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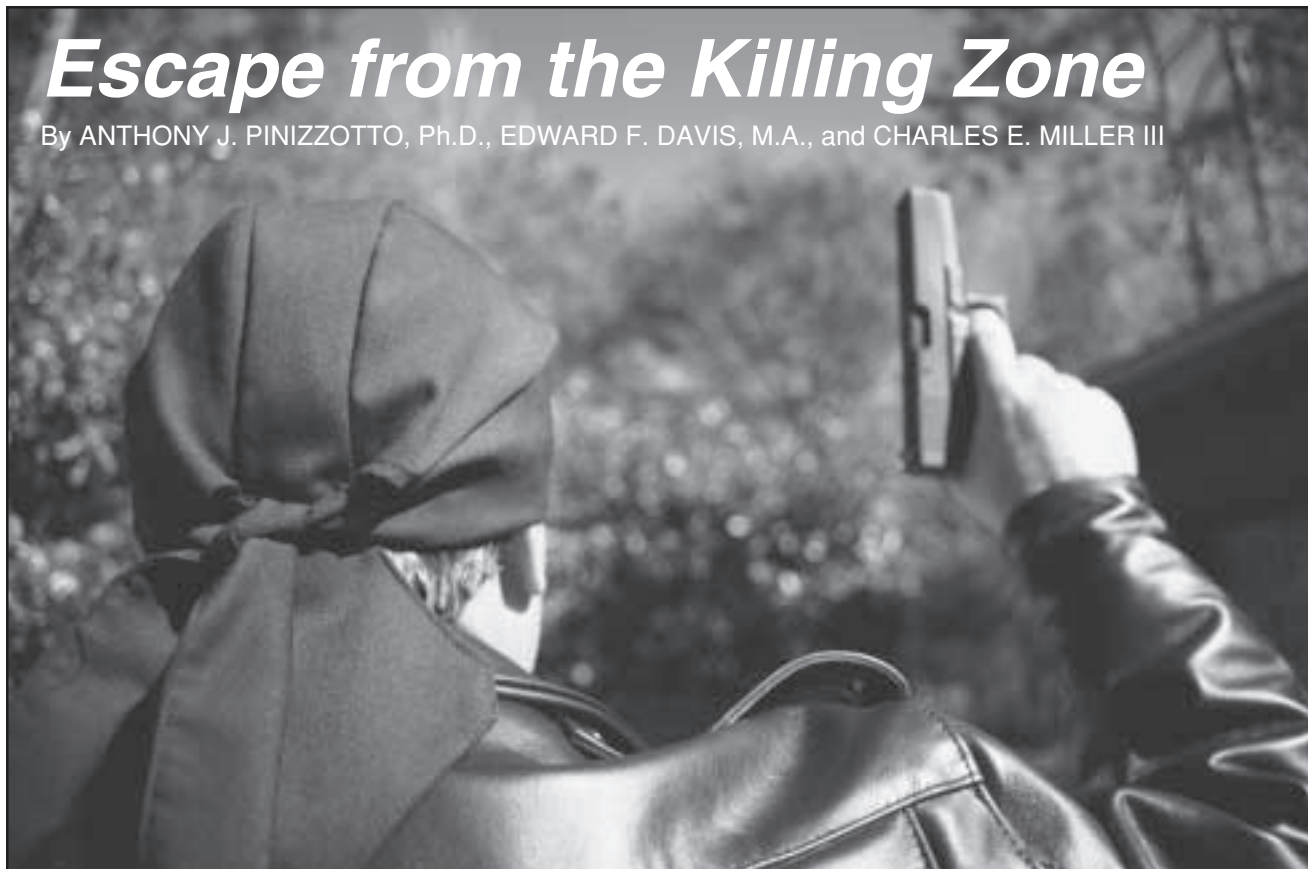
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Escape from the Killing Zone

By ANTHONY J. PINIZZOTTO, Ph.D., EDWARD F. DAVIS, M.A., and CHARLES E. MILLER III



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On a daily basis, law enforcement officers encounter many situations that potentially place them in grave personal jeopardy. While this depicts the nature of the profession, all too frequently, officers increase the likelihood of personal injury by their desire to apprehend offenders at all cost. Their keen sense of justice and their desire to keep their communities safe from social predators sometimes cloud their judgement, which can increase the possibility of harm to themselves.

While engaged in such activities as foot chases and vehicle pursuits, officers often exhibit a

tendency to rush into what can be described as “the killing zone,” that is, within a 10-foot radius of the offender.¹ Why? Most officers relate that they engage in these types of pursuits “without thinking” and “without formulating a plan of action.” They also report that the object of a pursuit is to apprehend the violator. While this represents a reasonable response, officers should concentrate their efforts not simply on apprehending the violator but *safely* apprehending the violator. In addition, officers, who have admitted rushing into these situations, did so while unknowingly making some inaccurate

assumptions—primarily, that the fleeing offenders were attempting to escape from the offenses known to the officers. However, whether involved in foot or vehicle chases for apparently minor violations, officers must understand that the offenders in these incidents *already* have demonstrated their willingness to resist arrest. Further, their reason for flight may involve far more serious violations than those known to the officers. Most important, these individuals may lead officers into areas advantageous to themselves, such as a gang area where the offenders might have accomplices, a housing project more

familiar to the offenders than to the officers, or a dark or wooded site where the officers may become disoriented and unable to report their location to the dispatcher. What causes officers to become entangled in these situations and possibly drawn into the killing zone?

CASE STUDY

Shortly after eight o'clock on a Tuesday evening, a police dispatcher received a call reporting a prowler at a three-level apartment complex. Due to a large number of calls for service that summer evening, an officer was not able to get to the apartment to take a report until ten o'clock that night. When the responding officer arrived at the parking area of the apartment complex, an off-duty, uniformed officer from the same department, who happened to be returning to his own apartment, met him. The two officers proceeded to the apartment

where the call originated to speak to the complainants.

The officers learned that the complainants had seen an individual on the balcony of their second-story apartment. They described the alleged prowler as a Hispanic male, approximately 14 or 15 years of age, 5' 6" in height, and weighing approximately 90 pounds. Because of the construction of the apartment complex, the balcony was accessible either from the apartment's sliding door or, with considerable effort, from a window in the second-floor hallway. The complainants requested that the officers question the residents of the third-story apartment.

Initially, an occupant of the third-story apartment denied having any relevant information, reporting that no one fitting the youth's description lived there. Further questioning, however, revealed that someone fitting this description was

visiting one of the residents of the apartment. Having taken the information, the officers left the apartment building and walked to the responding officer's patrol vehicle.

As the two officers were discussing the incident, a security officer employed by the apartment complex approached them. He stated that a young boy apparently was stranded on an air conditioning unit that protruded from the apartment building. All three of the officers went to the side of the building and observed a teenage Hispanic male, weighing approximately 85 to 90 pounds, about 5' 6" tall, wearing a T-shirt, sneakers, and tan pants perched on an air conditioning unit. Because the teenager appeared unable to get down, the responding officer decided to call the fire department to respond with a ladder. However, before he could broadcast his request to the fire department, the responding officer



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noticed that the young male inexplicably had climbed into the window of the third-floor apartment. All three of the officers immediately attempted to locate the youth.

The responding officer entered a walkway within the apartment and noticed the youth, approximately 5 feet from him, lying prone on the floor of a corridor with his arms extended in front of him. Immediately, and without any warning, the youth jumped up, ran toward the officer, and began flailing his arms. Unknown to the responding officer at that moment, the youth actually was stabbing him in the arm, chest, and stomach areas with a dagger. Hitting the officer's protective vest, the youth continued to move the weapon lower until he struck below the vest.

At this point, the responding officer, realizing that he was being stabbed, pulled his service weapon and attempted to fire. When the gun did not fire, the officer believed that it malfunctioned and pulled the trigger again, wounding the youth in the arm. (The officer learned later that his gun functioned well. The reason that he could not pull the trigger the first time was due to temporary muscle and nerve damage from the stab wounds.)

When the off-duty officer heard the shot, he ran toward the sound of the gunfire. As he approached the doorway, the youth fled the building, stabbing the off-duty officer in his side. At this point, the security officer approached the area and saw the youth running from the scene. After chasing the youth into the nearby woods, the security officer ended the pursuit. A neighbor,

hearing the gunfire and seeing that two of the officers were wounded, called for emergency assistance.

After sending search dogs into the woods, backup officers apprehended the youth approximately 1½ hours later. The youth, who had wounded two officers with a dagger and eluded a third officer, turned out to be the same teenage prowler reported earlier that evening.

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Considering the reasons for an offender's actions proves paramount when those actions do not seem to fit the target crime.

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CASE ANALYSIS

Although it remains both easy and frequently unfair to judge law enforcement officers' actions, constructively reviewing such incidents can assist in preventing future injuries and deaths. In the case study, what did the officers do right? Could they have done something differently? Does it appear that the officers made certain assumptions about the nature of the call for service, the suspect, or each other's actions? How did these assumptions affect their decisions to act? What plan or approach did the officers exhibit? How did the officers communicate with each

other? Was the communication effective?

Officers continually need to remind themselves that, when entering the killing zone, they must become exceedingly aware of the increased possibility of injury to themselves. For example, from 1990 to 1999, nearly 75 percent of officers feloniously killed died within that 10-foot radius of the offender.²

While officers obviously must enter this killing zone to apprehend individuals, they need to realize that they may be reacting too quickly, misreading behaviors or actions of offenders, or missing danger signs or signals that offenders may send unintentionally. Training should prepare officers to react appropriately and safely when they must take immediate action in a situation that necessarily brings them into the killing zone. Realistic and practical exercises can instill in officers the skills and mental preparedness that they can call on automatically when confronting offenders. Law enforcement agencies should ensure that officers receive training in such critical issues as formulating action plans, following established policies, knowing their physical and mental conditions, remaining aware of their surroundings, considering offender reactions, and exploring tactical options.

Plan of Action

Has training made officers consider formulating a plan of action, rather than simply reacting to the behavior of offenders? As officers respond to calls for service or initiate chases, do they consider

various situations that they might face? How will they deal with these? If officers receive practical and realistic training, they will run less risk of being surprised and easily taken advantage of. For example, an offender may lead an officer into a tunnel area, where no opportunity for cover exists, so that the offender can suddenly turn and attack. In such cases, officers should run parallel to offenders, not follow the same path, so that offenders planning an attack will not know the exact location of the officers.

The complainants in the case study described the youth to the responding officer as young, wearing only a T-shirt, sneakers, and tan pants. The description fits many teenagers—most of whom are neither criminals nor dangerous. Could someone so described harm an officer? After years of encountering thousands of teenagers who have not presented a physical threat, perhaps the responding officer made assumptions that almost cost him his life. Even in situations that appear nonthreatening and mundane, officers must consider “what if” circumstances to provide them with options for reacting to surprising occurrences.

Foot Pursuit Policy

Law enforcement agencies should realize that developing a foot pursuit policy not only enhances officer safety but decreases the chances that a mishandled foot pursuit will develop into a possible use of deadly force situation.³ In the interest of officer safety, agencies should consider policies

that address foot pursuits while officers are alone or those occurring under specific circumstances, such as when—

- multiple suspects flee a scene in the same direction;
- offenders flee into nonpublic structures or dwellings, isolated wooded sites, known drug-trafficking areas, or locations unfamiliar to pursuing officers; or
- officers know offenders and can reasonably arrest them on a warrant at a more advantageous time.

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To react appropriately under demanding and life-threatening circumstances, an officer’s physical and emotional condition prove vitally important.
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In the case study, when the security officer initiated a foot pursuit, the youth already had seriously cut the responding officer and stabbed the off-duty officer. What options did the security officer have? Was he knowledgeable of the surroundings? Was he as knowledgeable of the surroundings as the youth? Could the youth have planned an ambush? Could other youths have been awaiting their

arrival? Not knowing the youth’s intentions, the security officer wisely halted the chase and waited for backup.

Officer’s Condition

Is the officer prepared to subdue an offender after a prolonged chase? What is the officer’s present physical condition? Could the offender intend to run the officer into exhaustion to give the offender the upper hand? Is the officer under excessive amounts of stress, including personal or professional issues, that could cause possible distractions?

Experienced officers recognize that if they are not in good physical shape, a pursuit, especially on foot, can deplete their energy. At the point of physical contact, the officer can have a clear disadvantage, particularly in situations, such as the case study, where the suspect was young, energetic, and in excellent physical condition.

However, officers may not realize how their emotional and psychological health can work either for or against them. Just as poor physical conditioning depletes the energy level of an officer, so do excessive amounts of stress and strain. Medical experts have demonstrated that when human organisms are under high levels of stress over extended periods of time, not only does their physical strength lessen but their cognitive abilities, such as memory, thinking, and attention, diminish. Stress not only kills physically but emotionally as well.⁴

To react appropriately under demanding and life-threatening circumstances, an officer’s physical and emotional condition prove

vitaly important. In the case study, if the responding officer and the off-duty officer had experienced recent major emotional conflict and crisis (at home or on the job), their abilities to accurately and quickly process information could have become impaired. This could have affected their perception as well, particularly hearing and seeing.

Knowledge of Area and Surroundings

Is the officer aware of the surroundings as the chase begins? If not consciously aware of the surroundings, the officer can experience “tunnel vision” and lose awareness of peripheral threats, such as accomplices lurking nearby or areas with hidden pitfalls. This could lead the officer into dangerous, yet preventable, situations. For example, an offender may lead an officer intentionally around a blind corner and plan an ambush or sudden overwhelming attack or into buildings that contain prearranged traps.⁵

In the case study, due to a large volume of calls for service, the first available police unit had to respond to the call at the apartment complex, rather than the regularly assigned officer who patrols the area. The responding officer was acquainted generally with the geographical street plan, but unfamiliar with the configuration of the large apartment complexes in the area and possibly unacquainted with back alleys and side streets.

When officers become engaged in a pursuit in unfamiliar territory, several possibilities can result. For example, they can expend as much of their energy and thoughts on

trying to determine where they are as they do on keeping the suspect in sight. Or, they can place all of their time and attention on the pursuit suspect and become totally disoriented as to where they are, even unable to give the dispatcher an accurate location. Therefore, especially in unfamiliar surroundings, officers must exercise great caution to avoid being drawn into the killing zone.

Reasons for Offender’s Actions

Considering the reasons for an offender’s actions proves paramount when those actions do not seem to fit the target crime. For example, in a traffic stop, the driver pulls to the curb and runs from the vehicle. The officer should consider the seriousness of the traffic violation and question whether a person would risk fleeing for such a minor offense. If this reaction does not make sense to the officer, perhaps it represents a clue that the driver may

have committed a more serious crime.

Even in what some consider an increasingly violent society, in the experience of many police officers throughout America, 14- or 15-year-old boys rarely stab law enforcement officers. But, as shown in the case study, this does happen. The officers did not know why the youth was on the air conditioning unit. Burglary? Peeping? Leaving his girlfriend’s residence? Running away from home? If caught by the police, how would he react? Run? Surrender? Argue? Fight? Many officers would not expect that someone so young could have warrants for several counts of attempted homicide; practice combat, hand-to-hand knife fighting regularly; or state that he would never go to prison as the youth in the case study did. What do most officers expect when they attempt to make an arrest? They need to remain vigilante and expect the unexpected,

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even in the most seemingly non-threatening circumstances.

Tactical Considerations

Use Verbal Commands

Do officers consider and use verbal commands prior to and during a confrontation? For example, officer training should stress that when they catch up with an offender or the offender stops, officers should not close the distance between them immediately. Instead, they should give verbal commands to test the offender's compliance. In cases where offenders do not comply, officers should not move closer until adequate assistance arrives on the scene.

Create Distance

Sometimes officers should create distance between themselves and offenders, rather than moving closer. Has training taught officers to consider creating distance between themselves and the offender? Distance gives the officer increased time to react to offenders' actions, thereby enhancing officer safety.

Contain, Not Apprehend

Circumstances may occur when officers should contain the offender in an area, rather than rush in to apprehend. For example, an offender flees into an abandoned building with exits that the officer can view safely from the outside. If backup units are en route, the officer may want to remain outside the building until these other officers arrive on the scene. In any pursuit, officers must weigh the risks and benefits before rushing in to capture suspects. Should they

attempt to gain physical control and arrest the subject immediately? Or, should they remain outside the killing zone (i.e., retreat and seek cover) until adequate assistance arrives on the scene? What are the chances that the offender may overpower the officer if the officer physically attempts to control the offender at this point? While officers must assess the situation and base their decisions on a variety of factors, the training they have

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Realistic and practical exercises can instill in officers the skills and mental preparedness that they can call on automatically when confronting offenders.

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received greatly impacts their decisions and, in turn, strongly affects the outcome of the incident.

Choose to Handcuff

Sometimes circumstances merit officers holding offenders at some distance and awaiting assistance before attempting to handcuff them. Tactical considerations always result from how officers perceive the situations they encounter. Perceived reality determines tactical approach. Clearly, it proves impossible to have all tactical equipment available (e.g., high-powered fire-

arms, less-than-lethal weapons, and riot gear) as officers encounter each pedestrian or motorist. Although they may not have tactical hardware available, officers must engage a tactical mentality at all times. Should they deploy current resources? Or, should they wait, contain the threat, and approach with backup? Should they continue to approach into the killing zone after an armed suspect who just stabbed two officers? Or, should they create some distance until the suspect complies with verbal orders? When a suspect has demonstrated well-developed martial arts skills, with or without an additional weapon, should they attempt to place handcuffs on the subject or wait for available backup? By considering how they will respond to these types of situations before they face an actual threat, officers can improve their chances of avoiding the killing zone and still bring the offender to justice.

CONCLUSION

Because the law enforcement profession constitutes an inherently dangerous occupation, its members must explore ways of curbing the hazards. Regular and realistic training, both at the academy and during in-services, can sharpen the skills officers need to safely effect arrests. Practical, hands-on training can encourage officers to rehearse various situations that they may encounter and experiment with different strategies that they can employ to react to them. Training should include “what if” situations and require officers to offer a number of possible solutions. Officers should develop their own “what if” scenarios

that pertain to their particular patrol areas. Partners should develop and rehearse "what if" scenarios that involve their actions as partners, as well as their actions if situations require them to act alone.

The more practical, realistic, and applied the scenarios are, the greater the likelihood that officers will rehearse them. Much like fire drills that all schoolchildren practice, the more officers rehearse, the less chance exists that they will be caught off-guard when a real emergency occurs. Safety of the

officer during an arrest is not an option; it is a requirement. Officers must learn how to escape from the killing zone and, equally important, know when to avoid entering it in the first place. ♦

Endnotes

¹ The authors based this article on research they are conducting currently, interviewing officers who survived attacks by offenders. For additional information on past research in this area, see Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, *In the Line of Fire: A Study of Selected Felonious*

Assaults on Law Enforcement Officers (Washington, DC, 1997).

² Department of Justice, Federal Bureau of Investigation, Uniform Crime Reporting Program, *Law Enforcement Officers Killed and Assaulted, 1999* (Washington, DC, 2000), 13-14.

³ For information on establishing a foot pursuit policy, see Shannon Bohrer, Edward F. Davis, and Thomas J. Garrity, Jr., "Establishing a Foot Pursuit Policy: Running into Danger," *FBI Law Enforcement Bulletin*, May 2000, 10-15.

⁴ For additional information, see Arthur W. Kureczka, "Critical Incident Stress in Law Enforcement," *FBI Law Enforcement Bulletin*, February/March 1996, 10-16.

⁵ Supra note 3.

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AlexandriaCARES and BABY-1 Protecting the Future

By Dianne Gittins



"...AlexandriaCARES trained personnel use the minivan, BABY-1, to provide parents and care givers education and hands-on assistance in the proper use of child restraint systems. Community involvement, public awareness and education, and safety assistance are all necessary components of an effective program."

In 1996, only 40 families in Alexandria, Virginia, received help with the difficult issue of properly using their children's safety seats, despite studies showing that more than 8 out of 10 children were unprotected in vehicle crashes because of misused restraints.² Five years later, a unique partnership of police, municipal agencies, private service groups, and citizens helped more than 1,000 families protect their little ones. How did the Alexandria Police Department make this tremendous change?

It employed community policing, wherein officers identify the needs of their specific neighborhoods through meetings with citizens and written surveys. The officers then work with residents, businesses, and other municipal agencies to meet these needs. Often

called problem-solving policing, this approach fosters greater cooperation, understanding, and trust between police and citizens. To this end, in 1995, the Alexandria Police Department expanded its successful Community Support Section, supplementing residential officers who live in their assigned neighborhoods with new community officers who serve other areas of the city. One such new assignment included Alexandria's government center and tourist district and became the patrol area of Officer Mark Bergin, then a 9-year veteran of the department.³

As part of this newly expanded community policing initiative, Officer Bergin completed basic training in the proper selection, installation, and use of child safety seats in the spring of 1996. Arranged by a women's volunteer service group, the 4-hour training program was developed by Virginia Commonwealth University's Traffic Safety Training Center. During this training, Officer Bergin, four other police officers, and the women's service group volunteers learned that more than 85 percent of all American children ride unsafely and improperly restrained in vehicles.⁴ This contributes to more than two-thirds of the 600 to 700 deaths of children under age 4 that occur annually due to motor vehicle accidents.⁵ Officer Bergin also discovered that both of his own children were riding unsafely in the family car because of improper child seat use, a failure that hammered home the nationwide child seat problem and propelled his efforts to inform families of these dangers.

Understanding the Problem

The child safety seat problem starts on many levels. First, families become dazzled by a large array of child seats, but few stores have employees qualified to point out which seat styles or designs are appropriate. Next, many buyers find installation manuals difficult to decipher and, sometimes, do not read them at all. Often, proper use seems counterintuitive. For example, a forward-facing child may appear more secure in harness straps placed close to the shoulders. But, the closest harness slots may not be reinforced for this configuration and could crack apart in the 20-g force⁶ sustained by a child seat in a 30 mile-per-hour crash. Also, rules for best practice can change over time, and families with

older children must understand that what was appropriate for their oldest child now may be unsafe for their youngest. Moreover, a perfect restraint to fit in one car may not be compatible with the seat belts in another, and the same family may own both cars.

Looking for Solutions

Knowing that awareness, education, and assistance represent the three keys to improving proper child restraint use, Officer Bergin immediately began offering child seat assistance to families in his patrol area, mostly during encounters while on foot patrol. These interactions led to invitations to speak at schools and mothers' groups, then doctors' offices and local businesses. With assistance from the women's volunteer service group, Officer Bergin held Alexandria's first child seat checkup—a large public event where families brought their children, vehicles, and child safety seats for expert assessment, advice, and reinstallation—and checked 40 restraints.

However, Alexandria's approximately 10,000 restraint-age children needed more help than the police department could provide with once-a-year checkup events or meetings squeezed in between other patrol responsibilities. The more word spread, the more families realized that they needed help, outstripping one officer's ability to serve. City fire and emergency services personnel tried to help by accepting training from Officer Bergin.⁷ Still, they were not reaching enough families and not protecting enough children. At the only child seat checkup Alexandria held in 1997, they checked 71 restraints. At three checkups in 1998, they examined a total of 80 seats. Adding in 166 checkups Officer Bergin performed across Alexandria, only 357 child seats inspections took place between 1996 and 1998. For all of these seat checks, the failure rate was approximately 90 percent,⁸ worse than the national indicated average failure rate of 85 percent.⁹

As part of his ongoing evaluation of community needs, Officer Bergin saw that thousands of children were less than safe and recognized his duty as a

community support officer to seek better ways to serve them. To meet the increasing demand for information and assistance with proper child seat installation, Officer Bergin knew that he needed additional help. He also recognized that it would require special efforts to break through the language and cultural barriers in Alexandria's highly populated, but economically disadvantaged, Latino community.¹⁰

Promoting Community Participation

In 1999, Officer Bergin formed a nonprofit organization called AlexandriaCARES (Alexandria Child Automobile Restraint Education Services). This public service project teamed trained employees of the police, fire and rescue, and social service agencies with members of volunteer service organizations, such as the women's service group that brought the police department its first safety seat training 3 years before. In exchange for the free police training,¹¹ these volunteers committed to help establish a program of regular, monthly child seat checkup events in economically disadvantaged areas of Alexandria. These child seat checks became highly visible activities that improved the safety of families who attended and increased public awareness of safety issues and the need for trained help. The teams have held regularly scheduled events every month since October 1999.

Officer Bergin also began teaching couples the proper child seat installation, selection, and use during childbirth classes at a local hospital. These 45-minute basic presentations have demonstrated a clear benefit. He finds that about one-half of the families who hear his presentations before attending a checkup event have installed their seats correctly. Of course, about twice a month, Officer Bergin ends up in the parking lot of the hospital with families who delayed just a bit too long in seeking assistance before the births of their children. He also gives demonstrations at mothers' groups, P.T.A. meetings, area stores and shopping malls, and other community events, such as health fairs, block parties, and arts festivals. He answers questions and shows installation techniques

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The child safety seat problem starts on many levels.

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Child Passenger Safety Tips

- Place infants to age 1 and weighing up to 20 pounds facing the rear and *never* in front of an air bag.
- Secure toddlers weighing up to 40 pounds in a child safety seat with a harness that is tight, with no more than one adult finger-width between the strap and the child's chest, and with the harness retainer clips linking the straps across the chest at armpit level.
- After children outgrow safety seats and until they weigh 80 pounds and stand 4' 9", they should use booster seats—ones that help big belts fit little bodies—with belts low on hips, across the center of the chest and shoulder, and with knees bent comfortably straight down.
- Lock child safety seats tightly, with no more than 1 inch of play either way.
- Read and follow vehicle and restraint directions.
- Set a good example—wear your seat belt.

using a vehicle and seat belt system taken from a wrecked car and mounted on a wheeled platform constructed for indoor educational opportunities.

However, promoting child passenger safety in disadvantaged neighborhoods would prove fruitless if families could not obtain useable, affordable safety equipment. The most economical serviceable child restraints cost around \$40, still a difficult purchase for some families. So, AlexandriaCARES applied for and received more than \$2,500 in grant money from the Virginia Department of Motor Vehicles to buy large numbers of quality replacement child seats, which it then provides at low or no cost to economically disadvantaged families who attend seat checkup events. AlexandriaCARES also receives substantial donations that go toward purchasing safety equipment for checkups, including highway signs, reflective safety vests for checkup staff, traffic cones, and Spanish-language posters and brochures.¹²

The program has become so successful that the Virginia Department of Health uses a member of AlexandriaCARES to administer its local program of distributing child seats to families in the city health department system. These seats are purchased with money paid to Virginia as fines for violations of the state child restraint traffic laws.

Delivering BABY-1

Even with all of these efforts, Officer Bergin did not rest. He wanted to find a new way to let the public

know that AlexandriaCARES exists. So, to further increase awareness of the AlexandriaCARES projects and the availability of child restraint services, Officer Bergin arranged for a local automobile dealer to donate a new minivan to the police department.¹³ Delivered in January 2000 and known as BABY-1, the minivan has the official markings and equipment of a police patrol cruiser, yet carries all of the spare giveaway seats and materials needed to conduct checkup events or demonstrations. Dual sliding doors make it easy for families to watch demonstrations of proper child seat installation and seat belt use. It typically carries eight or nine different types of child restraints at any given time.

BABY-1's high visibility, unique appearance, and family-car personality have established it as a recognized advertisement for the ready availability of child seat assistance. For example, half of the attendees at a recent lecture at a local bookstore said that they knew to come to that location because they saw BABY-1 parked outside. Moreover, the dealer who donated BABY-1 hosts regular monthly checkup events at the dealership, has Officer Bergin train the sales and service employees in proper child restraint use, and stocks an array of child restraints in the parts department.

Creating Safety Centers

While these monthly checkup events and BABY-1 increased awareness of child restraint

issues, Officer Bergin sought to expand his availability to the community. He procured free office space in a large shopping mall and called it a Child Passenger Safety Center. The center, staffed on a regular, announced weekly schedule by Officer Bergin and AlexandriaCARES members, offers families the convenience of a local, accessible site for drop-in questions and demonstrations or checkups, making child restraint assistance available on demand. From the time it opened in January 2000, the Child Passenger Safety Center's attendance has grown from 5 families a day to a recent monthly average of 20 families a day. In the summer of 2000, a second Child Passenger Safety Center opened in Officer Bergin's primary duty area in space donated by the Alexandria Convention and Tourism Association (ACVA). Attendance at this center also has grown steadily, and Officer Bergin's presence in an office on his regular patrol route has made him available to assist citizens and fellow officers in a number of more traditional police incidents, such as bank robberies, store larcenies, and disorderly persons. AlexandriaCARES and the ACVA are developing a program to loan child restraints to tourists, as well as disadvantaged city families, on a short-term basis.

The newest Child Passenger Safety Center, in a primarily Spanish-speaking community, opened in a donated shopping center storefront. Officer Bergin began assisting families in April 2001, after learning enough basic Spanish to ask vital questions of families, such as the weight and age of children, to determine proper child seat selection and configuration. Having BABY-1 makes it easier to operate the centers because it acts as a mobile storage area for needed demonstration and loaner seats.

These centers, sometimes referred to as "fitting stations" and established in accordance with recommendations proposed by the National Transportation Safety Board, offer families the convenience of reliable, available assistance that fit their own schedules. In addition to the help offered to 25 to 75

families at the monthly seat checkup events, Officer Bergin and AlexandriaCARES members perform dozens of checkups a week at the safety centers. They also make house calls for families with health issues, multiple vehicles, or very young children.

Seeing Results

Such concerted efforts have led to remarkable results. In its first year of operation at monthly child seat checkup events and the Child Passenger Safety Centers, AlexandriaCARES members checked 1,053 child restraints, with an observed misuse rate of 94 percent. The organization distributed more than 50 new restraints to families, ensuring that no children left a checkup event unprotected. Most important, during 2000, AlexandriaCARES recorded three "saves" with five children surviving three dangerous automobile crashes without serious injuries, one just 20 minutes after leaving the checkup site. About 1 in

5 families come from outside Alexandria, from jurisdictions where child seat assistance is not offered or cannot be easily located. AlexandriaCARES never refuses to help any family.

Besides such encouraging statistics, the project has resulted in many other members of the community coming together to address the problem of child safety seats. Officer Bergin has assisted several city agencies with child transport issues and has loaned or donated child seats to

many others, including hospitals and social service agencies. Recently, a local hospital sought Officer Bergin's advice on transporting children in its emergency evacuation helicopter.

In addition to its members, the financial and logistical support from the car dealer who donated BABY-1 and the local shopping centers that house the safety centers and the donations of time and money from private citizens, AlexandriaCARES has garnered support from numerous civic groups, including a service club from the area's local high school. Some of these organizations have developed specific areas



of interest, such as a loaner program of specialty seats for premature infants and a program to promote restraint education and use among residents of local shelters.

Within the Community Support Section, Officer Bergin has become the Alexandria Police Department's Child Seat Safety Coordinator.¹⁴ He helped develop the department's child transport policies, making Alexandria what is believed to be the first police department in the country to ban transport of restraint-aged children in police cruisers because of dangers posed by rigid prisoner security screens in the back seat. This limitation on cruiser transport is now part of the National Highway Traffic Safety Administration's 32-hour program curriculum.

Conclusion

The issue of properly protecting America's youngest citizens may not appear as important as apprehending dangerous criminals. However, these young citizens cannot speak for themselves and must rely on the compassion and consideration of adults. Although parents try to secure their children in vehicles and assume that they have done so in the correct manner, all too often this tragically proves incorrect.

The Alexandria, Virginia, Police Department has devised a program that can enable officers to help parents correctly install child safety seats and ensure that they understand the importance of properly restraining their children in vehicles. All law enforcement agencies should join in this effort to safeguard America's smallest and most vulnerable citizens because they represent the future and deserve every chance to grow up and enjoy it. ♦

Endnotes

¹ In a letter, National Transportation Safety Board Chairman Jim Hall congratulated the Alexandria Police Department on its child safety seat program.

² Lawrence E. Decina and Kathleen Y. Knoebel, "Patterns of Misuse of Child Safety Seats," *National Highway Traffic Safety Administration Final Report*, DOT HS 808, January 1996.

³ For detailed information, contact Officer Bergin, Project Director, AlexandriaCARES, at 703-924-9294 or at bergin01@msn.com or access the Web site at <http://www.alexandriacares.org>.

⁴ *Supra* note 2.

⁵ Reports from the Fatal Analysis Report System of the National Highway Transportation Safety Administration, U.S. Department of Transportation.

⁶ Acceleration of gravity: a unit of force equal to the force exerted by gravity on a body at rest and used to indicate the force to which a body is subjected when accelerated, *Merriam Webster's Collegiate Dictionary*, 10th ed., s.v. "g."

⁷ In 1998, Officer Bergin completed the 32-hour training program from the National Highway Traffic Safety Administration (NHTSA) to become a Child Passenger Safety Technician and received certification as an instructor.

⁸ Analysis of child restraint checkup reports, Alexandria Police Department, 1996-1998.

⁹ National SAFE KIDS Campaign, *Child Passengers at Risk in America: A National Study of Car Seat Misuse* (Washington, DC, February 1999).

¹⁰ For additional information, see Kim Kapp, "Welcoming Immigrants," *Community Links*, June 2001, 9-10.

¹¹ Officer Bergin trained members of these organizations, including Spanish-speaking volunteers, in a child passenger safety curriculum developed by the International Association of Chiefs of Police called Operation Kids. The department chose the Operation Kids curriculum because, at 8 hours in length, it represented both the minimum length of training needed to meet Virginia Department of Health standards for child safety advocates and the maximum length of training

that a typical volunteer with other life, family, and job obligations could afford to take.

¹² Applications currently are being completed to register AlexandriaCARES as a nonprofit charity and to make AlexandriaCARES a part of the United Way Campaign.

¹³ The donation was arranged as a lease, approved by the chief of police and the city manager, and governed by a memorandum of understanding adopted by the city council. The dealer pays the lease, and BABY-1 reverts to the dealership at the end of 3 years. However, the dealer has expressed his support of the program and expects to renew the lease and provide a new vehicle at that time.

¹⁴ Officer Bergin received the 2001 Governor's Transportation Safety Award in the category of Occupant Protection. This award, presented at the state's Annual Conference on Transportation Safety (ACTS), recognizes Officer Bergin for creating an innovative safety program using community participation to extend police resources and improve service to the Alexandria and Northern Virginia community.

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The center...offers families the convenience of a local, accessible site for drop-in questions and demonstrations or checkups...
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Sergeant Gittins serves in the Internal Affairs Section of the Alexandria, Virginia, Police Department.

School Crime and Safety

Victimization in the nation's schools has decreased since 1992, according to a new report by the U.S. Department of Justice's Bureau of Justice Statistics (BJS) and the Department of Education's National Center for Education Statistics. *Indicators of School Crime and Safety, 2001* reports that, between 1992 and 1999, violent victimization rates at schools generally declined from 48 crimes per 1,000 students ages 12 through 18 to 33 per 1,000 students. Data also indicates that, between 1995 and 1999, the percentage of students who said they were the victims of any crime of violence or theft at school decreased from 10 to 8 percent.

During 1999, students were victims of about 2.5 million crimes at school, 1.6 million thefts, and 880,000 nonfatal violent crimes, including about 186,000 serious violent crimes (rape, sexual assault, robbery, and aggravated assault). In comparison, students were victims of 2.1 million crimes away from school: 1 million thefts and 1.1 million nonfatal violent crimes, including 476,000 serious violent crimes.

Over the 1995-1999 period, teachers were the victims of 1,708,000 nonfatal crimes at school, including 1,073,000 thefts and 635,000 violent crimes. On a per teacher basis, this translates to 79 crimes per 1,000 teachers annually.

The report is the fourth in a series of annual reports from the U.S. Department of Justice and the Department of Education. It is organized as a series of indicators, with each indicator presenting data on a different aspect of school crime and safety. This year's report repeats many indicators from the 2000 report, but also provides updated data on fatal and nonfatal student victimization, nonfatal teacher victimization, students being threatened or injured with a weapon at school, fights at school, students carrying weapons to schools, students' use of alcohol and marijuana, and student reports of drug availability on school property.

Copies of *Indicators of School Crime and Safety, 2001* may be obtained by calling the BJS Clearinghouse at 800-732-3277 or by accessing the BJS Web site at <http://www.ojp.usdoj.gov/bjs>.

Crime Prevention

Responding to Hate Crimes: A Roll Call Training Video for Police Officers presents major steps in responding to and investigating potential hate crimes. This 20-minute video is supplemented by an instructor's guide for an additional 30 minutes of instruction. The instructor's guide answers frequently asked questions, examines the importance of identifying bias indicators, and presents case studies to facilitate group discussion. Up to five copies of the video (NCJ 179015) and accompanying instructor's guide (NCJ 180808) are free; orders of more than five will be assessed shipping and handling fees. To place an order, contact the Bureau of Justice Assistance Clearinghouse at 800-688-4252.

Managing the Stress of Organizational Change

By JAMES D. SEWELL, Ph.D.

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Law enforcement agencies are in an era of change. The needs of communities and constituencies, rapid technological growth and enhancements, and the changing capabilities and structures of law enforcement organizations demand that agencies regularly examine and improve their ways of operation. According to some futurists, changes in a society occur in several major areas, directly affecting law enforcement and compounding the stress inherently associated with the profession.

CHANGES FACING LAW ENFORCEMENT

From a social perspective, communities are undergoing major and rapid demographic change. Police agencies have increased their racial, ethnic, and sexual diversity and have continued to improve the educational level of officers. At the same time, the employment of persons of heterogeneous age ranges has added new challenges and opportunities.

From a technological perspective, advanced information systems

now allow citizens to have real-time information relating to crime, and many departments provide officers with their own computers. From 1993 to 1997, the percentage of local police departments using in-field computers grew from 13 percent to 29 percent, which includes 73 percent of all officers employed.¹ Information once dependent upon access and transmission by dispatchers from antiquated computer systems is now instantly at officers' fingertips in their patrol cars.

Technological advances go beyond mere access to information. DNA technology and automated fingerprint identification systems (AFIS) foster the more definitive and rapid identification of unknown offenders, and enhanced ballistics technology allows for identification of weapons from shell casings instead of merely retrieved projectiles.

From an economic perspective, the United States is in an era of unparalleled growth, and many local governments, especially those relying upon property and sales taxes, have enhanced their tax bases. Concurrently, revenues available for law enforcement agencies, including federal funding, have increased. On the other hand, with unemployment rates at one of the lowest levels in history, law enforcement finds itself competing with the higher pay and better benefits of the private sector to hire the best and brightest young persons beginning their professional careers.

Additionally, environmental changes now pose a major concern to law enforcement. In such states as California, Texas, Florida, and Arizona, the infrastructure cannot handle the population explosion. Dealing with the urban sprawl, traffic congestion, and water restrictions have become law enforcement matters. Disasters, from hurricanes to tornadoes to fires, increasingly occupy the attention of law enforcement agencies and their personnel.

Finally, political change has tremendous impact on law enforcement agencies. Significantly, an increased focus on communitarianism² and the emergence of

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...the most important step in dealing with the stress of organizational change is an awareness that it exists.

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Dr. Sewell serves as the regional director of the Florida Department of Law Enforcement.

strong grassroots involvement at the neighborhood level have increased in recent years. Now, more than before, citizens want to be involved in the governance of their communities. As a direct result, community-based criminal justice (policing, victim services, corrections, and prosecution) is increasingly the norm,³ and criminal justice agencies continue to remold their philosophy, structure, and tactics to meet community expectations and needs.

Concurrent with increased community-based efforts, many law enforcement agencies, like their private sector counterparts, are flattening their organizational structure, reducing the steps between entry-level personnel and the chief executive officer (CEO). “The effect of flattening the hierarchical structure is to devolve decision-making authority and responsibility to the working level. This allows the principle of ‘empowerment’ to operate. Empowerment is the organizational principle of allowing those at the operational level of an

organization, who know local conditions and needs, to make their own decisions about how their work should be done to best effect.”⁴

Clearly, significant change affecting the organization and the individual has become the norm in American law enforcement. “Change within an organization is always difficult, and, in most circumstances, some employees cannot or will not adapt well. Change requires adjustment, which can be stressful.”⁵

STEPS TO MANAGE THE STRESS OF CHANGE

The success of an organization and its individual employees in dealing with the stress of change depends, in large measure, on the ability of the organization’s leadership to recognize, understand, and actively manage that stress. To do so, agencies can implement 10 interrelated steps.

Awareness

Perhaps, the most important step in dealing with the stress of

organizational change is an awareness that it exists. Too frequently, well-intentioned police executives and administrators implement change with little effort at planning and scheduling and with little consideration for its impact on the agency's most vital resource, its personnel.

Often, the organizational change represents a blend of two management approaches. The first exemplifies a desire to flatten the organization, streamline operations, and improve efficiency and effectiveness, all indicators of the most innovative and contemporary approaches to leadership and management. The second reflects change based on a hierarchical mandate, the traditional paramilitary model of management. In this approach, the chief executive identifies the need for change and decrees its forward motion *down* the organizational structure, with minimal involvement of personnel at the lowest levels and little demonstrated concern for the needs or fears of the agency's "people."

Thus, understanding and mitigating the stress resulting from major organizational change on both the organization and its individual members requires recognizing that it occurs. When executives take steps to change an organization, its personnel will have a number of reactions: fear, frustration, anger, resentment, inertia, active or passive resistance, depression, and, in many cases, a welcoming of necessary improvements. The success of the change will, in large measure, depend on the executive's ability to anticipate and effectively deal with

these personnel and the source of their emotions. As one information technology executive has noted, "You have to be adaptable and flexible. If you take only a collaborative approach, the change will take 3 to 5 years, which is too long given the competitive urgency. But, then the organizational psychologists we hired will say we're going too fast; people can't cope with that rate of change. I've learned to have some patience, slow down, and develop a strong relationship with my subordinates to understand the impact this is having on people."⁶

“

***At times,
communication,
no matter how
effective, simply
is not enough.***

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Communication

For the realtor, the well-known key to successful real estate transactions is "location, location, location." Similarly, for the executive, or even first-line manager, in a law enforcement agency undergoing major change, the correlated axiom is "communication, communication, communication." During a time of change, personnel search for meaning and an understanding of the actual impact of the change on each of them as individuals. The presence of accurate and, perhaps more important, timely information

delivered by credible sources on a regular basis is critical. Where a vacuum exists in the provision of such information, the organization's grapevine, enhanced within organizations with good electronic systems, rapidly will fill that void. Effective rumor control depends on an active and aggressive program of communication using all means, including interpersonal, one-on-one, written, or electronic, available to an executive.

Agencies must understand the importance of the credibility of that information and its presenter. Executives and managers charged with delivering messages relating to organizational change must directly and truthfully answer employee questions and concerns; if they do not know the answer, or are not allowed to answer specific questions, they cannot afford to lie to their constituents. Equally important, executives should maintain an atmosphere that encourages employee questions without concern for the truthfulness of the response or fear of overt or subtle reproach for simply asking questions.

While communication normally occurs between supervisors and their immediate subordinates, departmental leadership should communicate aggressively with managers and first-line supervisors, those individuals most likely to receive employee questions and to deal with their concerns. These managers should have the most accurate information, and leaders must assure that they communicate issues and answers relating to change with the same organizational voice. One private sector

executive, who has captured the essence of this issue, advises, “The ability to communicate is critical. When you’re doing this all the time, your own thoughts are advancing constantly, and it’s easy to assume others are at the same place you are in your thinking. I had a notion that if it’s clear to me, it’s clear to somebody else, but that isn’t the case.”⁷

Leadership Presence

Experts have identified the “high tech, high touch” nature of future change.⁸ In times of major change in a law enforcement organization, the high touch component becomes particularly noteworthy. The visible presence of an agency’s leadership, its highest command officers, is necessary and, in the eyes of the agency’s personnel, absolutely expected. Throughout the

course of major change, an aggressive policy of “management by walking around” and a leadership style that encourages interactive interpersonal communication best serve leaders and the organization. When the agency undergoes significant change, the “troops” need to feel the active interest of their bosses in both them and their concerns.

For example, in 1987, when the Aurora, Colorado, Police Department was expanding its community policing approach throughout the agency and all ranks, it hired outside experts to provide the necessary training during regularly scheduled shifts. The agency ensured the consistency of the message and delivered it on their personnel’s “home turf” during their normal work hours, not the day

shift classroom training often offered for new issues. Yet, a more subtle message became more important than the formal one—the chief of police attended all of these sessions, regardless of the time of day or day of the week. His conspicuous presence and visible leadership clearly showed its importance to the city and the department.

Encouragement

During stressful times surrounding major organizational change, encouragement by an agency’s leadership takes two forms. First, administrators should send a clear message that the change will make the agency stronger, serve the organization’s members better, and eventually become fully implemented, which shows a

15 Steps to Lower Stress

- Invest 30 minutes in vigorous physical exercise, three to five times per week (assuming your doctor doesn’t have a problem with that). Work up a sweat.
- Learn relaxation techniques.
- Cut down on caffeine.
- Eat right.
- Meditate, get still, “center.”
- Develop better time management habits.
- Play, have fun, recharge.
- Get plenty of sleep.
- Smile more, laugh, use humor to lighten your emotional load.
- Count your blessings daily, make thankfulness a habit.
- Say nice things when you talk to yourself.
- Simplify.
- Set personal goals, give yourself a sense of purpose.
- Forgive, grudges are too heavy to carry around.
- Practice optimism and positive expectancy, hope is a muscle—develop it.

Source: Price Pritchett and Ron Pound, A Survival Guide to the Stress of Organizational Change (Plano, TX: Pritchett Rummler-Brache, 1998), 35.

real end in sight. At the same time, while stress accompanies change, each employee actively should adjust to it: “The organization is going to change—it must—if it is to survive and prosper. Rather than banging your head against the wall of hard reality and bruising your spirit, invest your energy in making quick adjustments. Turn when the organization turns. Practice instant alignment. Your own decisions may do more to determine your stress level than anything the organization decides to do.”⁹

Second, even though the pace of change may become demanding on all elements within a department, especially its managers and supervisors, all personnel should understand that major stress requires comprehensive stress mitigation practices. The need to maintain proper dietary and nutritional habits, an ongoing physical exercise and fitness program, and acceptable outlets outside the agency for pent-up emotions remain particularly crucial for personal stress resolution during such times.

Formalized Support System

No longer immune to efforts at downsizing government, law enforcement agencies must reduce unnecessary, or outdated, programs or civilianize traditionally sworn positions. Sometimes, the impact of such organizational change is so great and viewed so personally that individuals within an organization cannot handle it effectively without professional assistance. When employees believe something jeopardizes their jobs or their concept of themselves in the workplace, the

perceived consequence of change can be tremendous.

In such circumstances, access to a skilled employee assistance program (EAP), available either within the agency or through outside referrals, becomes vitally important. Employee assistance program providers should understand the law enforcement agency, the nature and process of the change, the organization’s efforts during the change, and the potential impact on its personnel. When change results in the elimination of positions and departments lay off some of their employees, EAP providers, or other job placement experts, can make the transition a little easier, both for those who leave the organization and, equally important, for those who remain behind.

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...many law enforcement agencies...are flattening their organizational structure....

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Stability

During times of significant organizational change, even the most well-adjusted professionals will feel a loss of control over their environment. While emphasizing the importance of change throughout the organization, some organizational elements or activities should

remain stable. The agency’s leadership should allow their personnel to feel that there is still something over which they have control or which remains familiar. Organizational change requires adjustment, and well-thought-out plans can make that adjustment, and the success of the change, far more likely.

Involvement

Major organizational change within a law enforcement agency can come from a variety of sources: a natural evolution to better meet organizational or community needs; a revolution resulting from changes in the jurisdiction’s or department’s leadership or occurring amid allegations of criminal or professional misconduct; or a devolution of successful programs or ideas that the agency head viewed, heard of, or read about. Regardless of the source of the change, the change most frequently comes from the top down, with little input from or involvement of those personnel most directly impacted.

Increased education of America’s police officers and the changing culture of the work force have led line personnel to expect to be involved in decisions about their on-the-job fate. The most successful efforts at major organizational change involve the affected personnel in the tactical implementation of the program, under the strategic design of the agency’s leadership. Their role can allow them to feel that they “own” part of the change, that they are responsible for its success, and that they can see the value of the change to them, their jobs, and their organization.

Training

At times, communication, no matter how effective, simply is not enough. Some types of organizational change, especially the kind built upon enhanced or expanded technology, require formalized programs of education and training. Such training is important to enhance the technical skills needed to handle both the immediate impact of change, as well as its long-range effects. Educational efforts can produce a greater understanding of the need for and the anticipated results of such change. The key is an organized approach to ensuring that personnel throughout the agency are prepared *now* for the future of their agency and their jobs.

Timing

One attorney, responsible for implementing a number of major political and organizational changes in a large state investigative agency, used to say, "timing is not an important thing, it is the *only* thing." While this adage may cause some debate, its message remains: the most successful change agents, determined to assure the results of their efforts are lasting, plan and time their change.

This belief applies both to initial efforts at implementing change and to subsequent efforts to fine-tune that change or implement subsequent programs, projects, or efforts. As the organization changes, the organizational culture must absorb those changes for long-term effect. As this occurs, leaders of change must assure that they do not foster an organizational counterreaction because those

responsible for implementing or being affected by change are simply overwhelmed by too much over too short a period.

Managerial Burnout

Organizational change in any law enforcement agency produces stress on all of its personnel. A change-oriented leadership frequently expects that the agency's managers and supervisors will adapt readily to their changes. Because individuals charged with effecting change care deeply about their organization, they are just as susceptible, sometimes even more so, to the fears, frustrations, and anxiety of their subordinates.

© Tribute



Too frequently, however, executives expect those managers to keep that "stiff upper lip," relegating their personal feelings to their unexpressed subconscious. Especially in agencies undergoing waves of change—no matter how needed or well-intentioned—these managers are prone to stress overload and, as a consequence, can lose some of

the sharpness and tenacity so necessary for them to ensure effective change. When that occurs, the law enforcement chief executive risks burning out the very individuals necessary to ensure the success of his efforts.

Guarding against burnout of key staff requires the same awareness and aggressive tools that can protect the organization from its own burnout. Communication, stability, and support can help prevent this problem. Further, agencies must recognize that managers in an organization, regardless of their rank, loyalty, skills, and zeal, are still human and, during times of stress associated with organizational change, need the same sensitivity and respect that agencies give their line troops.

CONCLUSION

Community needs are changing in a variety of ways. Such necessary change impacts the quality and types of services law enforcement organizations provide for their communities and affects the organization's personnel and the heart of its culture as well. For change to have the desired lasting effect and to become absorbed within the organization's culture, the agency's highest levels of leadership must recognize and properly address the stress that such change brings.

In changing organizations, executives must acknowledge that they, in fact, organizationally and personally create and shape their own future. Efforts to improve the police agency's ability to deal with community safety and to enhance the quality of life through

VICAP Alert

community policing, for instance, have affected the organization's future and potential for stress. Moreover, an executive's individual efforts, as well as those of an agency's personnel, affect each employee's future and, because of individual perspective, can cause or mitigate stress. By consciously implementing a comprehensive, 10-step stress reduction program, law enforcement executives can help both the organization and its employees manage the stress of change. ♦

Endnotes

¹ B.A. Reaves and A. L. Goldberg, *Local Police Departments 1997* (Washington, DC: U.S. Department of Justice Office of Justice Programs, 2000), iv.

² Of or relating to social organization in small cooperative partially collectivist communities, *Merriam Webster's Collegiate Dictionary, 10th ed.* (1996), s.v. "communitarianism."

³ Eduardo Barajas, Jr., "Confronting Crime Through Criminal Justice," *Community Policing Exchange*, VII (May/June 2000): 2.

⁴ Tonita Murray, "Police and the Challenge of the 21st Century," *RCMP Gazette*, 62 (1, 2000): 11.

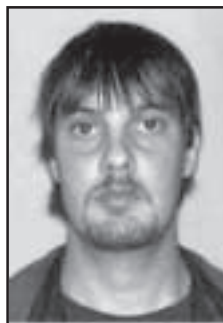
⁵ James D. Sewell, "What They Didn't Teach in Management School," *FBI Law Enforcement Bulletin*, August 1991, 5-8. For additional management perspective, see Peter F. Drucker, *Management Challenges for the 21st Century* (New York, NY: Harper Business, 1999).

⁶ Abbie Lundberg, "The People Side of Change," *CIO* (May 15, 1997), 105.

⁷ Philip N. Newbold quoted in Abbie Lundberg, "The People Side of Change," *CIO* (May 15, 1997).

⁸ John Naisbitt, *Megatrends* (New York, NY: Warner Books, 1988).

⁹ Price Pritchett and Ron Pound, *A Survival Guide to the Stress of Organizational Change* (Plano, TX: Pritchett Rummler-Brache, 1998), 8. See also, Price Pritchett, *Carpe Manana: 10 Critical Leadership Practices for Managing Toward the Future* (Plano, TX: Pritchett Rummler-Brache, 2000).



Roy Lee Ward

Currently, Roy Lee Ward is incarcerated in Warrick County, Indiana, on murder charges. Law enforcement authorities believe that he may have attempted or committed homicides and sexual assaults in other states.

Crimes

On July 11, 2001, a Dale, Indiana, Police Department officer responded to an emergency call from a 14-year-old girl reporting an assault on her sister. Upon arriving at the girl's residence, the officer observed a black 1989 Pontiac Bonneville, with Indiana license plates registered to Ward's father, parked in the driveway. As the officer gained entry through an unlocked front door, he saw a young white male, later identified as Ward, standing just inside.

The male's clothing was completely saturated with blood and sweat, and he was holding a closed folding knife in his left hand. The officer detained the male and called for backup. Detectives arrived and located a 15-year-old girl, dressed only in a T-shirt, lying on the living room floor. She had severe cuts to her throat, left hand, and abdomen and later died during surgery. The detectives searched the vehicle in the driveway and found items in the trunk taken from a residence in Fort Branch, Indiana, approximately 50 minutes from the victim's house.

In 1999, authorities arrested Ward in Tifton, Georgia, for the possession of marijuana and public indecency as a result of an incident in a department store parking lot. A woman with her two children came out of the store and walked to their car. Ward, seated in a vehicle parked next to the woman's, began masturbating in front of her and the children. In 1997, Ward was charged with criminal recklessness and indecent exposure in Sellersburg, Indiana. These charges also stemmed from an incident that occurred in a parking lot. A woman leaving a grocery store observed Ward, sitting in his vehicle, masturbating. She immediately got into her vehicle and left the store parking lot. Ward followed her. In a panic, the woman started traveling at a high rate of speed and attempted to leave the interstate via an exit ramp. A trooper with the Indiana State Police observed Ward ram his vehicle into the woman's car and arrested him. Ward also has a history of burglary and forgery.

Modus Operandi

Ward enjoys prowling for women in shopping malls and rest stops. If he discovers a woman that piques his interest, he attempts to expose himself or masturbate in front of her. Ward frequently and randomly travels the roads and interstates throughout the United States. He never carries luggage on his extended road trips and has been known to sleep in his vehicle. Ward also has access to and uses vehicles registered to his father. In 1999, Ward had access to his father's black Ford pickup truck, with Indiana license plate number 82484L. In 2000, he had access to his father's 1997 white Ford pickup truck, with Indiana license plate number 13218. An NCIC record check indicates that law enforcement agencies in 24

DOB: 07/20/1972

Height: 5' 9"

Weight: 165 to 175 pounds

Hair: Black, shorter than collar length

SSN: 312-02-8326

Tattoos: A star, with Christy Lynn inside, on his right arm; two hearts on his left arm; a rose, with Roy Jenny inside, on his left arm; the initials, jlw, on his chest; and a cross with a sword on his back.

Last known address: 15930 Oliver Road
Perry, IN 47551

NCIC Entries for Roy Lee Ward:

Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Kansas, Kentucky, Indiana, Louisiana, Maine, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wyoming.

states have entered Ward's name, driver's license number, and social security number over 260 times.

Alert to Law Enforcement

Law enforcement agencies should bring this information on Roy Lee Ward to the attention of all crime analysis personnel and officers investigating homicides, crimes against persons, sex crimes, burglaries, and forgeries. Any agencies with solved or unsolved crimes similar to these should contact Trooper Randy Cutrell or Trooper Brad Cieslack of the Indiana State Police at 812-482-1441 or Special Agent Gary Cramer or Crime Analyst Anita Hayne of the FBI's Violent Criminal Apprehension Program (VICAP) at 703-632-4197 or 703-632-4167, respectively.

Providing Consular Rights Warnings to Foreign Nationals

By M. WESLEY CLARK, J.D., LL.M.

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For 35 years, federal, state, and local law enforcement officials have been giving *Miranda* rights warnings to suspects in custody.¹ To ensure that the suspect is correctly informed of these rights, (i.e., that the verbiage actually given during the heat of the moment will pass constitutional muster) law enforcement agencies typically provide their operational personnel with pocket- or wallet-sized cards that contain the *Miranda* warnings verbatim. The

Drug Enforcement Administration (DEA) card, for example, has the rights printed in both English and Spanish on a durable piece of 4¹/₄-inch by 2¹/₂-inch yellow plastic.

In contrast, how many law enforcement personnel at the federal, state, and local level read arrested or detained foreign nationals the rights warnings contained on the U.S. Department of State's *Consular Notification and Access Reference Card*?² How many have ever seen the card, let alone have one?

How many know what consular rights warnings are? How many prosecutors are familiar with them? How many know that failure to provide these rights warnings to detained foreign nationals is in contravention of the law?

Law enforcement officials must provide consular rights warnings to arrested or detained foreign nationals. And, under appropriate circumstances, they must notify the foreign nationals' consular officials who are posted in the United States.

TREATY LAW, GUIDANCE, AND REGULATION AND POLICY

Treaty Law

Most countries of the world, including the United States, are parties to or otherwise obligated by the *Vienna Convention on Consular Relations and Optional Protocol on Disputes* (VCCR).³ Consistent with the Constitution, this multilateral treaty is the “supreme law of the land” within the United States.⁴ Article 36(1)(b) of the VCCR, which applies equally to all federal, state, and local law enforcement officials, states—

[I]f he so requests, the competent authorities of the receiving state shall, without delay, inform the consular post of the sending state if, within its consular district, a national of that state is arrested or committed to prison or to custody pending trial or is detained in any other manner.... The said authorities shall inform the person concerned without delay of his rights under this subparagraph.

In other words, an arresting or detaining official must notify the foreign national of the right to have the individual’s *nearest* consular officials notified of the arrest or detention so that the appropriate foreign official may visit and assist. Article 36(1)(c) of the VCCR provides that “consular officers shall have the right to visit a national of the sending state who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal

representation.”⁵ With the exception of the mandatory circumstances discussed below, officers must *not* notify the foreign national’s consulate unless the individual requests them to do so. Foreign nationals may not want their country of nationality to know of their arrest or detention either because they may fare badly if they ever voluntarily or involuntarily return home or because any family members remaining in the country of nationality may be subjected to harsh treatment (especially if the arrested/detained nationals desire refugee or asylum status in the United States).

Mandatory Versus Voluntary Notification

The U.S. Department of State (State) suggests the following notice be read (this should be documented)⁶ to those detained or arrested foreign nationals who have the right to decide (i.e., those who are not from a “mandatory

notification country”) whether or not they want consular officials to be notified:

As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country’s consular representatives here in the United States. A consular official from your country may be able to help you obtain legal counsel, and may contact your family and visit you in detention, among other things. If you want us to notify your country’s consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country’s consular officials?⁷

In addition to the VCCR, the United States has entered into bilateral agreements with 56 countries that *require* consular notification

“

**Law enforcement
officials must
provide consular
rights warnings
to arrested or
detained foreign
nationals....**

”



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despite even the individual's most emphatic desire to the contrary. These nations generally are referred to as "mandatory notification countries" and are listed in State's *Consular Notification and Access Reference Card*⁸ and in State's *Consular Notification and Access* booklet.⁹ The list and the explanatory notes (contained in the latter two references) should be studied carefully because some countries that one might not expect to be on the list, such as the United Kingdom (U.K.),¹⁰ are and some nations that could be anticipated to be listed, such as Mexico, are not. Further, some of the listed countries no longer exist (the U.S.S.R.), but mandatory notification is nevertheless still necessary for some of the U.S.S.R. successor states (which are named) and for some areas (which also are named) formerly part of the U.S.S.R. Additionally, the explanatory notes contain other important details relating to China, Taiwan, and Hong Kong, and the notes in the booklet also list those U.K. dependencies requiring mandatory notification.¹¹ State recommends that the following rights warning be provided in mandatory notification circumstances:

Because of your nationality, we are required to notify your country's consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention,

among other things. We will be notifying your country's consular officials as soon as possible.¹²

Definitions

For the purposes of consular rights notification, some definitions may be different from traditional understandings under domestic U.S. law. A "foreign national," including a lawful permanent resident alien, is anyone who is not a U.S. citizen.¹³ Under some circumstances, determining nationality might be a challenge. Ask for the person's country of citizenship; if the detainees state they are U.S. citizens, law enforcement officials can rely upon that assertion unless the claim does not ring true giving officials reason to probe further. Proof of foreign nationality would include a passport or an alien registration document.¹⁴

A 'foreign national,' including a lawful permanent resident alien, is anyone who is not a U.S. citizen.

"Without delay" refers both to how quickly foreign nationals are to be advised of their rights and how quickly the consular officials are to be notified. State emphatically recites that foreign nationals are to be provided consular rights warnings without "...deliberate delay and notification [to the individuals]

should occur as soon as reasonably possible under the circumstances."¹⁵ Notification to consular officials should follow thereafter and "...there should be no deliberate delay and...[it] should occur as soon as reasonably possible under the circumstances. State normally would expect notification to consular officials to have been made within 24 hours, and certainly within 72 hours."¹⁶ Law enforcement officials may telephone the consular official or choose to use State's suggested fax sheet.¹⁷ Notifying the consular official does not necessarily mean or include providing an explanation of the reason for the arrest or detention. The VCCR does not require that these details be given; additionally, foreign nationals may not want their country to know why they are being detained. "Thus we suggest that [the reasons for the detention] not be provided unless requested specifically by the consular officer, or if the detainee authorizes the disclosure.... If a consular official insists that he/she is entitled to information about an alien that the alien does not want disclosed, the Department of State can provide guidance."¹⁸ The "suggested fax sheet," for example, does not list or contain any information category relating to reasons, such as charges or crimes, for the arrest or detention. The fax sheet is helpful if consular notification of necessity will occur after normal business hours or if it is presently imprudent for the law enforcement officer to speak personally with a consular officer.

Notification must be made to a consular official and not to a foreign law enforcement counterpart

or to any other foreign government official. A “consular officer”—

is a citizen of a...country employed by a...government and authorized to provide assistance on behalf of that government to that government’s citizens in a foreign country. Consular officials are generally assigned to the consular section of a foreign government’s embassy in [the nation’s capital] or to consular offices maintained by the...government in locations [outside the capital].¹⁹

The VCCR does not explain what “detention” means. State has adopted a “reasonable person” standard.

...State does not consider it necessary to follow consular notification procedures when an alien is detained only momentarily, *e.g.*, during a traffic stop. On the other hand, requiring a foreign national to accompany a law enforcement officer to a place of detention may trigger the consular notification requirements, particularly if the detention lasts for a number of hours or overnight. The longer a detention continues, the more likely it is that a reasonable person would conclude that the Article 36 obligation [of the VCCR] is triggered.²⁰

Regulation and Policy

State asserts that the obligation to inform the foreign national’s consular officials rests with the law enforcement “officers” (not a judge and not a prosecutor) who made the

arrest or are responsible for the alien’s detention.²¹ The U.S. Department of Justice (DOJ), however, indicates that the U.S. attorney is to inform the foreign consular official in both a mandatory notification circumstance and in the case where notification is not mandatory, but the foreign national requests it.²² Inasmuch as the law enforcement officer is in the best and most timely



command of the facts and given the VCCR’s command that a foreign country consular official be notified “without delay,” State’s guidance appears to be more practical, although notification also provided by the U.S. attorney would not be objectionable. If officers forget to provide consular rights warnings to the foreign national, unless the individual’s consular officer already knows of the arrest or detention and is providing assistance, State urges that “[c]onsular notification is ‘better late than never.’”²³

Common sense, circumspect (but courteous) restrictions can be placed upon the time and manner when a consular officer visits the detainee. “Law enforcement

authorities may make reasonable regulations about the time, place, and manner of consular visits to detained foreign nationals. Those regulations cannot, however, be so restrictive that the purpose of the consular assistance is defeated.”²⁴

THE IMPACT OF A FAILURE TO WARN

Suppression of Evidence, Dismissal of Indictment

Compliance with the VCCR’s consular rights notification requirement within the United States has been spotty at the federal, state, and local levels. One commentator noted that “[a]s of June 2000, eighty-seven foreign nationals from twenty-eight different countries were on death row.... While not all of these foreign nationals allege that they were deprived of their rights under the Vienna Convention, there is overwhelming evidence that the failure on the part of the United States to notify them of their rights is the rule rather than the exception.”²⁵ State courts appear to be quite satisfied following the lead of their federal brethren in not adopting an exclusionary rule.²⁶ “[T]he overwhelming majority of American federal and state courts have held that a violation of Article 36 of the Vienna Convention does not get remedied by adopting an exclusionary rule requiring suppression of the evidence.”²⁷ According to the Queens County, New York City Criminal Court, inasmuch as no other country that is a party to the VCCR has adopted such a remedy,²⁸ it would be “unilaterally self-limiting” for any jurisdiction in the United States to do so.

The consequences associated with law enforcement failure to provide consular notification rights warnings is best illustrated by a Ninth Circuit three-judge panel opinion rendered in *United States v. Lombera-Camorlinga*.²⁹ Mexican national José Lombera-Camorlinga was arrested at the Calexico, California, port of entry on November 17, 1997, when U.S. Customs inspectors discovered approximately 39 kilograms of marijuana hidden in his vehicle. Lombera-Camorlinga made incriminating remarks after being advised of his *Miranda* rights, but the Customs officials never advised him of his Article 36 VCCR rights nor were Mexican consular officials notified. Based upon this treaty violation, he moved the district court to withhold his statement from evidence. Although the district court denied the motion, that decision was reversed by a Ninth Circuit three-judge panel, which held that a violation of the VCCR could be raised by the defendant and the statement successfully suppressed. (In part, the government had argued that, assuming there had been a violation of the VCCR, it was a matter that could only be surfaced by and between governments, not individuals.) Crucially, the panel also said:

Upon a showing that the Vienna Convention was violated by a failure to inform the alien of his right to contact his consulate, the defendant in a criminal proceeding has the initial burden of producing evidence showing prejudice from the violation of the Convention. If the defendant

meets that burden, it is up to the government to rebut the showing of prejudice.³⁰

A full panel of the Ninth Circuit later heard the case and disagreed with the three-judge panel. The full court upheld the district court.

**“
State normally would expect notification to consular officials to have been made within 24 hours, and certainly within 72 hours.
”**

We voted to accept en banc review of the case to consider whether the suppression of evidence is an appropriate remedy for violation of the Vienna Convention. We now hold that it is not, for there is nothing in the language or operation of the treaty provision to suggest Article 36 was intended to create an exclusionary rule with protections similar to those announced by the United States three years later in *Miranda v. Arizona* [citations omitted].... We do not decide whether the treaty creates individual rights that are judicially enforceable in other ways.³¹

In the course of its opinion, the Ninth Circuit noted that State believed suppression was an “inappropriate remedy” and that State

also had advised the court that “no other signatories to the Vienna Convention have permitted suppression under similar circumstances, and that two (Italy and Australia) have specifically rejected it.”³² Other courts in the United States that have considered the issue also concluded that failure to provide consular rights warnings does not warrant suppression of any incriminating remarks made. Some courts have additionally ruled that dismissal is not an appropriate remedy.³³ Also, unlike the situation presented in the *Miranda* context, questioning does not have to cease once the suspect has received an Article 36 rights warning.³⁴ “There is no exclusionary rule generally applicable to international law violations.”³⁵ Assuming that the defendant would be entitled to some form of relief in the face of an Article 36 violation, the majority of criminal courts that have spoken on the topic appear to require the demonstration of at least some prejudice.³⁶

Civil Liability

As noted earlier, some courts, such as the Ninth Circuit, have suggested that persons victimized by the lack of an adequate consular rights notification may not be entitled to the suppression of incriminating statements or the dismissal of an indictment, but that other unspecified relief might be available. This possibility of civil remedies should be troubling for both law enforcement agencies and for individual officers. The Ninth Circuit left the door open in *Lombera-Camorlinga*: “We do not decide whether a violation of Article 36

may be redressable by more common judicial remedies such as damages or equitable relief.”³⁷

The unsettled state of the law in this area is further evidenced by recent district court decisions in the Second Circuit that have split on whether an “aggrieved” criminal defendant-turned-plaintiff is entitled to any remedy. In *Sorensen v. City of New York*,³⁸ a jury awarded one Danish plaintiff \$66,400 (which included \$60,000 in punitive damages) in a suit grounded upon 42 U.S. Code Section 1983.³⁹ The complainant alleged that following her arrest, New York City police officers failed to provide her Article 36 VCCR rights advice. The city did not dispute the facts, but, instead, argued that the plaintiff lacked “standing” to sue, that the VCCR provided rights and remedies to countries and not to individuals. Even if she had standing, the city further contended, she had not been prejudiced by the lack of such a rights warning. After remarking that “...several Circuit Courts of Appeal...have uniformly held that the suppression of a criminal defendant’s post-arrest statements is not an appropriate remedy for violation of Article 36 [.]”⁴⁰ the district judge proceeded to grant New York’s motion for judgment as a matter of law because the VCCR makes no provision for money damages.

In a case decided subsequently within the same New York federal judicial district, the plaintiff (a German national) brought a 42 U.S. Code Section 1983 action against both the city of New York and individual police officers complaining

that he had not been advised of his Article 36 VCCR rights. The matter was heard before a different U.S. district judge in *Standt v. City of New York*⁴¹ who specifically rejected the reasoning in *Sorensen*, finding that a plaintiff could establish standing. The court added:

The VCCR, as a ratified treaty, “is of course ‘the supreme law of the land.’ ” [citations omitted]... Title 42, U.S. Code Section 1983 “imposes liability on anyone who, under color of state law, deprives a person ‘of any rights, privileges, or immunities secured by the Constitution and laws’ ” of the United States. [Emphasis supplied; citations omitted.]⁴²

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The court went on to note that “...the Vienna Convention confers a private right of action on persons in Standt’s situation, which may be pursued in the United States through the vehicle of Section 1983 ‘in conformity with the laws’ of the United States, VCCR, art. 36(2)...”⁴³ The court consequently denied defendants’ motion for

summary judgment. Put differently, the *Standt* court determined that officers failing to give VCCR rights conceivably may be subject to civil liability pursuant to Section 1983.

INTERNATIONAL CASE LAW

In two cases decided in the United Kingdom, sanctions were imposed for violations of legislation that closely tracks the VCCR right to consular notification and access.⁴⁴ In contrast, a relatively recent Canadian decision upheld the justice minister’s determination to extradite a person to the United States despite an objection based upon Article 36 of the VCCR. Following his arrest in America, U.S. authorities failed to provide a consular rights notification. The Alberta court opined that, “The Vienna Convention creates an obligation between states and is not one owed to the national.”⁴⁵ In any event, the court observed that the appellant failed to prove “serious” prejudice, let alone any prejudice, resulting from the violation.⁴⁶

Bad facts make “bad” law; the United States recently received an adverse judgment from the International Court of Justice (ICJ). Despite German protests, after a state trial, local U.S. authorities executed brothers Karl and Walter LaGrand for their involvement in connection with a murder committed during an attempted Marana, Arizona, bank robbery in early 1982. The LaGrand brothers were not provided with an appropriate Article 36(1)(b) VCCR rights warning. Germany brought its action before the ICJ on March 2, 1999, and requested that the court, *inter alia*, “adjudge and declare”—

[t]hat the United States, by not informing Karl and Walter LaGrand without delay⁴⁷ following their arrest of their rights under Article 36, subparagraph 1(b), of the Vienna Convention on Consular Relations, and by depriving Germany of the possibility of rendering consular assistance, which ultimately resulted in the execution of Karl and Walter LaGrand, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its nationals, under Articles 5 and 36, paragraph 1, of the said Convention....⁴⁸

In its response, the United States admitted that Arizona's Article 36(1)(b) VCCR failure "...was in breach of the United States legal obligations to Germany."⁴⁹ The United States did call to the court's attention the fact that it already had "...apologized to Germany for this breach, and is taking extensive measures seeking to avoid any recurrence."⁵⁰

Not surprisingly, the ICJ concluded that the United States violated Article 36(1)(b) of the VCCR, thereby breaching its legal obligation not only to Germany but also—and contrary to the American assertion—to the LaGrand brothers *as individuals*.

The United States contends... that rights of consular notification and access under the Vienna Convention are rights of States, and not of individuals, even though these rights may benefit individuals...

[and consequently they do] not constitute a fundamental right or a human right.⁵¹

By a vote of 14-1, the court had absolutely no difficulty disposing of the U.S. contention. The treaty language in Article 36 itself could not be more clear, concluded the judges: "The clarity of these provisions, viewed in their context, admits of no doubt" and makes apparent the creation of "individual rights."⁵²

**“
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”**

In the course of its opinion, however, the court did remark upon State's ongoing attempts, including distribution of State's publications,⁵³ to educate the U.S. law enforcement, prosecuting, and judicial communities regarding Article 36. Germany was less than impressed with these U.S. endeavors, harshly remarking that "[v]iolations of Article 36 followed by death sentences and executions cannot be remedied by apologies or the distribution of leaflets."⁵⁴

The ICJ rejoined that no country could provide a promise of absolute certainty to comply with Article 36 and unanimously—

[took] note of the commitment undertaken by the United States of America to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1(b) of the convention; and [found] that this commitment must be regarded as meeting the Federal Republic of Germany's request for a general assurance of non-repetition....⁵⁵

One commentator noted that international reaction to the execution of the LaGrands and other foreign nationals at the hand of the United States in violation of their Article 36 rights "...was so great that, in 1999, for the first time in history, [America] was placed on Amnesty International's list of human rights violators."⁵⁶

The *LaGrand Case* was not the first time the United States had been called before the ICJ to face a claim of failure to comply with Article 36, VCCR. Paraguay instituted proceedings on April 3, 1998, correctly asserting, and without contradiction from the United States, that Virginia had never provided Angel Breard with a consular rights warning, *Case Concerning the Vienna Convention on Consular Relations (Paraguay v. United States of America)*.⁵⁷ Breard had been convicted upon "overwhelming evidence of guilt,"⁵⁸ including an in-court confession, and sentenced to death by lethal injection for the 1992 attempted rape and effected murder of the victim. A unanimous ICJ had "indicated" provisional measures 5 days before Breard's

sentence was carried out to include a call that the United States—

[t]ake all measures at its disposal to ensure that Angel Francisco Breard is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of this Order...⁵⁹

Neither the ICJ's provisional order nor a letter from the secretary of state requesting a stay caused the governor of Virginia to delay or halt the execution. At Paraguay's November 2, 1998, request, the case before the ICJ was discontinued without explanation but with prejudice 8 days later.⁶⁰

In another venue and at Mexico's request, the Inter-American Court of Human Rights, Organization of American States (OAS), issued an advisory opinion in 1999⁶¹ in which it unanimously concluded that the state that detains or arrests a foreign national "must comply with its duty to inform the person detained on the rights that said precept [Article 36, VCCR] recognises [*sic*] on her or his behalf, the moment it brings her or him under custody or, in any event, before she or he makes the first statement before the authorities...."⁶² Furthermore, these Article 36 rights belong to the individual and consequently their observance "is not contingent on protests by the sending State."⁶³ Indeed, the court went so far as to stress, by a vote of 6-1, that imposition of the death penalty in the face of an Article 36 violation "constitutes a violation of the right not to be deprived of life

'arbitrarily,' in terms of the relevant provisions of human rights agreements (i.e., the American Convention on Human Rights, Article 4; the International Covenant on Civil and Political Rights, Article 6)...."⁶⁴

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NONJUDICIAL INTERNATIONAL MEASURES

The OAS General Assembly adopted resolutions at plenary sessions in both 1999 and 2000. These contained almost identical language "emphatically" reaffirming and reiterating—

[t]he duty of states to ensure full respect and observance of the 1963 Vienna Convention on Consular Relations, particularly with regard to the right of foreign nationals, regardless of their immigration status, to communicate with a consular official of their own state in case of detention and the obligations of the state in whose territory the detention occurs to inform the foreign national of that right.⁶⁵

CONCLUSION

Apart from keeping an investigation and prospective prosecution clear of possible motions to suppress and dismiss, civil lawsuits, attendant press scrutiny, and political pressure, the consistent provision of consular rights warnings to aliens by federal, state, and local law enforcement personnel provides the United States with "clean hands" when the tables are reversed and Americans find themselves detained by foreign officials overseas. "It is critical...to recognize VCCR rights of foreign nationals detained in the United States for the United States to continue its success in invoking the Vienna Convention on behalf of U.S. citizens detained abroad."⁶⁶ VCCR compliance also avoids international diplomatic unpleasanties.⁶⁷

Summarizing, even though the great weight of case law within the United States indicates that failure to provide Article 36 VCCR rights warnings to arrested or detained foreign nationals when required will not result in either suppression of the subjects' statements nor the dismissal of prosecutions brought against them, law enforcement officials at all levels of American government should nevertheless comply with the treaty's notification provisions (and document that compliance) for a number of significant reasons. These include:

- 1) first and foremost, the Vienna Convention is the law of the land;
- 2) the state of the law regarding whether a violation can give rise to monetary damages

or other relief remains unsettled;

3) the United States already has been soundly pilloried at the ICJ and elsewhere within the international legal community for past failures to comply;

4) alert defense counsels will continue to surface motions for failure to comply with Article 36 of the VCCR, which will

a) drain prosecutorial resources best expended elsewhere and

b) induce some prosecutors to decline prosecution, thus nullifying what otherwise may have been a satisfactory, legally sufficient investigation and causing the suspect to go “free”;

5) helping ensure reciprocity of treatment, that U.S. citizens arrested or detained overseas are accorded their consular notification rights; and, finally,

6) “Always do right. This will gratify some people and, astonish the rest.”⁶⁸ ♦

Endnotes

¹ “By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). A full discussion of *Miranda* is beyond the scope of this article.

² *Consular Notification and Access Reference Card: Instructions for Arrests and Detentions of Foreign Nationals* (February 1998).

³ April 24, 1963, 21 U.S.T. 77, T.I.A.S. No. 6820, 596 U.N.T.S. 261. Parties and countries otherwise obligated by the convention and listed in *U.S. Department of State, Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force* on January 1, 2000,

354-55, http://www.state.gov/www/global/legal_affairs/tifindex.html.

⁴ “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. CONST. art. VI, cl. 2. Pursuant to this clause, not only state and local, but also “...federal agencies are obliged to observe Article 36 of the Vienna Convention.” *United States v. Hongla-Yamche*, 55 F. Supp. 2d 74, 77 (D. Mass. 1999).

“

...officers failing to give VCCR rights conceivably may be subject to civil liability...

”

⁵ *Supra* note 3, at 21 U.S.T. 77, 101. The most helpful reference concerning consular rights warnings is a State Department 72-page booklet, *U.S. Department of State, Consular Notification and Access: Instructions for Federal, State, and Local Law Enforcement and other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials To Assist Them* (1998) (hereafter *Consular Notification and Access*), http://www.state.gov/www/global/legal_affairs/ca_notification/ca_prelim.html. Hardcopies of the booklet and the consular rights warning card (referred to in note 2, *supra*) can be obtained by contacting the Office of the Assistant Legal Adviser for Consular Affairs (L/CA), Room 5527A, U.S. Department of State, Washington, D.C. 20520, 202-647-4415, FAX 202-736-7559, after hours, 202-647-1512.

⁶ State says that the foreign national may be given consular rights warnings “orally or in writing” and “strongly recommends that a written record of the fact of notification be maintained.” *Consular Notification and Access*, *supra* note 5, at 20.

⁷ This rights warning is contained in State’s *Consular Notification and Access Reference Card*, *supra* note 2, and in State’s *Consular Notification and Access* booklet, *supra* note 5, at 7 and 25.

Additionally, the booklet version of the rights warning contains space for the foreign nationals to circle either “yes” or “no”, and the rights warning has been translated into 13 different languages, *id.* at 27-39, that can be shown to them.

⁸ *Supra* note 2.

⁹ *Supra* note 5, at 5.

¹⁰ The nondiscretionary wording contained in the relevant U.S.-U.K. agreement provides, “A consular officer shall be informed immediately by the appropriate authorities of the territory when any national of the sending state is confined in prison awaiting trial or is otherwise detained in custody within his district.” *Consular Convention and Protocol*, June 6, 1951, art. 16(1), 3 U.S.T. 3426, T.I.A.S. No. 2494, 165 U.N.T.S. 121.

¹¹ “[O]ne of the mandatory notification agreements now applies to two countries, another applies to 32 countries, and a third applies to 12 countries.” *Consular Notification and Access* booklet *supra* note 5, at 43.

¹² *Supra* note 2, at Statement 2 and *Consular Notification and Access* booklet, *supra* note 5, at 25.

¹³ *Consular Notification and Access* booklet *supra* note 5, at 18.

¹⁴ *Id.* Someone who is a citizen of both the U.S. and another country and who can be referred to as a “dual national” is considered a U.S. citizen (and not a foreign national) for Article 36 VCCR purposes and, therefore, does not have to be provided consular notification rights warnings.

¹⁵ *Id.* at 20.

¹⁶ *Id.* State advises that if U.S. consular officers abroad are not notified within 72 hours of the arrest of a U.S. citizen, a protest should be filed with the foreign government. 7 *Foreign Affairs Manual* (FAM) 415.4-1. The FAM and State’s *Foreign Affairs Handbook* (FAH) are available on the Internet at <http://foia.state.gov/fam/>.

¹⁷ *Consular Notification and Access* booklet *supra* note 5, at 9.

¹⁸ *Id.* at 21. The appropriate phone number to call at State is L/CA’s, *see supra* note 5.

¹⁹ *Id.* at 17. Compare State’s definition at 7 FAM 113e which is, from the perspective of the United States, “...any consular or other officer of the United States who is designated, by the regulations prescribed under the authority of U.S. law, to provide protective, citizenship, passport, notarial, judicial, Federal benefit, and other consular services to U.S. citizens abroad.”

²⁰ *Consular Notification and Access* booklet, *supra* note 5, at 19. The requirements of the VCCR are reciprocal and apply equally to foreign governments when they arrest or detain a U.S. citizen. State’s guidance to U.S. consular officers in these circumstances is at 7 FAM 400. The FAM defines detention to mean “hold[ing] a person in custody or confinement before or without charging the person with a violation or crime.” 7 FAM 403e.

²¹ *Consular Notification and Access* booklet, *supra* note 5, at 14, 18-19. However, during an arraignment or initial appearance, the court may ask the government whether consular rights warnings have been provided. State's legal adviser wrote an April 10, 2000, letter to 1,400 U.S. district court judges and magistrate judges urging that they inquire about government compliance with the VCCR. Additionally, at least one district court responded by writing a letter to all federal law enforcement agencies within the district (S.D. Tx.). Chief U.S. District Judge George Kazen's June 5, 2000 letter, *Subject: Consular notification of persons under arrest or detention*, said in part that "...the State Department traditionally looks to the arresting or detaining officers as the persons primarily responsible for notifying the foreign Consul. For that reason, I now request that your agency strive to make your personnel aware of this matter and sensitive to their obligations under the treaty."

State and local law enforcement officials are also responsible for notifications. "State and local governments must comply with the consular notification and access obligations because these obligations are embodied in treaties that are the law of the land under the Supremacy Clause of the United States Constitution. The federal government, however, would be responsible for a dispute with a foreign government concerning obligations under the relevant treaties." *Consular Notification and Access* booklet, *supra* note 5, at 19.

²² 28 C.F.R. § 50.5(a)(1) and (a)(3). In most contexts, 28 C.F.R. § 50.5 discusses consular rights notification only where there has been an arrest; it often fails to mention that the notifications to the foreign national and, as appropriate, to the consular officer also are required if the foreign national is being detained. Additionally, whenever a foreign national is arrested (or, presumably, detained), the U.S. attorney is to be notified. 28 C.F.R. § 50.5(a)(2). This 28 C.F.R. § 50.5 guidance is echoed in the *United States Attorneys' Manual* (USAM), 9-2.173 *Arrest of Foreign Nationals*. Similar DOJ instructions on consular rights warnings are in the January 2000 *OIA Bulletin*, Office of International Affairs, Criminal Division, at 6-8. In contrast to the C.F.R. and *USAM* provisions, the *OIA Bulletin* mentions detentions. As of this writing (October 2001), DOJ actively is seeking to revise 28 C.F.R. § 50.5.

²³ *Consular Notification and Access* booklet, *supra* note 5, at 21-22.

²⁴ *Id.* at 23.

²⁵ Brook M. Bailey, *People v. Madej: Illinois' Violation of the Vienna Convention on Consular Relations*, 32 LOY. U. CHI. L. J. 471, 472 (2001).

²⁶ For example, *Rocha v. Texas*, 16 S.W.3d 1 (Tex. Crim. App. 2000).

²⁷ *People v. Litarov*, 727 N.Y.S.2d 293, 295 (N.Y. Crim. Ct. 2001).

²⁸ *Id.* at 296 [citing *United States v. Rodrigues*, 68 F. Supp. 2d 178, 186 (E.D.N.Y. 1999)]. In point of fact, however, contrary authority arguably exists. Attention is called to a pair of decisions in the United Kingdom where contravention of U.K. provisions strikingly similar to Article 36 VCCR requirements resulted in suppressed statements, see Rebecca E. Woodman, *International Miranda? Article 36 of the Vienna Convention on Consular Relations*, 70 JUL J. KAN. B.A. 41, 47 (2001) (hereinafter Woodman, *International Miranda?*), referring to *R. v. Bassil and Mouffareg* (1990) 28 July, Acton Crown Court, HHJ Sich, reported in Legal Action 23, Dec. 1990, and *R. v. Van Axel and Wezer* (1991) 31 May, Snaresbrook Crown Court, HHJ Sich, reported in Legal Action 12, Sep. 1991. Because there was no explicit mention of the VCCR in the two Legal Action reports, it concededly cannot be concluded that the decisions to suppress were based upon Article 36 violations. The damaging statements were deemed inadmissible because they had been obtained in violation of the U.K.'s Police and Criminal Evidence Act 1984 (PACE), Code C: Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers.

It seems abundantly evident, and even inadvertently consistent with the majority of American rulings relying upon VCCR Article 36, that both Crown Courts would have ruled differently if the detained suspects had not suffered apparent prejudice from the lack of consular notification. In the words of the *Van Axel and Wezer* reporter, the Snaresbrook Crown Court "was not satisfied that breach of Code C had made no difference."

²⁹ 170 F.3d 1241 (9th Cir.), *withdrawn* 188 F. 3d 1177 (9th Cir. 1999), *Dist. Ct. aff'd en banc* 206 F. 3d 882 (9th Cir.), *cert. denied*, ___ U.S. ___, 121 S. Ct. 481 (2000).

³⁰ *Id.* 170 F.3d at 1244 (9th Cir. 1999). See also the Ninth Circuit panel decision *United States v. Oropeza-Flores*, 173 F.3d 862 (9th Cir. 1999) (*unpublished*), *remanded*, 242 F.3d 385 (9th Cir. 2000) (*en banc, unpublished*), 230 F.3d 1368 (9th Cir. 2000) (*unpublished*), *cert. denied sub nom, Oropeza-Flores v. United States*, ___ U.S. ___, 121 S. Ct. 836 (2001). In light of the Ninth Circuit's *en banc* decision in *United States v. Lombera-Camorlinga*, 206 F.3d 882 (9th Cir. 2000), the panel ruling in *Oropeza-Flores* also was overturned, and it was ultimately held that failure to provide VCCR Article 36 warnings does not warrant suppression. One can only speculate what "prejudice" could be suffered in the United States if there were a failure to provide consular rights warnings followed by the lack of consular officer contact. Presumably, one of the most important pieces of advice that the consular officer would provide is that the foreign person arrested or detained seek legal counsel, an

advisement that most probably already would have been communicated to the individual during a *Miranda* warning.

³¹ *Lombera-Camorlinga, supra* note 30, 206 F.3d 882 at 883-84. "[T]his and other circuits have held in recent years that an exclusionary rule is typically available only for constitutional violations, not for statutory or treaty violations." *Id.* at 886.

³² *Id.* at 887-88 citing *R v. Abbrederis* (1981) 36 A.L.R. 109. The defendant in *Abbrederis* argued on appeal that, *inter alia*, "...the trial judge erred in admitting into evidence the conversations which took place between appellant and the customs officers [because] appellant was an Austrian citizen and that it was accordingly incumbent upon the investigating officers to afford him access to his consular representative before questioning him." Even though the Australian 1972-1973 *Consular Privileges and Immunities Act* "...prescribes that certain of the articles and paragraphs in the [VCCR]...are to have the force of law in Australia[...][t]he objection, in [the court's view] has no merit. Even giving the fullest weight to the prescriptions in Art 36, [the court does] not see how it can be contended that they in any way affect the carrying out of an investigation by interrogation of a foreign person coming to this country. The article is dealing with freedom of communication between consuls and their nationals. It says nothing touching upon the ordinary process of an investigation by way of interrogation. In [the court's] view this ground of appeal is not made good." (A.L.R. pagination not provided in LEXIS printout.)

Note also that § 23P, Australian *Crimes Act 1914*, as amended, provides—

1) Subject to section 23L, if a person under arrest for a Commonwealth offense is not an Australian citizen, the investigating official holding the person under arrest must, before starting to question the person:

- a) inform the person that he or she may communicate with, or attempt to communicate with, the consular office of the country of which the person is a citizen; and
- b) defer the questioning for a reasonable time to allow the person to make, or attempt to make, the communication.

2) Subject to section 23L, if the person wishes to communicate with a consular office, the investigating official holding the person under arrest must, as soon as practicable, give the person reasonable facilities to do so.

Australian Crimes Act 1914, as amended, <http://scaleplus.law.gov.au/html/pasteact/0/28/0/PA002450.htm>. State's conclusion, quoted in the main text, that "no other signatories to the Vienna Convention have permitted suppression" may be incorrect in light of the U.K. decisions discussed at note 28, *supra*.

³³ See, e.g., *United States v. Li*, 206 F.3d 56 (1st Cir.), cert. denied, *Li v. United States*, 531 U.S. 956 (2000); *United States v. De La Pava*, No. 00-1116, 2001 WL 1223178, (2d Cir. Oct. 15, 2001); *United States v. Jimenez-Nava*, 243 F.3d 192 (5th Cir.), cert. denied, No. 00-10298, 2001 WL 606881 (U.S. June 29, 2001); *United States v. Page*, 232 F.3d 536 (6th Cir. 2000), cert. denied sub nom., *Linton v. United States*, ___ U.S. ___, 121 S. Ct. 1389 (2001); *United States v. Emuegbunam*, No. 00-1399, 2001 WL 1176577 (6th Cir. Oct. 5, 2001); *United States v. Lawal*, 231 F.3d 1045 (7th Cir. 2000), cert. denied sub nom., *Lawal v. United States*, ___ U.S. ___, 121 S. Ct. 1165 (2001); *United States v. Cordoba-Mosquera*, 212 F.3d 1194 (11th Cir. 2000). Cf. *Breard v. Greene*, 523 U.S. 371, 376 (1998): “The Vienna Convention...arguably confers on an individual the right to consular assistance following arrest...” (Emphasis added.)

³⁴ *Lombera-Camorlinga*, supra note 30, 206 F.3d at 886.

³⁵ *United States v. Chaparro-Alcantara*, 226 F.3d 616, 621 (7th Cir.), cert. denied, ___ U.S. ___, 121 S. Ct. 599 (2000).

³⁶ *Cordoba-Mosquera*, supra note 33, at 1196. “Even were [defendant’s] Vienna Convention claim properly raised and proven, it is extremely doubtful that the violation should result in the overturning of a final judgment of conviction without some showing that the violation had an effect on the trial.” *Breard*, supra note 33, at 377 (citation omitted).

³⁷ *Lombera-Camorlinga*, supra note 30, 206 F.3d at 888.

³⁸ Nos. 98 Civ. 3356(HB), 98 Civ. 6725(HB), 2000 WL 1528282 (S.D.N.Y. Oct. 16, 2000).

³⁹ The statute provides in significant part that “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable...”

⁴⁰ *Supra* note 38, at *5 (citations omitted).

⁴¹ 153 F. Supp. 2d 417 (S.D.N.Y. 2001).

⁴² *Standt*, supra note 41, at 428.

⁴³ *Id.* at 431.

⁴⁴ Woodman, *International Miranda?* supra note 28, at 47. To the extent the writer of *International Miranda?* bases her conclusion that PACE codifies Article 36 VCCR upon these two cases as reported in the Legal Action accounts described in note 28, supra, this author takes exception. Neither of two Legal Action case summaries, prepared by barristers, mentions the VCCR let alone any legal foundations underlying PACE, Code C, para. 7.

⁴⁵ *R. v. Van Bergen*, No. 99-18145, 2000 W.C.B.J. LEXIS 10995, at *8, (Alberta Ct. App. July 19, 2000).

⁴⁶ *Id.* at *9.

⁴⁷ The LaGrands were ultimately in contact with German consular officials. It was, however, untimely, and as even the United States concluded, “Clearly this notice came too late to constitute compliance with Article 36 in this case[.]” Counter-Memorial of the United States, note 23 at p. 45, *LaGrand Case (Germany v. U.S.)*(ICJ Mar. 27, 2000), http://www.icj-cij.org/icjwww/idocket/igus_ipleading_CounterMemorial_US_20000327.htm.

⁴⁸ Summary of the Judgment of 27 June 2001, p. 1, *LaGrand Case (Germany v. U.S.)*(ICJ June 27, 2001), http://www.icj-cij.org/icjwww/ipresscom/ipress2001/ipresscom2001-bis_20010627.htm. Article 5, VCCR, is a listing of consular functions contemplated by the convention to include “protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law[.]” Article 5(a), VCCR.

⁴⁹ Counter-Memorial, *LaGrand Case*, supra note 47, p. 4, http://www.icj-cij.org/icjwww/idocket/igus_ipleading_CounterMemorial_US_20000327.htm.

⁵⁰ *Id.* at p. 15. In point of fact, the LaGrands were visited a number of time by German consular officials beginning in December 1992. Indeed, Walter even refused to entertain at least two consular visits. *Id.* at p. 20.

⁵¹ Final Judgment, *LaGrand Case*, supra note 47, p. 24, http://www.icj-cij.org/icjwww/idocket/igus_ijudgment_20010625.htm.

⁵² *Id.*

⁵³ See supra notes 2 and 5.

⁵⁴ Final Judgment, *LaGrand Case*, supra note 47, p. 38, http://www.icj-cij.org/icjwww/idocket/igus_ijudgment_20010625.htm.

⁵⁵ Emphases in the original; *id.* at 42.

⁵⁶ Citation omitted, Woodman, *International Miranda?* supra note 28, at 48.

⁵⁷ *Application of Paraguay (Paraguay v. United States)* (ICJ Apr. 3, 1998), http://www.icj-cij.org/icjwww/idocket/ipaus/ipausorder/ipaus_iapplication_980403.html. Paraguay’s memorial was submitted October 9, 1998, http://www.icj-cij.org/icjwww/idocket/ipaus/ipa.../ipaus_memorial_paraguay_19981009.htm.

⁵⁸ *Breard*, supra note 33, at 372.

⁵⁹ *Provisional Order (Paraguay v. United States)*(ICJ Apr. 9, 1998), at 9, http://www.icj-cij.org/icjwww/idocket/ipaus/ipausorder/ipaus_order_090498.htm.

⁶⁰ *Order (Paraguay v. United States)*, 1998 I.C.J. 426, 1998 WL 1180014 (Nov. 10, 1998).

⁶¹ *Advisory Opinion (Hernandez)* (Oct. 1, 1999), http://wwwl.umn.edu/humanrts/iachr/b_11_4p.html. Mexico’s request “...came about as a result of the bilateral representations that [it] had made on behalf of some of its nationals, whom the host State had allegedly not informed of their right to communicate with Mexican consular authorities

and who had been sentenced to death in ten states in the United States.” *Id.* at 2.

⁶² *Press Release OC-16/19* (Oct. 1, 1999), at 3-4, <http://wwwl.umn.edu/humanrts/iachr/pr24-99.html>.

⁶³ *Id.* at 4. When the opinion was rendered, the Court was comprised of seven judges none of whom were from the United States and one of whom was from Mexico. The Court is “an autonomous legal institution of the Organization of American States established in 1979 [and] is comprised of legal experts of the highest moral authority and recognised [sic] competence in the field of human rights.”

⁶⁴ *Id.*

⁶⁵ AG/Res. 1611 (XXIX-0/99) O.A.S., 1st plen. sess. (June 7, 1999), at 2, <http://www.oas.org/juridico/english/ga-res99/eres1611.htm>. and AG/Res. 1717 (XXX-0/00) O.A.S., 1st plen. sess. (June 5, 2000), at 2, http://www.oas.org/juridico/english/agres_1717_xxxo00.htm.

⁶⁶ *Standt*, supra note 41, at 427. State promulgated an April 20, 1993, precursor to the 1998 *Consular Notification and Access* booklet, supra note 5, entitled *Notice for Law Enforcement Officials on Detention of Foreign Nationals* in which it was remarked on the first page, “Compliance with the notification requirement is essential to ensure that similar notice is given to U.S. diplomatic and consular officers when U.S. citizens are arrested or detained abroad.”

⁶⁷ Remarks in a June 18, 2001, letter from the German Consul to DEA’s New York Special Agent-in-Charge (SAC):

It is the Consular General’s duty to bring to the knowledge of the Drug Enforcement Agency [sic] that the authorities of the United States who arrested and detained Mr. Rossner unfortunately did not comply with Article 36 of the Vienna Convention on Consular Relations... The DEA officers did not inform him that he had the right to contact the Consulate General of the Federal Republic of Germany.

The German Consulate General would appreciate if the competent US authorities having acted in this matter could be informed accordingly. This Consulate General would furthermore appreciate if it could be informed about the outcome of this meeting.

⁶⁸ Samuel Langhorne Clemens (Mark Twain), *To the Young Peoples Society, Greenpoint Presbyterian Church, Brooklyn (Feb. 16, 1901)*, collected in *Bartlett’s Familiar Quotations* at 626 (1980).

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.

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.



Officer Parker

While on patrol, Officer David Parker of the Glouster, Ohio, Police Department responded to a call regarding a tractor trailer that was blocking a railroad crossing. After arriving at the scene, Officer Parker heard the train whistle to notify that it was approaching the crossing. Then, he saw that the driver was still in the cab of the truck. Officer Parker ran to the truck and pulled the driver from the cab as the train approached the crossing. After pulling the driver out, Officer Parker and the driver ran in separate directions. Seconds later, the train cut the tractor trailer in half. Officer Parker displayed great courage and saved the life of the driver.



Lieutenant Putnam

Lieutenant Jo-Ann Putnam of the Wells, Maine, Police Department responded with other officers to a call involving the threatened suicide of a young man armed with a loaded rifle. Compounding the situation, the subject's mother and father, one of whom was handicapped, were both present, increasing the possibility of potential hostages. Lieutenant Putnam made telephonic contact with the subject, persuaded him to consider other options, and met with him near his residence. During this meeting, police evacuated the two family members from the residence, and a SWAT team was able to get into position. After approximately 50 tense minutes, Lieutenant Putnam persuaded the subject to put down the rifle and to seek counseling. The brave actions of Lieutenant Putnam saved the life of the young man threatening suicide and thwarted any possible danger to his parents.



Officer Butler

Officer John P. Butler of the Martinez, California, Police Department was dispatched to an apartment fire. Upon his arrival, neighbors advised him that a person was calling for help inside the involved apartment. Officer Butler entered the smoke-filled apartment and heard someone calling for help from behind a closed bedroom door that was locked. He forced the door open and dragged the victim, who was overcome with smoke and had collapsed in front of the door, out of the room, which was partially engulfed in flames and filled with smoke. The heat from the fire was so intense that Officer Butler's hair, eyebrows, and mustache were singed. He was treated for smoke inhalation and minor burns. The victim was treated for more serious burns and smoke inhalation, but survived the incident. Officer Butler's quick, courageous acts saved the victim's life.

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Patch Call



The patch of the Fenwick Island, Delaware, Police Department displays the Fenwick Island lighthouse, which was first lit on August 1, 1859. The patch depicts sunny, blue skies and a tranquil seashore setting that has earned Fenwick Island the nickname of “the quiet resort of the Atlantic coast.”



The Sweet Grass County, Montana, Sheriff's Office patch shows landmarks of the county—the Crazy Mountains with the Sweet Grass Creek in the foreground. Established in 1895, Sweet Grass County has Big Timber as its county seat, which is located in the foothills of the Crazy and Beartooth Mountains.