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**Editor**

John E. Ott

**Managing Editor**

Kim Waggoner

**Associate Editor**

Julie R. Linkins

**Art Director**

Brian K. Parnell

**Assistant Art Director**

Denise Bennett

**Staff Assistant**

Linda W. Szumilo

**Internet Address**

leb@fbi.gov

**Cover photo**  
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Send article submissions to Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

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# *Managing Major Case Investigations*

## *Suggestions for Supervisors*

By MICHAEL J. SULLIVAN

**T**he telephone rings, rousing you from a deep sleep. As the supervisor of a detective squad, you have grown accustomed to being awakened in the middle of the night. At the other end of the line, the night-watch patrol supervisor informs you that a double homicide has just occurred; investigative staff and supervisors are required to assist with the investigation. You will take over as the case supervisor once you report to duty.

What do you do? Do you have guidelines or a protocol in place to provide a framework for proceeding with the supervision of the case?

While reference material providing officers and investigators guidance on the proper procedures to follow when conducting major case investigations abounds, little of this material is available for supervisors who have to manage these cases. Thus, many supervisors must rely on trial and error to develop a workable blueprint for managing and supervising major case investigations. The following suggestions provide basic guidelines for managing the complexities of a major case investigation. They do not represent a step-by-step guide to case management but, rather, a framework to keep investigations on track. Together with an agency's established policies, these guidelines should provide supervisors



with a strategic plan for managing major case investigations.

### **SUPERVISING MAJOR CASE INVESTIGATIONS**

#### **Slow Down**

One of the most critical errors supervisors can make during a major case investigation is moving too

fast. To be sure, circumstances often force investigators to move quickly on a particular lead, but the pace of the investigation itself should be more controlled. Mistakes become inevitable when speed supersedes thought. Supervisors who assume control of a runaway investigation should work to slow it down.

### Use All Available Personnel

Invariably, the early phases of a major case investigation are the most important and personnel-intensive. Almost simultaneously, personnel must process the crime scene, interview victims and witnesses, pursue any initial leads, and begin canvassing residents and motorists for additional leads. If there are not enough investigators to perform all of these tasks, supervisors should not hesitate to use available patrol personnel.

Every department has talented patrol officers who work the street diligently every day. Some are waiting for their chance to be assigned to criminal investigations; others prefer patrol work but enjoy the challenge and change of pace that a major case investigation offers. Supervisors should harness the abilities of these officers in the early phases of an investigation to perform specific tasks, such as

canvassing motorists, thereby freeing investigators to concentrate on interviewing witnesses and following leads.

Supervisors also should seek the assistance of surrounding law enforcement agencies. In many jurisdictions, city and county law enforcement agencies form major case task forces to assist one another in times of emergency. If the circumstances warrant, supervisors should not hesitate to request the assistance of task force partners during major case investigations.

Once the investigators who will be assigned to the case are assembled, the supervisor must give them leads that suit their skills. Some investigators excel at processing crime scenes, others at interviewing victims or conducting interrogations. Supervisors must be cognizant of the different abilities of their personnel. Chronic failure to appreciate and properly assess

the skills of investigators will result in a growing list of unresolved cases.

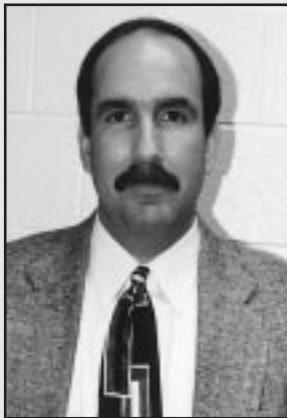
### Develop a Checklist

Just as investigators use checklists to guide them while processing crime scenes and documenting investigative steps, supervisors should use a checklist as a guide while performing supervisory duties. Supervisors should develop a standing list of the primary tasks that must be performed during investigations and then check them off as they are assigned. Supervisors should personalize the checklist to fit their needs and the requirements of the department. The checklist should be comprehensive enough to address the wide ranging aspects of a major case investigation, which include securing the crime scene, notifying the medical examiner, obtaining search warrants, and assigning vehicle and residence canvasses. Prepared checklists reduce the pressure on supervisors to remember everything and can assist them in organizing and prioritizing the investigative steps that must be completed.

### Focus on the Evidence

Occasionally, investigators and supervisors become too focused on searching for and arresting a suspect instead of locating, securing, and collecting evidence of the crime. Generally, the investigative team gets only one opportunity to collect evidence, and it must gather all it can while the evidence remains available.

At times, of course, suspects possess evidence on their bodies or



*Captain Sullivan commands the criminal investigation division of the Dubuque, Iowa, Police Department.*

**“ One of the most critical errors supervisors can make during a major case investigation is moving too fast. ”**

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clothing, which must be collected as soon as possible. Investigators should understand, however, that they can locate suspects, collect evidence from them, and then release them. If the evidence points to a specific individual, investigators can pick up that suspect for additional questioning and detention, if appropriate.

While the seriousness of a crime and the desire to protect the public may dictate that investigators arrest a suspect immediately, supervisors must weigh the long-term implications such a move may have on the litigation of the case. As a rule, supervisors should ensure that investigators possess sufficient evidence to convict a suspect before the individual is detained.

At the same time, supervisors should encourage evidence technicians and detectives to take the time necessary to process the crime scene thoroughly, even if the scene must be secured for several days to ensure a methodical search. Investigators may have only one opportunity to collect evidence. Supervisors must ensure that they do it right the first time.

### **Know the Crime Scene**

Supervisors should familiarize themselves with the scene of the crime. If possible, they should visit the area where the crime was committed. However, this does not mean that supervisors should needlessly enter the primary crime scene and disturb physical evidence. Instead, they should carefully review any available photographs or videotape of the immediate crime scene.

Supervisors not needed at the crime scene should return to the precinct house or command center to be available for telephone consultations. A supervisor should be able to direct the investigation from a remote site. Moreover, investigators will appreciate the fact that the supervisor is not standing over their shoulders, watching every move they make.

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***...supervisors should ensure that investigators possess sufficient evidence to convict a suspect before the individual is detained.***

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### **Maintain a Supervisory Log of Events**

Unfortunately, some supervisors believe that upon their promotion they abdicate their responsibility for writing reports and detailing their activities in an investigation. To the contrary, supervisors have a responsibility to document their activities just as their officers and investigators do. Prosecutors and juries want to know what transpires during major case investigations from the perspective of the case supervisor. Such information provides an important overview of the case that the court may not get from any other source.

Supervisors asked to recount the details of a case would be remiss trying to accurately recall from memory everything that happened during an investigation that may have concluded several months before the trial. For this and other reasons, supervisors should document information as it comes to them, including the time and date and the name of the person who provided the information. The supervisory log also should outline all investigative assignments and specify when they were made.

### **Conduct Daily Briefings**

As a case progresses, daily briefings take on an important role in an investigation. They keep investigators apprised of the progress being made and keep personnel assisting with the case familiar with the latest developments. In some cases, supervisors might want to hold two briefings a day, one in the morning and one in the late afternoon.

### **Keep Superiors Apprised**

Throughout an investigation, supervisors should keep their superiors informed of vital case details. To this end, supervisors should invite department executives to attend daily briefings.

### **Communicate with the Prosecutor's Office**

Most prosecutors like to be notified when a law enforcement agency within their jurisdiction initiates a major case investigation. Prosecutors who know they are going to be the trial attorney for a particular case often prefer to

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be involved in the investigation from the beginning. A cooperative arrangement in this area benefits both parties.

In many cases, investigators require the assistance of prosecutors in preparing search warrants and other legal documents. When supervisors keep prosecutors informed from the beginning of an investigation, they eliminate the untimely delays that occur when prosecutors must review bulky case files to bring themselves up to date on an investigation.

### **Cooperate with the Media**

As soon as practical, a supervisor should arrange to disclose preliminary information to the media via a press release or news conference. In agencies with a designated press officer, supervisors may not have to attend press conferences, but they should take part in deciding what information is released to the media. Generally, reporters appreciate that investigators have a job to do and understand that they cannot reveal every detail of an investigation. For the most part, reporters are satisfied if the police department provides periodic updates regarding an investigation.

Supervisors should maintain a proper perspective of the media's potential role in a major case investigation. The press can be an indispensable asset in disseminating potentially helpful information to the general public-information that can produce valuable leads in a stalled case, for example. Supervisors should strive to achieve a cooperative balance when dealing with the press.

### **Monitor the Welfare of Subordinates**

Supervisors should monitor the well-being of their personnel throughout a major case investigation. Accordingly, supervisors should prioritize the investigative steps and ensure that investigators have sufficient opportunities for breaks during the day. If the crime scene requires extensive processing, supervisors should arrange to have the area sealed and secured until the following day, when rested investigators and technicians can resume where they left off. Exhausted and overly stressed personnel become prone to making mistakes.

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***...effective management can help build a strong esprit-de-corps among the personnel conducting these investigations.***

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### **MANAGING THE ONGOING INVESTIGATION**

Once the initial stages of an investigation have been completed, supervisors must be prepared to manage the case follow-up. In many ways, successful follow-up presents a very different set of challenges for which supervisors must be prepared.

### **Control Files**

It is crucial to the success of any long-term investigation that supervisors establish an effective system for controlling case files. To ensure the integrity of individual case files, supervisors should assign one investigator as the case agent. The case agent is responsible for inserting *all* reports or other materials into the working case file and should be held accountable if problems arise with the file.

To ensure that potential leads are not missed, no reports should be put into the file until the case agent and the supervisor read and initial them. Because the case agent might be in the field for extended periods, the supervisor must take an active role in prioritizing leads. The supervisor should approve each lead before it is assigned to an investigator.

Cases that generate fewer than 300 leads probably can be managed by using hard-copy lead sheets and indices. However, supervisors should make use of available computer software programs for cataloging and analyzing leads in cases that generate-or have the potential to generate-a greater number of leads.

To further control the paper flow in major cases, supervisors should arrange to have all original reports forwarded to records control personnel so they can copy and distribute the reports to the detective bureau. This prevents original reports from being confused with their copies and also prevents multiple copies of the same report from being forwarded to detectives.

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## Take Care of the Details

Supervisors should handle as many of the small, but important, details as possible so that investigators can follow up on leads without being distracted. For example, supervisors should act as the conduit between investigators and prosecutors when subpoenas are required, thus eliminating the need for investigators to expend quality investigative time pursuing such matters. Supervisors also should ensure—on a continuing basis—that investigators have the basic materials necessary to do their jobs.

## Cooperate with Other Agencies

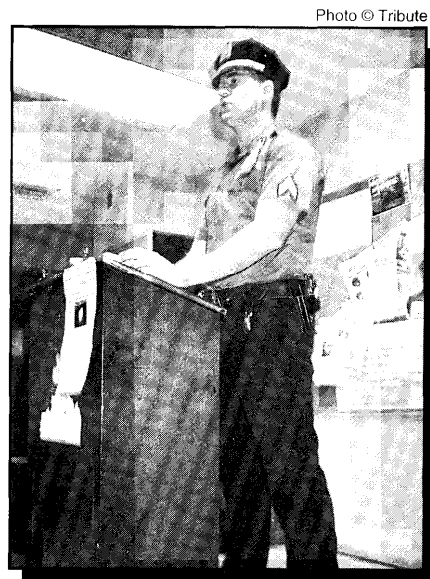
Supervisors can enhance investigations greatly by fostering communication with other law enforcement agencies. Proactive supervisors share their case information with any agency that may be able to provide leads or other information to help resolve a case. Today's criminals are highly mobile and neighboring agencies may be investigating different cases that could be traced to a single offender. By combining resources, agencies can identify patterns that sharpen the focus of seemingly disparate investigations. But supervisors cannot realize these potential benefits if they do not share information.

## Keep Investigations Focused

Supervisors deal with many talented and strong-willed investigators while managing major case investigations. Among their many tasks, supervisors must keep investigations focused, while managing all of the individual

personalities and egos involved. To do so, supervisors should continually reinforce the team concept.

Many theories generally develop during major case investigations, particularly before a suspect is identified. The supervisor must encourage investigators to keep their options open and consider all possibilities. Most important, investigators should be allowed to pursue only those theories that are



based on sound logic and consistent with the known evidence. Because supervisors generally do not interview witnesses or victims, they often can maintain a more objective view of the case and its intricacies and recognize when an investigation is drifting off course.

## Commend Hard Work

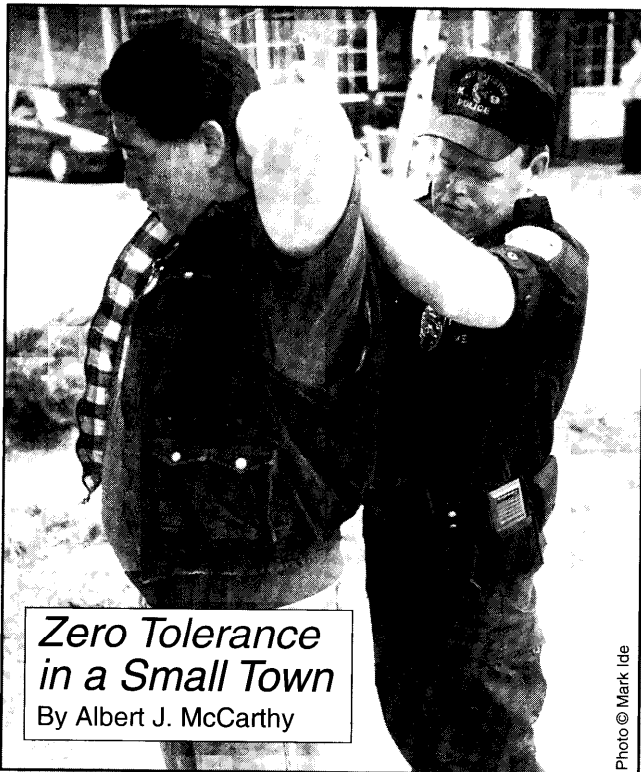
Finally, supervisors should not forget to recognize and commend investigators and officers for their hard work and commitment. While

investigators strive to solve *all* cases, realistic experience dictates that some will go unsolved, despite the efforts of the personnel involved. Supervisors should commend investigators not only for successes but also for diligent work, regardless of the outcome. Such praise helps to maintain morale during protracted investigations and helps to establish a positive long-term working relationship between supervisors and their investigative staffs. Supervisors never should burn their bridges on one case by demanding more than their personnel can give.

## CONCLUSION

Major case investigations place special demands on supervisors. These challenges require that supervisors develop effective strategies to manage the myriad duties they must perform. By adopting fairly simple measures, however, supervisors can meet the challenges posed by these often-complex investigations.

Despite—or perhaps because of—the pressures associated with major case investigations, effective management can help to build a strong esprit-de-corps among the personnel conducting these investigations. Supervisors should ensure that investigations proceed in a methodical manner that fosters careful fact-finding and yields strong cases that can withstand close scrutiny in court. Supervisors also must reassure investigators when hard work yields limited results. There will be other cases. In fact, the next one may be just a phone call away.+



## Zero Tolerance in a Small Town

By Albert J. McCarthy

Photo © Mark Ide

**T**he Kennett Square, Pennsylvania, Police Department and the New York City Police Department (NYPD) have one thing in common—both are law enforcement agencies. Beyond that, similarities can be hard to find. With a police force of over 38,000 sworn personnel, New York City has more than six times as many police officers as Kennett Square has citizens. Yet, in recent years, this small community of 5,600, located 25 miles southwest of Philadelphia, has suffered many of the plagues normally associated with big cities—including increased assaults, heightened levels of public drunkenness and disorderly conduct, prostitution, and a flourishing open-air drug market operating around the clock.

The combined affects of these and other factors fueled an appreciable decline in the quality of life in Kennett Square. Throughout the early 1990s, Part I crime-per-capita figures increased.<sup>1</sup> In 1993, the once-placid community experienced four homicides. In 1994, *Philadelphia Magazine* ranked the borough as

one of the 10 least safe communities in the Philadelphia metropolitan area.<sup>2</sup>

The growing crime problem did not reflect a lack of resourcefulness on the part of the police department. High clearance rates for Part I and Part II crimes—50 percent and 65 percent, respectively—demonstrated the effectiveness of the 12-member police force.<sup>3</sup> Periodic drug sweeps conducted with the assistance of the state police yielded numerous convictions and helped to dismantle organized trafficking rings. Residents of Kennett Square consistently expressed confidence and satisfaction with their police department. But, the overall quality of life continued to decline. The question remained: What could be done to reverse this trend?

### Big City Model

Ironically, the answer was being formulated 100 miles away in a metropolis long regarded as an ongoing experiment in civic dysfunction. By the mid-1990s, though, New York City had begun to post dramatic reductions in crime. Between 1993 and 1996, the rate of serious crime in the city dropped nearly 40 percent, while the crime rate nationally declined a modest 2 percent.<sup>4</sup> The city has recorded significant reductions in a broad range of crimes: The number of murders fell from 2,245 in 1990 to less than 1,000 in 1996, while auto theft rates declined over 50 percent from 1990 figures. The number of rapes, assaults, and robberies also has declined significantly.<sup>5</sup>

Chief McCarthy commands the Kennett Square, Pennsylvania, Police Department.



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The reduced crime rates can be traced in large part to a shift in focus adopted by the NYPD in 1994. Applying many of the principles outlined in the Broken Windows theory developed by James Q. Wilson and George Kelling over a decade earlier," the NYPD implemented a zero-tolerance policy toward criminal activity-including seemingly petty offenses that rarely warranted police intervention before. As the police began to make arrests for such quality-of-life offenses as public drunkenness, graffiti-painting, aggressive panhandling, and disorderly conduct, outward signs of social control began to return to the city's public areas. Law-abiding citizens became emboldened to reclaim areas and practices that long ago had been abandoned. As they did, they further reestablished basic codes of civil conduct throughout the city. Soon, public areas, such as Bryant Park, which essentially had been surrendered to criminals and miscreants, flourished as the public reclaimed and the city rejuvenated them.

Equally as dramatic as the public revitalization that followed the shift in police focus and practices was the impact of the zero tolerance policy on serious crime. Murders, assaults, rapes, and other serious crimes plunged in the wake of the police crackdown on comparatively minor offenses. While other factors-such as the maturing of the drug trade (most of the turf wars had been settled by the mid-1990s), a prolonged stock market boom, and a rejuvenating wave of immigration--contributed to the enhanced livability of New York City, the impact of the police department's emphasis on maintaining order, rather than merely reacting to crimes, clearly played a pivotal role.

### **Adapting the New York Model**

When I began reading articles about New York City's zero tolerance approach, I was intrigued by the reduction in all types of criminal activity it yielded. The approach itself seemed to reflect a fundamental perception regarding the nature and effects of criminal activity: Citizens in industrialized societies have

come to understand and accept that major crimes are going to occur, and they generally are satisfied with the law enforcement response to these types of crimes. However, the approach adopted by New York City addressed the types of miscreant activity and minor crimes that have an even greater impact on communities. When the police began to target *those* kinds of problems, crime rates in all classifications dropped.

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**From the start, officers expressed a higher level of enthusiasm for the new approach than I had anticipated.**  
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Still, as Kennett Square's Police Chief, I remained skeptical of whether a zero tolerance approach could produce similar results in our own small community. For one thing, the 12-member police department could hardly match the NYPD in resources or in the kind of blanket presence of uniformed officers that New York could deploy to enforce its focus on order maintenance.

Then, late in 1995, a discussion with an NYPD patrol officer began to change my perceptions. The officer expressed overwhelming enthusiasm for the quality-of-life approach being implemented by his department. The 9-year veteran related that for the first time in years, he actually enjoyed going to work because he could see noticeable signs of improvement in the community directly related to the actions of the police department. He further explained that precinct commanders now were given greater latitude to address the problems residents identified in their individual precincts. Although it took several months for the department as a whole to accept and become comfortable with this new orientation, the benefits to the morale of the department eventually paralleled the improvements to the quality of life the approach brought about in the community.

While the crime problem in Kennett Square might seem mild compared to the problems of a big city, to residents they are no less pressing. Throughout its history, which dates back to the late 1800s, the Kennett Square Police Department had strived to deal with issues before they became crime problems. During the late 1970s, the proliferation of drugs in the community ushered in new challenges for the



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police department. Two particular apartment complexes became open-air drug markets. As a life-long resident, I witnessed the deteriorating effects of crime in Kennett Square during the 1980s and 1990s, and I resolved to address the problem.

Throughout the spring of 1996, I spoke to as many residents as I could. I asked about their concerns for the community and their specific fears and complaints regarding criminal activity. In addition to the burgeoning drug culture, the community faced other challenges that pose potential threats to the quality of life. The borough is the most ethnically diverse in Chester County, with a mix of white, black, Hispanic, Puerto Rican, and Asian residents. The mushroom industry for which Kennett Square is famous relies on a large migrant labor force. The proximity of the borough to two urban centers—Philadelphia, with a population of 1.5 million, and Wilmington, Delaware, with a population of 74,000—provides a steady flow of transients. Two smaller cities sit directly to the north, adding to the flux of people through the borough.

Despite these conditions, however, the vast majority of residents expressed little fear of serious crime. They pointed to the police department's successful handling of the four homicides that occurred in 1993 as evidence of the department's ability to respond to major crimes, and they felt confident that the department could handle any serious crimes that occurred. In short, the citizens felt safe.

Yet, these informal interviews revealed a pervasive sense of frustration among residents. They said that activity in the town never seemed to cease; parts of the community seemed open 24 hours a day. The noise forced many residents who wanted to enjoy cool summer evenings with their windows open to use the air conditioning instead. In addition, they identified one intersection as having a particularly high level of activity. Many suspected that the location served as a focal point for drug transactions in the community.

It became readily apparent from the information I collected that most of the problems irritating citizens and impacting the quality of life in the borough occurred between 9 p.m. and 3 a.m. Problems were reported 7 days a week during these hours, but reports tended to increase toward the latter part of the week and peak on the weekends.

Unlike New York City, our police force did not have the resources to deploy large numbers of officers on the street at the same time. However, I decided that the concerns expressed by citizens warranted the type of approach being applied successfully in New York. In the summer of 1996, the Kennett Square Police Department adopted a two-pronged response to the crime problems facing the community. The department would

continue to focus on resolving major crimes when they occurred; but it also would adopt a zero tolerance policy toward public nuisance crimes—disorderly conduct, disturbing the peace, public drinking, public urination, and other “minor” offenses—that had a negative impact on the quality of life in the borough.

### **Implementing the Policy**

To avert charges that the policy had been framed and forced upon an unwitting community in a roughshod or haphazard way, I determined that the public should be given notice before the new policy went into effect. For 3 weeks, officers disseminated fliers explaining the policy and met with community groups to advise them that the department was not instituting the policy to target any individual group by race or economic standing. The department simply wanted to remove from the community the bad elements that affected all residents.

I mandated that each special operation would be led by a supervisor to help ensure that citizens' rights were protected. Despite the aggressive nature of the zero tolerance approach, the emphasis would be on clean, defensible arrests.

As the department had announced, 3 weeks after the policy was made public, it went into effect. As in

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New York City, one of the primary operational modifications from traditional reactive policing involved taking officers out of their cars and placing them on foot patrols. The officers worked in pairs at a minimum and in groups of three under the best circumstances. To demonstrate executive-level commitment to the new policy, I personally supervised the first four weekend operations. I then alternated weekends with a lieutenant who serves as the second-highest ranking officer in the department. From the start, officers expressed a higher level of enthusiasm for the new approach than I had anticipated.

In 3 weeks, the department made over 160 arrests, primarily for minor offenses but also for several serious crimes. During the next several weeks, arrests continued to mount, especially in areas that previously had been identified as criminal “hot spots” by residents. By the end of the seventh week, criminal and nuisance activity in the two apartment

complexes and the intersection that once had served as all-night drug bazaars declined dramatically. Still, the police department maintained its aggressive zero tolerance orientation. As the policy entered its third month, I became concerned that the support of the borough council and the mayor would wane after the problems seemed to be under control. I knew that the problems would reemerge or possibly relocate to other areas of the community if the department did not continue to work proactively to maintain order. However, upon receiving positive comments from residents and observing noticeable improvements in the quality of life throughout the community, it became clear that municipal officials would provide long-term support for the policy.

## Results

In the 3-month period of June through August 1995, the year before the zero tolerance approach was adopted, the Kennett Square Police Department made 39 arrests for public nuisance offenses. From June to

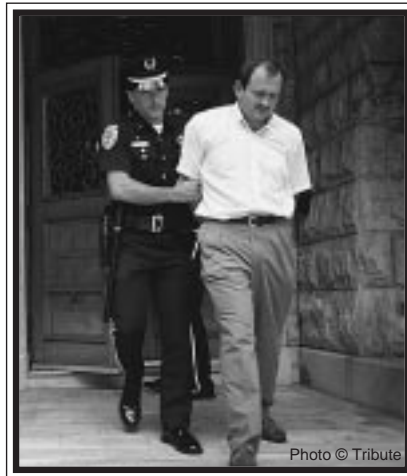
August 1996, during the first year of the policy, officers made 220 such arrests. During the 3 summer months of 1997, as the department continued its proactive communitywide focus on maintaining order, officers made 89 such arrests, indicating a general decline in disorderly activity throughout the borough.

Close cooperation with the district justice (district attorney) has resulted in a very high conviction rate for offenders charged with summary offenses. In fact,

most offenders plead guilty rather than contest the charges. At the same time, the police department’s focus on defensible arrests has helped to limit public criticism of the department’s zero tolerance orientation. During the first year of the policy, only one formal complaint was filed against the department, despite the increased number of arrests.<sup>7</sup> Minority groups who feared that the police department’s zero tolerance approach might give officers an excuse to harass innocent people instead have found that they are among the primary benefi-

ciaries of the policy. Minorities had been the targets in a large percentage of the crimes that occurred in the borough.<sup>8</sup>

As the prevalence of minor criminal activity began to fade and the quality of life began to improve throughout the community, police officers in Kennett Square began to experience something their counterparts in New York City had by now grown accustomed to: Citizens began stopping officers to thank them for helping to reclaim their neighborhoods. The enhanced citizen support and involvement, in turn, has helped officers respond even more effectively to problems that do occur. Also as in New York City, Kennett Square’s focus on maintaining order and addressing minor criminal activity has resulted in a significant decline in serious (Part I) crime throughout the community.<sup>9</sup> Although criminologists and sociologists might debate the specific causal factors, it would be difficult to dismiss the correlation between an emphasis on enforcing quality-of-life ordinances and resulting declines in serious crime.



## Conclusion

Today, more than 2 years after the police department adopted a zero tolerance policy, the open-air drug markets have closed down and have not relocated to other areas of the community. Incidents of disorderly conduct have fallen sharply. The din of car stereos blaring through the night has subsided. Come this summer, residents of Kennett Square will be hoping for mild weather—they look forward to sleeping through cool summer evenings with the windows open. ♦

## Endnotes

<sup>1</sup> *Crime in the United States*, Uniform Crime Reporting Program, Federal Bureau of Investigation (Washington, DC: U.S. Government Printing Office, 1996). Part I offenses, as defined by the Uniform Crime

Reporting Program, consist of the following crimes: Criminal homicide, forcible rape, robbery, aggravated assault, burglary/breaking and entering, larceny-theft, motor vehicle theft, and arson.

<sup>2</sup> Larry Platt, "In My Little Town," *Philadelphia Magazine*, November 1994.

<sup>3</sup> Internal crime data, Kennett Square, Pennsylvania, Police Department.

<sup>4</sup> Tod Newcombe, "New York City Crime Drops 38 Percent," *Government Technology*, March 1997, 18-19.

<sup>5</sup> John Leo, "You Might Even Want to Live There," *U.S. News and World Report*, November 4, 1996, 19.

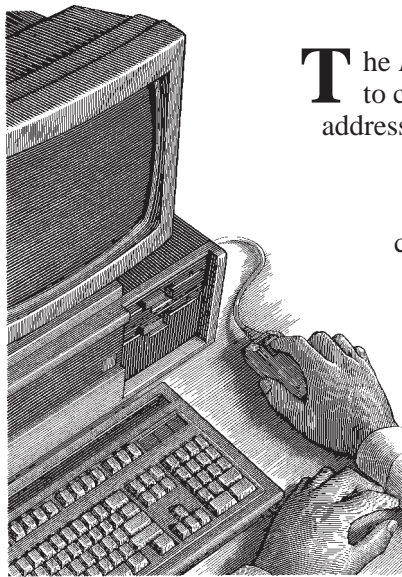
<sup>6</sup> James Q. Wilson and George L. Kelling, "The Police and Neighborhood Safety: Broken Windows," *The Atlantic Monthly*, March 1982, 29-38.

<sup>7</sup> Christina Asquith, "Kennett Square Tries Zero Tolerance" *Philadelphia Inquirer*, September 10, 1997.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Supra* note 3.

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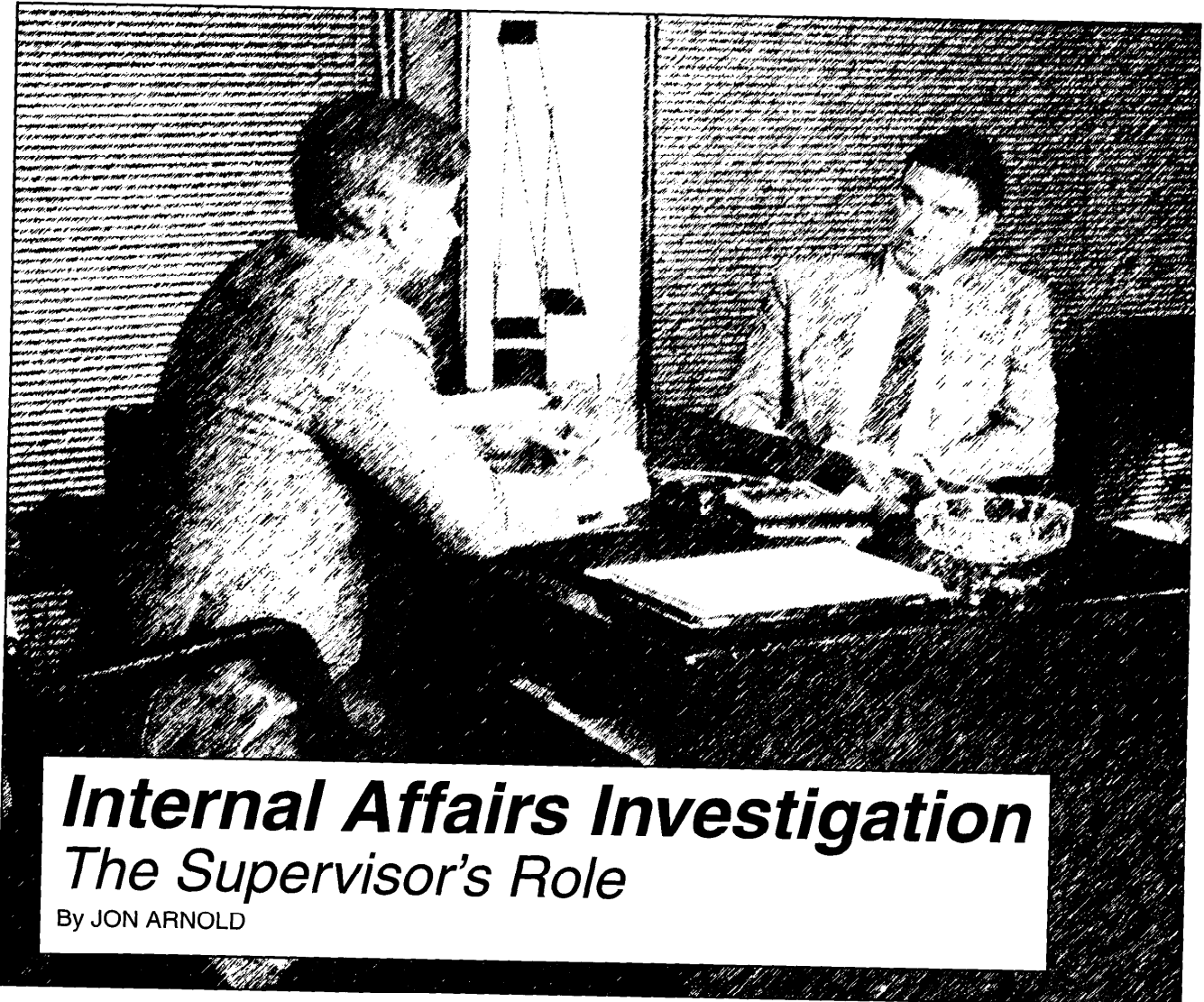
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# ***Internal Affairs Investigation*** ***The Supervisor's Role***

By JON ARNOLD

**F**rom television crime dramas to police novels, internal affairs investigators have become the pariahs of fictional law enforcement agencies. Unfortunately, some real-life police departments treat internal affairs investigators the same way.

Yet, as their fellow employees face ethical dilemmas and community residents demand accountability, internal affairs investigators should hold places of honor, not contempt. Indeed, law enforcement

professionals should regard internal affairs functions as an integral part of their agencies.

Many states require that law enforcement agencies develop procedures to accept and investigate citizens' complaints. The 1991 Christopher Commission reported that complaint investigations play a pivotal role in an agency's ability to police its own.<sup>7</sup>

Internal affairs investigations, also known as personnel complaint investigations, represent a

significant part of any law enforcement supervisor's job.<sup>2</sup> Whether they work for a small department and occasionally investigate minor complaints or conduct internal affairs investigations full time for a large agency, supervisors have an important obligation. Understanding this role and following some universal guidelines will assist supervisors in performing this critical task.

Simply stated, the supervisor's sole job is to determine the facts.

Supervisors must view each case just as they would any other investigation, even though the “crime” may be a violation of department rules and the “suspect” is an employee. What confuses or sidetracks some supervisors is the fact that they are investigating their own. They are unsure of how to interview officers, and they become hesitant to confront their own personnel. Yet, by understanding their roles and following certain guidelines, supervisors can reduce their anxiety over conducting complaint investigations.

### **COMPLETING PRELIMINARY WORK**

Although the temptation to conduct interviews immediately can be strong, it is important to complete some preliminary work first. After being assigned an investigation, supervisors first need to review all pieces of evidence. They must carefully examine all documents,

statements, and photographs submitted by the complainant.

Next, they should obtain any supporting documentation the department may have. These items include a copy of the crime or arrest report, a computer printout of the call for service, a paper copy of recorded radio transmissions, and any other retrievable items. These limited parts of the puzzle can assist supervisors in piecing together the key issues or acts alleged in the complaint.

With this information, supervisors can develop blueprints for cases. They can identify and list the potential witnesses they need to interview. Scheduling witness interviews in advance can avoid downtime between interviews and keep investigations on track.

### **CONDUCTING INTERVIEWS**

Interviewing all of the parties involved represents a major component of most investigations. By

conducting interviews, supervisors uncover the facts of the case. Interviews also provide information that may help to corroborate the subject’s statement, for instance, the identity of other witnesses or the existence of audio or videotapes. These additional pieces of evidence also may help to establish the credibility of the witnesses.

Definite advantages exist in conducting interviews in a specific order. By interviewing witnesses first, supervisors can develop questions for the complainant and the subject officer, whom they will interview later.

### **Witness Interviews**

When possible, witnesses should be interviewed in this order: independent witnesses, witnesses identified by the complainant, and, finally, employees who witnessed the incident.

Independent witnesses to the incident sometimes provide supervisors with the best information and can help supervisors gauge the accuracy of the other witnesses’ statements. Normally, these witnesses are impartial and their position is neutral, whereas witnesses identified by the complainant sometimes provide biased information.

The last witnesses supervisors should interview are officers or other employees who observed the incident. At this stage, supervisors have obtained statements from individuals who may favor the complainant, others who may side with the officer, and, if available, witnesses with a neutral position.

Supervisors must be prepared to conduct interviews in locations



*Lieutenant Arnold previously commanded the Professional Standards Unit and now serves as the south area commander for the Huntington Beach, California, Police Department.*

“ **Supervisors conducting complaint investigations play a crucial role in maintaining professionalism in their organizations.** ”

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other than the police facility, such as a home or office. No matter what the setting, supervisors always should tape-record interview sessions so there can be no dispute as to witnesses' statements. Tape recorders placed close to the witness or specially designed conference microphones provide the best audio quality.

Prior to every interview, supervisors should prepare a list of questions. However, before asking the questions, supervisors need to explain the purpose of the interview to witnesses and give them the opportunity to provide a narrative statement. Then they can follow up with specific questions. In general, the questions encompass three different types:

- Direct questions to help clarify issues
- Confrontational questions if the evidence or other witnesses have provided facts to the contrary
- Challenging questions if the witnesses' responses to confrontational questions are not believable.

Supervisors should not be afraid to aggressively pursue the facts of the case from any witness, whether they are private citizens or department employees.

In many states, witness officers do not have the right to delay unnecessarily the time of the interview, to refuse to cooperate, or to have an attorney or other representative present during the interview. However, supervisors must review their applicable state statutes or confer with their legal advisors on

this issue. When dealing with witness employees, supervisors must remember that their job is to determine the facts, not to protect or to punish anyone.

At the conclusion of the interview, supervisors should order employees not to speak to anyone about the case. They should state this clearly while tape-recording.

**// Supervisors should not be afraid to aggressively pursue the facts of the case from any witness....**

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In some cases, witnesses provide additional evidence or identify other witnesses. If they do, supervisors need to review this evidence or interview newly identified witnesses prior to interviewing the complainant.

### **Complainant Interviews**

After interviewing witnesses, supervisors should have a solid understanding of the case in order to prepare a list of questions to ask the complainant. Just as they did during witness interviews, supervisors should tape-record these sessions and allow the complainant to give a statement. Complainant statements accomplish a number of objectives, such as:

- Giving complainants an opportunity to tell their sides of the story in their own words
- Demonstrating complainants' independent recollection of dates, times, distances, descriptions, etc., and
- Locking complainants into their versions of the incident.

In addition, if consistent with the evidence and witness information, these statements increase the credibility of witnesses. Conversely, inconsistent statements may demonstrate a lack of credibility and, at the same time, provide supervisors with the details they need to challenge complainants' versions of the event.

After complainants give their statements, supervisors should ask them specific questions regarding the incident and ask if they have information—such as the names of witnesses or other evidence—they did not have when they filed their complaints. If complainants provide new information, supervisors must find out why they did not disclose the information earlier. Finally, supervisors should ask complainants if they have any photographs, medical reports, or other documentation to help corroborate their stories.

### **Subject Officer Interviews**

Supervisors must review their applicable state statutes or confer with their legal advisors regarding peace officers' rights while under investigation. Applicable California statutes, for example, are listed under Government Code Sections 3300-3311.<sup>3</sup>

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When preparing to interview subject officers, supervisors need to determine if officers want to have an attorney or representative present. In most instances, however, officers cannot unreasonably delay interviews waiting for representation.

As with other interviews, supervisors should prepare a list of specific questions beforehand. During interviews, supervisors should:

- Tape-record the entire session, read any appropriate advisement forms, and have officers sign where necessary
- Inform officers of the nature of the investigation and the allegations against them and, depending upon agency protocol, allow them to review a copy of the complaint
- Allow officers to provide narrative statements regarding incidents.

After taking narrative statements, supervisors should ask officers specific questions to obtain precise information. For example, if the complaint is for “rudeness” and the complainants allege that officers called them specific names, supervisors should ask officers if they, in fact, called the complainants those names, yes or no. Next, supervisors should ask officers if they called the complainants any other names. Finally, supervisors should ask specifically, “What did you say to the complainants?”

Many supervisors fail to ask specific questions that elicit answers explaining exactly what happened. As a general rule,

supervisors should ask such questions as:

- “What did you do?”
- “What did you say?”
- “Did you say \_\_\_\_\_ to the complainant?”
- “Did you do \_\_\_\_\_ to the complainant?”
- “On Friday, January 5, 1996, at 1800 hours, did you \_\_\_\_\_?”

**// Supervisors must challenge the officers’ responses whenever the facts state otherwise.**

Another way for supervisors to obtain concrete details is to ask questions in the following manner:

- “On Friday, January 5, 1996, what shift did you work?”
- “What was your assignment?”
- “At 1800 hours did you make contact with a male at 417 Lake Street regarding a party?”
- “Did you say or do \_\_\_\_\_?”

As a rule, supervisors should not phrase questions in the following manner:

- “Do you recall...?”
- “Do you remember...?”

- “Have you ever...?”
- “Is it possible that you...?”

If supervisors pose questions in this fashion, officers can reply that they “do not recall” doing what was alleged or that they have never done anything like that. These responses do not clarify the issue or provide specific information to determine the facts.

If, in response to key questions, subject officers answer, “I do not recall,” and this is inconsistent with their recollection of other, less important facts, it signals a potential problem. Supervisors must ask follow-up questions to determine specifically what officers do and do not recall.

To help clarify the facts, supervisors should ask specific questions based upon reviewed evidence and witness or complainant statements. If officers provide information contrary to that of the complainants, supervisors must obtain details from officers to strengthen the credibility of their statements.

Still, if officers furnish details that conflict with other evidence or witness statements, they must be asked why. If officers’ statements contradict the evidence, supervisors must ask confrontational questions in a professional manner. Supervisors must challenge the officers’ responses whenever the facts state otherwise. While confronting officers in this way can be unpleasant, supervisors have a professional duty to perform and an obligation to determine the facts.

At the conclusion of the questioning, supervisors can ask officers

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if they have anything to add that was not covered. The officers' attorneys or representatives may briefly ask questions to help clarify certain issues, but they do not have the right to interview officers extensively. At this point, supervisors should order officers not to discuss the case with anyone except their representatives.

## WRITING THE INVESTIGATIVE REPORT

Investigative reports contain all of the relevant facts of the case. Supervisors must write complete, concise reports. Inexperienced investigators sometimes include such superfluous details as phone calls made to witnesses that resulted in canceled appointments or the dates and times of messages left to schedule interviews. Unless these have a specific purpose, e.g., to address the credibility of witnesses or complainants, they should not be included in the final report.

The format of investigative reports should follow agency protocol. Some agencies include a section of the report for a *complaint synopsis* and a *synopsis of the investigation*. The *complaint synopsis* is simply a brief statement describing the alleged misconduct, for example:

- “The complainant alleges Officer Smith was rude and used profanity in front of her”
- “Officer Jones allegedly left his duty station 1 hour early and failed to obtain a supervisor’s approval.”

The *synopsis of the investigation* briefly describes the results of the investigation, for example:

- “The investigation revealed that Officer Smith was, in fact, rude and used profanity in the presence of the complainant”
- “The investigation determined that no evidence exists to support that Officer Smith was rude or discourteous”
- “The investigation revealed that Officer Jones left work 1 hour early without the approval of a supervisor.”



Many report procedures call for supervisors to include their own opinions, conclusions, and recommendations. The *opinions* section should include a summary of the facts as supervisors determined them. It also can briefly explain the reasons they formed specific opinions. Supervisors must exercise caution not to make statements in the opinion section that contradict their conclusions.

The *conclusions* section should concisely summarize what the supervisor has concluded occurred or did not occur, for example:

- “I conclude that Officer Smith was not rude and did not violate any policy or procedure.”
- “I conclude that Officer Jones violated Manual Section 12345 by leaving work 1 hour early on January 5, 1996.”

The *recommendations* section should state the suggested classification of the complaint, that is, *sustained*, *not sustained*, *unfounded*, *exonerated*, etc. When supervisors are the accused officers' immediate superiors, department procedure may require them to include a recommendation of discipline on a sustained complaint. Supervisors should follow department protocol in this area. A common practice is first to review officers' personnel files to look for prior discipline, especially for a similar offense.

Some agencies have a set “bail schedule” listing specific disciplinary action for particular violations. If their agencies do not have such a schedule, supervisors should include a reasonable recommendation, remembering that the purpose of an adverse action should be to modify behavior. In addition, the recommendation should not include the supervisor's personal feelings or opinions regarding the officer's motivation for the incident.

Investigative reports will be reviewed by others up the chain of command and may resurface in a later grievance hearing or a possible civil suit. For these reasons,



supervisors must make every effort to conduct detailed, thorough, and unbiased investigations and submit professional reports reflecting their diligence.

## CONCLUSION

Supervisors conducting complaint investigations play a crucial role in maintaining professionalism in their organizations. Understanding this role and focusing on the necessity of producing quality investigations are the first steps in approaching these cases. The next step is to follow specific guidelines in order to complete a thorough, impartial investigation. Supervisors must remember that they have a duty to determine the facts and not to persecute or protect anyone.

Last, supervisors have not completed their obligations until they have submitted a comprehensive, unbiased, and professionally written report. Supervisors who grasp these concepts and follow the blueprint will perform a significant service to their agencies, their fellow employees, and the citizens they serve. ♦

### Endnotes

<sup>1</sup> Warren Christopher and John Arguelles, *Report of the Independent Commission on the Los Angeles Police Department*, July 9, 1991, 13.

<sup>2</sup> According to the Southern California Internal Affairs Investigators' Association, of which the author is a member, most agencies assign a supervisor to conduct complaint investigations.

<sup>3</sup> "Public Safety Officers' Procedural Bill of Rights Act," *California Public Employee Relations Guidebook*, March 1995.



**Listening in Everyday Life: A Personal and Professional Approach**, edited by Deborah Borisoff and Michael Purdy, University Press of America, Lanham, Maryland, 1991.

"What we have here is a failure to communicate." Unfortunately, this often-repeated line from the movie *Cool Hand Luke* could characterize many of the contacts between police officers and the people they encounter. Officers can have perfect aim, possess great physical strength, and convey a commanding presence, but without constructive communication skills, they may be virtually ineffective.

Listening constitutes an important aspect of communication, but one that is often overlooked. For today's police officers, effective listening is especially pertinent as an increasing number of law enforcement agencies move toward more community-oriented policing postures.

Understanding the subtleties of what a witness or suspect is actually saying can mean the difference between making or breaking a case, perhaps even the difference between life

## Manager's Bookshelf

and death. It would be easy, but wrong, to assume that listening comes automatically and does not need to be analyzed.

*Listening in Everyday Life: A Personal and Professional Approach*, an edited text, brings together some of the most productive scholars in the field of listening improvement. The contributing authors collectively work from the premise that human beings have a basic need to understand others and to be understood. This well-documented belief represents the underlying foundation of the book's discussions, which address the frequently neglected, but vitally important, role listening plays in people's personal and professional lives.

The presentation is divided into two main parts, the first of which examines the processes and contexts of listening. The first chapter discusses the overall concept of listening, defines its components, looks at the importance of listening as a communication skill, and examines the predominance of communication time devoted to listening. Other chapters discuss the nuances of intrapersonal and interpersonal listening, gender and cultural issues related to listening, and the role of listening in group settings. The discussion of gender issues provides not only practical insight, but excellent strategies to diminish listening barriers between men and women in various settings. The discussion of intercultural listening explores major factors that influence communication between people of different cultures, a very important consideration in today's increasingly diverse society.

Part two of the book explores listening as it applies to various professions. Although the specific fields discussed range from education to law, much of the information in these

chapters is universal and especially relevant when applied to communication skills essential to criminal justice personnel.

Throughout the text, the contributing writers emphasize that listening is not a passive exercise but, rather, a highly active and demanding skill. Each chapter concludes with exercises that allow readers to practice and strengthen their abilities to listen more efficiently, effectively, and accurately.

The ability to understand others is crucial for criminal justice professionals. By enhancing their listening skills, officers can go a long way toward improving their overall communicative abilities. *Listening in Everyday Life* should be read by those who want to improve their listening, understanding, and communication capabilities. Whether they are addressing a city council budget meeting or gathering information for a report, law enforcement professionals will find that effective listening can be a most valuable resource.

Reviewed by  
Commander Brad Bennett, D.P.A.  
South Lake Tahoe, California,  
Police Department

Manager's Bookshelf is a new, periodic column designed to acquaint readers with books that have been in print for several years or cover topics outside a strict law enforcement focus, which, nonetheless, present information helpful to law enforcement administrators. If you would like to review a book that you believe may be of interest to *Bulletin* readers, please contact Kim Waggoner, the *Bulletin's* book review editor, at 703-640-8206.



# *Competence and Character Developing Leaders in the LAPD*

By CHARLES F. DINSE and KATHLEEN SHEEHAN

*To lead in the 21st century...  
you will be required to have  
both competence and  
character.*

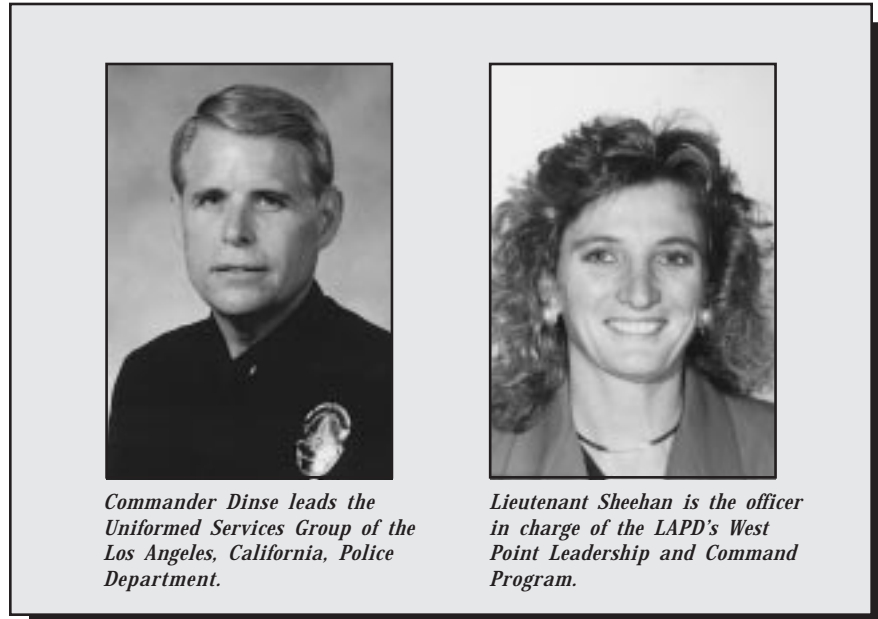
*—H. Norman Schwarzkopf*

**T**he Rodney King incident in 1991 and the Los Angeles riots in 1992 focused worldwide attention on the Los Angeles Police Department (LAPD). Both events seriously called into question the department's training and leadership.

In its report following the Rodney King incident, the Independent Commission on the Los Angeles Police Department (Christopher Commission) stated, "Sergeants, lieutenants, and captains are expected to be leaders as well as administrators and should therefore receive formal leadership training...."<sup>21</sup> Similarly, the following year, an independent analysis of the Los Angeles riots recommended, "The chief of police [should] make it a high priority to improve the training, experience and leadership skills of the command staff level of the department."<sup>22</sup>

In 1992, Police Commissioner Jesse A. Brewer, a colonel in the U.S. Army Reserve, reached out to the most effective leadership training institution he knew—the U.S. Military Academy at West Point, New York. He approached the Department of Behavioral Science and Leadership for assistance in developing quality instruction for the LAPD. Why, one might ask, would any police agency approach the military for assistance in this era of community policing?

Simply put, the U.S. Military Academy is an institution of higher learning. Its curriculum delivers a solid education in psychology, sociology, and the behavioral sciences and instills the values of duty, honor, and country. West Point graduates know how to motivate



*Commander Dinse leads the Uniformed Services Group of the Los Angeles, California, Police Department.*

*Lieutenant Sheehan is the officer in charge of the LAPD's West Point Leadership and Command Program.*

soldiers to overcome malaise, build cohesion, and train constantly to achieve excellence. They receive the skills training needed to make decisions, manage human emotions, and achieve results. Similarly, today's police leaders must be well educated so they can wield the challenging concepts and strategies of community policing, empowerment, problem solving, strategic planning, and joint decision making.

West Point hosted a faculty development workshop in 1993 for the New Jersey Association of Chiefs of Police to teach the leadership principles and methods of instruction. The police version of West Point's curriculum, initially modified by the New Jersey personnel, officially became known as the West Point Leadership and Command Program (WPLCP).

Five members of the LAPD participated in the program in the summer of 1994. Upon returning from West Point, they further revised the program's training scenarios

and computer-assisted instruction to fit contemporary policing issues. In January 1996, LAPD trained 30 employees assigned to various supervisory and executive positions to be WPLCP instructors. In March of that year, the first two classes of middle managers, both sworn and civilian, began the intensive 15-week (1 day per week) leadership course.

#### **WEST POINT LEADERSHIP AND COMMAND PROGRAM**

The WPLCP does not teach military doctrine, nor does it in any way encourage using military tactics in the civilian police environment. Its principal aim is to teach individuals how to think more systematically about leadership challenges and situations. The course comprises behavioral science and adult education theories compiled from the top universities in the nation.

To help students retain the material and apply it daily in leadership situations, the LAPD

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instructors use a textbook, course guide, supplemental readings, computer-assisted instruction, a feature movie (*Glory*), numerous film clips, leadership inventory assessments, realistic case studies, and essay examinations. Other critical elements of the learning process include group exercises, a journal in which students record relevant, real-life events, and class discussions of students' life experiences.

The Intellectual Procedure, a decision-making model, is the first element of the program. It teaches managers to identify what is happening in a specific situation, account for it, and devise actions that respond to the situation or anticipate what will occur next. Students then use this decision-making model throughout the course.

LAPD instructors also use a conceptual framework developed by West Point faculty called the Model of Organizational Leadership. The four levels of analysis in this model constitute the four major study areas in the WPLCP: the individual, group, leadership, and organizational systems.

### **The Individual System**

The WPLCP course teaches that "leadership is the process of influencing human behavior so as to accomplish organizational goals."<sup>3</sup> Inherent in this definition is a leader's responsibility to be mindful of the emotional and human needs of subordinates. The course reminds students that each person who joins a law enforcement organization brings a unique set of talents, skills, needs, and limitations.

To maximize employees' performance, leaders must understand

their people and themselves first as individuals. In a speech to the Corps of Cadets at West Point after his return from the Gulf War, General H. Norman Schwarzkopf described this leadership quality when he remarked, "...I have seen competent leaders who stood in front of a platoon and all they saw was a platoon. But great leaders stand in front of a platoon and see 44 individuals, each of whom has aspirations, each of whom wants to live, each of whom wants to do good."<sup>4</sup>

**//**  
***The course reminds students that each person who joins a law enforcement organization brings a unique set of talents, skills, needs, and limitations.***  
**//**

In the individual system, WPLCP concentrates on developing students' skills and insights in motivating individual employees. This area of instruction first analyzes the individual as a psychological system, examining a number of theories in order to see how subordinates, and in fact, the leaders themselves, might respond to stimuli in very different ways.

Students discuss attribution theory, which shows the influence of biases as well as rational factors, on decisions leaders make. Adult development theory helps students recognize subordinates' various

levels of maturity, which might cause them to respond to leaders in different ways. Equity theory discusses how people may react when they perceive unfairness, and expectancy theory helps leaders target what is lacking in employees' motivation.

Students also learn how to motivate subordinates through judicious and effective use of rewards and punishments. Finally, instruction in job redesign examines ways leaders can alter portions of employees' jobs to enhance their satisfaction and performance.

### **The Group System**

Groups of people, for better or worse, develop and exhibit behavior patterns that go far beyond the characteristics of the individuals alone. This second area of instruction stresses that effective leaders must be able to pull together individuals of diverse backgrounds, personalities, abilities, training, and experience, molding them into a cohesive, high-performing team. The challenge is to bring together all of the unique contributions of people in such a way that the whole will be greater than simply the sum of its parts.

The students learn to take an active role in the socialization of employees, so that negative role models do not damage organizational performance. A lesson on group development yields interesting insight into how groups evolve over time.

Students also learn how to support and monitor cohesion and how to manage intergroup conflict. Instruction in how and when the leader can achieve better results

## Sample Lesson: Transformational Leadership

One of the most popular and exciting theories presented in the WPLCP is Transformational Leadership. It has been offered by a variety of theorists but is based largely on Maslow's Hierarchy of Needs, specifically, the human need for self-actualization. This theory teaches leaders to harness the internal motivational forces that drive each of their employees. Leaders who can convince their subordinates to truly internalize the values of the organization will achieve a synergy and effectiveness far beyond traditional performance measures. The readings for this lesson begin with a descriptive quote from Napoleon Bonaparte: "...You must speak to the soul in order to electrify the man."

The WPLCP lesson provides a basic framework and a few examples, but the students must fill in the gaps with real-world personalities, situations, and experiences. For example, the course guide introduces the topic by stating that transformational leaders possess three common characteristics—charisma, individualized consideration, and intellectual stimulation. It describes the basic conditions that cry out for transformational leadership: crisis, change, and/or instability; mediocrity; follower disenchantment; and future opportunity.

The brief, but powerful, readings introduce students to such transformational leaders as Dr. Martin Luther King, Jr., Gandhi, Abraham Lincoln, Tom Peters, and a number of talented sports coaches. They also cover the potent but dark influences of such leaders as Adolph Hitler

and Jim Jones of Guyana's mass-suicide religious cult. Instructors show a variety of film clips (including Dr. King, Gen. George S. Patton, and Scottish revolutionary leader William Wallace as depicted in *Braveheart*) to demonstrate the theory at work in diverse situations.

By studying such leaders, students identify strategies they can use. For Transformational Leadership, the strategies include:

- Developing and communicating a vision
- Using unconventional strategies
- Communicating high expectations and confidence
- Showing concern for individuals
- Demonstrating self-sacrifice.

Through class discussions, students translate these theoretical guidelines into effective, present-day leadership behaviors that suit their individual ranks and assignments. They then practice these behaviors in a case study group exercise. The students assume the role of a captain of a patrol division infected by mediocrity and the other conditions listed above. They apply the Intellectual Procedure learned early in the course to identify, account for, and address the situation. Ultimately, these leadership students not only appreciate the awesome power of transformational leadership, but also realize how to put this power into practice.

from the group by involving subordinates in the group decision-making process completes this portion of the program.

### The Leadership System

Individuals and groups typically take their cues from the leader.

Therefore, the focus in the third system of the course shifts to the leader's performance.

The theories in this portion of the program address the concept of influence. First, students look at the leader's available bases of power and how using that power has

ramifications and predictable outcomes. Instructors help students explore how the leader, the followers, and the characteristics of the task all contribute to effectiveness, satisfaction, and productivity.

The final theory in this area, transformational leadership,

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reveals how and when leaders can get subordinates to transcend their self-interest for the sake of the leader, the team, or the organization. This powerful theory shows how exceptional performance can stem from the workers' internalization of organizational goals, rather than from the mere appeal of rewards or fear of punishment.

### **The Organizational System**

The final system in the Model of Organizational Leadership opens the students' minds to the concept and responsibilities of indirect leadership. As leaders advance in the organizational hierarchy, they continue to exert direct influence over some small number of immediate subordinates. At the same time, however, police chiefs and executives make daily decisions that have far-reaching implications. They often take action with environmental, legal, budgetary, or even political considerations in mind; yet, successful leaders must never sacrifice or lose sight of the goals of the organization.

While studying the organizational system, students discuss and apply their knowledge to community policing strategies, deployment policies, press conferences, and identify short- and long-term goals, to cite but a few examples. An understanding of the executive's perspective prepares students for senior executive positions in the future and helps them see how their senior leaders' decisions affect them today.

In this section of the course, instructors describe the police department as a complex set of

structural, technical, psychosocial, and other components that contribute to the overall environment. These components include, for example, the equipment and tools of the trade, the knowledge needed to provide professional service, and the relationships between supervisors and first-line employees. Students discover the interdependence of various aspects of the department. They learn that changes in any of the components will affect every person and group in the

**//**  
***[The program's]  
principal aim is to  
teach individuals how  
to think more  
systematically about  
leadership challenges  
and situations.***  
**//**

agency, as well as the ways leaders interact with them. Next, the students discuss the LAPD's organizational environment. This new perspective provides them with skills and strategies for using and valuing the suggestions of concerned stakeholders, such as politicians, employee organizations, and community activists, without surrendering the department's basic mission.

The WPLCP is designed to help students apply the skills and strategies they have learned. To do so, the course examines how successful leaders amplify their influence by shaping the culture of the

organization. Specifically, students experiment with ways to conquer adversity by proactively managing and overcoming resistance to change.

In the last formal lesson before the final examination, students consider the ethical dimension of leadership. In this pivotal lesson, they see how dysfunctional stress and competition damage the ethical climate and how they must use their influence as leaders to reinforce the values of the organization. Ultimately, the students discover that achieving personal and professional success relies on their strong ethical behavior throughout their commands.

### **Enrichment**

Following the final essay examination, students enter the enrichment phase of the program. This important summation of the WPLCP allows students to learn and practice stress management techniques, communication and counseling skills, and how to apply the concepts they have learned.

In the final lesson, titled "The Journey Continues," students receive an overview of a multitude of other research and leadership approaches. The end of the West Point Leadership and Command Program reflects its opening premise: smart, thoughtful, and reflective leadership does not happen by mistake; it takes a lifetime of active study and commitment.

### **CONCLUSION**

The Los Angeles Police Department has long prided itself on the quality of training provided to

its personnel. Over the years, however, the department has devoted the lion's share of its scarce training dollars to recruit-officer training. While in-service training has been adequate for the technical aspects of police work, leadership training has been sporadic, at best.

For too long, the department relied on trial and error, on-the-job training, a few gifted role models, or the initiative of individual officers to seek advanced leadership education. Even if these methods had some effectiveness, there was no consistent environment in which the training could flourish.

LAPD's partnership with the U.S. Military Academy at West Point and the New Jersey Association of Chiefs of Police has produced a program that addresses the need for command-staff-level training. Through its demanding and challenging curriculum, the West Point Leadership and Command Program will enable its graduates to lead the Los Angeles Police Department with both competence and character. ♦

#### Endnotes

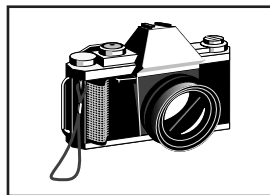
<sup>1</sup> Warren Christopher and John Arguelles, *Report of the Independent Commission on the Los Angeles Police Department*, July 9, 1991, 134.

<sup>2</sup> William Webster and Hubert Williams, *The City in Crisis: A Report on the Civil Disorders in Los Angeles* (Los Angeles: City of Los Angeles, 1992), 182-3.

<sup>3</sup> *Organizational Leadership*, Department of Behavioral Sciences and Leadership, USMA, West Point (New York: Avery Publishing, 1989), 7.

<sup>4</sup> Lt. Gen. Dave Palmer, U.S. Army (Ret.), *Competence and Character: Schwarzkopf Message to the Corps* (LAPD/WPLCP Course Guide, 1996), 253.

## Wanted: Photographs



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

We can use either black-and-white glossy or color prints or slides, although we prefer prints (5x7 or 8x10). Appropriate credit will be given to contributing photographers when their work appears in the magazine. We suggest that you send duplicate, not original, prints as we do not accept responsibility for prints that may be damaged or lost. Send your photographs to:

Brian Parnell, Art  
Director, *FBI Law  
Enforcement Bulletin*,  
FBI Academy, Madison  
Building, Room 209,  
Quantico, VA 22135.



# Bulletin Reports

## ***Video Surveillance***

A report from the California Research Bureau of the California State Library examines how both the public and private sectors have used video surveillance to prevent crime. The report, *Public Video Surveillance: Is It an Effective Crime Prevention Tool?*, by Marcus Nieto, first provides an overview of the history of surveillance in the United States and abroad. Such legislation as the Electronic Communications Privacy Act of 1986 paved the way for law enforcement to use video surveillance. Balanced with the government's right to monitor citizens is the public's right to privacy, and the report also discusses the legal concerns associated with video surveillance.

The report profiles several police departments that are using "video patrol." These include departments in Baltimore, Maryland; Newark, Dover, and South Orange, New Jersey; Tampa Bay, Florida; Virginia Beach,

Virginia; Memphis, Tennessee; Tacoma, Washington; Hollywood, California; and Anchorage, Alaska. In Newark, car theft has declined significantly in the downtown district where closed-circuit television cameras provide 24-hour surveillance. According to the Memphis Police Department, crime is down 10 percent in the downtown business and entertainment district where its cameras are located. In addition to these initiatives, which focus on specific neighborhoods, many more departments use video surveillance in a variety of other settings, including mass transit systems, public housing, schools, and highways.

The report concludes with recommendations for implementing and evaluating video surveillance programs in other jurisdictions. For a copy of the report, call the California Research Bureau at 916-445-3551.

## ***HIV in Prisons and Jails***

By the end of 1995, 2.3 percent of all state and federal prison inmates were infected with the human immunodeficiency virus (HIV), according to a report by the U.S. Department of Justice's Bureau of Justice Statistics (BJS). In state prisons, 23,404 inmates were HIV positive; in federal prisons, 822. These numbers represent a 38 percent increase from 1991 to 1995. In the same time period, the entire prison population grew by 36 percent. Inmates in local jails have similar HIV-infection rates.

Of the HIV-infected inmates, over 5,000 had confirmed cases of acquired immunodeficiency syndrome (AIDS), and between 1991 and 1995, 1 in 3 inmates died of AIDS-related causes, compared to 1 in 10 in the general population. Despite these statistics, only 16 states test all inmates who enter their facilities.

For a copy of this bulletin, *HIV in Prisons and Jails, 1995*, NCJ-164260, call 800-732-3277, fax 410-792-4358, or access the BJS home page at <http://www.ojp.usdoj.gov/bjs/>.

## ***Evaluating Police Practices***

The Police Executive Research Forum's (PERF) book, *Program Evaluation*, provides advice and insight from some of the most prominent names in criminal justice research. By way of introduction, Larry T. Hoover stresses the need to study police practices and evaluate their results. At the same time, the findings should not be overgeneralized, a fault found with the well-known Kansas City Preventive Patrol Experiment, which had many believing that the police were ineffective against crime. Other studies, such as the San Diego Field Interrogation Experiment and the Kansas City Gun Experiment, demonstrate that targeting particular offenders who commit specific crimes works. The author concludes that more controlled studies are needed to determine which strategies produce the best results.

The remaining chapters are dedicated to specific policing methods and how to evaluate them. In chapter 2, authors Gary W. Cordner and Dennis Jay Kenney explore tactical patrol. They describe four different evaluation designs and provide step-by-step instructions for using each one. Chapter 3 authors David L. Carter and Allen D. Sapp discuss the community policing philosophy and provide a framework for evaluation on both the macro and micro levels. That is, departments should study the concept itself, as well as the distinct programs that community policing often comprises, for example, Neighborhood Watch and Crime Stoppers. The authors present a comprehensive guide to

evaluation, and one of several appendices provides sample research instruments. In chapter 4, Clifford L. Karchmer and John E. Eck focus on proactive investigations, defining them, explaining when they may be appropriate, and discussing why and how to assess their impact. The final chapter, by Robert E. Worden and Stephen D. Mastrofski, covers differential police response (DPR), where the police response to a call for service varies depending on the situation. Instead of sending a patrol car immediately, the dispatcher might send a civilian employee, give the call to a specialized unit, or delay the response of a uniformed officer, among other options. DPR was meant to provide alternatives to incident-driven responses. A subsequent field test of DPR in three cities declared the model a success. Still, some issues remain unresolved, and the authors discuss them at length. Sample surveys to evaluate citizen satisfaction with alternate responses serve as appendices to the chapter.

Copies of the book can be ordered from PERF, 1120 Connecticut Avenue, NW, Suite 930, Washington, DC 20036, phone 888-202-4563 or 202-466-7820 or fax 202-466-7826.

***Bulletin Reports***, a collection of criminal justice studies, reports, project findings, and conference announcements is compiled by Kim Waggoner. Send your material for consideration to: ***FBI Law Enforcement Bulletin***, FBI Academy, Madison Building, Room 209, Quantico, VA 22135. (NOTE: The material in this section is intended to be strictly an information source and should not be considered an endorsement by the FBI for any product or service.)

# *Managing Sick and Injured Employees*

By MARY CLAIRE MCNAUGHT, J.D.,  
and DANIEL L. SCHOFIELD, S.J.D.



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**M**anagerial strategies for dealing with sick and injured employees in law enforcement organizations often raise legal questions concerning the rights of employees and the prerogatives of management. This article discusses sicknesses or injuries that temporarily may interfere with an employee's ability to work but is not of sufficient magnitude to require "reasonable accommodation" under the Americans with

Disabilities Act (ADA).<sup>1</sup> In this particular context, the article discusses strategies for managing the use of sick leave and for the effective and efficient use of so-called light-duty positions.

## **SICK LEAVE USE AND ABUSE**

Many law enforcement employers have created incentives that reward conservative use of sick leave. Some examples of such

incentives include 1) allowing employees to apply accrued sick leave in determining creditable years of service for pension calculation; 2) buying back a percentage of unused sick leave at retirement or at the end of the leave year; and 3) granting the right to convert a percentage of unused sick leave to vacation time.

Examples of punitive measures applied to employees who use excessive sick leave include a system

for tracking and maintaining precise records reflecting days and hours of the shift, including the first or last day of the shift, and the proximity of used sick leave to holidays. This documented information is relevant for purposes of performance evaluations and promotions. This documentation also identifies patterns that may substantiate frivolous use or reveal other patterns of misconduct. Another punitive measure includes a policy that requires employees to produce a doctor's certificate after using a specified amount of sick leave. A third policy denies documented "sick leave abusers" departmental approval for secondary employment.

### **Fitness for Duty Medical Examinations**

Can an employee with a prolonged and egregious history of absenteeism and a record of on-the-job illnesses be ordered to undergo a fitness-for-duty medical examination? In *Yin v. State of California*,<sup>2</sup> the United States Court of Appeals for the Ninth Circuit upheld management's prerogative to order such a test as constitutional and not in violation of the ADA because "...when health problems have had a substantial and injurious impact on an employee's job performance, the employer can require the employee to undergo a physical examination designed to determine his or her ability to work, even if the examination might disclose whether the employee is disabled or the extent of any disability."<sup>3</sup> The court also found that the test furthered the substantial interest "...in assuring a productive and stable workforce."<sup>4</sup>

### **Restricting Employee Activity While on Sick Leave**

To what extent can law enforcement agencies implement policies that restrict employees from leaving their residences while on sick leave in order to discourage sick leave abuse and malingering? In *Crain v. Board of Police Commissioners*,<sup>5</sup> the United States Court of Appeals for the Eighth Circuit upheld the constitutionality of sick leave regulations that prohibited an officer from:

...leaving his residence or place of confinement while on the sick list except to obtain medical treatment or attention or at the direction of the attending physician for the express purpose of therapeutic exercise and after approval from the office of the chief of police.<sup>6</sup>

The court began its analysis by noting that most courts have upheld

such regulations because of "...the broad deference that must be accorded a municipality charged with the efficient management of its departments and have been mindful of the need to prevent abuses of liberal sick leave policies wherein absent employees continue to be paid with taxpayer money."<sup>7</sup> The court acknowledged that the regulations are stringent but nonetheless found them rationally connected to departmental interests in "...safety and morale by expediting the recovery of sick officers, minimizing the burden on officers who may have to work longer hours while other officers are out sick, and assuring that officers on sick leave are not malingering and that the sick leave policy is not abused."<sup>8</sup> Because the regulations did not limit whom the officers associated with in their homes or restrict the frequency or duration of visits, the court said the "...prohibition on outside-the-home visits to family and friends while on sick



*Ms. McNaught is the public safety attorney in Winston-Salem, North Carolina.*



*Special Agent Schofield is chief of the Legal Instruction Unit at the FBI Academy.*

leave is entirely reasonable and not unduly restrictive.”<sup>9</sup> Finally, the court agreed that “...it is within a police department’s broad discretionary power to determine that an officer who is too ill to report for his scheduled duties on an election day is too ill to leave his home to vote.”<sup>10</sup>

A federal district court in *Koreny v. City of New York*<sup>11</sup> also upheld the constitutionality of regulations that require employees on paid sick leave to remain at home between 7 a.m. and 9 p.m., with the exception of Sundays and legal holidays, unless otherwise authorized pursuant to departmental guidelines. Even though the hours the sick employee must be at home are greater than the normal workday, the court concluded that: “...this requirement is certainly a rational way to protect against ‘goldbricking.’ It is reasonable, after all, to expect that an employee too ill to work is too ill to be going about other matters outside the home, even beyond the hours of 9 to 5.”<sup>12</sup>

### **Guidelines Must Ensure Nonarbitrary Application**

Managers considering the implementation of such sick leave regulations must include clear guidelines that ensure nonarbitrary application. In that regard, in *Uryevick v. Rozzi*,<sup>13</sup> a federal district court held unconstitutional regulations requiring officers on sick leave to remain in their homes from 9 a.m. to 5 p.m. unless granted permission to leave and requiring those designated as sick leave abusers to remain in their homes for up

to 24 hours per day when on sick leave. The court endorsed the general proposition that the constitutionality of such sick leave regulations depends on whether they are rationally connected in a *nonarbitrary* fashion to legitimate police department interests.<sup>14</sup> In contrast to the regulations upheld by the court in *Crain*, the regulations in the instant case contained *no written guidelines* governing the determination of whether a particular request to leave home is for a “reasonable purpose and time” or

**“Employers are not required by the ADA to create light-duty positions as a form of reasonable accommodation.”**

when an officer should be designated a sick leave abuser. This lack of guidelines created the potential for a wholly arbitrary application of the regulations.<sup>15</sup> In that regard, a policy of carefully tracking and documenting sick leave use as suggested previously in this article presumably would have allowed the department to establish objective criteria for designating a “sick leave abuser” based on documented patterns, frequency and reasons for sick leave use.

In finding the regulations unconstitutional, the *Uryevick* court stressed the *lack of guidelines*

“...and not a belief that the police department’s interest in monitoring injured officers’ activities is in any way trivial.”<sup>16</sup> The court suggested that “...the police department should develop a set of regulations rationally connected to the county’s legitimate goal of monitoring its sick and injured officers, including guidelines to ensure their non-arbitrary application.”<sup>17</sup>

### **Sick and Medical Leave as a Legal Entitlement**

In addition to an employee’s entitlement to sick and medical leave created by applicable laws and agency policies, employees also may be entitled to extended leave under the Family and Medical Leave Act (FMLA).<sup>18</sup> Congress passed the FMLA in 1993 to help employees balance the burden of caretaking among family members and also to balance the demands of the workplace with the demands of family. The goal of the FMLA was not to supplant employer-established sick leave and personal leave policies but to provide leave for more uncommon and, presumably, time-consuming events such as a “serious health condition.” The Act establishes minimum standards to address employee/family medical leave needs.

One portion of the FMLA that relates to employee sickness or injury provides eligible employees with up to 12 weeks of *unpaid* leave per year for a serious health condition that makes the employee unable to do his or her job.<sup>19</sup> Department of Labor regulations provide comprehensive guidance concerning what constitutes a serious health

condition under the FMLA.<sup>20</sup> While it is beyond the scope of this article to detail those regulations, they specifically exclude, unless complications arise, ailments such as the common cold, the flu, upset stomach, and the like from the definition of a serious health condition.<sup>21</sup>

However, such common ailments, when linked together, may constitute a serious health condition. The United States Court of Appeals for the Seventh Circuit recently ruled in *Price v. City of Fort Wayne*<sup>22</sup> that multiple diagnoses, when linked together, could give rise to a serious health condition even though none of the conditions standing alone would trigger FMLA protection. The court broadly interpreted the term “serious health condition” by rejecting as illogical the argument that an employee’s ability to perform at work could be seriously impaired by a single serious illness but not by multiple illnesses having a serious impact.<sup>23</sup> Thus, before taking adverse action for an employee’s excessive absenteeism, managers should determine whether the employee is entitled to FMLA leave based on the *Price* court’s interpretation of the term “serious health condition.”

#### **LIGHT DUTY AS A MANAGERIAL OPTION**

The ADA mandates a “reasonable accommodation” for an employee who is “disabled” but otherwise qualified to perform all of the essential functions of the job with this accommodation.<sup>24</sup> Conversely,

as a general matter, no such affirmative duty exists for employees who are sick or injured but only *temporarily* unable to perform the essential functions of their positions.<sup>25</sup>



Nonetheless, many law enforcement employers elect to create positions that require employees to perform only a limited number of essential functions, often referred to as light-duty positions. These positions are generally limited in duration and allow a trained employee to continue to provide valuable services during a period of temporary sickness or injury.

The development of a light-duty policy—including the nature, number and duration of light duty positions—is essentially a function of managerial discretion. The policy should be based on clearly articulated departmental needs. For many departments, using trained

and talented officers to perform light-duty tasks is preferable to having them home on sick leave. Because temporarily sick or injured officers may be entitled to receive employer-funded disability payments or workers’ compensation benefits, it may make good economic sense to assign these employees to light-duty jobs so they can perform some work for the income they would be receiving anyway.

#### **Distinguishing Light Duty and Reasonable Accommodation**

Employers are not required by the ADA to create light-duty positions as a form of reasonable accommodation.<sup>26</sup> Moreover, a department lawfully can decide to discontinue a particular light duty assignment that has, in fact, served as an accommodation for an injured or sick employee.

For example, the United States Court of Appeals for the Fourth Circuit in *Champ v. Baltimore County*<sup>27</sup> ruled that a department could terminate an officer following a 16-year light-duty assignment after an off-duty motorcycle accident that left him unable to use his upper left arm. Under the department’s light-duty policy, the officer was entitled to a light-duty assignment only for a total of 251 days. Because no reasonable accommodation could have enabled him to adequately perform the essential functions of making forcible arrests, driving a vehicle under emergency conditions, and qualifying with a weapon, he was not a qualified individual with a

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disability under the ADA. The court therefore concluded that it is not a reasonable accommodation that an employer be required to assign an officer permanently to a light-duty position.<sup>28</sup> In that regard, the court noted that although the ADA provides that reasonable accommodations may include reassignment, the statute explicitly limits such reassignment “to a vacant position.”<sup>29</sup> Of course, for operational reasons, a department may choose to have no light-duty positions.

### **Light Duty for Pregnant Employees**

Courts generally have held that pregnancy and related medical conditions are not “disabilities” for which a “reasonable accommodation” is mandated under the ADA.<sup>30</sup> Nonetheless, an officer temporarily unable to perform the essential functions of her law enforcement position because of pregnancy may be entitled to a light-duty position under the Pregnancy Discrimination Act (PDA).<sup>31</sup> The Act includes, in the prohibitions against discrimination based on sex, a bar against discrimination because of or on the basis of pregnancy, childbirth, or related conditions.

It is a well-settled principle that the PDA is violated when pregnant employees are denied such privileges when sick leave or light-duty is afforded nonpregnant, temporarily disabled employees.<sup>32</sup> Simply stated, “...it is a violation of the PDA for an employer to deny a pregnant employee the benefits commonly afforded temporarily disabled workers in similar positions or to discharge a pregnant employee for

using these benefits.”<sup>33</sup> Thus, while a department may, as a matter of policy, choose not to have any light-duty positions, a pregnant officer must be afforded the opportunity to work an available light-duty assignment on the same basis as other similarly situated employees.

Courts also hold that the PDA prohibits an employer from forcing a pregnant officer to accept light duty simply because the employer believes it is unsafe for a pregnant officer to work patrol. Instead, an involuntary light-duty assignment is only legally justified where an employee’s pregnancy is deter-

**//**  
**...a pregnant officer must be afforded the opportunity to work an available light-duty assignment on the same basis as other similarly situated employees.**  
**//**

mined by a medical evaluation to be incompatible with the duties of her regular position.

In *Allison-LeBlanc v. Department of Public Safety*,<sup>34</sup> a state appellate court ruled that a probationary state trooper was illegally discriminated against in violation of the PDA when she was removed from her patrol duties because of pregnancy. In that case, a state police order excluded pregnant women from working regular duty from the onset of pregnancy and

required them to work light duty or be placed on leave regardless of their ability to perform road patrol duties. Nonpregnant female officers and all male officers who were diagnosed with a medical condition were not relieved of road patrol duty without a medical evaluation of disability or inability to perform the required work. The court held this was disparate treatment on the basis of pregnancy in violation of the PDA.<sup>35</sup>

A departmental policy of only offering light duty for on-duty injuries, thereby excluding all pregnant employees, is legally problematic, according to a recent federal district court decision. In *Lehmuller v. Sag Harbor*,<sup>36</sup> officers who became disabled due to illness or off-duty injury were required to use their sick leave and their benefits, while officers injured in the line of duty and unable to perform their patrol duties would be assigned light-duty jobs compatible with their condition. The department claimed this policy stemmed from state law that required that officers injured in the line of duty receive full pay whether they work or not, and the policy was designed to ensure that officers perform whatever work they can in exchange for their pay.

A pregnant officer denied light-duty under this policy claimed it violated the PDA. The court found that the department’s light-duty policy had an adverse impact on pregnant officers and that the officer had established a *prima facie* case of disparate impact discrimination.<sup>37</sup> Despite the department’s contention that the policy was imposed to enable the taxpayers to receive some benefit from the salary

provided officers injured in the line of duty, the court questioned whether the department "...truly had a business necessity for its policy."<sup>38</sup>

Finally, courts have held that the PDA "...does not prevent an employer from treating pregnant employees more beneficially than it treats other employees."<sup>39</sup> In that regard, the Supreme Court had noted that "Congress intended the PDA to be a floor beneath which pregnancy disability benefits may not drop—not a ceiling above which they may not rise."<sup>40</sup> Accordingly, a light-duty policy designed specifically to accommodate pregnancy-related disabilities presumably would not violate the PDA.

## CONCLUSION

Law enforcement organizations should develop policies regarding sick leave and light-duty that reasonably balance legitimate managerial prerogatives with the rights and needs of sick and injured employees. Federal and state laws have created a complex maze of regulations governing an employee's legal entitlement to sick leave benefits and light-duty positions. Competent law enforcement legal advisors should review all departmental policies concerning sick leave and light duty to ensure that those policies are in full compliance with federal and state laws. ♦

### Endnotes

- <sup>1</sup> 42 U.S.C. § 12101 et. seq. (1996).
- <sup>2</sup> 95 F. 3d 864 (9th Cir), *cert denied*, 117 S.Ct. 955 (1997).
- <sup>3</sup> *Id.* at 868.
- <sup>4</sup> *Id.* at 873.
- <sup>5</sup> 920 F.2d 1402 (8th Cir 1990).
- <sup>6</sup> *Id.* at 1406 at n.4.



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<sup>7</sup> *Id.* at 1407. But see, *Pienta v. Village of Schaumburg*, 710 F.2d 1258 (7th Cir 1983)(Applying strict scrutiny to regulations that impact on rights protected by specific provisions of the Bill of Rights and finding that the city did not articulate a compelling interest to justify the police department's sick leave regulations.).

<sup>8</sup> *Id.* at 1409.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 1410.

<sup>11</sup> 699 F. Supp. 388 (E.D.N.Y. 1988).

<sup>12</sup> *Id.* at 393.

<sup>13</sup> 751 F. Supp. 1064 (E.D.N.Y. 1990).

<sup>14</sup> *Id.* at 1068.

<sup>15</sup> *Id.* at 1069.

<sup>16</sup> *Id.* at 1071.

<sup>17</sup> *Id.*

<sup>18</sup> 29 U.S.C. § 2601 (1996). The Department of Labor has set forth detailed regulations regarding the FMLA at 29 CFR § 825.100 et. seq. (1996).

<sup>19</sup> 29 CFR § 825.207. These regulations do provide that, under certain circumstances, an employee can choose to substitute accrued paid leave for all or part of the 12 weeks of FMLA leave.

<sup>20</sup> See 29 CFR § 825.114 (1996).

<sup>21</sup> 29 CFR § 825.114(c).

<sup>22</sup> 117 F.3d 1022 (7th Cir 1997).

<sup>23</sup> *Id.* at 1025.

<sup>24</sup> 42 U.S.C. § 12111(8).

<sup>25</sup> 42 U.S.C. § 12102(2). See also, *Sanders v. Arneson*, 91 F.3d 1351 (9th Cir 1996); and *Rogers v. International Marine Terminals*, 87 F.3d 755 (5th Cir 1996).

<sup>26</sup> See, *Howell v. Michelin Tire Corp*, 860 F.Supp 1488 (M.D. Ala. 1994).

<sup>27</sup> 884 F. Supp. 991 (D.Md. 1995), *aff'd*, 91 F.3d 129 (4th Cir 1996).

<sup>28</sup> *Id.* at 1000.

<sup>29</sup> 42 U.S.C. § 12111(9)(8). See also, *Conklin v. City of Englewood*, 1996 WL 560370 (6th Cir 1996), which held that a department was not required to create a new position (i.e., existing position at higher salary) to accommodate an injured employee.

<sup>30</sup> See, e.g., *Richards v. City of Topeka*, 934 F.Supp. 378 (D.Kan. 1996).

<sup>31</sup> 42 U.S.C. § 2000e(k).

<sup>32</sup> *Byrd v. Lakeshore Hospital*, 30 F.3d 1380 (11th Cir 1994).

<sup>33</sup> *Id.* at 1384-85.

<sup>34</sup> 671 So.2d 448 (La.App. 1 Cir 1995).

<sup>35</sup> *Id.* at 452.

<sup>36</sup> 944 F. Supp. 1087 (E.D.N.Y. 1996)

<sup>37</sup> *Id.* at 1092.

<sup>38</sup> *Id.*

<sup>39</sup> *Aubrey v. Aetna Life Ins Co*, 886 F.2d 119 (6th Cir 1989).

<sup>40</sup> *California Fed. Sav. & Loan Ass'n v. Guerra*, 479 U.S. 272 (1987).

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



# *FBI Law Enforcement Bulletin*

## Author Guidelines

### GENERAL INFORMATION

The *FBI Law Enforcement Bulletin* is an official publication of the Federal Bureau of Investigation and the U.S. Department of Justice.

**Frequency of Publication:** Monthly

**Purpose:** To provide a forum for the exchange of information on law enforcement-related topics.

**Audience:** Criminal justice professionals, primarily law enforcement managers.

### MANUSCRIPT SPECIFICATIONS

**Length:** Feature article submissions should be 2,000 to 3,500 words (8 to 14 pages, double-spaced). Submissions for specialized departments, such as Police Practice, Case Study, and Sound Off, should be 1,200 to 2,000 words (5 to 8 pages, double-spaced).

**Format:** All submissions should be double-spaced and typed on 8 1/2- by 11-inch white paper. All pages should be numbered, and three copies should be submitted for review purposes. When possible, an electronic version of the article saved on computer disk should accompany the typed manuscript.

References should be used when quoting a source exactly, when citing or paraphrasing another person's work or ideas, or when referring to information that generally is not well known. Authors should refer to *A Manual for Writers of Term Papers, Theses, and Dissertations*, 6th ed., by Kate L. Turabian, for proper footnote citation format.

Research papers, reports, and studies should be revised to reflect the editorial needs of the *Bulletin*. Subheadings and lists should be used to break up the text and provide direction to readers.

**Writing Style and Grammar:** Articles generally should be written in the third person. (Point of View and Sound Off submissions are

exceptions.) The *Bulletin* follows the *The New York Public Library Writer's Guide to Style and Usage*. Potential authors should study several issues of the magazine to ensure that their writing style meets the *Bulletin's* requirements.

### PUBLICATION

**Basis for Judging Manuscripts:** Material that has been published previously or that is under consideration by other magazines will be returned to the author. Submissions will be judged on the following points: relevance to audience, factual accuracy, analysis of information, structure and logical flow, style and ease of reading, and length. Generally, articles on similar topics are not published within a 12-month period. Because the *Bulletin* is a government publication, favorable consideration cannot be given to articles that advertise a product or service.

**Query Letters:** Authors may submit a query letter along with a detailed 1- to 2-page outline before writing an article. Editorial staff members will review the query to determine suitability of topic. This is intended to help authors but does not guarantee acceptance of any article.

**Author Notification:** Receipt of manuscript will be confirmed. Notification of acceptance or rejection will follow review. Articles accepted for publication cannot be guaranteed a publication date.

**Editing:** The *Bulletin* reserves the right to edit all manuscripts for length, clarity, format, and style.

### SUBMISSION

Authors should mail their submissions to:  
Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, Virginia 22135. Telephone: 703-640-8666. FAX: 703-640-1474.

# The Bulletin Notes

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



Sean T. Mars

Officer Sean T. Mars of the Oak Creek, Wisconsin, Police Department was dispatched to respond to a report of a child struck by a vehicle at a city intersection. While en route to the scene, the dispatch report was modified to a complaint of a possibly intoxicated subject who was causing a disturbance. Upon arrival at the scene, Officer Mars located the subject, who immediately fled on his bicycle toward some railroad tracks. As he pursued the subject on foot, Officer Mars observed an Amtrak train rapidly approaching and yelled to warn the subject as he simultaneously radioed to alert assisting officers of the impending danger. The subject ignored the warning and indicated that he wanted the train to

hit him. Disregarding his own safety, Officer Mars pulled the suspect off the railroad tracks just seconds before the train sped by. Then, as the other officers advanced, he struggled with the subject to subdue him. Officer Mars suffered minor injuries during the struggle but remained on duty until the subject was taken to a local mental health complex for treatment. The selfless actions by Officer Mars prevented the subject from injuring himself or others during the incident.



John G. Daws

While on early morning patrol, Sergeant John G. Daws of the Waterloo, Iowa, Police Department was dispatched to a residence after a neighbor reported smelling smoke and hearing a smoke alarm. When he arrived, Sergeant Daws also detected the odor

of smoke. After learning that there could be an adult and two children inside the residence, he quickly kicked the door open and searched the house, finding a 4-year-old boy in an upstairs bedroom. He carried the boy outside to arriving firefighters and returned inside to rescue a 2-year-old girl from another bedroom. Officer Daws' courage and prompt actions saved the lives of two young children.

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