkin.com](http://www.arifkin.com).**

## **California-compliant handgun**

American Tactical Imports offers the popular GSG 922 in a California-compliant version (GSG 922 CA) and is now listed on the state's roster for handguns allowed to be sold in California. The GSG 922 CA is a .22LR version of an officer's size 1911 pistol. The GSG 922 CA is packed with features. The pistol has a 3.2-inch non-threaded barrel, a picatinny rail, skeleton trigger, and a shortened beaver tail and grip safety. The California-compliant version differs from the original GSG 922 by not having the threaded barrel for suppressor installation; thus meeting all the regulations for California sale. **For more information, please visit [www.americantactical.us](http://www.americantactical.us).**

## **Video management software**

American Fibertek Inc. (AFI) offers Pilot v.6, which features upgraded user conveniences and system functionality, as well as broader integration capabilities enabling more complete system solutions to meet market demands. Added compatibility features of Pilot v.6 include full integration with GE alarm and access control panels; complete integration with Lenel access control systems; integration of ARVOO's license plate recognition (LPR) cameras; and full integration of AFI's comprehensive line of IP software and hardware solutions. The Pilot site tree and floor plan graphic has been enhanced to include exact positioning of PTZ cameras with highly interactive status icons. System functionality has also been enhanced with the addition of GPS information to provide precise positioning data. Retrieval of remote recordings from a Pilot Server is also possible over a low bandwidth connection in a server/server application. **For more information, please visit [www.americanfibertek.com](http://www.americanfibertek.com).**

### **Ground-penetrating radar system**

Sensors & Software announces FINDAR—the only forensics-focused GPR system. FINDAR is engineered to enable police to quickly locate subsurface targets for further investigation. The system can be used in a variety of terrains in both rural and urban settings. Officers are able to find buried evidence such as weapons, caches of drugs or money, clandestine graves, hidden bunkers, or soil disturbances. Investigators view cross-sections immediately and are able to scroll through depth slices on site. The evidence is located in real time. GPR images can be downloaded to a PC and integrated into reports for future reference.

**For more information, please visit [www.FINDAR.ca](http://www.FINDAR.ca).**



### **Flashlight**

The Nightstick NSR-9746B from Bayco Products, Inc., is an outstanding new product with unmatched performance and quality in a vehicle flashlight. Featuring a CREE LED rated at 420 lumens, the brightness of its beam will astound users. With a reach of 500 meters (1,640 feet) and an almost unheard of run-time of 4.25 hours at the high-brightness beam setting, the Nightstick 9746 allows the user to toggle between settings, choosing the brightness most appropriate for every situation using a single, easy-to-use body switch. Settings include high, medium, low, and disorienting strobe. Made from aircraft-grade 6061-T6 aluminum with Type 3 hard anodized finish, it is virtually indestructible.

**For more information, please visit [www.baycoproducts.com](http://www.baycoproducts.com).**



### **Pistol-laser combination holster**

Cleveland Holsters announces that they are now offering holsters for the LaserMax Centerfire for the Ruger LC9, LC380 and the Kahr MK9, MK40, PM9, PM40, CM9, CM40. Using a sample of each laser, outfitted with the proper firearm, Cleveland Holsters will be able to create the Comfort-Fit and the Custom-Cut style holsters to fit the pistol-laser combo of these firearms.

**For more information, please visit [www.clevelandholsters.com](http://www.clevelandholsters.com).**



### **Automatic rifle lowers**

I.O., Inc. has added milled-billet aluminum stripped AR lowers to their already impressive line-up of products. The AR lower receivers are precision CNC machined from a solid block of billet aluminum. The receivers accept all Mil-Spec AR15 components and feature original Mil-Specs. The receivers are fully compatible with all standard AR uppers, including the 6.8 and 50 Beowulf.

**For more information, please visit [www.ioinc.us](http://www.ioinc.us).**

### **Secure multimedia communications**

Mutualink, Inc. announces Mutualink Edge, a significant expansion of its multimedia communication resource-sharing capabilities that places the power of Mutualink's interoperable collaboration suite where the users are: in the office, on the road, and in the field. Mutualink Edge enables secure multimedia communications sessions on desktops, laptops, iPads, and smartphones. This communications platform is utilized by hundreds of public safety, emergency management, and defense agencies worldwide to enable secure interoperable multimedia communication resource sharing among diverse radio, video, voice, sensory, and data platforms. Mutualink Edge extends that capability securely to any desktop in an organization, as well as capitalizing on the proliferation of mobile devices like iPads, tablets, smartphones, and laptops, to share voice, video, text, and data within and among organizations. Security and sovereignty remain central to the Mutualink Edge, with its multi-level encryption and distributed architecture. ❖

**For more information, please visit [www.mutualink.net](http://www.mutualink.net).**



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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.

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- ▶ 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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*Faculty Development Workshop (FDW)*  
Week 1: February 3 – 7, 2014  
Week 2: February 10 – 14, 2014

## Florida

Miami Beach Police Department  
*Leadership in Police Organizations<sup>SM</sup> (LPO)*  
Week 1: December 9 – 13, 2013  
Week 2: January 6 – 10, 2014  
Week 3: February 3 – 7, 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

## 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

Las Cruces Police Department  
*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

## Wisconsin

Milwaukee Police Department  
*Faculty Development Workshop*  
Week 1: December 2 – 6, 2013  
Week 2: December 9 – 13, 2013



## FLETC's Role with The Blue Campaign:

# DHS' Unified Effort to Combat Human Trafficking

By Scott Santoro, Federal Law Enforcement Training Centers (FLETC), Brunswick, Georgia

Every year, millions of men, women, and children are trafficked in countries around the world, including the United States. It is estimated that human trafficking is almost a \$32 billion per year industry, second only to drug trafficking as the most profitable form of transnational crime.<sup>1</sup>

Trafficking victims can be any age, race, gender, or nationality, including U.S. citizens. They may or may not have legal immigration status. Victims are found in both legitimate and illegitimate labor sectors; some are lured with false promises of well-paying jobs or even love. Often, they are forced or coerced into domestic servitude, farm or factory labor, other types of forced labor, or commercial sex (prostitution). Under U.S. federal law, any minor induced to engage in commercial sex is a victim of human trafficking.

Traffickers use force, fraud, or coercion to lure their victims and then force them into labor or commercial sexual exploitation. Human trafficking is not the same as smuggling. "Trafficking" is exploitation based and does not require movement across borders. "Smuggling" is movement based and involves moving a person across a country's border, with that person's consent, in violation of immigration laws.

Traffickers prey on people with little or no social safety net. They look for people who are vulnerable for a variety of reasons, including economic hardship, violence in the home, natural disasters, or political instability. Traffickers use a variety of strategies to trap victims, including violence or threats of

violence, as well as psychological coercion. The trauma can be so great that many may not identify themselves as victims or ask for help, even in highly public settings.

### What Is Human Trafficking?

Human trafficking is a modern-day form of slavery involving the illegal trade of human beings for the purpose of exploitation or commercial gain. It is an inhumane act that robs a person of his or her freedom, and it is a crime. Human trafficking is detrimental to the economy, the safety and health of all nations, and the very dignity of human society.

Human trafficking exists throughout the United States—in cities, suburbs, and rural towns—and in communities. Although human trafficking is widespread, many victims go unnoticed. Victims rarely come forward to seek help out of fear of their traffickers, language barriers, and/or fear of law enforcement. For this reason, human trafficking has largely remained a hidden crime until now.

The Blue Campaign is the unified voice for the U.S. Department of Homeland Security's (DHS) efforts to combat human trafficking. Working in collaboration with law enforcement, government, and non-governmental and private organizations, the Blue Campaign strives to protect the basic right of freedom and to bring those who exploit others to justice. Increased awareness and training will lead to more tips to law enforcement, which results in more victims being identified.

The Blue Campaign Steering Committee formed in 2010, and it is chaired by Judge

Alice Hill, senior counselor to the secretary of Homeland Security. The Federal Law Enforcement Training Centers (FLETC) has been a member of this committee since 2010 and provides input and policy guidance to all matters related to training. The Blue Campaign is product driven, and FLETC has provided many training products as part of program.

### FLETC's Leadership Role within the Blue Campaign

FLETC has been a leader in creating training products to support the Blue Campaign. In 2010, FLETC launched a web-based training course for state and local law enforcement officers to help them identify victims of human trafficking by teaching them about the signs and indicators that these officers might encounter during their routine calls for service. This course is available by going to [www.fletc.gov](http://www.fletc.gov).

Two years later, with funding support from DHS' Office of Civil Rights and Civil Liberties (CRCL) and the U.S. Citizenship and Immigration Services Ombudsman (CIS OMB), FLETC created a second web-based course. This second course was developed for DHS employees and focused on the department's seven operational components and how those employees might encounter victims of human trafficking and how to appropriately respond. FLETC mandated all of its 1,811 law enforcement staff take this training with more than 600 completing this course.

Additionally, FLETC has included a workshop on human trafficking at nearly

every State and Local Law Enforcement Training Symposium since 2010. Instructors have included subject matter experts from U.S. Immigration and Customs Enforcement-Homeland Security Investigations (ICE HSI) teaching at the ICE Academy and from ICE headquarters in Washington, D.C.

### **FLETC Launches a Multi-discipline, Advanced Human Trafficking Training Course**

In July 2011, U.S. Attorney General Eric Holder, U.S. Secretary of Labor Hilda Solis, and U.S. Secretary of Homeland Security Janet Napolitano announced the final selection of anti-trafficking coordination teams (ACTeams) in six districts around the United States, following a competitive, nationwide interagency selection process. These specialized teams of representatives from DHS, U.S. Department of Justice (DOJ), and U.S. Department of Labor (DOL) receive support from technical experts on trafficking-in-persons (TIP) investigations, prosecutions, and victim assistance. ACTeams bring together federal agents and investigators from the Federal Bureau of Investigation (FBI), ICE HSI, and DOL's Wage and Hour Division and Office of the Inspector General, along with federal prosecutors from U.S. attorneys' offices, to implement a coordinated plan to develop significant U.S. federal human trafficking investigations and prosecutions. ACTeams work closely with state, local, tribal, and territorial law enforcement in their efforts to counter human trafficking.

In 2012, with funding support from ICE HSI, FLETC held a curriculum development conference to create an advanced human trafficking training course for these ACTeams. The first training course was held September 10-14, 2012, at FLETC in Glynco, Georgia. It included expert instructors from DHS, DOJ, FBI, ICE HSI, and DOL. The week-long course focused on complex issues of human trafficking, including discovery issues, immigration relief, witness testimony strategies, search warrant information, interviewing cooperative and uncooperative witnesses, and evidence gathering.

In partnership with the ICE Academy, FLETC has now delivered two pilots of this course. Each course brings together two ACTeams (12 members each) consisting of agents, prosecutors, and victim assistance specialists. This four-and-one-half-day course includes interactive lecture, laboratories, and a final assignment where the teams share how they will begin a proactive investigation upon their return utilizing skills taught in the course.

This course is co-owned by FLETC and ICE and marks the first time FLETC has created a mixed, center-advanced course. Cooperation between FLETC's Behavioral Science Division, role players, and the ICE Academy make this course a success.

The course is highly interactive and utilizes adult learning methodologies such as small group assignments, interviewing role players portraying both cooperative and uncooperative trafficking victims, and ultimately creating an end product: a strategic plan to take back with the teams to strategically improve the way the team investigates human trafficking. The training also includes a case study, interviewing labs with professional role players, and computer lab modules.

FLETC, with funding support from CRCL, created two new roll-call videos ("Victim Support Video for Law Enforcement Parts 1 and 2") available for viewing at [www.dhs.gov/bluecampaign](http://www.dhs.gov/bluecampaign). These videos explain what types of immigration relief are available to victims of human trafficking and other crimes, and how knowing that information benefits law enforcement in their jobs. Subject matter experts from local law enforcement, ICE, and U.S. Citizenship and Immigration Services provide information about human trafficking and immigration relief. Each video is approximately nine minutes in length.

### **What Can Law Enforcement Officers, First Responders, and Others Do to Combat Human Trafficking?**

- Realize that victims are in plain sight. Law enforcement may encounter a potential victim of human trafficking during the course of one's duties. Victims of human trafficking are in our communities. Law enforcement may come across victims during domestic disturbance calls; when responding to incidents at massage parlors, bars, and strip clubs; or even during routine traffic stops. First responders and healthcare professionals may notice signs while responding to emergencies or treating patients at hospitals or doctors' offices. Health and safety inspectors may find victims working in restaurants, in factories, on construction sites, or on farms.
- Get to know the task force operating in the community. Human Trafficking Task Forces comprise federal, state, local, county, and tribal law enforcement and prosecutors, as well as non-governmental organizations providing victim services. Find out whether or not there is a Human Trafficking Task Force in the area by visiting [www.bja.gov](http://www.bja.gov). If one exists, establish a relationship and join their efforts.
- Self-educate and educate others. Law enforcement officers may utilize FLETC's free computer-based, interactive training, which explores different interviewing and investigative strategies that can enhance effectiveness. Go to [www.fletc.gov/training/programs/human-trafficking-training-program](http://www.fletc.gov/training/programs/human-trafficking-training-program).

- For first responders or health care professionals, take the general online, interactive training and watch the first responder video. Go to [www.dhs.gov/Bluecampaign](http://www.dhs.gov/Bluecampaign).
- Visit the Blue Campaign website, which has downloadable posters, trainings, outreach materials, victim assistance materials, and information on how to join the fight to end human trafficking, go to [www.dhs.gov/Bluecampaign](http://www.dhs.gov/Bluecampaign). "Like" [www.facebook.com/bluecampaign](https://www.facebook.com/bluecampaign), or e-mail [BlueCampaign@hq.dhs.gov](mailto:BlueCampaign@hq.dhs.gov). ♦

#### **Note:**

Jeremy Haken, *Transnational Crime in the Developing World* (Washington, D.C.: Global Financial Integrity, February 2011), [http://www.gfintegrity.org/storage/gfip/documents/reports/transcrime/gfi\\_transnational\\_crime\\_web.pdf](http://www.gfintegrity.org/storage/gfip/documents/reports/transcrime/gfi_transnational_crime_web.pdf) (accessed September 26, 2013).

**Scott Santoro** is the training advisor to the senior counselor to the secretary of Homeland Security. He manages training programs for the U.S. Department of Homeland Security's (DHS) Blue Campaign. These programs include training federal, state, and local law enforcement about human trafficking; issues surrounding unaccompanied children illegally crossing the U.S. border; and other courses related to violence against women and girls. Prior to coming to FLETC, Santoro was a prosecuting attorney for more than 15 years, working in the Seattle, Washington area. In addition, he has more than 18 years of law enforcement training experience.

Notable projects Santoro led include: a computer-based training program for state, local, tribal, and campus officers to identify indicators of human trafficking; a second web-based course to train all DHS personnel about human trafficking; an advanced human trafficking course for federal agents and prosecutors; training for ICE Field Office Juvenile Coordinators; and, most recently, two roll-call videos explaining immigration relief provided by DHS to foreign crime victims and how that relief benefits law enforcement when investigating those crimes.



# Still the Model for Firearms Crime Reduction Strategies

By Ross Arends, Supervisory Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives; IACP Fellow

**P**roject Exile was, by most accounts, one of the most successful violent crime reduction strategies in the United States. The initiative started in February 1997 and was a coordinated effort between the Richmond Commonwealth Attorney's Office, Richmond Police Department (RPD), the U.S. Attorney's Office, and the Bureau of Alcohol, Tobacco and Firearms (ATF), to target felons carrying firearms and prosecute them in federal court where they would receive stiffer sentences, no bail, and no early release. As a result, at the end of 1998, firearms-related homicides had decreased almost 40 percent in Richmond, Virginia.

Now that Project Exile is nearly 15 years old, is it still a useful model for law enforcement executives to employ? Did other cities similar to Richmond ever replicate the Project Exile model successfully? This article attempts to answer these questions and interviews several significant participants in the implementation and management of the Project Exile program in Richmond to obtain their current perspectives of the program.

### **Implementation of Project Exile in Richmond and the Results**

During the 1990s, the city of Richmond, Virginia, experienced large increases in violent crimes and homicides. The homicide rate was among the highest in the United States for cities with populations of 100,000 or more.

Recognizing the need to combat the violence immediately, Helen Fahey, the U.S. Attorney for the Eastern District of Virginia; James Comey, then-Criminal Division Chief in Richmond; and Assistant U.S. Attorney David Schiller conceptualized an innovative federal initiative. Working with Richmond Police Chief Jerry Oliver, they developed plans to increase the federal prosecution of firearm crimes, particularly the ATF bread-and-butter charge of 18 U.S.C. 922(g), Felon in Possession of a Firearm. Richmond Police Department cases involving firearm recoveries would start being referred to federal court in cases where clear possession of the firearm could be proven in court and the possessor was a previously convicted felon.

In 1998, Assistant U.S. Attorney Comey said of Richmond, "It's an amazingly high [gun] carry rate...I have never seen a place like Richmond. Dealers in cities like Chicago, New York, or Cleveland have access to guns, but they're not standing on a street corner with a gun."<sup>1</sup>

The ATF and the RPD coordinated to ensure that ATF agents responded to crime scenes upon the recovery of firearms, particularly when in the possession of previously convicted felons, in order to facilitate the transfer of the firearm or ammunition evidence into federal custody.

The United States Attorney's Office, the RPD, ATF, and the Richmond Commonwealth Attorney's Office worked together to enlist community-wide support for these enforcement efforts. Com-



munity organizations and citizen groups—churches, the Boys and Girls Club of America, newspapers, public school leaders, and others—were contacted to enlist their support to build a citizen-based coalition for this crime reduction strategy and to fund a media and public service announcement campaign. The Project Exile Citizen Support Foundation was formed in July 1997 and raised financial and other contributions to advertise the Project Exile message of “An illegal gun will get you five years in federal prison.” Billboards were posted around the high-crime areas of Richmond and city buses carried advertisements announcing the mandatory prison sentences for felons who were arrested in possession of firearms. The buses were rotated along numerous routes to advertise the program to many of Richmond’s communities.

Former ATF Group Supervisor William Dunham, who supervised the ATF portion of Project Exile in Richmond, recently said that though Project Exile was very successful, its implementation was not always popular. “The Eastern District of Virginia federal courts were clogged with ATF gun cases involving mandatory minimum sentences, which were not popular with all federal court judges. Also not popular to many federal judges were mandatory minimum sentences.” Mr. Dunham also said that he thought the results of Project Exile were a clear success in reducing homicides, reducing firearms-related crime, and reducing the firearms-carry rate of criminals. He recalled one ATF undercover operation where an undercover ATF agent had arranged to purchase a firearm from a convicted felon. During face-to-face negotiations between the ATF undercover agent and the convicted felon about price—and moments from the deal culminating—the Project Exile bus drove by with the advertisement that said, “An illegal gun will get you 5 years in a federal prison.” The felon saw the bus and called off the transaction.<sup>2</sup>

In an interview in 1999, SA Dunham said,

*“We looked at the typical defendants here, and you get arrested with a gun as a felon or with a gun and you’re dealing drugs, if you’re convicted the sentences were very low,” Dunham told Law Enforcement News, a publication of John Jay College of Criminal Justice, “You could have a six-year sentence with 5½ years suspended. You serve six months. There was just a big disparity in what could be sentenced and what time people were actually serving. There was no deterrent.” But under Exile, with its no bail, out-of-state incarceration, and few plea-bargaining options, a message had been sent, Dunham said. Each case that met the minimum criteria was prosecuted under its guidelines. Even if defendants were able to plead down their cases in return for cooperation, “They still got a good whack,” he said, with a “good, substantial firearms charge.”*

*No-bail has proved to be one of the most effective components of the program, easing reluctance among community members to testify against gang members. “When we started giving some heavy hits to gang members here, people saw they were just sentenced to 17 years and thought, ‘They’re not going to hurt me, so I’ll come forward to testify,’” said Dunham in 1999. “And they have come forward. We’ve now convicted several guys on a number of homicides, and I don’t think that cooperation would have ever existed if they hadn’t seen that those people are safely away in jail for a while.” It is one of Project Exile’s “spin-off effects,” said Chief Oliver in 1999. “We had some problems, and we still do, with this presumption of bail,” he said. “We had some people who committed heinous crimes with guns and got bailed out with \$50,000, \$100,000, even \$250,000. The moment they’re back there in the community, their presence intimidates the victims, the witnesses, and speaks to a certain type of hopelessness and helplessness in the community.”*

*When police started to make arrests of those illegally possessing firearms and transfer the offenders into the Exile program, the certainty that they would not be released on bail created the confidence for witnesses to come forward.<sup>3</sup>*

Former Richmond Police Chief Jerry Oliver recently said that not only were the enforcement, media, and community foundation pieces unique, there was another background story that led to the

success of Project Exile in Richmond, much of which has been forgotten. When he came to Richmond in 1995, he began a ramp-up of non-traditional policing to include a robust community outreach program. Chief Oliver invited some of the most vocal critics of law enforcement and the police department to meet with him at his office and voice their concerns. Chief Oliver said, “These outreach efforts were not only an opportunity for us in law enforcement to listen to the community, it was an opportunity for us to let the community feel that they were able to have their say and maybe even change the police department.”<sup>4</sup> Chief Oliver feels that the years of community outreach before Project Exile began was a big part of the later successes. He does stress, however, that the intense media campaign also had a big part in the reduction of the homicide rate and the reduction in the number of guns carried by criminals.

## Evaluations of Project Exile

In a historical context, Project Exile has been viewed overwhelmingly as a huge success. Newspapers from the local newspaper, the *Richmond Times-Dispatch*, to the *Wall Street Journal*, *The New York Times*, and *USA Today* ran articles about the successes of Project Exile. Hearings were held before the U.S. House of Representatives Government Reform Committee in 1999 with testimony from National Rifle Association (NRA) President Charlton Heston and U.S. Attorney Helen Fahey. The NRA was an outspoken advocate of Project Exile, supporting the strong enforcement of existing firearms laws at a time when national federal firearms prosecutions were dropping. NRA Director of Federal Affairs Chuck Cunningham said the following in a letter to all members of the U.S. House of Representatives:

*We strongly believe that enforcement of current law and dealing effectively with criminals is directly related to the reduction of violence as well as stemming illegal gun commerce. If violent criminals are in jail, not only are they not buying guns, but they are also not in a position to harm or kill others, with or without a firearm. Tellingly, however, such prosecutions of violent street-level offenders are termed “garbage prosecutions” by one defender of the Administration’s record...<sup>5</sup>*

Even the Brady Campaign to Prevent Gun Violence, then called Handgun Control, Inc., agreed with the NRA. In a letter to U.S. Attorney Helen Fahey, Handgun Control Chairwoman Sarah Brady wrote “Your work is succeeding in getting guns out of the hands of criminals...the results in Richmond are impressive.”<sup>6</sup>

But not all evaluations of Project Exile were positive. Researchers Steven Raphael from the University of California at Berkeley and Jens Ludwig, Georgetown University and Brookings Institution, found the following:

*We argue that the reduction in Richmond’s gun homicide rates surrounding the implementation of Project Exile was not unusual, and that almost all of the observed decrease is likely to have occurred even in the absence of the program. This conclusion is based on a very strong empirical regularity observed in city-level homicide rates: cities with the largest increases in homicide rates during the 1980s and early 1990s also experienced the largest decreases during the late 1990s. Richmond happened to be among the handful of cities that experienced unusually large increases in homicide rates during the 80s. Consequently, nearly all of the reduction in murder rates experienced by Richmond following Project Exile may be attributed to this large increase in gun homicides occurring prior to Exile’s implementation. We also find nearly identical results for trends in other felony crimes.<sup>7</sup>*

But the findings of Raphael and Ludwig were contradicted by Richard Rosenfeld, Robert Fornango, and Eric Baumer of the University of Missouri-St. Louis, in a 2005 National Institute of Justice-funded study that concluded the following:

*The Richmond story differs from those in Boston and New York. The unconditional model shows that Richmond’s firearm homicide rate fell by nearly 16 percent per year after Exile was introduced in 1997, but that decrease is not significantly greater than the almost 10 percent*

average reduction in firearm homicide for the sample. However, after controlling for other factors, Richmond's firearm homicide rate exhibits a 22 percent yearly decline, whereas the average reduction for the sample remains about 10 percent per year. That difference is statistically significant ( $p < 0.05$ ).

This finding differs from those obtained by Raphael and Ludwig (2003) in their evaluation of Exile, which concluded that the intervention had little effect on Richmond's firearm homicide rate. The discrepancy may be from the use of a longer firearm homicide series in the current study. Raphael and Ludwig (2003) analyzed firearm homicide rates through 1999, whereas the series used in this study extends the intervention period two additional years to 2001. Raphael and Ludwig (2003) also omitted the year 1997 from their analysis, on the grounds that the unusually high rate of firearm homicide in Richmond that year constitutes an unreliable base on which to gauge the effectiveness of Exile.<sup>8</sup>

### Other Cities That Implemented Project Exile

It seems that though many cities have adapted firearms crime reduction strategies, few have implemented an identical Project Exile strategy. The Boston Police Department instated the well-documented Project Ceasefire in 1997, which featured a "pulling levers" deterrence strategy meant to influence the behavior and environment of the habitual offenders involved in the city's youth violence problem. "Pulling levers" refers to specific actions taken by law enforcement, the courts, social services units, and others, should offenses take place by the suspected violators. A media campaign similar to the Richmond Project Exile was absent.

In early 1999, the Northern District of Alabama established Project Isolating the Criminal Element (Project I.C.E.) to address the high level of gun homicides in Birmingham. Project I.C.E. included vigorous prosecution of all federal firearms violations, identified through a partnership with the Birmingham Police Department, ATF, and the Jefferson County District Attorney's Office. Project I.C.E. also provided for intensive training of local law enforcement officers on federal and state firearms laws and procedures. A community outreach component of Project I.C.E. included television, radio, and billboard advertisements, as well as bumper stickers and yard signs.

In 2002, the Montgomery Police Department, ATF, and the U.S. Attorney's Office of the Middle District of Alabama initiated a firearms reduction strategy modeled after Project Exile that resulted in a 13 percent reduction in gun assaults per year, and a 23 percent reduction in homicides per year.<sup>9</sup> As with Project Exile in Richmond, a media campaign was organized in Montgomery with United Way spearheading this effort. A veteran ATF special agent in Montgomery, who was assigned to supervise the Montgomery Project Exile task force, recently said, "A local television channel ran free advertisements for several months announcing the effort and the fact that if you were a felon and caught with a gun, you would serve Federal time. Those of us in federal, state, and local law enforcement observed the reduction in homicides and the general reduction in the number firearms carried by criminals."<sup>10</sup>

Also in 2002, Lowell, Massachusetts, began a firearms violence reduction strategy that concentrated on the ATF adapting cases from the police department for referral to federal court. However, the strategy was more weighted with an intervention strategy to target at-risk youth in order to steer them away from participating in violent crimes.

In 2010, a firearms reduction strategy initiative was implemented in Rochester, New York, with an added emphasis on mentoring and counseling by case workers deployed in high-crime areas. The program was called Operation SNUG. There are several cities in New York, which received state grants to implement the program, still running Operation SNUG. Integral in each city is the employment of ex-gang members as case workers to act as mentors and interveners, mediating disputes as they occur in high-crime areas.

### Project Exile versus Project Safe Neighborhoods

Project Safe Neighborhoods (PSN) is a more overarching, nationwide, firearms crime reduction strategy started after Project Exile that encompasses the national goals of reducing firearms-related crime. It is a Bureau of Justice Assistance-funded campaign whose goals include the following:

*The PSN initiative integrates five essential elements from successful gun crime reduction programs, such as Richmond's Project Exile, the Boston Operation Ceasefire Program, and DOJ's Strategic Approaches to Community Safety Initiative. Those elements are: partnerships, strategic planning, training, outreach, and accountability. The partnership element requires that the local U.S. Attorney create workable and sustainable partnerships with other federal, state, and local law enforcement; prosecutors; and the community. Strategic problem-solving involves the use of data and research to isolate the key factors driving gun crime at the local level, suggest intervention strategies, and provide feedback and evaluation to the task force. The outreach component incorporates communication strategies geared at both offenders ("focused deterrence") and the community ("general deterrence"). The training element underscores the importance of ensuring that each person involved in the gun crime reduction effort—from the line police officer to the prosecutor to the community outreach worker—has the skills necessary to be most effective. Finally, the accountability element ensures that the task force regularly receives feedback about the impact of its interventions so that adjustments can be made if necessary.<sup>11</sup>*

These elements of PSN are clearly identifiable with Project Exile goals but are applicable to a nationwide strategic effort of gang and firearms crime reduction.

### The Future

Many of the firearms crime reduction strategies implemented throughout the United States from 1999 onward adapted an "integrated" violence reduction strategy to acknowledge that each judicial district and city is unique and requires a unique adaptation of strategies. However, Project Exile demonstrated that the implementation of certain concrete steps can dramatically reduce firearms crimes.

For example, in the nearby jurisdiction of Prince Georges County, Maryland, where IACP Firearms Committee Chair Mark Magaw is chief, his department works closely with the U.S. Attorney's Office, the ATF, the FBI, and the Maryland State Police, in their own Project Exile program that is called the Violent Repeat Offender (VRO) task force. This group meets regularly and is coordinated by an assistant U.S. attorney who brings law enforcement and federal and state prosecutors together to identify the most violent offenders in the area to ensure they are prosecuted in whichever court allows for the maximum sentencing available.

Project Exile remains a viable firearms crime reduction strategy that small and medium-size cities should consider when faced with high rates of firearms crime. The key principles of Project Exile can be implemented in any city with a population similar to Richmond: a coordinated prosecution effort between the U.S. Attorney's Office and District Attorney's Office; a coordinated enforcement effort between the ATF and the local police department; a community outreach effort to build coalitions willing to support a media campaign that delivers the message that felons carrying firearms will be prosecuted in federal court; and, finally as former Richmond Police Chief Jerry Oliver enacted, a strong community outreach effort that builds trust in the community between the police and the citizens in the target area. ♦

### Notes:

<sup>1</sup>R.H. Melton, "Richmond Gun Project Praised," *Washington Post*, June 18, 1998.

<sup>2</sup>William Dunham, telephone conversation with the author, November 14, 2012.

<sup>3</sup>"Get Out of Town! Richmond's Project Exile Stems a Spiral of Violence with Its Focus on Gun-toting Felons," *Law Enforcement News*, 25 (December

1999), <http://www.lib.jjay.cuny.edu/len/1999/12.30> (accessed September 30, 2013).

<sup>4</sup>Jerry Oliver, telephone conversation with the author, October 24, 2012.

<sup>5</sup>*Project EXILE: A Case Study in Successful Gun Law Enforcement, Hearing before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, 106th Cong.* (November 4, 1999) (letter from Charles H. Cunningham), 152.

<sup>6</sup>144 Cong. Rec. 14005 (1998) (quoting an article by R.H. Melton, "Richmond Gun Project Praised" from the *Washington Post*, June 18, 1998).

<sup>7</sup>Steven Raphael and Jens Ludwig, "Prison Sentence Enhancements: The Case of Project Exile," in Jens Ludwig and Phillip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence* (Washington, D.C.: Brookings Institution Press, 2003), 217-251.

<sup>8</sup>Richard Rosenfeld, Robert Fornango, and Eric Baumer, "Did Ceasefire, CompStat, and Exile Reduce Homicide?" *Criminology and Public Policy* 4, no. 3 (August 2005), 436.

<sup>9</sup>Edmund F. McGarrell, Natalie Kroovand Hipple, and Nicholas Corsaro, *Project Safe Neighborhoods: Strategic Interventions: Middle District of Alabama: Case Study 5* (East Lansing, Mich.: Michigan State University, February 2007), 2.

<sup>10</sup>Anonymous ATF special agent.

<sup>11</sup>Scott H. Decker et al., *Gun Prosecution Case Screening: Case Study 1*, Project Safe Neighborhoods: Strategic Interventions (May 2006), i, [https://www.bja.gov/publications/gun\\_prosecution\\_case\\_screening.pdf](https://www.bja.gov/publications/gun_prosecution_case_screening.pdf) (accessed September 30, 2013).

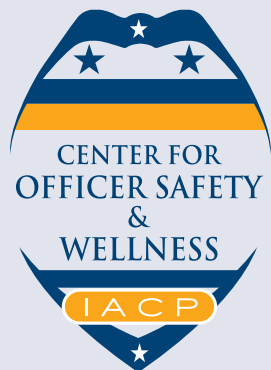
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## Line of Duty Deaths

*"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.

Sergeant Derek Johnson  
Draper Police Department, UT  
Date of Death: Sunday, September 1, 2013  
Length of Service: 8 years (with agency)

Corporal Van Perry  
Carthage, Mississippi, Police Department  
Date of Death: Thursday, September 5, 2013  
Length of Service: 15 years (with agency)

Deputy Sheriff Michael Neal Freeman  
Harrison County, Texas, Sheriff's Office  
Date of Death: Sunday, September 8, 2013  
Length of Service: 28 years

Trooper Paul Butterfield  
Michigan State Police  
Date of Death: Monday, September 9, 2013  
Length of Service: 14 years (with agency)

Deputy Sheriff David E. Allford  
Okfuskee, Oklahoma, County Sheriff's Office,  
Date of Death: Wednesday, September 11, 2013  
Length of Service: 13 years (with agency)

Police Officer Jamie Buenting  
Rockwell City, Iowa, Police Department  
Date of Death: Friday, September 13, 2013  
Length of Service: 12 years

Police Officer Rodney Wayne Jones  
Detroit, Michigan, Police Department  
Date of Death: Saturday, September 14, 2013  
Length of Service: 28 years

Investigator Michael Dale Stockwell  
Orange Beach, Alabama, Police Department  
Date of Death: Tuesday, September 17, 2013  
Length of Service: 20 years

Police Officer Rod Bradway  
Indianapolis, Indiana, Metropolitan Police  
Department  
Date of Death: Friday, September 20, 2013  
Length of Service: 5 years (with agency)

Deputy Sheriff Daniel Rivera  
Broward County, Florida, Sheriff's Office  
Date of Death: Saturday, September 21, 2013  
Length of Service: 10 years (with agency)

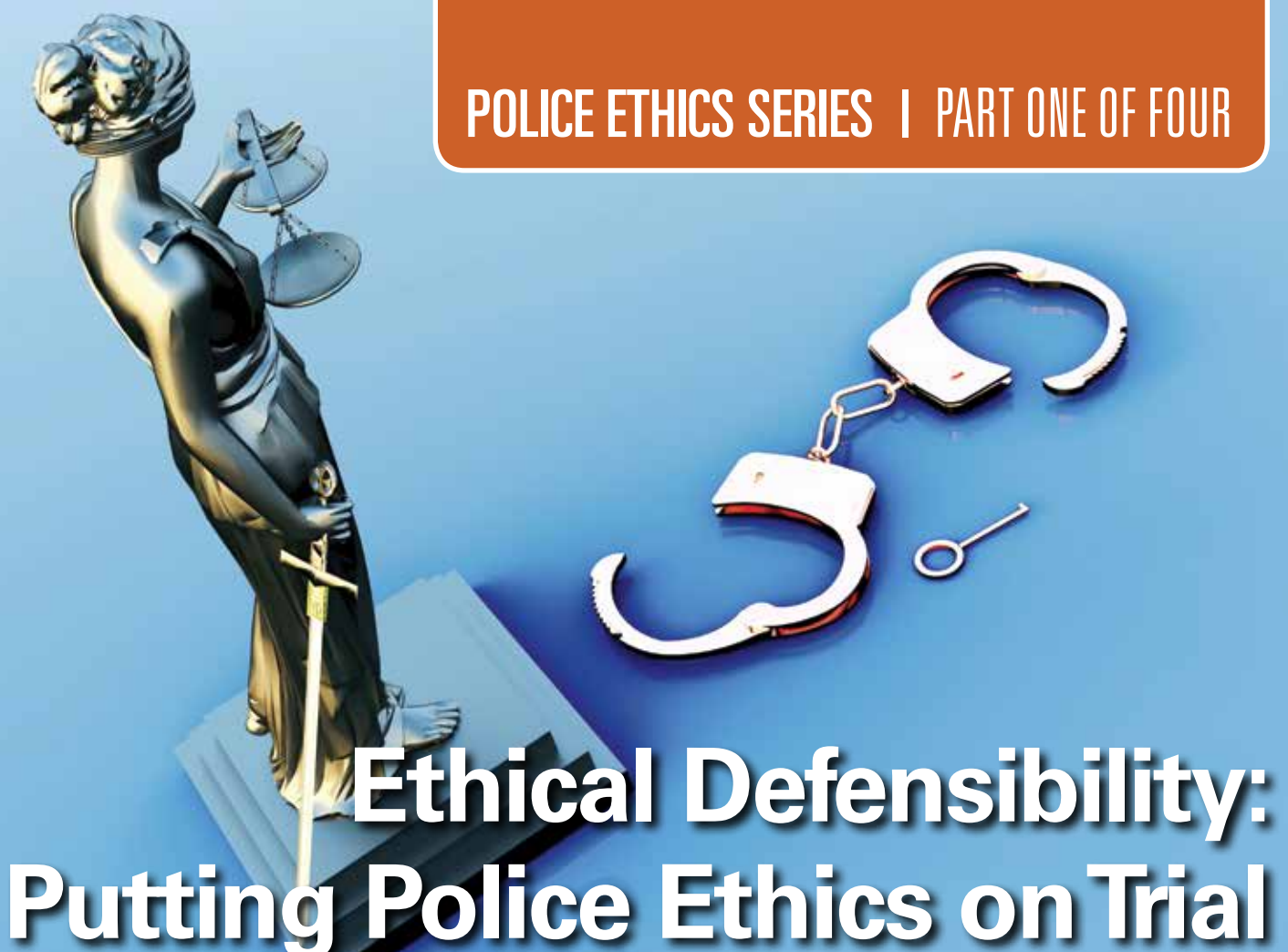
Police Officer Jon Couthie  
Laguna Beach, California, Police Department  
Date of Death: Saturday, September 21, 2013  
Length of Service: 6 years

Detective Sergeant Frank J. Lema, Sr.  
United States Department of Defense  
Naval Station Newport, Rhode Island, Police  
Department  
Date of Death: Thursday, September 26, 2013  
Length of Service: 47 years

Deputy Sheriff Dustin Blake Hamilton  
East Baton Rouge Parish, Louisiana, Sheriff's  
Office  
Date of Death: Friday, September 27, 2013  
Length of Service: 2 years

Deputy Sheriff Billy "Bubba" Kennedy  
Upton County, Texas, Sheriff's Department  
Date of Death: Wednesday, October 2, 2013  
Length of Service: 14 years

Special Agent Joseph M. Peters  
United States Army Criminal Investigation  
Division  
Date of Death: Sunday, October 6, 2013  
Length of Service: 6 years



# Ethical Defensibility: Putting Police Ethics on Trial

By Thomas J. 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 Police Professional Standards, Ethics, and Image Committee; and Norman Beasley, Lieutenant Colonel (Retired), Arizona Department of Public Safety, Chairman, Arizona Counter Terrorist Information Center, Intelligence Advisory Committee, and Training Consultant, Michigan State University's Intelligence Toolbox Program, East Lansing, Michigan.

*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 repetitiveness needed to protect, preserve, and defend the integrity of the police profession.*

"That ethics stuff, I never really bought into all of that mumbo jumbo."

A veteran homicide detective shared these sentiments recently after a training session and it gave pause in the post-training debriefing. The authors eventually had to acknowledge that in order to be more effective in their counter-terrorism training, more work had to be done addressing the ever-present negative perceptions and occupational biases regarding the ethical side of policing. Clearly, policing privacy and the sensitive handling of personally identifying information of citizens entails respecting both the legal and ethical sides of law enforcement. Omitting or ignoring such perceptions, whether valid or not, could prove to be costly to any agency down the road. The authors feel that any training curriculum needs to delve into the nexus between the legal and philosophical sides of policing in order to be effective.

Who failed this officer in his policing maturation process? The profession, his organization's chief executives, his middle managers, first line supervisors, his academy trainers? Whose duty was it to instill and monitor this officer's moral compass? Or was it his screening process that failed to detect this personal disdain for the nobility expected of his chosen profession? Or possibly was it learned behavior from years of growing cynicism from the job—from his perceptions of ungrateful, disrespectful citizens to a growing distrust of his superiors so common in the police subculture? Or was it a combination of all of the above?

### A Cop's Cop—What Does It Mean?

In the debriefing, concerns were broached regarding what this detective's definition might be of a "cop's cop." Would he say that his boss was a "cop's cop" when he or she "took care of their people" (whatever that meant to him), or was his boss one who went "by the book" and was a straight arrow who believed in lessons learned from mistakes made? Or was there a perceived "professional blending" of the two supervisory styles that fit both the legal and ethical duties of a supervisor?

Taking care of one's subordinates is such a subjective concept and has a great deal of

ethical baggage attached to it, good and bad, in the police profession. For example, how ethical is it for a supervisor at any level to grant a subordinate time off for reasons not considered valid by top brass? Or how ethical is it to allow officers to play softball, attend college classes, sleep, or handle personal business while on duty? How many times have middle managers looked the other way while their subordinates perform tasks for their "second jobs" while on the clock? One could argue all of these qualify as supervisory examples of "taking care of one's people," but are not universally considered unethical administrative acts.

Taking care of one's people could also be interpreted as acting as a protective buffer between one's subordinates and top management, in a team sense, in regard to policy non-compliance issues or alleged misconduct.

For example, first line supervisors in specialized units may convene their officers after an arrest to coordinate their stories before making any statements or drafting their arrest reports. Creative writing or editing may be considered a necessary evil in certain policing circles to make a case stick (though this has proven to be very costly to an agency or its leaders, when discovered). Or a supervisor may tell his or her unit officers not to divulge the whole truth about an incident to department investigators or prosecutors, for unit reasons or due to their own distrust of the current administration, Internal Affairs, or the criminal justice system as a whole.

This traditional, internal "us versus them" mentality has been nurtured throughout the years and constantly reinforced by Hollywood portrayals. It is precisely this stereotype wherein "the bad guys," the chief, Internal Affairs investigators, or prosecutors, stroll into a precinct and the unit, as a whole, clams up and circles the wagons. In television, David Caruso has been typecast for years in this buffer role, representing the stereotypical first line supervisor, "taking care of his people" from any and all "outsiders." His was a self-appointed role of protecting his own in shows such as *N.Y.P.D. Blue* and *C.S.I. Miami*.

In the alternative, a supervisor perceived as a "cop's cop" may have the reputation of being that straight arrow, following policy to the strict letter of the law, holding himself or herself accountable for what transpired on their shifts. They lead by example and their repetitive actions lay the foundation for their moral character and a perception of professionalism. They religiously refer to the agency's manual, arbitration rulings, and past practices regarding policy questions, disciplinary issues, differing opinions, and/or confusions without interjecting their own subjectivity for individual interpretations. Without question they implement the chief's policies though they might not agree with all of them. They hold themselves to as high a standard as they hold their subordinates and set the tone for their subordinates. Some might consider such a supervisory philosophy to be too restrictive in dealing with the grayer ethical issues that arise in policing.

Or is police supervision such a challenge, today, that there can be an acceptable blending of styles that works? With the deluge of oversight measures, arbitration rulings, paperwork, and agency accountability (both up and down the hierarchy), can one truly carve out his or her own supervisory philosophies? When "taking care of one's people," can one management philosophy be more unethical than another? Or, more importantly for this discussion, is it more defensible, for an agency in labor hearings or a court of law, than another?

And so this "cop's cop" question was incorporated into the training curricula in order to break the ice with supervisor attendees, to obtain buy-in itself, and to demonstrate the challenges involved in these grayer areas of supervising ethical policing. The key was in defining ethical dilemmas and solutions most easily (and consistently) employed within the profession to resolve such dilemmas. Failing to have annual, in-service core values training fosters a work environment wherein individual, arbitrary, and subjective resolutions (and a lack of uniformity) can create liability issues, both internally and externally.

The authors' legal and ethical curriculum became more focused on the supervisory duties of implementing ethical awareness, appreciation, and analytical contemplation in the intelligence realm. The more focused theme of the training, then, was to impress upon supervisors, middle managers, and above, how critical it was for them and their subordinates to analytically engage in the thoughtful contemplation of the philosophical challenges in law enforcement and the authority that goes with the badge and position of office. Policing privacy is a more challenging topic than "free cups of coffee" in discussing ethical issues. Knowing and appreciating the "spirit behind each law," as well as being educated in the latest nuances of the law, provides all officers with a defense for professional decision making and a legal defense for the agency in court. Managing risk in policing demands constantly monitoring the moral compass of one's organization, and educating each new generation of officers in the agency's core values and related expectations is a recipe for future successes. The concept of Ethical Defensibility provides the foundations necessary to achieve these goals.

### **Ethical Defensibility as a Defense**

But what is ethical policing, truly? How does the profession define police ethical behavior so that a chief can successfully monitor his or her agency's moral compass? How do academicians define the philosophy of policing and the ethical systems involved in resolving serious policing ethical dilemmas? What core values make up a "cop's cop?" And, most importantly, how to develop an ethical template of defensibility, one that can successfully be used in a court of law?

The focus here is meant to be a universal template, one the chief of police, commander of a precinct, or unit supervisor can use as readily as the agency's newest hire, in using moral reasoning to defend each individual officer's decision-making processes. From conducting a traffic stop, to making an arrest, to infiltrating a gang to disciplining a subordinate, the template is a tool meant to provide analytic guidelines that are as uniform as possible for repetitive implementation, which entails combining the application of the law with the philosophical defenses, "the spirit of the law" discussed in the training. It is a template that incorporates the philosophy of the profession; is easily adoptable; and, yet, one that could be used to successfully defend both tactical and managerial decisions in all courts of law for criminal, civil, or internal labor hearings.

The concept of Ethical Defensibility contemplates the repetitive need for every sworn member to analytically compare, contrast, and reconcile their own personal ethical values with those of the profession and their organization. It empowers officers to recognize their roles on a grander scale as representatives of their agencies and a noble profession. Perceptions are reality, and maintaining a constant air of professionalism (both legal and ethical) benefits all parties. Managing risk is an everyday affair that entails keeping a pulse on your organization's moral compass before the scandals occur. The crucial task for any police chief or public safety director is to define critical core values for their subordinates, discuss their application, and devise training scenarios wherein those core values were employed (or ignored) and the differing results.

### **Do Humans Have Ethics?**

The police subculture to some extent has co-mingled the terms ethics, morals, and values, as they have evolved in our language. As a result, "police ethics training" has not always been embraced, as it should be, by law enforcement practitioners, both rank and file.

Technically speaking we humans do not have ethics. What we have are our own core values, our own childhood upbringing, and our own moral compasses based on our religious beliefs, our role models, and our life's experiences that we use to measure the good and bad alternatives of certain situations. Our moral compass is our conscience. Ethics is the analytical, subjective weighing of individual core values and applying them for the benefit of all parties involved.

An ethical person is one who chooses the most moral alternative when confronted with conflicting ethical scenarios that benefits their community, society as a whole, their colleagues, and stakeholders, all depending on the ethical dilemma confronting him or her.

Ethics is an applied philosophy, causing each one of us to individually categorize, prioritize, and assign our own personal core values when confronted with differing scenarios. It demands a self-awareness, a self-realization, and a self-measurement that is the result of one's life experiences combined with an analytic thought process acquired from years of practice. In policing, like in any profession, uniform implementation of organizational core values demands training curriculums that mold individual personal values into the professional core values unique to the law enforcement profession. Clearly not everyone has the unique moral compass to be a law enforcement officer.

Through organizational training, discipline, and practice, the reinforcement of this contemplative thought process is the critical defense mechanism behind the concept of Ethical Defensibility. Having officers engage, time and time again, in considering the ethical ramifications involved in their decision-making processes, both on and off duty, creates an ethical workplace environment that can only succeed and flourish. It is a cultural mindset that, as a legal defense, can be the "benefit of doubt" in departmental legal proceedings if, and only if, rank and file are trained in the nuances of core values and managerial expectations and consistently implement them. How many of us know an officer who says he or she is "ethical," but in the dark corners of street-level policing, they act unethically under pressure?

Professional ethics is a more focused, fine-tuned philosophical application of the rules of conduct for a specific profession. Whether it be policing, doctoring, or lawyering, each of these professions has its own set of core values that when contemplated, analyzed, and measured, are applied to the unique ethical dilemmas associated with its line of work. Just as lawyers are taught not to commingle their clients' monies with their own and to report conflicts of interest, or doctors are trained in the importance of protecting client privacy issues and honoring the doctor-patient privilege, so too, law enforcement has its own ethical guidelines pertaining to how the job is to be performed and how that performance is to be judged. A profession's ethics are an acquired art through years of training; experience; and, sometimes, costly mistakes.

In the limited realm of policing, the relevant parties whose interests must always be considered in occupational ethical dilemmas are the organization as a whole, its sworn and civilian personnel, the citizens they are tasked to serve, and the profession's image itself. Core values training is as much about guidelines of acceptable professional behavior as it is about preserving, protecting, and defending the image of the profession. Defining, emphasizing, and enumerating what core values are expected of your subordinates is the critical first step in understanding and implementing the concept of Ethical Defensibility and provides a foundation of success for future generations of your agency. Humans do not have ethics; humans use ethics to guide the decision-making process.

### **Managing Risk Involves Core Values Training**

In law enforcement, the legal side of the job cannot be divorced from the ethical side. They go hand in hand under a successful risk management rubric. Risk management, in policing, is about reducing, minimizing, and/or eliminating employee misconduct, citizen complaints, internal grievances, and civil lawsuits. Time and time again, middle managers are heard complaining about being inundated with paperwork and being tied down to their desks. When all they truly wish to do is be out on the streets with their officers. By teaching and advising subordinates of the "best practices" use of core values, first-line supervisors can prevent bad habits, demonstrate an honorable respect for the law and the ethical side of the job, and instill a sense of accountability and pride for their subordinates.

Police ethicists have said for years, "All illegal behavior by the police is unethical, not all unethical behavior is illegal, but can still cost officers their jobs." A recent study of a large organization concluded that there was little agreement or consensus regarding its core values and that, in fact, many of its websites across the agency listed 31 differing organizational values, causing an ambiguity within its own ranks.<sup>1</sup> Failing to define your organization's primary core values and the application and expectations of such core values opens any agency up to allegations of "deliberate indifference"<sup>2</sup> or the liability of omission.

The liability of omission refers to the organizational failure to train, implement, supervise, and discipline in the nuances, expectations, and core values of the job, as other professional police organizations are currently doing. Ethical Defensibility scenarios provide a "uniformity defense" to any challenges of omission or negligent training causes of action.

Plaintiff attorneys suing municipalities and their police, time and time again, have used the discovery rules of civil procedure to obtain training records and training curricula to show deficiencies in a "standards of practice" argument regarding an agency's negligent training practices. There are cases in federal law wherein individual officer's personnel files (and disciplinary records) have been allowed into the court records to demonstrate organizational negligence and training omissions.<sup>3</sup> The liability of omission contemplates the fact that other policing agencies across the United States engage in core values training, send officers to train-the-trainer seminars, and use annual, in-service core values training to maintain a work environment founded on "ethical awareness" recognitions. Omitting such a core values training from your agency's curriculum can be used against you and your policy makers in a court of law.

Instilling core values training and Ethical Defensibility concepts provides an agency with a defense to allegations of unethical conduct, misconduct, and unconstitutional policing. It empowers officers to be mentally prepared for the ethical dilemmas commonly found in the profession. Additionally, it provides guidelines for whistleblowing policies and empowers officers to have the courage and administrative support to report colleague misconduct. It is the "benefit of the doubt" jurors can hang their hat on in court regarding the discretionary, gray areas of policing.

It also should define examples of both officer and administrative retaliation and how any form of retaliation will not be tolerated.<sup>4</sup> Core values training gives notice to sworn personnel as to the organization's expectations for both on- and off-duty behavior; deters misconduct, and addresses the concept of "shared responsibility."<sup>5</sup> Shared responsibility in policing empowers all officers, rank and file, to have the courage to confront one another in ethical dilemmas during the contemplative analytic stage, preventing a colleague from making a costly decision, both for him or herself and for the agency.

Additionally, core values training addresses the nuances of policing privacy and the challenges confronting street-level officers—and their supervisors—in today's technologically savvy world of cell-phones, iPads, and laptops. This training educates officers in their agency's mission statements and spells out the goals of the agency, the unit, or the precinct and can be referred to as a measuring stick for goal attainment or the lack thereof. The ethical issues officers face today are endless. From questionable searches, seizures, and arrests to racial profiling, excessive force, infliction of emotional distress, a failure to protect, false imprisonment, and due process violations, to list a few causes of action, policing is rife with street-level ethical dilemmas.<sup>6</sup>

Is there any doubt a "cop's cop" must be a supervisor with well-defined core values and a habitual implementation of those values?

### **Concluding Thoughts**

Police ethics training is not about "teaching morality," it is about discussing, recognizing, and problem solving in regard to the seri-

ous ethical dilemmas associated with the job.<sup>7</sup> Educating in the contemplative duty all sworn members have when confronted with a set of facts that may have a negative ripple effect on their careers, their organization and the image of the profession itself is paramount. This is not solely about “coffee shop ethics” of the past, rather it is about recognizing the more advanced ethical challenges in policing today.

These newer challenges are associated with technological advances; a more astute, informed, and demanding public; and potential liability issues. Despite the fact that most police investigative work is conducted in the seclusion of the streets and back alleys and through infiltration operations—all outside of the purview of first line supervisors, the public, and the media—officers do not work in a vacuum. If anything was learned from the tragedy of the Rodney King incident, it is that someone, somewhere is always watching, even colleagues whose sworn duty is to report alleged misconduct. In the alternative, as a deterrent, officers should always respect the nobility of the profession. Ethical Defensibility training reinforces the whistleblowing demands of the job and forces sworn personnel to repeatedly get in the habit of holding themselves up to the highest standards of the profession.

Public servants, and specifically the police, do not have a choice to act ethically; it is a mandatory part of the job description. It is a de facto standard of the profession, in that, plaintiff’s attorneys will use poor training and policy non-compliance arguments as the foundations for their lawsuits for constitutional rights violations. The Bill of Rights limits the governmental authority the police have. The contemplative analysis instilled through Ethical Defensibility training empowers officers to comprehensively evaluate the “bigger picture” in all of their decision-making endeavors. When so many other agencies around the United States mandate core values training in their yearly curriculums, a conscious decision not to provide such training clearly can be argued to be organizational negligence. The costs of not engaging in ethics training far outweigh the costs to provide it.

From a risk management liability argument, training in ethical policing choices and defining your agency’s core values is a template for a successful defense in a civil court of law or labor law hearings. Unlike the law, wherein criminal procedures and case law continue to evolve as society’s needs and wants evolve, the philosophical tenets of policing have generally remained the same for decades. Continuity, stability, and uniformity are key components in facilitating police core values training, and the concept of Ethical Defensibility provides that foundation.

The upcoming articles in this series address the need in defining the core values critical to your agency’s successes and recognizing ethical conflicts unique to the police subculture. They will broaden the reader’s understanding of the ethical dilemmas within the profession and use policing scenarios or case law to give substance to the philosophical concepts associated with Ethical Defensibility training concepts. ♦

#### Notes:

<sup>1</sup>Stephen Maguire and Lorraine Dyke, *CACP Professionalism in Policing Research Project* (Canadian Association of Chiefs of Police, 2012), [http://www.cacp.ca/media/library/download/1242/Survey\\_Results.pdf](http://www.cacp.ca/media/library/download/1242/Survey_Results.pdf) (accessed September 16, 2013).

<sup>2</sup>T.J. Martinelli and Joycelyn M. Pollock, “Law Enforcement Ethics, Lawsuits, and Liability: Defusing Deliberate Indifference,” *The Police Chief* 67 (October 2000): 52-57.

<sup>3</sup>*Deary v. Gloucester*, 9 F3rd 191 (1993). A plaintiff’s attorney questioned a supervisor about Officer A’s “reputation of untruthfulness.” The supervisor testified he had no personal knowledge of such a reputation for “untruthfulness.” That opened the door for the plaintiff’s attorney to enter into the record Officer A’s internal disciplinary conviction for “untruthfulness” for credibility purposes. Officer A was brought back on the stand and had to admit, under oath, he had been untruthful in an internal investigation years earlier, and the jury was allowed to consider the veracity of his testimony in that criminal case.

<sup>4</sup>See the IACP’s Model Policy #121, *Retaliatory Conduct by Employees* (January 2012).

<sup>5</sup>Patricia A. Robinson, “Shared Responsibility: The Next Step in Professional Ethics,” *The Police Chief* 71 (August 2004): 76–81, [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=360&issue\\_id=82004](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=360&issue_id=82004) (accessed September 17, 2013).

<sup>6</sup>Additionally, the list of problematic gray ethical areas regarding internal police administration issues is overwhelming. Abuse of sick time, lying in internal investigations, time theft, sexual harassment, gratuities, covering for a colleague (“I heard shots fired, but I was taking cover, so I didn’t see what happened”), not seeking medical attention for a citizen who clearly needs it whether he asked for it or not, “contempt of cop” (issuing misdemeanor tickets or making an arrest for disorderly conduct, not because the conduct was disorderly, rather the citizen was not respectful enough to the officer), sleeping on duty, sex on duty, drinking on duty, lying on one’s expense sheets, conflicts of interest, taking “police action” in off-duty civil matters, nepotism, cronyism, privacy violations not reaching a level of criminality, withholding exculpatory evidence from the prosecutor, and the list goes on.

<sup>7</sup>One of the authors created the Police Legal and Ethical Awareness Training Program, or the P.L.E.A.T. Program as part of a research project at Michigan State University. The basis of the program is to educate officers on legal and ethical transgressions, both on and off duty, that can subject them to disciplinary action using their own agency’s past disciplinary cases as well as case law to put meat on the bones of “doing the right thing.”

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## Police Ethics Series: Part Two of Four

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

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.

# The Policy Foundation of Technology Implementation

By David J. Roberts, Senior Program Manager, IACP Technology Center

Contemporary law enforcement executives, caught between the competing forces of dwindling resources and growing demands for service, are increasingly turning to technology to achieve greater efficiency and effectiveness. New and emerging technologies are playing a crucial role in the daily work of frontline police officers, equipping them with enforcement and investigative tools that have the potential of making them better informed, more efficient, safer, and more effective. Developing and enforcing comprehensive agency policies regarding deployment and use are critical steps in realizing the value that technologies promise.

## Law Enforcement Technology

Chiefs today are confronted with a bewildering array of technologies to support planning, deployment, and operations. Advances have made it possible to monitor and record nearly every interaction between police and the public through the use of in-car and body-worn video, access to an expanding network of public and private video surveillance systems, and citizens and officers alike equipped with smartphones with digital recording capabilities. Patrol officers can track suspects with the use of GPS tracking technologies, and officers themselves can be tracked with automated vehicle location (AVL) systems. Automated license plate recognition (ALPR) systems can scan the license plates of vehicles within sight of the officer in the field and quickly alert them if the vehicle is stolen or wanted. Identity can be remotely verified or established with biometric precision using handheld fingerprint scanners and facial recognition software. Crimes can be mapped as they are reported, gunshot detection technology can alert law enforcement almost instantaneously when a firearm is discharged, and surveillance cameras can be programmed to focus in on the gunshot location and stream live video to both dispatchers and responding officers.

The law enforcement agency must manage an increasingly complex array of technologies while ensuring effective planning, procurement, and implementation. The technical challenge is further amplified as the agency integrates diverse technologies across different platforms, builds a robust and secure technical infrastructure, provides initial and ongoing training, plans technology upgrades and refreshes, and organizes round-the-clock technical support for mission critical systems. Implementing technology in law enforcement requires that agencies clearly articulate their strategic goals and tactical objectives for the technology. This strategy should be tightly aligned with the broader strategic plans of the agency.

## The Policy Mandate

Creating and enforcing comprehensive agency policies that govern the deployment and use of technology is a critical component to ensuring effective and sustainable implementation. Thorough and ongoing training of all users is required to ensure that the technology performs effectively. Policies function to reinforce that training and to establish an operational baseline to guide officers in proper procedures. Moreover, policies work to ensure uniformity in practice across the agency and to enforce accountability for performance. Policies should reflect the mission and values of the

agency, as well as close alignment with applicable local, state, and federal laws, regulations, and judicial rulings.

Policies also function to establish transparency of operations, enabling agencies to allay public fears and misperceptions by demonstrating a policy framework to ensure responsible use, accountability, and legal and constitutional compliance. Law enforcement use of ALPR technologies, unmanned aircraft, and body-worn video, for example, have generated substantial public discussion, increased scrutiny, and legislative action in recent years.<sup>1</sup> Privacy advocates, elected officials, and members of the general public have raised important questions about how and under what circumstances these technologies are deployed, for what purposes, and how long the data gathered are retained, used, and shared. Having and enforcing a strong policy framework enables the law enforcement executive to structure the discussion and to demonstrate responsible planning, implementation, and management. Failure to have and enforce policies can erode public confidence, promote widespread fears of privacy violations, invite potential misuse and possible civil liability, and may provoke external limitations on the adoption or use of technologies.<sup>2</sup>

Agencies will be well-served by building a technology policy framework that addresses technology objectives, deployment, records management, data quality, systems security, data retention and purging, access and use of stored data, information sharing, and accountability. Sanctions for non-compliance can help to ensure that technology is used effectively and that data are properly collected, used, and managed. The following universal principles should be addressed in developing effective policies for a host of technologies, including ALPR, in-car cameras, body-worn video, surveillance cameras, facial recognition technologies, unmanned aircraft, and so forth.

The principles should address a number of key issues, including the following:

1. Operational Factors
  - a. Align the technology with specific strategic and tactical deployment objectives of the agency (e.g., the Parking Enforcement Unit may use ALPR technology very differently and retain data for different periods of time than Patrol or Investigations).
  - b. Indicate that the technology is to be used for official use only (FOUO).
  - c. Identify who is authorized to officially approve the deployment and use of the technology, and perhaps the conditions necessary for deployment and use.
  - d. Require training, and perhaps certification or other documented proficiency, if applicable, of all personnel who will be managing, maintaining, and/or using the technology.
  - e. Require regular maintenance, support, upgrades, calibration, and refreshes of the technology to ensure that it functions properly.
  - f. Identify specific operational factors that must be addressed in deployment and use of the technology (e.g., for ALPR, the officer should (1) verify that the system has correctly “read” the license plate tag; (2) verify the state of issue of the license plate record; (3) verify that the “hot list” record that triggered the alert is still active; and (4) recognize that the driver of the vehicle may not be the registered owner).



## 2. Policy Factors

- a. Complete a privacy impact assessment (PIA)<sup>3</sup> on relevant systems and the data they gather.
- b. Define information systems security requirements of the technology and access to the data to ensure the integrity of the systems and confidentiality of the data.
- c. Clarify data classification based on its level of sensitivity (e.g., top secret, secret, confidential, restricted, unclassified, private, public), whether the data gathered or generated are considered public information, whether they are subject to freedom of information act (FOIA) requests, and under what circumstances.
- d. Audit all access to data gathered or generated through use of the technology to ensure that only authorized users are accessing the data for legitimate, authorized purposes and include consequences for unauthorized use, access, or dissemination.
- e. Differentiate between data that are part of an ongoing or continuing investigation and information that is gathered and retained without specific suspicion or direct investigative focus.
- f. Establish data retention schedules, access privileges, purge criteria, and sharing practices.<sup>4</sup>

## Conclusion

Realizing the business value that technologies promise law enforcement can be achieved only through proper planning, implementation, training, deployment, use, and management of the technology and the information it provides. Like all tools available to law enforcement, technology must be carefully managed. Agencies must clearly articulate their strategic goals and tactical objectives for the technology, and this strategy should be tightly aligned with the broader strategic plans of the agency. Thorough and ongoing training is required to ensure that the technology performs effectively and that users are well versed in the operational policies and procedures defined and enforced by the agency. Policies must be developed and strictly enforced to ensure the quality of the data, the security of the system, compliance with applicable laws and regulations, and the privacy of information gathered. Building robust auditing requirements into agency policies will help enforce proper use of the system and reassure the public that their privacy interests are recognized and respected.

The IACP National Law Enforcement Policy Center has developed a wide variety of model policies to guide and support law enforcement in establishing effective operations and management.<sup>5</sup> Model policies dealing with law enforcement technologies include digital cameras, electronic control weapons, electronic messaging, electronic recording of interrogations and confessions, identity crime, mobile communication devices, mobile video recording equipment, ALPR, and social media, among others. IACP continues to review, expand, and refresh these model policies, and create new policies as technologies and agency practices evolve. ♦

### Notes:

<sup>1</sup> The American Civil Liberties Union (ACLU) has recently released two reports addressing law enforcement technologies—ALPR and body-worn video. Both reports discuss the operational value of the technology to law enforcement operations and investigations, and both call for policies associated with deployment, operations, data retention, access, and sharing. Catherine Crump, *You Are Being Tracked: How License Plate Readers Are Being Used to Record Americans' Movements* (New York: ACLU, July 2013), <https://www.aclu.org/technology-and-liberty/you-are-being-tracked-how-license-plate-readers-are-being-used-record>; Jay Stanley, *Police Body-Mounted Cameras: With Right Policies in Place, a Win for All* (New York: ACLU, October 2013), <https://www.aclu.org/technology-and-liberty/police-body-mounted-cameras-right-policies-place-win-all> (both accessed October 11, 2013).

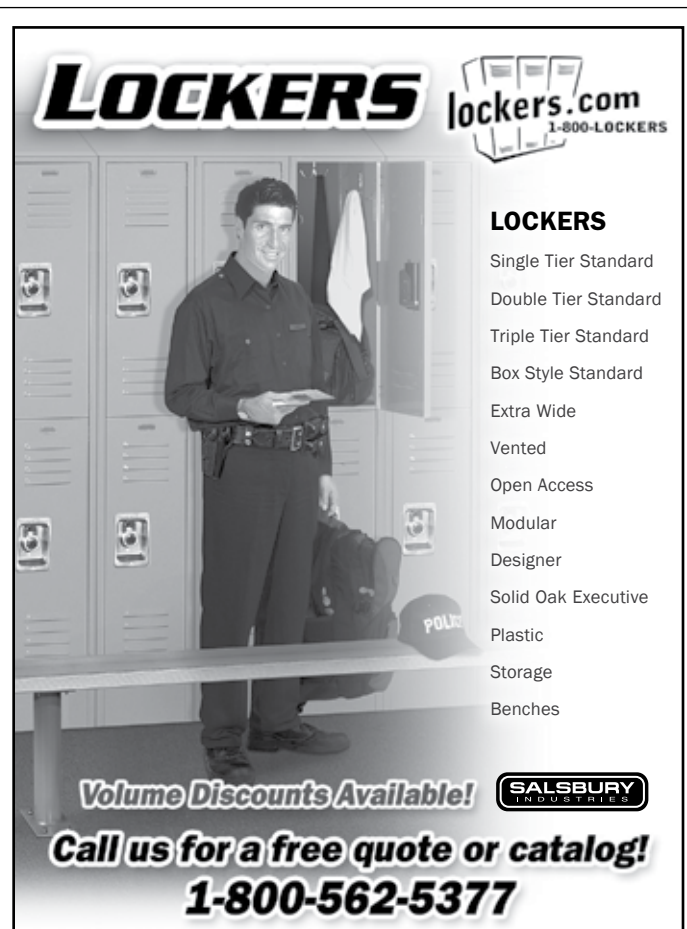
<sup>2</sup> A number of jurisdictions throughout the United States are considering limiting or banning entirely a variety of law enforcement technologies. Somini Sengupta, "Rise of Drones in U.S. Drives Efforts to Limit Police Use," *New York Times*, February 15, 2013, <http://www.nytimes.com/2013/02/16/technology/rise-of-drones-in-us-spurs-efforts-to-limit-uses.html?pagewanted=all>; Associated Press, "State Senator Hopes to Pass Bill, Ban Police from Using Drones," *The Daytona Beach News-Journal*, December 9, 2012, <http://www.news-journalonline.com/article/20121209/NEWS/121209749>; and Katrina Lamansky, "Iowa City Moves to Ban Traffic Cameras, Drones,

and License Plate Recognition," *WQAD*, <http://wqad.com/2013/06/05/iowa-city-moves-to-ban-traffic-cameras-drones-and-license-plate-recognition>. Maine has limited the use of automated license plate recognition (ALPR) technology and limited storage to no more than 21 days. *Me. Rev. Stat. Ann.* 29-A, §2117-A (Use of automated license plate recognition systems), <http://www.mainelegislature.org/legis/statutes/29-A/title29-Asec2117-A.html>. An upcoming bill in the Michigan legislature would limit data retention to 48 hours, unless the license plate read is associated with criminal activity. Jonathan Oosting, "Proposal Would Regulate License Plate Readers in Michigan, Limit Data Stored by Police Agencies," [http://www.mlive.com/politics/index.ssf/2013/09/proposal\\_would\\_regulate\\_licens.html](http://www.mlive.com/politics/index.ssf/2013/09/proposal_would_regulate_licens.html) (all accessed October 11, 2013).

<sup>3</sup> A privacy impact assessment (PIA) is "a systematic process for evaluating the potential effects on privacy of a project, initiative or proposed system or scheme." Roger Clarke, "Privacy Impact Assessment: Its Origins and Development," *Computer Law & Security Review* 25, no. 2 (April 2009): 123-135, <http://www.rogerclarke.com/DV/PIAHist-08.html>. IACP, *Privacy Impact Assessment Report for the Utilization of License Plate Readers* (Alexandria, Va.: IACP, September 2009), <http://www.theiacp.org/LinkClick.aspx?fileticket=N%2bE2wvY%2f1QU%3d&tabid=87>. For a list of PIAs completed by the U.S. Department of Justice, see <http://www.justice.gov/opcl/pia.htm>; Department of Homeland Security, see <https://www.dhs.gov/privacy-office-privacy-impact-assessments-pia> (all accessed October 14, 2013).

<sup>4</sup> The Home Office recently issued the *Surveillance Camera Code of Practice*, which includes 12 guiding principles governing the effective and appropriate use and deployment of this technology, many of which align with the principles suggested above. Home Office, *Surveillance Camera Code of Practice Comes into Force* (London, UK: Home Office, June 2013) <https://www.gov.uk/government/news/surveillance-camera-code-of-practice-comes-into-force> (accessed October 14, 2013).

<sup>5</sup> The IACP National Law Enforcement Policy Center website can be found here <http://www.theiacp.org/PublicationsGuides/ModelPolicy/tabid/135/Default.aspx>.



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## Two-hour Training and a Screening Tool to Help Law Enforcement Identify and Manage Older Unsafe Drivers

By Linda Hill, MD, MPH, Professor, Family and Preventive Medicine, Director, Training, Research and Education for Driving Safety, University of California, San Diego, California; Jill Rybar, MPH, Deputy Director, Training, Research and Education for Driving Safety, University of California, San Diego, California; and Joe Farrow, Commissioner, California Highway Patrol, Sacramento, California

A few years ago you might have met Dena Kline. She was 80 years old, five feet tall, and 80 pounds on chemotherapy for bone cancer and taking asthma and pain medication. On February 23, 2007, at 4:00 p.m., she left home southwest of Portland, Oregon, to pick up a prescription. For the next 10 hours, she drove 80 miles. During her trip, she was contacted by law enforcement twice for suspicion of DUI but was released after it was determined she hadn't been drinking. On the morning of February 25, she was reported missing by her daughter. Over the next few days, the sheriff's office conducted a county-wide search—to no avail. Four months later, her car was found in the Willamette River with her body inside. Because law enforcement did not go far enough in determining the extent of her impairment, they allowed her to continue to drive.

While this is an extreme example of unsafe driving in the elderly, it is a real one, and it underscores the need to provide training and screening tools to law enforcement to more effectively identify and manage this problem.

Work addressing this topic, described in this article, builds on an article published previously in *Police Chief* magazine by Joe Farrow and Julie Likes, "California Highway Patrol: Older Driver Safety Task Force."<sup>1</sup> Their work motivated the

Training, Research and Education for Driving Safety (TREDS) group at the University of California, San Diego, to collaborate with the California Highway Patrol (CHP) to develop a POST-certified course offering. The CHP made their leaders and officers, including those responsible for training, available for interviews and provided 12 officers of the CHP in the San Diego area for a focus group. The resulting curriculum and screening tool provide a concrete model for how law enforcement and public health organizations can work together to keep the public safe.

### More and More "Denas" on the Road

Dena represents only the tip of the iceberg. With the Baby Boomer population reaching retirement age and older, the number of older drivers on the road will grow dramatically. A look at the statistics is startling. In 2007, 37.9 million Americans were over the age of 65<sup>2</sup>—one in eight people. Between 2010 and 2030, the U.S. population age 65 and older is projected to increase by 79 percent, compared to only 12 percent for those younger than 65.<sup>3</sup> By 2050, it is estimated that 88.5 million Americans will be over the age of 65<sup>4</sup>—one in five.

Many older adults are safe drivers, and the majority of them choose to stop driving on their own before they could become involved in a collision or draw the attention of state licensing agencies. However, many impaired individuals continue to drive. In fact, on average, male drivers aged 70 to 74 years will outlive their ability to drive safely by approximately seven years and female drivers of the same age range by approximately 10 years.<sup>5</sup>

To address this problem, the National Highway Traffic Safety Administration (NHTSA) developed an *Older Driver Program Five-Year Strategic Plan 2012–2017*, which addresses the "need [for law enforcement to have] more training and information to help them better assess warning signs and understand what next steps to take and what actions are mandated by laws within their jurisdiction."<sup>6</sup> This need is also documented in California's *Strategic Highway Safety Plan* to

improve the safety of older roadway users: "Enhance law enforcement training to recognize older driver behaviors that may necessitate priority drivers' license re-examinations, and provide law enforcement with a broader understanding of older driver sensitivities."<sup>7</sup>

With support from the California Office of Traffic Safety (OTS), the TREDS group partnered with the CHP and the California Department of Motor Vehicles (DMV) to train law enforcement officers to identify signs of cognitive driving impairment and manage those individuals in terms of providing referrals for driving re-examination to the DMV. The TREDS group developed a training curriculum and diagnostic tool based on NHTSA's "Older Driver Law Enforcement Course" released in 2007. CHP Assistant Chief Ike Iketani (retired 2012) and Police Chief Robert Ticer, Avon, CO, served on the NHTSA curriculum committee and advised the TREDS group on course enhancements and modifications including tailoring content specific to California law enforcement policies and procedures.

### Consequences of Aging on Driving Safety

As people age, they develop a variety of cognitive ailments related to vision, hearing, strength, and mental alertness that can affect their ability to operate a vehicle safely. For example, up to 24 percent of white adults 80 years and older have low vision or blindness.<sup>8</sup> At least one-third of adults over 85 have dementia.<sup>9</sup> Osteoporosis, decreased muscle mass, and underlying health conditions contribute to frailty. One study found that 44 percent of men and 57 percent of women age 65 and older use five or more medications weekly, which can compromise their ability to drive safely.<sup>10</sup>

Common driving errors among this population include inadequate scanning of roadways, drifting or weaving in and out of one's lane, difficulty making left turns or selecting the correct turn lane, failure to yield right of way on turns, inappropriate or delayed stopping, misjudgment of time and distance in stopping, changing lanes without previously signaling, misapplying

the pedal (e.g., pushing the accelerator mistakenly instead of the brake), failure to yield or respond appropriately to road signs and signals, and inability to perceive and respond to a law enforcement officer's signal to pull over.

When stopped by an officer, such a driver can seem "lost" between origin and destination, appear disheveled (e.g., wearing inappropriate clothing for the weather conditions), have difficulty finding documents that the officer requests, have little or no recollection of the traffic violation, and have trouble communicating with the officer.

The officer may notice other signs of impairment by inspecting the vehicle. Are there scrapes and scratches on the outside? Are there notes/reminders to the driver on the inside? Does the vehicle include adaptive equipment to help the driver? Also, does the driver appear forgetful during the conversation or make statements that clearly are not true?

Without tools to undertake a rigorous assessment to identify cognitive impairment, the officer's response can be to treat such a driver with sympathy or compassion: He or she might issue a citation or even just a warning, using rationalizations related to respect for the elderly and concern that the driver is on a fixed income and "can't afford a ticket."

But this problem isn't going to go away. Left unaddressed, it will lead to more serious problems, even tragedy.

Law enforcement officers are trained to be familiar with the DMV (or licensing agency) process for reporting a driver who displays evidence of an inability to safely operate a motor vehicle and, when warranted, are encouraged to report such drivers. In fact, research studies have demonstrated the importance of law enforcement's identifying older drivers for re-examination. For example, a full 80 percent of those age 75 and older referred by law enforcement for re-examination in Maryland ultimately retired from driving due to lack of medical fitness.<sup>11</sup>

### TREDS Curriculum

Working with the CHP, the TREDS group developed a two-hour training curriculum. It covers introduction to older drivers; medical conditions (e.g., vision, frailty, cognitive impairment, hypoglycemia, hyperglycemia) and methods for assessment; strategies to employ during traffic contacts (e.g., observation, questioning, use of the screening tool [described later]); communication and referral; use of the DMV reporting mechanism requesting driver re-examination; and community resources for driver evaluation and re-education. This training includes a video that demonstrates how to identify a driver with cognitive impairment, and presents a contact with a traffic violator and use of the screening tool.

### Driver Orientation Screen for Cognitive Impairment

To complement the training received and to help officers implement it in their day-to-day traffic work, the TREDS group developed an

easy-to-use "prompt card," called the Driver Orientation Screen for Cognitive Impairment (DOSCI), which conveniently fits in an officer's ticket book. It lists nine questions (in English and Spanish) to ask the person stopped for a traffic violation. It includes scoring guidelines and DMV reporting recommendations. Once the officer has ruled out intoxication from alcohol, impairment from prescription medication or illicit drugs, and medical conditions requiring urgent care, these questions (with their point scores) should be asked:

- What is your date of birth? (Month, day, and year must match documents, 1 pt)
- What is your full home address? (Address must match documents, 1 pt)
- What state are we in now? (1 pt)
- What city/town are we in now? (1 pt)
- Without looking at your watch, can you estimate what time it is now? (Answer must be plus or minus one hour of the correct time, 1 pt)
- What day of the week is it? (1 pt)
- What is today's date? (Answer must include month, date, year, 3 pts)

Receiving five or more incorrect answers (out of nine answers/points total) suggests the person is unsafe to drive that day, and the officer should refer to department procedures for alternative transportation and vehicle removal. Supplying three to four incorrect answers suggests the person is *potentially* unsafe to drive and, given the

totality of the circumstances, might be referred for a re-examination at the DMV or immediately restricted in the ability to drive. Providing one or two incorrect responses suggests no referral.

Additional questions that the officer can ask include the following:

- Where are you coming from and where are you going?
- Will you please spell your name?
- Do you have an emergency contact? What is that person's name and phone number?

The officer can also listen for telling comments the driver might make like a family member getting upset when he "got lost the last time."

This information provides concrete documentation of the interaction and provides a way to track the history of what might be the beginning of a pattern of unsafe driving. This information is important not only to law enforcement and the DMV but also to the driver's family, physician, and others working to keep the individual safe.

### Results from Training

The TREDS team used their curriculum and the DOSCI screening tool in 43 training sessions to train 717 law enforcement officers in the CHP across four counties in southern California (San Diego, Orange, Imperial, and Riverside). An additional two trainings were delivered to 27 officers representing San Diego-area law enforcement agencies. The training was completed in two hours, with one 10-minute break, and

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incorporated into regularly scheduled in-service training days in settings familiar to the officers.

To provide a variety of relevant perspectives, the training was delivered by a health educator, a physician, a retired law enforcement officer, and a DMV administrator. The training methods included PowerPoint slides with basic information, review of the screening tool, a video clip to demonstrate the questions an officer should ask of an apparently impaired driver, other traffic video clips and case examples with discussion of whether the officers should request the DMV to issue a re-examination, pictures of what impaired conditions look like, and question-and-answer sessions.

Questionnaires were administered with voluntary, anonymous participation before and after the training. Pre-training questions addressed basic demographics, confidence in identifying impairment in older drivers, experience with older drivers, assessment practices, DMV reporting practices, and referrals. Post-training questions addressed understanding of the curriculum, perceived changes in confidence when dealing with cognitively impaired older drivers, intention to assess and report when indicated, and intention to use the screening tool. Of the 717 officers trained, 658 (92 percent) completed the pre-training questionnaire and 700 (98 percent) completed the post-training questionnaire.

In the pre-training questionnaire, 573 officers reported low levels of driver referral to the DMV, with only 3 percent (19/573) reporting at least once a month, 45 percent (257/573) once every three-six months, and 43 percent (244/573) once a year or every few years; 9 percent (53/573) responded they had never reported.

Both questionnaires surveyed officers' ability to recognize cognitive impairment in drivers. Interestingly, in the pre-training questionnaire, 72 percent "agreed or strongly agreed" that they were confident in their ability. However, post-training, 70 percent stated their ability to recognize impairment had increased by at least 50 percent. This is not surprising, as identifying mild dementia in older adults is difficult and can easily go unnoticed with minimal conversation and when officers have not received training on how to assess drivers for this condition.

Officers stated the training heightened their awareness of conditions that can impact driving in older adults, which increased their confidence to ask more questions.

Other noteworthy results included that

- 90 percent stated they were "likely or very likely" to use the screening tool to assess older drivers for cognitive impairment
- 93 percent stated the results of the screening tool will help document suspected impairment when referring drivers to licensing agencies
- 93 percent "agreed or strongly agreed" they had a better understanding of community resources available to older drivers
- 94 percent stated the training was useful and effective

The questionnaires included an area for additional comments where many participants stated that training on this topic should be required. They also reported a previous lack of awareness of this problem, increased confidence in interacting with older drivers as a result of the training, and an interest in sharing information about the training and the screening tool with their commanding officers and peers.

They also reported that the subject matter fit in well with other officer training. The mixed media, multi-speaker format kept the officers' attention, and the inclusion of a variety of perspectives provided credibility in the breadth of material covered. Inclusion of the DMV administrator among the speakers proved especially important because many of the officers had been unclear on reporting protocols. The majority of veteran officers—those with more than 15 years' experience—rated the training highly.

The officers confirmed that some of their reluctance to address this issue in the past had been due to their "respect for elders" and concern with missing the opportunity to address "more important violators" if more time was spent with older drivers during traffic stops. By the end of the training, the officers recognized the importance of their role in protecting older drivers and others on the road from preventable tragedy.

## Next Steps

Further studies will be necessary to determine the usefulness of the training and screening tool in the field. Next steps include expanding train-

ing to other geographic areas and law enforcement agencies and development of an abbreviated version of the training that can be shown in 15-20 minutes during shift change briefings. For more information and how to obtain the training and screening tool, please contact [treds@ucsd.edu](mailto:treds@ucsd.edu) or call 858-534-9330.

## Conclusion

Age-related driving impairment is a serious and growing public safety problem, and law enforcement can play a key role in identifying and referring impaired drivers to the DMV. The curriculum described in this article has been evaluated by the California Commission on Peace Officer Standards and Training (POST) and approved for two Continuing Professional Training credits. ❖

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## Notes:

<sup>1</sup>Joe Farrow and Julie Likes, "California Highway Patrol: Older Driver Safety Task Force," *Police Chief Magazine* 74, no. 4 (April 2007): 148-151, [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=1161&issue\\_id=42007](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1161&issue_id=42007) (accessed October 4, 2013).

<sup>2</sup>Administration on Aging, *A Profile of Older Americans: 2008* (Washington, D.C.: U.S. Department of Health and Human Services, 2009), [http://www.aoa.gov/AOARoot/Aging\\_Statistics/Profile/2008/docs/2008profile.pdf](http://www.aoa.gov/AOARoot/Aging_Statistics/Profile/2008/docs/2008profile.pdf) (accessed October 4, 2013).

<sup>3</sup>Population Division, U.S. Census Bureau, table 2. Projections of the Population by Selected Age Groups and Sex for the United States: 2010 to 2050 (NP2008-T2), August 14, 2008.

<sup>4</sup>Carlos M. Gutierrez, John J. Sullivan, and Cynthia A. Glassman, *The Statistical Abstract of the United States, 2009*, table 10. Resident Population Projections by Sex and Age: 2010 to 2050.

<sup>5</sup>Daniel J. Foley et al., "Driving Life Expectancy of Persons Aged 70 Years and Older in the United States," *American Journal of Public Health* 92, no. 8 (August 2002): 1284-1289, [http://web1.ctaa.org/webmodules/webarticles/articlefiles/driving\\_life.pdf](http://web1.ctaa.org/webmodules/webarticles/articlefiles/driving_life.pdf) (accessed October 4, 2013).

<sup>6</sup>National Highway Traffic Safety Administration, *Older Driver Program Five-Year Strategic Plan 2012-2017*, HS 811 432 (Washington D.C.: U.S. Department of Transportation, 2010), 10, <http://www.nhtsa.gov/staticfiles/nti/pdf/811432.pdf> (accessed October 4, 2013).

<sup>7</sup>"Challenge 9: Improve Safety for Older Roadway Users," in *California Strategic Highway Safety Plan* (Sacramento, CA, California Department of Transportation, September 2006), 28, [http://www.dot.ca.gov/hq/traffops/survey/SHSP/SHSP\\_Final\\_Draft\\_Print\\_Version.pdf](http://www.dot.ca.gov/hq/traffops/survey/SHSP/SHSP_Final_Draft_Print_Version.pdf) (accessed October 4, 2013).

<sup>8</sup>Nathan Congdon et al., "Causes and Prevalence of Visual Impairment among Adults in the United States," *Arch Ophthalmol* 122, no. 4 (April 2004): 477-85.

<sup>9</sup>Joan Lindsay et al., "More Than the Epidemiology of Alzheimer's Disease: Contributions of the Canadian Study of Health and Aging," *Canadian Journal of Psychiatry* 49, no. 2 (February 2004): 83-91.

<sup>10</sup>David W. Kaufman et al., "Recent Patterns of Medication Use in the Ambulatory Adult Population of the United States: The Slone Survey" *JAMA* 287, no.3 (January 2002): 337-344.

<sup>11</sup>Carl A. Soderstrom et al., "Pursuit of Licensure by Senior Drivers Referred by Police to a State Licensing Agency's Medical Advisory Board," *Association for the Advancement of Automobile Medicine* 54 (January 2010): 351-358.

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