



October 1999
Volume 68
Number 10

United States
Department of Justice
Federal Bureau of
Investigation
Washington, DC
20535-0001

Louis J. Freeh
Director

Contributors' opinions and statements should not be considered an endorsement by the FBI for any policy, program, or service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget.

The *FBI Law Enforcement Bulletin* (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535-0001. Periodical postage paid at Washington, D.C., and additional mailing offices. Postmaster: Send address changes to Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Building, Room 209, Quantico, VA 22135.

Editor

John E. Ott

Managing Editor

Kim Waggoner

Associate Editors

Glen Bartolomei

Cynthia L. Lewis

Bunny S. Morris

Art Director

Brian K. Parnell

Assistant Art Director

Denise K. Bennett

Staff Assistant

Linda W. Szumilo

Internet Address

leb@fbiacademy.edu

Cover photo

© Steve Jarnecki

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

FBI Law Enforcement

B ♦ U ♦ L ♦ L ♦ E ♦ T ♦ I ♦ N

Features

Reluctance to Use Deadly Force

By George T. Williams

1

Law enforcement agencies need to understand their officers' reluctance to use deadly force in order to overcome it and deal with its consequences.

Fast Track

By Gene P. Klopff

10

The FBI has developed new firearms training procedures that include state-of-the-art technology and supportive instructional methods.

Basic Investigative Protocol for Child Sexual Abuse

By William P. Heck

19

Child sexual abuse cases often require the efforts and expertise of a number of professionals.

Supreme Court Cases 1998–1999 Term

26

Eight Supreme Court decisions of particular importance to law enforcement are summarized.

Departments

5 Technology Update
NCIC 2000 and IAFIS

16 Focus on Training
Mentoring Programs

6 Police Practice
The Internet and
Crime Information

18 Unusual Weapon
Plastic Knife

Reluctance to Use Deadly Force Causes, Consequences, and Cures

By GEORGE T. WILLIAMS



Police officers understand that some day, they may need to use deadly force against another person. Although most officers go their entire careers without having to use lethal force, those who face a suspect's life-threatening assault must defend themselves and the citizens they serve. Researchers now know that most people are reluctant to kill other human beings but that they can be trained to overcome this natural resistance.¹

Taking their cue from the military, law enforcement agencies have developed training methods to ensure that their officers will

employ deadly force when the need arises. Unfortunately, the training may produce unintended and undesirable effects. Law enforcement agencies that understand the human reluctance to kill and the effects of conditioning can develop training programs that will allow their officers, first, to successfully and appropriately employ deadly force and, second, to survive the emotional and psychological aftereffects of deadly force incidents.

THE RELUCTANCE TO KILL

Every day, law enforcement officers face individuals who seem to kill without question or remorse.

And, for about 2 percent of the general population, this holds true.² Yet, studies of ancient battles and more recent wars reveal an innate human reluctance to kill another human being. Studies conducted by the U.S. Army estimate that only 15 to 20 percent of infantry soldiers in World War II fired their weapons at exposed enemy soldiers.³ Most feared being forced to kill another person more than they feared being maimed or killed themselves. In fact, those who did not fire still rushed into the open to save wounded comrades. They simply did not participate in the killing if they could avoid it.



Mr. Williams serves as director of training for Cutting Edge Training in Bellingham, Washington.

“
Successful conditioning trains officers to overcome their natural aversion to injuring or using deadly force against other people.
”

If forced to fire, many simply fired into the air, deliberately missing their targets. Many soldiers found they could not bring themselves to kill, or attempt to kill, another human being, even the enemy, even in self-defense. In fact, after decades of research, military psychologists have discovered that soldiers have greater difficulty overcoming the effects of having to kill or injure the enemy than facing the carnage of war.

As a result of these studies, the military changed its training methods and, in fewer than 20 years, achieved a more than 95 percent firing rate in Vietnam.⁴ The core of this new training entailed Pavlovian and operant conditioning. Law enforcement agencies use the same techniques to overcome their officers' natural reluctance to use deadly force.

THE CONDITIONED RESPONSE

In a law enforcement setting, Pavlovian conditioning involves using a systematic series of

desensitization techniques and rewards to condition subjects to overcome their natural reluctance to use deadly force. This conditioning takes place early in police training. Though not officially sanctioned to do so, instructors at the academy often describe criminal offenders in derogatory terms that, in effect, dehumanize suspects. When recruits hear staff members, whom they admire and want to emulate, applying such labels as “dirtbag,” “scumbag,” and worse to offenders, the impressionable officers become desensitized and conditioned. They no longer, except in formal settings, refer to offenders as “suspects.” The reward for this conditioning becomes inclusion and acceptance into the ranks of veteran officers, where this attitude frequently continues.

Although this process may not represent an intentional component of the police training process, desensitizing future veteran officers to the use of force begins with this type of conditioning. In fact, without some form of behavioral

conditioning, officers may not be able to effectively use *any* type of injuring force against a suspect when the need arises.

Police departments employ an additional training concept in all phases of their physical force training. Called operant conditioning, it involves reprogramming the recruit's reflexes in order to produce the correct response. To do this, trainers must somehow bypass the forebrain, with its capabilities of thought and reason, and, instead, access the primitive midbrain. The midbrain is capable of only one of two responses: fight or flight.⁵ Successful conditioning trains officers to overcome their natural aversion to injuring or using deadly force against other people. It becomes a simple matter of stimulus/response: threat/fire.

Trainers accomplish this operant conditioning through the use of silhouette targets, knock-down targets, and interactive training videos (e.g., Firearms Alternative Training System, or FATS), as well as in role-play scenarios (e.g., confrontational simulations) or paintball training. Officers learn to evaluate only whether the target represents a deadly threat. If it does, they shoot; if not, they don't shoot.

After a period of intense firearms training that includes multiple, varied range exercises, in conjunction with the positive reinforcement of instructor approval, peer acceptance, and passing grades, recruits respond to threats with the desired action. Once recruits decide that a threat meets the criteria established by agency policy and the law, only one response exists. Officers set aside

their moral objections in favor of the conditioned response.

THE EFFECTS OF CONDITIONING

Though necessary, this type of training may have unintended, perhaps even detrimental, consequences for recruits and their ability to perform their jobs in a manner expected by society. Academy instructors who refer to suspects in a derogatory manner reduce the humanness of suspects in the minds of recruits and introduce an us-versus-them mentality. On the street, field training officers and other veteran officers reinforce these feelings. At the very least, new officers may develop a callousness that contradicts the values of today's community policing environment. Worse, they may perceive that criminal suspects do not deserve the same rights as other citizens.

While some insensitivity may help officers face the realities of police work, at the same time, officers are human beings, with human vulnerabilities. Lessening the value of any individual and emphasizing an us-versus-them mentality can lead to a greater degree of separation from their families, their social safety nets, and, ultimately, from society. Officers need the balance that comes from having friends and social contacts from all walks of life, and police training and conditioning may tip the scales in the wrong direction.

A DISCIPLINED APPROACH

Even as officers are conditioned to respond with deadly force, they learn in a disciplined environment where the use of force is

tightly controlled and the consequences for an improper or illegal use of force are great. The discipline instilled at the academy and maintained throughout the officer's career by management's enforcement of agency policies prevents officers from responding with deadly force to a simple suspect threat, such as an individual's hostile attitude or physical resistance.

“

...a disciplined approach to firearms training ensures that officers assess the suspect's actions prior to employing the conditioned response.

”

The term “threshold requirement” applies to the level of threat to which officers need to respond with deadly force. Once a threat raises an officer's perception of peril to a reasonable and objective belief of imminent danger of death or serious physical injury, it crosses the threshold necessary for the officer to legally and morally respond with deadly force. Discipline controls officers' behavior in their use of deadly force against a perceived threshold threat. Officers internalize the discipline from training in general and the firearms range in particular, incorporating it into their evaluations of threats. Thus, a disciplined approach to

firearms training ensures that officers assess the suspect's actions prior to employing the conditioned response.

POSTSHOOTING EFFECTS

If police officers have an innate reluctance to use deadly force but receive training to overcome their resistance, what happens to police officers involved in shooting incidents? Most go through three distinct stages: the exhilaration stage, the remorse stage, and the rationalization and acceptance stage.⁶

The Exhilaration Stage

During this stage, officers experience a sense of great satisfaction for having survived a deadly force situation. Whereas beforehand, they may have questioned their ability to react appropriately, their survival erases any doubt. Officers become intensely conscious of and grateful for being alive. The exhilaration stage can last from minutes to hours.

The Remorse Stage

During the remorse stage, officers experience conflict between the success of their actions, the requirements of their jobs, and the belief that killing or injuring another person is morally wrong. A sense of guilt often compounds this stage, especially when officers have experienced any degree of exhilaration. In its acute phase, this stage can last for days or weeks. It may never be resolved completely.

The Rationalization and Acceptance Stage

As officers move toward acceptance, they rationalize their role in

the event, often arriving at the realization that the choice came down to the suspect's life or theirs. The fact that the incident came down to a battle for survival not only provides legal justification for the shooting, but it also remains critical to officers' recoveries, helping them make the transition to the acceptance stage. This stage may take a lifetime to resolve, or the process may stall at some point, leaving officers feeling guilty, even if their actions proved legally and tactically proper.

What determines an officer's ability to accept and move past a deadly force incident? Studies indicate that officers who have more contact with suspects prior to and during the incident have a greater difficulty resolving the event.⁷ For example, snipers who fire at a distance and do not view the suspect's body often have less remorse than officers who have several prior contacts with a suspect and must

struggle over a prolonged period, perhaps over a weapon, which ends in the suspect's death. Officers who view or must stand watch over the suspect's body afterward often face greater remorse issues than those who can leave the scene quickly. A suspect who chooses "suicide by cop" sometimes creates the greatest difficulty for officers to resolve their roles in unwittingly assisting the suspect to commit suicide.⁸

The response stages are not clear-cut, and they do not necessarily occur chronologically. Officers often move from remorse to rationalization and acceptance and back for some time. Individuals rarely experience a crisp, identifiable transition from one stage to another. Officers also may feel they have completely overcome any remorse or negative psychological effects from the shooting, only to have something trigger further feelings of remorse that they must resolve to feel "normal" again. A

comprehensive employee assistance program can help officers in the recovery process.

CONCLUSION

Historians and psychologists have identified an extreme reluctance on the part of most people to engage another individual with any force, particularly deadly force. For police officers, who may need to use deadly force on the job, any hesitation could prove fatal. To overcome the human aversion to killing, police academies condition their officers to meet force with force.

Pavlovian conditioning involves rewarding recruits for taking the appropriate action in conjunction with the reinforcement of inclusion by peers and the approval of superiors and veteran officers. Operant conditioning techniques, which include various shoot/don't shoot training methods, program into officers' behavior an automatic response to stimuli. This combination of training provides officers with the ability to respond successfully to deadly threats regardless of their inborn aversion to using force against other human beings.

While training helps officers overcome their natural reluctance to using deadly force, the consequences of that conditioning can make officers insensitive to the needs and rights of the citizens they serve. A disciplined approach can help to address these concerns.

At the same time, officers experience a series of psychological responses following their programmed use of deadly force. These reactions are normal and do not



indicate an inability to handle an incident. Rather, they show that the officer *is* handling the consequences of using deadly force. By moving through these phases, officers can resolve the negative emotions surrounding incidents and resume their lives with some sense of normalcy. Law enforcement agencies should provide the assistance officers need to overcome the psychological effects of deadly force encounters.

The legal use of deadly force remains one of the most important

functions of law enforcement officers. Police trainers and administrators must understand what makes officers successful, as well as the costs of that success, in order to help officers perform at their best. ♦

Endnotes

¹ Dave Grossman, *On Killing: The Psychological Cost of Learning to Kill in War and Society* (Boston: Little, Brown & Company, 1995).

² *Ibid.*, 180.

³ *Ibid.*, 3.

⁴ *Ibid.*, 35.

⁵ *Ibid.*, 8.

⁶ *Ibid.*, 234.

⁷ *Ibid.*, 156.

⁸ During such incidents, suspects create the circumstances that require officers to use deadly force. Although the officers' actions are reasonable and justified given the totality of the facts known at the time, when officers learn later that the suspect had a toy gun or an unloaded weapon, they often have trouble rationalizing the "need" to use force. Instances involving suicide by cop are becoming recognized as a large contributor to postshooting stress for officers. See Daniel B. Kennedy, Robert J. Homant, and R. Thomas Hupp, "Suicide by Cop," *FBI Law Enforcement Bulletin*, August 1998, 21-27.

Technology Update

NCIC 2000 and IAFIS Operational

The FBI unveiled two new systems designed to make catching criminals easier for local law enforcement. The National Crime Information Center (NCIC) 2000, which came online July 11, 1999, replaced the FBI's NCIC system. Like its predecessor, NCIC 2000 can process more than 2.4 million transactions per day while storing and accessing over 39 million records. The system also provides information on stolen vehicles, items, and securities, as well as wanted and missing persons, gang members, and suspected terrorists. New features include searches of right index fingerprints, access to mugshots, automatic links to all information related to a particular case, and a 5-day record of all inquiries to alert agencies looking for the same information. Law enforcement agencies with the necessary equipment (personal computer, laser printer, document scanner, single fingerprint scanner,

and digital camera) can take advantage of these enhanced capabilities.

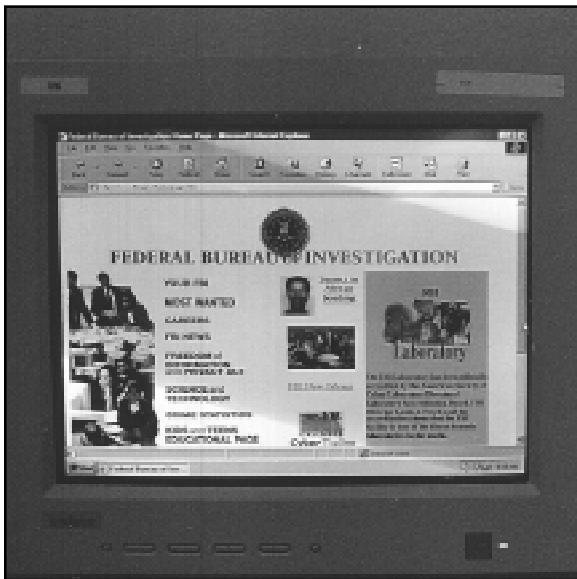
The FBI's Integrated Automated Fingerprint Identification System (IAFIS) became operational July 28, 1999. IAFIS, which replaced the FBI's Identification Automated System, provides the following major services: 10-print and latent-print identification; criminal history file searches; maintenance and upgrades of records, criminal histories, fingerprints, and photographs; and remote 10-print and latent-print searches. Although IAFIS currently supports both paper and electronic environments, ultimately, agencies must use certified live-scan or card-scan devices to capture and submit electronic fingerprints.

For additional information on either of these programs, law enforcement agencies can contact Roy Weise of the FBI's Criminal Justice Information Services Division at 304-625-2730.

Police Practice

Using the Internet to Disseminate Crime Information

By Rachel Boba, Ph.D.



One part of a police department's role in the community is to provide criminal activity information to its citizens. Since the 1960s, the Tempe, Arizona, Police Department has reported its Part I crime¹ information to the FBI for national distribution. However, these numbers do not cover geographical and temporal factors or other types of crime and do not provide information about citizen calls for service (e.g., loud noise, suspicious activity).

Since 1989, the Crime Analysis Unit (CAU) of the Tempe Police Department has prepared and distributed reports on crime statistics, calls for police service, and a variety of other general information. The unit also has provided the public with maps that shade the city according to types of crime and calls for service. Anyone interested in this information could obtain it at the police station in person or request a CAU staff member to mail or fax it to them. Because the information was limited and the

distribution method was not efficient, the CAU sought a way to provide this information in a more accessible, effective manner.

DEFINING THE PROBLEM

In initially analyzing this problem, CAU employees identified concerns with both the method of distribution and the quality and quantity of the reports. The hundreds of reports CAU generated wasted paper and consumed considerable amounts of the analysts' time. Individuals requesting the information also spent significant amounts of time getting to the police department and waiting to receive the information.

In addition to the problems in preparing and distributing the reports, the information itself was not timely. The CAU updated the reports monthly, but by the time the information reached the requestor, the unit may have generated a new report with more current information. In addition, the material lacked both quality and quantity. For example, CAU employees often copied or faxed color-coded maps, which frequently lost some detail and became illegible. Furthermore, much of this information did not provide adequate details on the location or the specific types of crime or calls for service that would assist the citizen. For example, a general city crime map may not help a new resident as much as a crime map that shades only residential burglaries. Therefore, resolving these problems became paramount for the CAU to save significant amounts of time and resources responding to these requests.

GOING ONLINE

The CAU decided that posting the information on the Internet due to its vast accessibility would alleviate most of these problems. Even those who do not own a computer or have Internet service usually can get access at their workplace, local libraries, or other nonprofit public resources. Although the Tempe Police Department had a Web page, the CAU decided to create one specific to crime analysis and distinguish it from general police information.

Posting crime analysis material on the Internet would provide timely information with nearly instantaneous updates and would conserve time and

resources by reducing mailings and virtually eliminating printing and duplicating costs. It also would save the “customers” trips to the police station and provide them with higher-quality, more detailed reports.

Additionally, information presented on the Internet constitutes a vast improvement over paper copies or faxes because all of the reports appear in their original format and in color. The ease of making this information accessible on the Internet can increase the number of reports available to the public. Instead of the department providing copies of an entire 50-page report, the Internet allows users to view the report and print only the section they need. By improving the quality and quantity of the information, the CAU would expand its customer base, allowing more people to benefit from the data.

IDENTIFYING THE CUSTOMER

Because the Internet allowed the CAU to fix many of the methodological problems of providing information, the next step in the analysis process was to determine who wanted information and what type of information would help them. The CAU found numerous categories of users who regularly request information.

New Residents

The CAU found that individuals moving into Tempe request information most frequently. Whether these individuals are renting or buying homes, their requests deal mostly with the safety of a particular area of the city. Although the Tempe Police Department does not provide an opinion on areas of the city, they have developed a map that thematically shades the city by Part I crimes. This group of users also requests demographic information on Tempe, including thematic maps of calls for service; specific information on crimes and calls for service, such as burglary and disturbing the peace (e.g., loud noise/music/party) calls; and comparisons between

apartment communities, mobile home communities, and schools.

Community maps of the area also help citizens moving into a new area. The CAU has included maps that allow users to zoom in and out and provide specific current statistical information (e.g., Part I crimes) on those areas .

Community Groups

Neighborhood Watch organizations or homeowners’ associations typically are interested in the activity in their immediate neighborhood and how it compares to other areas of the city. The various specific maps satisfy these requests, as well as the patrol areas and census information that divide the city into slightly larger-than-neighborhood categories.

In addition to receiving the monthly statistics of crimes by geographic area, community groups obtain information about current crime trends and patterns in their areas. Knowledge of current incidents provides the groups with specific activity and

trends to look for, while the police department gains extra sets of eyes and ears.

Community Managers

The Tempe Police Department’s Crime-free Multihousing Program provides apartment and mobile home community managers with information about calls for service and crimes occurring on their properties. Thus, the apartment and mobile home community bulletins not only inform individuals about a prospective neighborhood, but they also tell the managers and owners how their community compares with others in the city. The healthy competition these bulletins produce among the managers encourages them to enroll in the program and possibly to improve their properties and rankings.

Because one-half of Tempe’s residents live in rental properties, the CAU developed various online bulletins to compare apartment communities, per unit,

“
One part of a police department’s role in the community is to provide criminal activity information to its citizens.
”

by types of crime or calls for service. For each apartment community with 20 or more units, the bulletin lists the total number of calls, the number of units at the community, and the ratio of calls for service or crimes per unit.

The CAU compiles various apartment community bulletins both monthly and yearly. The monthly bulletins include either all of the Part I crimes or calls for service per unit, whereas the annual bulletins include all of the Part I crimes and selected types of crime and calls for service. The annual crime bulletins separate information into both violent and property crimes, and the additional calls-for-service bulletin includes a ranking of only disturbing the peace calls. Oftentimes, the ranking of a community does not provide enough information for individuals who are interested in the types of crime or calls for service in a community. For this reason, the CAU produces two additional annual reports specifically for apartment community information. The first lists the five most frequent types of calls for service per apartment community, and the second lists the totals for each Part I crime by apartment community.

Similar to the requests of residents in rental properties, realtors and business owners often request

that the CAU conduct specific studies on their properties. Many of the maps and general information available online can answer the questions from this group.

Media

The media often looks for crime patterns or other public safety issues to include in feature stories or other special reports. The Web page can provide such community-oriented information as crime rates or crime patterns. For example, because of the many media requests for comparison information on recreational parks, the CAU conducted a crime study on area parks and created a bulletin for interested users.

Students and Crime Analysts

For individual students and fellow criminal justice professionals interested in crime analysis, information relating directly to that discipline is available. For example, definitions of terms and articles written about crime analysis are included on the CAU's Web page. Additionally, other city departments, area law enforcement agencies, and surrounding municipalities often solicit Tempe's CAU for historical crime and calls-for-service information.

User Feedback

The following quotes represent typical comments from users of Tempe's Crime Analysis Unit's Web page:

- "Hi, I'm teaching crime analysis at CA State University Fullerton. Love your Web page. Turned it into overhead for class presentation of crime analysis products. Keep up the good work."
- "Thank you for this Web site. My son is preparing to move to the area and this was very informative and gave us a head start on locating him a safe environment to begin his adult [life]."
- "I am planning to move to Tempe in June. I am a single mother who was worried about the move, but I feel so much better now. I printed out all of the statistical stuff that I thought I would need and now I can sit down with my Tempe map and find my daughter and I a safe place to live. Thanks to you (and everyone else involved) for setting up such a helpful site."

*The Crime Analysis Unit's Web page address:
<http://www.tempe.gov/cau>.*

Many times, these requests provide general information needed for grant applications; therefore, historical crime records, as well as domestic violence data and calls-for-service information, prove beneficial to these customers.

Department Personnel

Although Tempe's CAU can provide members of the department with additional reports and individual requests, the Web page allows employees to access commonly requested information without having to directly contact the unit. Detectives may use historical information for long-term problem solving, while patrol and crime prevention officers use patrol area information in community meetings. The monthly crime and calls-for-service maps, in addition to the various bulletins, allow officers to pinpoint and track problem locations from month to month. Moreover, providing the CAU Web address at community meetings eliminates the need for preparing and copying the information for distribution.

EVALUATING THE WEB PAGE

The CAU measures its crime analysis Web page in two ways, quantitatively and qualitatively. Statistics show that from its creation in April 1997 to May 1998, the Web page had approximately 12,000 visitors and averaged about 852 hits a month, or 28 hits per day. Today, the crime analysis Web page has become one of the top 25 most visited pages in the city's more than 500 pages.

The qualitative assessment of the Web page includes both time saved and individual responses to the site. Because time saved remains difficult to measure accurately, the results are primarily anecdotal. To capture this information, the CAU's Web page provides a section for feedback from its users. To date, the CAU has received responses from many of its

targeted users—citizens, students, professors, and law enforcement personnel—complimenting the site.

The assessment and development of the Web page remain an ongoing process. In order to make the page more effective, the CAU recently included property crime trends and patterns. In the future, the Web page will include a "frequently asked questions" section, as well as other types of crime trends and patterns. These new sections are based on analysis of other Web page hits, as well as feedback from users.

**“
The Web page
can provide such
community-oriented
information as crime
rates or crime
patterns.
”**

CONCLUSION

The Tempe Police Department's Crime Analysis Unit developed a Web page in response to the demand for timely information on calls for service and crime. Although the police department has its own Web page, the crime analysis page is maintained separately. Basically, the crime analysts' time and technical expertise remain the largest

investment in developing and maintaining the Web page.

By developing and maintaining an informative Web page, specific units, as well as the entire department, can benefit by conserving both time and resources. Even police departments that already provide general police information via an Internet site can benefit from a Web page that provides information specific to crime analysis. More important, numerous categories of users would gain valuable, free information quickly and with minimal costs to the department. ♦

Endnotes

¹ The FBI's Uniform Crime Reporting Program defines Part I crimes as murder and nonnegligent manslaughter, robbery, aggravated assault, arson, forcible rape, burglary, larceny-theft, and motor vehicle theft.

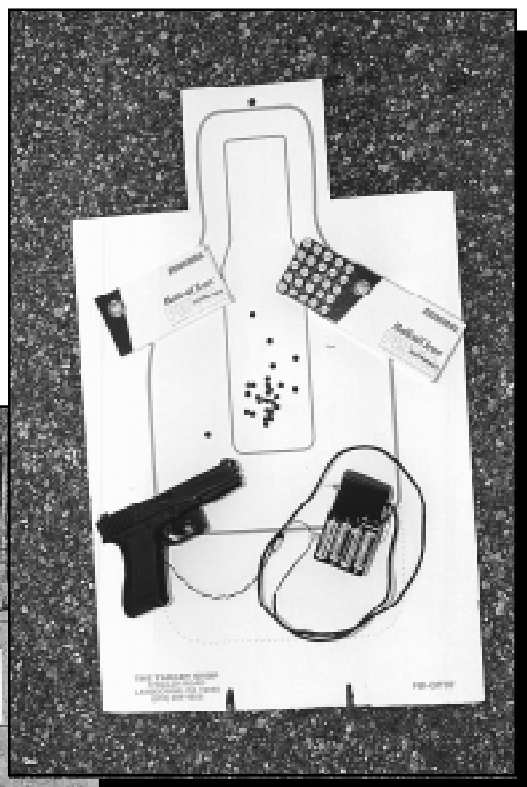
Dr. Boba serves as a crime analyst with the Tempe, Arizona, Police Department.

Fast Track

By GENE P. KLOPF, M.S.

© Steve Jarnecki

© Steve Jarnecki



The blue bus rolled out from behind the gymnasium taking failed new agent trainees to the airport for their long, sad ride home. Once again, the FBI had lost some potential special agents because of the FBI Academy's dismissal policy. How many other law enforcement agencies have faced the same discouraging dilemma? How many eager young men and women ready to pledge themselves to upholding the law and protecting

American citizens have sacrificed their dream of joining the law enforcement profession because they had difficulty learning required firearm skills? What can be done to help new recruits become qualified in the use of firearms and go on to have successful law enforcement careers?

For many years, the FBI Academy had no recycling program for new agent trainees who failed to qualify with their service weapons.

On the day of qualification, trainees either shot an acceptable score immediately or tried again after approximately an hour of remedial training. If unsuccessful, they were dismissed and boarded the dreaded blue bus. Needless to say, the pressure to perform proved intense. However, in July 1995, the FBI Academy initiated Fast Track, a remedial firearms program, which represented a significant shift in its firearms training philosophy. Since

that time, nearly all of the students placed in the program have qualified with their firearms. Instructional techniques and state-of-the-art technical support designed and developed by the Firearms Training Unit at the FBI Academy account for this remarkable success.¹

QUALIFICATION REQUIREMENTS

During their 16 weeks of training at the FBI Academy, all new agent trainees must qualify with their service weapons twice, once in the 8th week and again in the 14th week. To qualify, they must score 80 out of a possible 100 points in two out of three pistol qualification courses, which require a range of shooting starting at 25 yards and decreasing to 5 yards. The trainees must shoot using both weak and strong hands and from behind various cover and barricade positions.

When the FBI began changing from revolvers to pistols in July 1990, it stopped dismissing new agent trainees who did not qualify with their service weapons to better assess and validate the new firearms training procedures, course curriculum, and qualifying standards. Students who did not pass their 8th-week qualification test were not dismissed but allowed to restart their firearms instruction with a new class of trainees. In effect, they repeated the 8 weeks of firearms instruction that had led up to their first qualification test. Failure to qualify at their second 8th-week test resulted in their dismissal. From July 1990 through July 1995, 27 students participated in this recycling program, and all but one

qualified during their second 8th-week test.

However, this 8-week firearms recycling program proved an inefficient way to manage firearms training resources. For example, recycled students who already had required intensive instructor attention in their first class also needed it when they repeated the training. Consequently, students from both classes who shot well were deprived of instructor attention, which may have denied them the possibility of becoming expert shots.

The FBI needed to protect its considerable investment in new agent trainees and, at the same time, make more efficient use of its limited resources. In short, it needed to change its firearms training policy.

REMEDIATION APPROACH

Fast Track represents the FBI's new approach to firearms training. Upon failing to qualify with their class during the normally scheduled

pistol qualification course, new agent trainees receive a 1-hour individual or small-group remedial session. Fast Track instructors use a standard surveillance video camera with a 12-millimeter lens mounted on a tripod to quickly evaluate the students' shooting problems. Each student stands behind the video camera, leans over it, and aims an empty, safe handgun in front of and in line with the camera lens. Then, watching a video monitor, the student lines up the sights on the weapon to get an accurate sight picture and dry-fires it while aiming in a safe direction.

The instructors watch the students shooting in real time and, if need be, in slow motion and stop action to detect flaws in their shooting techniques. For example, instructors can detect simple sight-alignment problems quickly and correct them while the students hold their weapons in front of the video camera. The instructors place their hands over the students' hands and

“

Fast Track has proven nearly 100 percent effective in keeping new agent trainees from being dismissed....

”



Special Agent Klopff is an instructor in the Law Enforcement Communication Unit at the FBI Academy.

guide them to an accurate sight-alignment picture. While observing this on the adjacent video screen, the students see and feel what it is like to obtain a correct sight picture. Often, this proves the only remediation that students require. They spend the remainder of the hour practicing sight alignment and performing trigger control drills, then return to the firing range and attempt to qualify with their weapons.

Supportive Instruction

If the 1-hour remedial session does not help the students qualify with their weapons, then the FBI Academy officially withdraws them from their training class and places them in a recycle status, literally moving them from their class-shared dormitory rooms into rooms by themselves or with another recycled student. For 2 weeks, these students participate in two firearms training sessions a day during which they receive individual instruction or participate in ongoing firearms sessions with other classes. The program purposely consists of the same number of firearms training sessions as the first 8 weeks of training but only takes 2 weeks to complete.

While students experience a variety of shooting difficulties, the majority have trouble with trigger control or anticipation of recoil. These problems prove harder to correct, but the firearms instructors designed the Fast Track system to help those trainees overcome such obstacles. First, the Fast Track instructors carefully analyzed each segment of the pistol qualification course and documented the

required shooting skills. Then, they developed drills that closely replicate these necessary shooting skills. Because most of the problems with sight alignment, trigger control, and anticipation of recoil result from poor coordination rather than strength, many of the Fast Track shooting drills focus on creating correct muscle memory. With adequate repetition, students can reproduce the skills and qualify with their weapons.

Besides using state-of-the-art teaching tools, Fast Track also relies on high-quality individual instruction to assist the students. Training is supportive and positive.

“

Besides using state-of-the-art teaching tools, Fast Track also relies on high quality individual instruction....

”

The instructors provide the students with a steady stream of simple instructions. The instructors want the students to internalize these simple instructions so they will remember them when they attempt to qualify while attending the FBI Academy and later when they must qualify in the field.

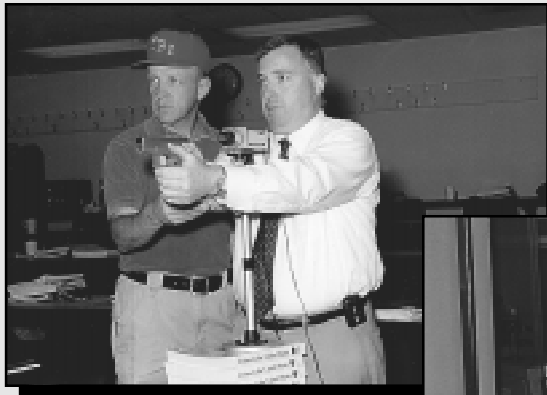
Virtual-Reality Goggles

In addition to breaking the pistol qualifying course into its

component parts and providing hands-on, individualized supportive instruction, the Fast Track instructors employ another, more high-tech solution to shooting problems—a miniaturized video camera mounted on a set of virtual-reality goggles. Students carefully align the camera with their eyes, then operate their weapons based on the picture they see on a small video screen mounted inside the headset. The entire setup weighs only a few pounds, and students can adjust the fit easily.

One instructor remains without goggles to act as the firing range safety officer. A second instructor wears a similar set of goggles, which is tied directly into the student's camera and allows the instructor to see exactly what the student sees. Starting with dry-fire and leading to live-fire exercises, the instructor can see the same visual picture as the student and physically manipulate the student's hands to demonstrate the proper sight picture, sight alignment, grip, trigger control, and acceptance of recoil. With this system, no gap exists between the instructor's and the student's senses. What one sees, hears, and feels, the other does, too.

As with the other video system, the instructors can videotape each student using slow motion, pause, and frame-by-frame review to identify problems and show the trainees their mistakes. The instructors also use the same hands-on approach to create correct muscle memory for the students. In short, this system allows instructors to see what the students see, videotape it, and accurately determine what the students



Instructors use a standard surveillance video camera with a 12-millimeter lens mounted on a tripod to quickly evaluate students' shooting problems.



With virtual-reality goggles, instructors can see exactly what the students see and can provide hands-on demonstration to correct shooting problems.



Using the remote-operated firearm, students learn how to bring their weapons back on target and quickly reacquire an accurate sight picture.

comprehend and whether they can duplicate correct sight picture, sight alignment, trigger control, and acceptance of recoil.

Picture-in-Picture Technology

A modification of the virtual-reality system uses picture-in-picture (PIP) technology, a split-screen technique often used in television to allow viewers to watch more than one program at the same time. This system, contained on a portable rack with built-in electric cables, allows one instructor to use it safely at outdoor or indoor firing ranges.

While the students wear virtual-reality goggles that are tied into one video camera, the Fast Track instructor does not use goggles but sets up a second video camera focused on the students or the students' targets. Then, by employing PIP technology, the instructor can see what the students see in their goggles on one side of the video display screen and, at the same time, can see how the students hold and fire their weapons or where the shots strike the targets on the other side of the screen. This system gives the instructor the opportunity

to pinpoint problems that may not have been readily visible before. As with the other systems, the instructor can videotape the students and replay their shooting sequences while providing feedback.

Remote-Operated Firearms

The remote-operated training firearm is another adaptation of technology to firearms instruction. A small electric motor is mounted on a standard-issue weapon. A cable connects this motor to a battery-operated switch box, which the instructor controls. This device

allows the instructor to fire the weapon, which removes trigger control problems from the shooting situation. If the student correctly grips the weapon, obtains an accurate sight alignment, and does not anticipate the recoil of the weapon, then the bullets will go where the student aims the weapon. Often, students who experience trigger control problems suddenly become sharpshooters when using the remote-operated firearm. This tells the instructor and, more important, the students that their shooting problems lie in trigger control and anticipation of recoil.

If this is the case, then the Fast Track instructors use the remote-operated firearm to teach students how to quickly acquire and reacquire an accurate sight picture, maintain a correct grip, get used to the wobble zone (the natural movement of the sights and weapon associated with aiming a handgun), and not anticipate recoil. Without the distraction of trigger control, students learn to bring their pistols back on target and to quickly reacquire an accurate sight picture. When the instructors, who stand directly beside the students, see that the weapons are aligned correctly, they activate the control switch to the remote-operated electric motor. This pulls the trigger back in a smooth, steady motion that models a flawless trigger pull. While constantly reminding the students of the critical aspects of sight alignment and sight picture, the instructors fire a single shot, then double and finally multiple shots. This teaches the students to concentrate on a correct grip and sight align-

ment, to be patient, and to reacquire the sight alignment picture after they discharge their weapons.

Student Evaluation

Regardless of the method of remedial training, the students receive daily Fast Track evaluation sheets at the end of each session to help monitor their progress. This form lists the date and time of each session, lecture information, special practice drills, qualification scores, and instructor comments. The students keep the forms and review them before their next session.

REMEDICATION RESULTS

Fast Track has proven nearly 100 percent effective in keeping new agent trainees from being dismissed because they failed to qualify with their service weapons. Relatively few students have experienced any difficulties using the various technical devices. Further, informal follow-up contact indicates that those agents who com-

pleted the program have maintained their ability to qualify with their firearms in the field.

This success is based first and foremost on the instructors, who have combined their firearms training knowledge with state-of-the-art technical teaching aid. Next, quality individual or small-group instruction provided in a supportive atmosphere has contributed significantly. Finally, by carefully analyzing the pistol qualification course, the Fast Track instructors have sequenced firearms instruction into building blocks of training. This way, students are placed into the system according to their needs and can receive all of the necessary prerequisite skills before moving on to more complicated tasks, thereby improving their chances for success.

FAST TRACK APPLICATIONS

While Fast Track has improved the firearms training methods of the



FBI, it also may prove beneficial to other agencies. The equipment takes only minutes to install and about 2 hours for instructors to become familiar with its capabilities. The system can save instructors time because it helps them diagnose trainees' problems and allows them to demonstrate shooting fundamentals to a group. Further, the system comes in several versions, which departments can customize to fit their needs.

The system also proves cost-effective. For example, the equipment for the freestanding video system, consisting of an off-the-shelf surveillance camera fitted with a 12-millimeter lens, costs about \$250. The portable virtual-reality system, containing two headsets and a battery pack, sells for approximately \$8,500. However, the basic virtual-reality headset, which departments can plug into their existing video systems, costs less than \$6,000. The picture-in-picture cabinet system totals about \$9,500, and the remote-operated firearm system costs less than \$1,100. Considering how important firearms training is to new recruits and experienced officers alike, the cost of systems that can provide dramatic results appears negligible, especially when departments have invested considerable time and money in recruiting highly skilled individuals.

CONCLUSION

Hiring qualified people remains a difficult but necessary task for all law enforcement administrators. Once recruits have passed the initial testing and security issues and reached the training academy, they

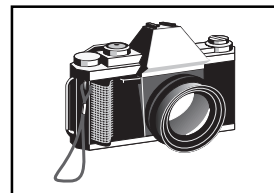
should not fail to qualify with their firearms because of their inability to learn firearms skills through standard training methods. Law enforcement agencies cannot afford to squander their limited resources and forfeit otherwise-highly skilled recruits. Firearms instructors must find new methods of diagnosing and solving the shooting problems that have caused too many individuals to abandon careers in law enforcement.

To avoid losing potential special agents, the FBI Academy has implemented new firearms training procedures. Using a variety of firearms training systems that employ state-of-the-art technology and supportive instructional methods, FBI firearms instructors developed the remedial firearms training program, Fast Track. This system has improved the number of new agent trainees who qualify with their firearms and become successful law enforcement professionals. Other law enforcement agencies may want to implement all or part of the FBI's Fast Track program or develop similar systems to fit their needs and resources. By employing technically advanced firearms training systems and offering supportive human instruction, agencies can more effectively prepare recruits for a lifetime of law enforcement service. ♦

Endnotes

¹ For more information about this program, contact FBI firearms instructors Dale Pruna and Gary Hutchison at the FBI Academy.

Wanted: Photographs



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

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

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

Mentoring Programs Help New Employees

By James E. Edmundson



Most officers remember their first day on the job. Some may recall working with a seasoned veteran whose first words may have been “Okay kid, be seen and not heard!” Others may remember fondly a kind word or act from some caring officer at the end of their first shift.

Whatever an officer’s recollection, no one will dispute that beginning a new job remains very stressful. Many in law enforcement will agree that it may take a long time for a new officer to gain the trust and respect of senior officers. Conversely, few administrators appear to concern themselves with the concept that their organization needs to gain the trust and respect of the new employee. Recognizing that the first few weeks of a recruit’s career can mean success or failure for employees and agencies alike, the Fairfax County, Virginia, Police Department (FCPD) began a mentoring program for new employees.

Implementing a Mentoring Program

In 1995, the FCPD examined its overall recruiting, hiring, and training strategies. FCPD administrators formed a work group to explore the inclusion of a mentoring program as an integral component of its recruiting, hiring, and training process. The work group included an array of experienced employees from a variety of backgrounds. These employees focused on creating a program where veteran officers would team with new employees to introduce them to various members of the department and help them become more familiar and comfortable with the community.

One specific area in need of improvement was the time period between employees’ first day at work and their reporting to the criminal justice academy. Typically, recruits waiting for an opening in the academy spend a period of time in the office. During

this period, which varies from several days to several months, they perform general clerical tasks and other support assignments. However, they receive little, if any, personal attention to their needs or any sincere effort to integrate them into the department. Initiating a mentoring program prior to academy training helps reduce or eliminate many of the fears, concerns, and potential distractions new employees commonly face and helps them focus on their upcoming training.

Once a police applicant accepts a job offer, the department's personnel office notifies the mentor coordinator of the recruit's hiring date. The coordinator then contacts a volunteer mentor and provides basic personal information, the cadet's hire date, and exact arrangements of where and when to meet the cadet.

Mentors can provide help with a variety of subjects that some veteran employees may take for granted. Some examples include obtaining a building identification pass and selecting the proper attire and accessories required for the academy. Mentors also can help new employees become familiar with various police facilities, such as the shooting range, and provide them with several alternate travel routes to the academy, which may help reduce tardiness once recruits begin academy training. Mentors can help new employees unfamiliar with the area find desirable housing, acquire local maps, open new bank accounts, obtain a driver's license, and generally acquaint them with their new surroundings. Removing these obstacles before recruits spend 6 months at the academy helps eliminate distractions and can allow them to focus on their studies while there.

Benefitting from a Mentor Program

In a mentoring program, a veteran officer shares knowledge, skills, and expertise with a recruit. This mutual relationship benefits the participants and the organization, as well. The mentor can fill a void in an officer's first days on a new job, sometimes in an unfamiliar city, and also help give the employee a positive perception of the agency.

A mentoring program not only integrates recruits into the department and institution, but it also can foster self-esteem, affirm potential, provide access to information and resources, and enhance empowerment. Although the primary intent of mentoring is the benefits to the recruit, substantial benefits can accrue to the mentor and the department. For example, the mentor may develop counseling and guidance skills, gain greater insight into the recruit's work, and garner the sense of satisfaction that comes from helping another person. Effective mentoring can provide the opportunity for veteran officers to pass on their practical expertise and professional knowledge to employees who are committed to improvement, responsibility, and success.

Although the FCPD designed its mentoring program for the period prior to the academy, some immeasurable personal benefits, such as continuing friendship, can endure an entire career. Agencies that implement a mentor program can benefit from many positive changes, as well, primarily a potentially lower dropout rate at the academy.

Choosing and Training Mentors

Employees who act as mentors represent the single most important part of a successful program. Because mentors can serve various roles—teachers, guides, counselors, sponsors, and role models—for recruits, agencies must select them carefully. Generally, administrators should choose veteran officers who endorse the program, receive recognition from their peers as positive role models, and, most important, volunteer for the job. FCPD mentors must have 2 years in the department to ensure adequate experience and maturity. Usually, mentors do not receive any compensation for the time they spend with new employees, aside from a few hours of overtime for mentors who work the evening or midnight shifts and need to meet with their protégés during the day.

The FCPD believes that the basic tenet of a mentoring program is to keep it simple and

“

Mentors can provide help with a variety of subjects that some veteran employees may take for granted.

”

Responsibilities and Qualities of Mentors

- Welcome recruits and take a personal interest in their development
- Share their knowledge, skills, and experience with their recruits
- Recognize and encourage excellence in others
- Listen well, remain sensitive to the needs of others, and recognize when they require support, assistance, or independence

cost-effective. The FCPD found few administrative costs associated with the program and consider overtime costs negligible. In the FCPD, new mentors receive a few hours of training for their volunteer job. This short lesson plan includes how to help the recruit get acclimated to their new environment.¹ The FCPD has approximately 60 volunteer mentors, who, in addition to their regularly assigned duties, coach about 80 recruits each year.

Conclusion

Typically, individuals apply to several agencies at the same time, usually accepting the first job offered to them. Law enforcement agencies that recognize the value of new employees attract potential candidates. By paying attention to the recruit's initial needs, agencies can benefit twofold by increasing the retention of the employees and ultimately saving the department immeasurable recruiting and training costs.

Law enforcement agencies must offer a nurturing environment for their newly hired police officers prior to the academy. Providing a welcoming and supportive environment and assimilating the recruits into the agency may make the difference between their persevering through the rigorous training period, moving to another more accommodating department, or giving up on their law enforcement career altogether. ♦

Endnote

Agencies can use qualified in-house personnel, commercial vendors, or both to train mentors.

Lieutenant Edmundson serves with the Fairfax County Police Department in Fairfax, Virginia.

Unusual Weapon

Plastic Knife

An officer from the Port Authority Police Department, Pittsburgh, Pennsylvania, confiscated this plastic knife after making an arrest. The blade is sharp enough to cut an individual's skin and strong enough to penetrate clothing. Additionally, the knife can pass easily through metal detectors. ♦

Submitted by the Port Authority Police Department.



Basic Investigative Protocol for Child Sexual Abuse

By WILLIAM P. HECK, Ph.D.



Photo © K. L. Morrison

Few crimes elicit such moral outrage and desire for social retaliation as the sexual abuse of a child. As with many other crimes, most experts would say that this occurs with far greater frequency in our society than what official statistics reflect. Estimates from independent research vary considerably, not only because of the covert nature of the crime but also because of variations in methodology, definitions, and sampling techniques.

Some experts estimate that 20 percent of girls and 9 percent of boys are sexually abused during childhood¹ and that one person in three is a victim of that crime before

the age of 18.² In short, child sexual abuse occurs with alarming frequency.

Largely due to increased activism by former victims, a growing appreciation exists for the need to enhance law enforcement's capability for recognizing and properly investigating these crimes. In aiming to accomplish those objectives, most states now require that police and child protective service (CPS) agencies conduct joint investigations of child abuse. Unfortunately, the idea has not gained universal acceptance. One possible drawback stems from conflicting philosophies that sometimes exist when the police work in partnership with

outside social service agencies. The lack of resources needed to provide essential joint training for police and CPS investigators presents another problem. Consequently, some joint investigative approaches become so informal and methodologically flawed that they can actually compound the harm to the family already caused by the criminal act. In the worst-case scenario, police may incarcerate the wrong person, while the child remains accessible to the real perpetrator.

Ultimately, police administrators should recognize that the basic rules of criminal investigation are not optional; they must be applied in conjunction with a

multidisciplinary approach. If this is done, the model will serve as an excellent blueprint for avoiding tragic investigative mistakes.

THE MULTIDISCIPLINARY APPROACH

In 1995, the state of Oklahoma adopted a multidisciplinary team approach for investigating reports involving sexual abuse or severe physical abuse and neglect of children under Chapter 71 of the Oklahoma Child Abuse Reporting and Prevention Act. Section 7110 of the act mandated that each district attorney convene a meeting of a coordinated multidisciplinary team. Each team would consist of at least the following members:

- a licensed mental health professional or counselor;
- law enforcement officers with experience or training in child abuse investigations;
- medical personnel with experience in child abuse identification;

- CPS workers within the department of human services;
- a multidisciplinary team coordinator or child advocacy center director; and
- a district attorney or designee.

The teams would perform the following functions:

- review investigations, ensure the child gets needed services, and facilitate efficient and appropriate disposition of cases;
- develop written protocols for conducting investigations and interviewing victims;
- prepare a written agreement, signed by all members, specifying the role of the team;
- increase communication and cooperation among law enforcement, medical, and counseling professionals;
- eliminate duplicative efforts;
- identify gaps in service and seek additional resources

within the community that can provide services to the victim and family;

- encourage discipline-specific and cross-discipline training of investigators;
- formalize a case review and case-tracking process; and
- standardize investigative procedures.

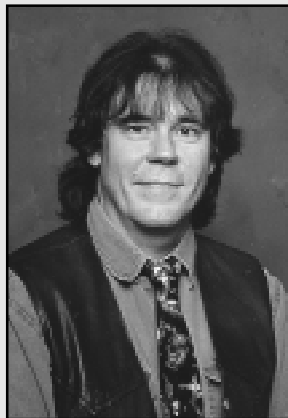
The model adopted by Oklahoma parallels similar approaches used by many other states. In fact, by the early 1990s a majority of states had either mandated or authorized multidisciplinary teams for investigating child abuse. The federal government also has required that states establish such teams if they receive federal funds through the Child Abuse Prevention and Treatment Act of 1974.³

Undoubtedly, the success of this model depends on adequate training of the investigative team. In fact, many police departments rely on an on-the-job training approach to teach officers about child abuse investigations. Officers are frequently moved directly from patrol duties to a position within a specialized unit. Managers expect them to know the basics of investigation from their academy experience and from serving on patrol. Managers may send the new officers immediately for specialized training, but this represents the exception rather than the rule. Most often, administrators assign a more experienced investigator with an officer for training purposes, and while many officers have acquired excellent investigative skills in just this fashion, some have not. Unfortunately, many departments become either

“

...a correctly implemented team approach incorporates a written protocol to guide the conduct of the investigation.

”



Dr. Heck is an associate professor of criminal justice at Northeastern State University in Tahlequah, Oklahoma.

unable or unwilling to spare the resources needed for additional education beyond on-the-job training. Unless new specialists engage in self-development, they risk inheriting bad investigative habits from their peers.

In addition to mandating joint training, a correctly implemented team approach incorporates a written protocol to guide the conduct of the investigation. This establishes a common reference point and mutual understanding that will enable team members to avoid or effectively deal with conflicts that might arise when agency philosophies clash. For instance, police officers might be more interested in building probable cause for an arrest, while CPS workers remain more concerned with preserving families. Joint training and established protocol can serve as reminders that the welfare of the child remains the absolute first priority.

Experts agree that adequate training and written agreements are significant in police joint investigations. For instance, one criteria for joint investigations might be keeping interviews to a minimum. This means that representatives from both police and CPS agencies should attend or observe the session. Moreover, the best-trained person available should conduct all interviews.⁴ Although team members should, at a minimum, receive joint training in interviewing child victims, they should know when it becomes appropriate to graciously defer to greater expertise and experience. Interviewers must remember that the welfare of the child must prevail.

If possible, prosecutors and other members of the multidisciplinary team also should observe the interviews. To ensure greater coordination and collaboration, the teams should formalize pre- and postinterview conferences and case-review meetings. In fact, administrators should encourage the careful monitoring of all aspects of the investigation by adopting a formal, standardized investigative protocol.

“

***Building a case
against a child
sexual abuser can
be a difficult task....***

”

A police department may find a well-structured, multidisciplinary approach quite beneficial, and especially safer, due to the continued monitoring by other professionals. This approach proves efficient because all involved continue to maintain contact and share pertinent information and ideas. Investigators receive continued input and support from other professionals, reducing serious mistakes. In effect, if applied correctly, this method virtually guarantees a quality investigation. In fact, a more formal, adequately trained team with a structured protocol and a cross-disciplinary review mechanism may result in a flawless investigation. Problems can emerge, however, when informal alliances form in

the absence of a structured multidisciplinary model.

Child sexual abuse falls under the jurisdiction of CPS agencies, which conduct civil investigations, and law enforcement agencies, which conduct a criminal investigation. Because these investigations overlap, the two entities must communicate and share information, even in an informal process. This remains especially true in the absence of a standardized protocol because one agency might defer to the presumed expertise of the other and fail to independently verify crucial information. For instance, police officers might opt for the shortcut by simply accepting, at face value, the conclusions drawn by CPS workers during their investigation.

In the academy, all new officers are taught the concepts of criminal investigation. These basics should be retained and applied in practice. They are, after all, merely commonsense rules to guide any investigation. They certainly could be applied to child abuse cases.

THE COMMONSENSE RULES OF CRIMINAL INVESTIGATION

Know Investigative Responsibilities

An ethical component to criminal investigation that should remain deeply imbedded in the psyche of all officers is their responsibility to the lives affected by the crime and its aftermath. The effects of being wrongly accused of child abuse and taken into custody for such a crime prove almost as heinous as the crime itself. The accusation alone

attaches a stigma that remains difficult, if not impossible, to lose. The responsibility for protecting innocent people from this kind of victimization rests squarely on the shoulders of the investigator. As with all criminal investigations, when inquiring into allegations of child molestation, the investigator must exercise sound judgment. If the police arrest or falsely accuse an innocent person, no number of apologies or retractions can undo the irreparable damage suffered to that person's reputation. In order to protect the innocent by arresting the true offender, officers must act with restraint and investigate only the facts, rather than how they perceive them.⁵ A good investigator never forgets this foundation when conducting investigations.

Do Not Rush

Police should quickly apprehend a predator who targets children. However, an overzealous pursuit represents a dangerous way to perform police work. Police must conduct an investigation meticulously and in a timely manner. The investigator who operates predominantly on the basis of speed runs a high risk of contaminating the case by missing evidence, overlooking additional leads, and perhaps even providing the perpetrator with a greater opportunity to cause additional contamination. Investigators should not begin an investigation before considering the dynamics of the situation and the relationships of the people involved. While flexibility remains essential for gathering information and evidence as they become available, the general

conduct of the investigation should be well thought out in advance. Identifying individuals whom officers should question certainly is a prerequisite; however, the order in which the officers question those people might have a significant bearing on the quality and amount of information obtained. The criminal investigation is not a static process. Officers must continue to adapt and even change the course of the investigation as additional information emerges. Often, the perpetrator and others involved intentionally lie and attempt to hamper the process. This remains especially

“

...unresolved posttraumatic stress symptoms can lead a child to initially accuse the wrong person.

”

true in incestuous child sexual abuse cases involving several family members. By moving too fast, the investigator may miss some vital clues.

Get Both Sides of the Story

Investigators often find that collecting information from all parties may be the easiest rule to learn and retain. New officers usually appreciate the significance of this rule after their first domestic disturbance call. All investigators should

realize that even when dealing with minor disputes, getting only one side of the story and acting on it can have dire consequences.

In virtually every case of child sexual abuse, someone will attempt to deceive investigators. Therefore, investigators must avoid the temptation of accepting initial statements at face value, regardless of how sincere the source appears. One example includes a case where the parents of an abused child are involved in a bitter divorce. Obviously, strong motives may exist for one parent to accuse the other of sexually abusing the child. Investigators must remember that young children exposed to severe family conflict remain susceptible to parental influence; therefore, children can be repeatedly coached to doubt their own perceptions. In discussing incidents of false accusations, consider the following example in which a parent used coaching.

A 5-year-old girl repeats and matter-of-factly volunteers a litany of complaints against her father but becomes evasive when pressed for specifics and shows no sexual themes in her play. She is later overheard in the waiting room telling her mother, “I told the doctor all the things you told me to—aren't I a good girl?”⁶

In addition to coaching, unresolved posttraumatic stress symptoms can lead a child to initially accuse the wrong person. For this reason, investigators should not use the data from the observation of a child with an allegedly offending parent to validate a complaint of sexual abuse.⁷

Child abuse investigations can become a perilous process if officers do not maintain self-discipline. Investigators must resist the temptation to draw conclusions and take sides before exploring all available sources of information.

Conduct Well-Planned Interviews

Investigators must contact every person who might have relevant information about the case and conduct a meticulous interview. The interview should be individual, private, and uninterrupted to gain as much information as possible.

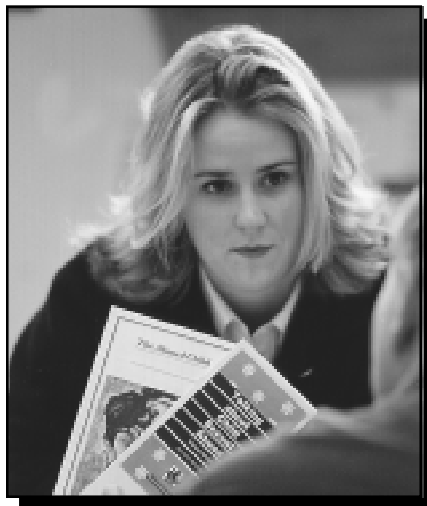
In order to properly prepare for an interview, investigators should plan the session far enough in advance. They should try to learn as much about the subject's background as possible and prepare general questions before the session. Simply spending a few minutes with one person out of a group of individuals called in for an interview will not result in information of any appreciable quantity or quality. In fact, such a style might actually endanger the case—if the perpetrators are among those interviewed, they might benefit by learning the course of the investigation and what they can do to further contaminate it.

Investigators do not know how long a well-planned and properly conducted interview may take because new questions might emerge during the process. The fact that others wait nearby for an interview simply distracts the process and possibly may even rush the session. Even the most knowledgeable criminal investigator has

limitations and can damage a case right from the start by ignoring this fact.

A primary objective of the multidisciplinary approach is ensuring that the most qualified investigator interviews an abused child as few times as needed. In child sexual abuse cases, quantity becomes detrimental to quality. Preferably, the interviewer should have formal education or specialized training in early childhood development and forensic interviewing. If possible, the investigator should videotape the entire session for later review.

© Mark C. Ide



Interrogating the suspected child molester requires particular expertise because when questioned by the police, suspected molesters typically offer lies and excuses that border on pathological. These explanations may appear logical, and a less experienced officer may believe the suspects' replies or forceful denunciations of their accusers.⁸ A novice interrogator may find

difficulties with a suspect who is skilled in the art of deception and who has little empathy for the victim.

Experts have observed that if the evidence rules out total denial, pedophiles may switch to a slightly different tactic—attempting to minimize the crime. These offenders often know the law and might admit to lesser offenses or misdemeanors.⁹

Eliminate Tunnel Vision

Investigators should concentrate on building the strongest case possible; however, they should not focus exclusively on one suspect as the only likely perpetrator. Experts often refer to this as tunnel vision. An officer who falls into this mindset tends to conduct an inflexible, linear investigation and ignore other possibilities in the process.

This mistake may prove especially tragic in cases of child sexual abuse. The longer perpetrators go undetected, the more likely they can access and manipulate a victim child not in protective custody. Furthermore, the target of the investigator's bias will suffer considerable emotional stress merely from being labeled as the suspect in such a repulsive crime.

However, another crucial concern may plague the police: if the investigator does have a strong case against an individual, the possibility remains that more than one perpetrator may exist. This reinforces the premise that investigators should identify and carefully interview everyone who has had access to the child. Tunnel vision refers to the kind of closed-minded thinking



Photo © K. L. Morrison

that causes an officer to overlook such an obvious possibility.

Tunnel vision also can prevent investigators from following important leads. Regardless of how insignificant a potential new lead might seem, investigators must follow it. Some experts consider this an ethical responsibility that the investigator owes to the victims and their families. Those seemingly insignificant matters have a way of ambushing the prosecutor at trial. If a defense attorney can demonstrate that a lead that went unfollowed would have cleared the defendant, the blame quickly will shift to the officer who had the time, resources, authority, and responsibility to follow it.

Additionally, investigators should seek second and third opinions. Another investigator might suggest additional leads never considered. Although any officer may develop some degree of tunnel vision, especially when focusing on a likely suspect, a fresh perspective

might help the investigator to refocus and possibly point out potential problems with investigative protocol.

Understand Probable Cause

Investigators should exercise particular caution when deciding whether adequate probable cause exists to make an arrest in a child molestation case. A premature arrest can result in the loss of key evidence that a more thorough investigation may discover. Furthermore, investigators must remember that they may have only one chance to bring the perpetrator to justice. A case may be lost due to insufficient or illegally seized evidence (i.e., because of insufficient probable cause).

An ethical component of criminal investigations exists that cautions against relying upon unfounded suspicion and conjecture to justify an arrest. When the source of information seems unworthy or where additional information about

a serious charge would be readily available, an investigation remains incomplete. Additional factors relevant to determining probable cause in such instances may include the reputation of the accused, whether police afforded them an opportunity to offer an explanation, and the need for prompt action by officers. Especially in a child sexual abuse case, investigators should consider strongly whether an immediate arrest proves warranted or necessary.

Keep the Case Open

Although a child sexual abuse case might be closed officially when cleared by arrest, the investigator's job is far from complete. Continued monitoring of a child sexual abuse case remains absolutely essential. Simply, this means that the investigator must apply the principles of the multidisciplinary approach proactively by maintaining open communication channels with other professionals involved in the case, as well as with the victim's family. The investigator must keep abreast of any further developments that might indicate a problem with the case. Finally, the investigator should answer all questions before considering the case closed.

CONCLUSION

Building a case against a child sexual abuser can be a difficult task for any investigator. Although some individuals consider any crime serious, most believe that child molestation is the most contemptible of crimes. This fact alone might make these predators cover their tracks

more carefully. It also should make investigating officers more eager to conduct thorough investigations.

If investigators have followed basic investigative rules and present well-prepared cases at trial, essentially, they have implemented the multidisciplinary method, even if their department has not formalized the approach. Yet, investigators still hold the responsibility to apply basic investigative principles to each case.

Like many complex cases, those involving child sexual abuse

require the efforts and expertise of a number of professionals. By using this approach, investigators can help victims and society as they uncover and punish offenders. ♦

Endnotes

¹ K.P. Hymel and C. Jenny, "Child Sexual Abuse," *Pediatrics in Review* 17, no. 7 (July 1996): 236-250.

² H. Vanderbilt, "Incest: A Chilling Report," *Deviant Behavior: Annual Editions 96/97* (Guilford, CT: Dushkin Publishing Group/Brown and Benchmark Publishers), 64-76.

³ D.L. Sheppard and P. Zangrillo, "Coordinating Investigations of Child Abuse," *Voices*, March-April, 1996, 21-25.

⁴ Ibid.

⁵ International Association of Chiefs of Police, Police Management and Operations Division, *Criminal Investigation: Specific Offenses* (Alexandria, VA: International Association of Chiefs of Police, 1975).


⁶ E. Benedek, "Uncovering a False Charge of Child Sex Abuse," in John H. Stuemky's "Identifying Cases of Abuse and Neglect: Materials from Child Abuse Manual," Section of General Pediatrics, June 1997.

⁷ K.M. Quinn, "The Credibility of Children's Allegations of Sexual Abuse," *Behavioral Sciences and the Law* 6, no. 2 (1988): 181-199.

⁸ Supra note 5.

⁹ W. Bennett and K. Hess, *Criminal Investigation*, 4th ed. (St. Paul, MN: West Publishing Company, 1994).

Subscribe Now

 <p>United States Government INFORMATION</p> <p>Order Processing Code: * 5826</p> <p><input type="checkbox"/> YES, please send _____ subscriptions to: FBI Law Enforcement Bulletin (FBIEB) at \$20 each (\$25.00 foreign) per year.</p> <p>The total cost of my order is \$ _____.</p> <p><small>Price includes regular shipping & handling and is subject to change.</small></p> <p>Name or title (Please type or print) _____</p> <p>Company name Room, floor, suite _____</p> <p>Street address _____</p> <p>City / State Zip code+4 _____</p> <p>Daytime phone including area code _____</p> <p>Purchase order number (optional) _____</p> <p>Mail to: Superintendent of Documents, PO Box 371954, Pittsburgh PA 15250-7954</p> <p>Important: Please include this completed order form with your remittance.</p>	<p><i>Credit card orders are welcome!</i></p> <p>Fax your orders (202) 512-2250</p> <p>Phone your orders (202) 512-1800</p>
	<p>For privacy protection, check the box below:</p> <p><input type="checkbox"/> Do not make my name available to other mailers</p> <p>Check method of payment:</p> <p><input type="checkbox"/> Check payable to: Superintendent of Documents</p> <p><input type="checkbox"/> GPO Deposit Account <input type="checkbox"/></p> <p><input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover</p> <p><input type="checkbox"/></p> <p>(expiration date) <input type="checkbox"/></p> <p>_____</p> <p><small>Authorizing signature</small></p> <p><small>4/97</small></p> <p style="text-align: right;"><i>Thank you for your order!</i></p>



Supreme Court Cases 1998–1999 Term

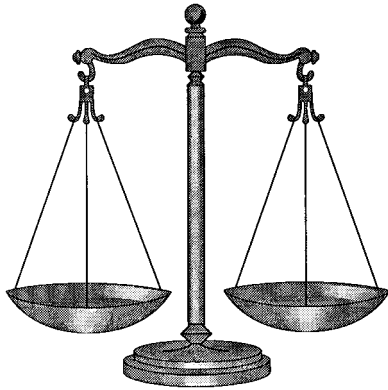
During the 1998–1999 term, the U.S. Supreme Court ruled on eight cases in the area of criminal procedure that are of particular importance to law enforcement officers and the agencies for which they work. Specifically, the Court ruled on 1) whether a visitor within another individual's dwelling may challenge governmental action, alleging the action violated the Fourth Amendment; and 2) whether law enforcement violates the Fourth Amendment when it allows third parties access

into areas where individuals enjoy privacy when the third parties are not necessary to accomplish the government's objectives.

Additionally, the Court considered several vehicle search cases and ruled on the following: 3) the scope of the motor vehicle search and whether it extends to passenger belongings; 4) the constitutionality of a state statute permitting law enforcement to search a vehicle under circumstances where the officer could have made an arrest but instead chose to issue a citation; and

5) whether exigent circumstances are required in order to justify searching under the motor vehicle exception. The Court also ruled on 6) whether law enforcement must obtain a warrant prior to seizing property that is forfeitable, and the Court addressed 7) an evidentiary concern relevant to investigators, specifically the use of a nontestifying accomplice's confession. Finally, the Court, in *City of Chicago v. Morales*, 119 S. Ct. 1849 (1999), considered 8) the constitutionality of a Gang Congregation Ordinance.

The September 1999 edition of the *FBI Law Enforcement Bulletin* includes a comprehensive discussion of this case.



***Minnesota v. Carter,*
119 S. Ct. 469 (1998)**

In this case, the Supreme Court revisits the issue of whether, and under what circumstances, a visitor in another's dwelling is entitled to the protections of the Fourth Amendment against unreasonable searches and seizures. In *Minnesota v. Olson*, 495 U.S. 91 (1990), the Court held that an overnight guest had a sufficient expectation of privacy in the host's dwelling to claim those protections. The question is whether those protections are available to one who is not an overnight guest but is present in the dwelling at the householder's invitation.

An informant advised a police officer that, while walking past an apartment window, he was able to see people putting a white powder into bags. The officer walked past the same window and, through a gap in the blinds, watched the same

activity for several minutes. The officer advised police headquarters of his observations and returned to the apartment building, while preparations were begun to obtain a search warrant. When two men left the apartment building in an automobile, the police stopped the car. When the car door was opened, the officers saw a zippered black pouch and a handgun. Following the arrest of the two men, a search of the car disclosed pagers, a scale, and 47 grams of cocaine in plastic sandwich bags. After arresting the occupants of the car, the officers returned to the apartment and arrested the female occupant. A search of the apartment with a warrant disclosed cocaine residue on the kitchen table and plastic bags similar to those found in the car.

It was later learned that the woman was the lessee of the apartment and that the two men, who lived in Chicago, had come to the apartment for the sole purpose of packaging the cocaine. They had

never been to the apartment before and had only been there for approximately 2 1/2 hours.

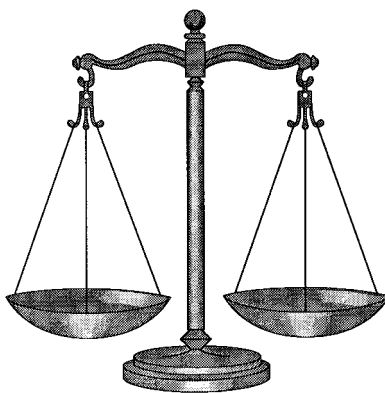
The two men appealed their convictions for violating the state controlled substances laws, contending that the evidence should have been suppressed because the officer's action of looking through the window into the apartment violated the Fourth Amendment prescriptions against unreasonable searches and seizures. The trial court had rejected the motion to suppress, holding that because the two men were not overnight guests but temporary, out-of-state visitors, they had no "standing" to claim Fourth Amendment protections inside the apartment. The state appellate court agreed and affirmed the convictions. However, the Minnesota Supreme Court reversed, holding that the defendants did have standing to claim Fourth Amendment protections while inside the apartment because the lessee had invited them to be there. The state



court then concluded that the officer's observations through the window constituted a search and that the search was unreasonable.

The U.S. Supreme Court reversed. Although the Court declined to decide whether the officer's observation constituted a "search"—an issue the Court did not have to decide because the householder was not a party to the appeal—the Court held that "any search which *may have occurred* did not violate *their* [the defendants'] Fourth Amendment rights" (emphasis added). In reaching its conclusion, the Court cited the following factors: 1) the defendants in this case were not overnight guests; 2) they were essentially present for a business transaction; and 3) they were only in the apartment for a few hours. The Court concluded that while "an overnight guest in a home may claim the protection of the Fourth Amendment...one who is merely present with the consent of the householder may not." While factors 1 and 3 reflect the relatively tenuous connection between the defendants and the house, factor 2 raises a somewhat different issue (i.e., the *purpose* of the defendants' presence in the apartment). Noting that any "expectation of privacy in commercial premises...is different from, and indeed less than, a similar expectation in an individual's home..." the Court observed that, while the apartment was a dwelling place for the lessee, "it was for these [defendants] simply a place to do business." The significance of this factor for future Fourth Amendment interpretation is not altogether

clear. Presumably, had the defendants been overnight guests in the apartment, they would have been entitled to claim the protections of the Fourth Amendment even if their purpose for being there was to transact business.



***Wilson v. Layne,*
119 S. Ct. 1692 (1999)**

In a civil suit filed against federal and county law enforcement officers, the Supreme Court unanimously concluded that allowing the media to enter private premises during the execution of a warrant violated the Fourth Amendment. However, because the state of the law was not clearly established at the time of the complaint of action, the Court granted the officers qualified immunity.

Petitioners Charles and Geraldine Wilson filed the civil action against deputy U.S. marshals and officers of the Montgomery County, Maryland, Police Department who allowed a newspaper reporter and photographer to accompany them into the petitioners' home during the early morning execution of a warrant for the arrest of the petitioners' son. The law

enforcement officers, arguing that they did not violate a clearly established law, moved for dismissal of the action on the basis of qualified immunity. The officers' motion was denied by the district court, but on interlocutory appeal to the Fourth Circuit Court of Appeals, a divided court granted the motion and dismissed the suit. The Supreme Court, recognizing that a split existed among the circuits on the issue of qualified immunity, granted certiorari.

Before reaching the question of qualified immunity, the Supreme Court first considered whether the underlying action of inviting the media to enter private premises to observe the execution of a warrant amounted to a constitutional violation. In doing so, the Court reviewed the historical underpinnings of the Fourth Amendment and reflected upon the intent of its framers to embody the "centuries-old principle of respect for the privacy of the home" (*Id.* at 1697). Out of this respect for privacy, the Court traditionally has required law enforcement officers who enter premises under the authority of a warrant, to constrain their actions in execution of the warrant to those that are reasonably "related to the objectives of the authorized intrusion" (*Id.* at 1698).

In the case under consideration, the Court recognized that the law enforcement officers entered the petitioners' residence under the lawful authority of an arrest warrant. However, the Court found that the reporters were not present for any purpose reasonably related to the execution of the warrant and,

thus held, that the presence of the media at the invitation of the law enforcement officers constituted a violation of the petitioners' Fourth Amendment rights.

The Court next considered whether in 1992, the time the officers invited the media into the petitioners' home, the law prohibiting such conduct was "clearly established." This inquiry required the Court to determine whether a "reasonable officer could have believed that bringing members of the media into a home during the execution of an arrest warrant was lawful, in light of clearly established law and the information the officers possessed" (*Id.* at 1700).

Recognizing that a reasonable officer could have believed that bringing members of the media into a home during the execution of a warrant was lawful because it served the important purpose of keeping the public informed, and that in 1992, there were no judicial opinions to the contrary, the Court concluded that the contours of the Fourth Amendment in this area were not clearly established. Moreover, the Court pointed out that the officers involved in the suit relied on their own agency policies when issuing the invitation to the media to participate in the execution of the warrant. Thus, the Court granted the officers qualified immunity.

This case makes it clear that officers may not invite representatives of the media, or any other individuals, to take part in law enforcement activities that occur inside private premises unless the presence of the third parties relates to the objectives of the authorized

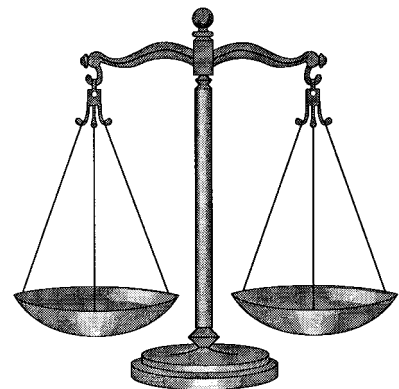


governmental intrusion. Although the officers involved in the suit were granted qualified immunity, the decision of the Court in this case makes the law in this area "clearly established," and thus, the defense of qualified immunity will not be available to officers involved in similar conduct in the future.

Because the public appears to be genuinely interested in law enforcement activities, it is likely that the media will want to continue its past practice of participating in ride-alongs with officers. It is important to note that the decision of the Supreme Court in this case only prohibits law enforcement officers from inviting representatives of the media or others into private areas protected under the Fourth Amendment. This case does not preclude the media from witnessing and filming law enforcement activities that take place in public areas.

If media representatives are not satisfied with filming only in public places, they may attempt to use waivers of liability to justify intrusions into private areas. Law

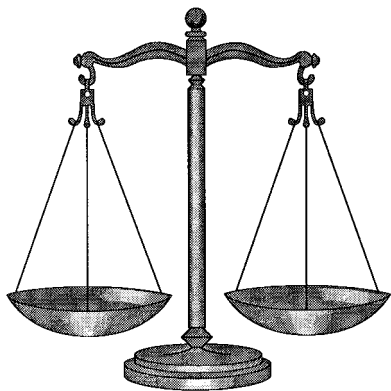
enforcement officers and agencies contemplating a cooperative operation with the media should be cautioned against reliance on such waivers. Waivers signed by individuals as law enforcement officers are making an entry into their premises to search for evidence of a crime or to make an arrest are likely to be viewed by courts as contracts under duress and unenforceable.



Motor Vehicle Search Cases

The Court provided further clarification of the constitutionality of searching a motor vehicle without a warrant in three separate

opinions. One opinion held that a state statute that permitted an officer to search the interior passenger area of a vehicle under circumstances where the officer could have arrested an occupant in the vehicle but chose instead to issue a citation violated the Fourth Amendment. This case was discussed in the May 1999 edition of the *FBI Law Enforcement Bulletin* under the title "Search Incident to Arrest: Another Look." In a second motor vehicle search case, the Court once again considered whether the motor vehicle exception requires the existence of exigent circumstances. Finally, in *Wyoming v. Houghton*, 119 S. Ct. 1297 (1999), the Court held that when an officer has probable cause to search a vehicle, the officer may search objects belonging to a passenger in the vehicle provided the item(s) the officer is looking for could reasonably be in the passenger's belongings. "The Motor Vehicle Exception: When and Where to Search," published in the July 1999 edition of the *FBI Law Enforcement Bulletin* discussed this case.



***Maryland v. Dyson*,
119 S. Ct. 2013 (1999)**

Consistent with prior rulings on this issue, the Supreme Court held that a warrantless search of a vehicle is permitted when officers have probable cause that a motor vehicle contains evidence or contraband, even in the absence of exigent circumstances. In this case, a Maryland sheriff's deputy received a tip from a reliable source that an alleged drug dealer was en route to New York to purchase drugs and would be returning to Maryland in a rented red Toyota, license number DDY 787, later that day with a large quantity of cocaine. The deputy investigated the tip and found that the license number given to him by the informant belonged to a red Toyota Corolla that had been rented to the alleged drug dealer.

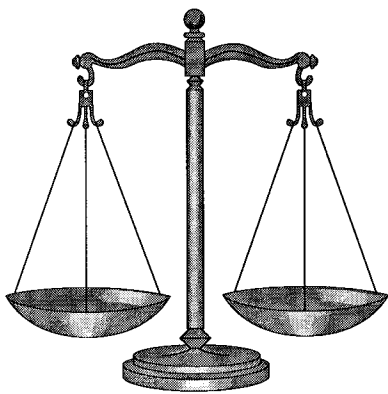
When the alleged drug dealer returned in the rented car as predicted by the informant, deputies stopped and searched the vehicle, finding 23 grams of crack cocaine in a duffel bag in the trunk. Kevin Dyson, the alleged drug dealer, was convicted of conspiracy to possess cocaine with intent to distribute. He appealed, arguing that the trial court had erroneously denied his motion to suppress the cocaine on the alternate grounds that the police lacked probable cause, or that even if there was probable cause, the warrantless vehicle search violated the Fourth Amendment because there was sufficient time after the informant's tip to obtain a warrant.

The Maryland Court of Special Appeals reversed, holding that in order for the automobile exception to the warrant requirement to apply,

there must not only be probable cause to believe that evidence of a crime is contained in the automobile but also a separate finding of exigency precluding the police from obtaining a warrant. Applying this rule to the facts of the case, the Court of Special Appeals concluded that although there was "abundant probable cause," the search violated the Fourth Amendment because there was no exigency that prevented or even made it significantly difficult for the police to obtain a search warrant. The U.S. Supreme Court granted certiorari and reversed the Court of Special Appeals ruling.

The Supreme Court explained that the Fourth Amendment generally requires police to secure a warrant before conducting a search. The Court, however, recognized nearly 75 years ago in *Carroll v. United States*, 267 U.S. 132, 153 (1925) that there is an exception to this requirement for searches of vehicles. Under this established precedent, the "automobile exception" has no separate exigency requirement. The Court advised that this was made clear in *United States v. Ross*, 456 U.S. 798, 809 (1982), where the Court ruled that in cases where there was probable cause to search a vehicle "a search is not unreasonable if based on facts that would justify the issuance of a warrant, even though a warrant has not been actually obtained." In a case with virtually identical facts to this one, *Pennsylvania v. Labron*, 518 U.S. 938 (1996) (per curiam), the Court repeated that the automobile exception does not have a separate exigency requirement: "If a car is

readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment... permits police to search the vehicle without more.” In the present case, the Court of Special Appeals found that there was “abundant probable cause,” that the car contained contraband. The Supreme Court determined that this finding alone satisfied the automobile exception to the Fourth Amendment’s warrant requirement, a conclusion the Court stated was correctly reached by the trial court when it denied the respondent’s motion to suppress. The Court went on to state that the holding of the Court of Special Appeals that the automobile exception requires a separate finding of exigency in addition to a finding of probable cause is squarely contrary to the Court’s holdings in *Ross* and *Labron*. Therefore, the Court reversed the judgment of the Court of Special Appeals.



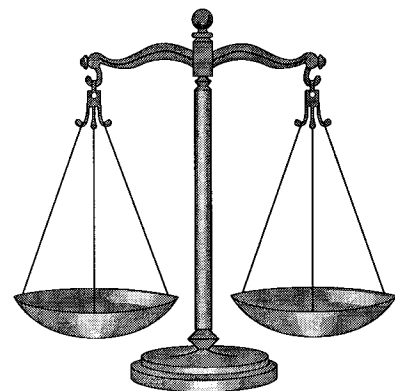
***Florida v. White,*
119 S. Ct. 1555 (1999)**

In a forfeiture case brought by a defendant whose vehicle was seized while parked in a public place, the Supreme Court refused to impose a

requirement on the government that it obtain a warrant prior to seizing the vehicle. In this case, officers had previously observed the defendant using his car to deliver cocaine. He was later arrested at his workplace on unrelated charges. At that time, the arresting officers seized his car without securing a warrant because they believed that it was subject to forfeiture under the Florida Contraband Forfeiture Act. During a subsequent inventory search, the police discovered cocaine in the car. The defendant was then charged with a state drug violation. At his trial on the drug charge, he moved to suppress the evidence discovered during the search, arguing that the car’s warrantless seizure violated the Fourth Amendment, thereby making the cocaine the “fruit of the poisonous tree.” After the jury returned a guilty verdict, the court denied the motion, and the Florida First District Court of Appeals affirmed. It also certified to the Florida Supreme Court the question whether absent exigent circumstances, a warrantless seizure of an automobile under the act violates the Fourth Amendment. The latter court answered the question in the affirmative, quashed the lower court opinion, and remanded.

The U.S. Supreme Court granted certiorari and reversed the Florida Supreme Court’s ruling. The Supreme Court held that the Fourth Amendment does not require that the police obtain a warrant before seizing an automobile from a public place when they have probable cause to believe that it is forfeitable contraband. In deciding whether a challenged governmental

action violates the amendment, the Court inquired as to whether the action was regarded as an unlawful search and seizure when the amendment was framed. The Court has held in the past that when federal officers have probable cause to believe that an automobile contains contraband, the Fourth Amendment does not require them to obtain a warrant prior to searching the car for and seizing the contraband. Although the police here lacked probable cause to believe that the respondent’s car contained contraband, they had probable cause to believe that the vehicle itself was contraband under Florida law. A recognition of the need to seize readily movable contraband before it is spirited away undoubtedly underlies the early federal laws relied upon in *Carroll*. This need is equally weighty when the automobile, as opposed to its contents, is the contraband that the police seek to secure. In addition, the Court’s Fourth Amendment jurisprudence has consistently accorded officers greater latitude in exercising their duties in public places. The Court reversed and remanded the case.



Lilly v. Virginia,
119 S. Ct. 1887 (1999)

In this case, the Supreme Court addressed the difficult issue of the admissibility of a statement given to police by an accomplice in a criminal trial when the accomplice refuses to testify. The Supreme Court expressed concern with the reliability of statements made by an accomplice following a 2-day crime spree by the defendant, Benjamin Lilly, his brother Mark Lilly, and Gary Barker. The three men stole liquor and guns and abducted and killed Alex DeFilippis. All three were arrested. Under police questioning, Mark Lilly admitted stealing the liquor but claimed that Benjamin and Gary Barker stole the guns and that Benjamin shot DeFilippis.

All three men were tried separately. At Benjamin's trial, the state prosecutor called Mark as a witness. Mark invoked his Fifth Amendment privilege against self-incrimination. The trial court admitted Mark's confession as a declaration against penal interest of an unavailable witness. The judge overruled the defense objection that the statement was not against Mark's penal interest because it merely shifted blame to the other two men, and its admission violated the Sixth Amendment Confrontation Clause, requiring that witnesses against the accused be subject to cross-examination in court. Benjamin was convicted.

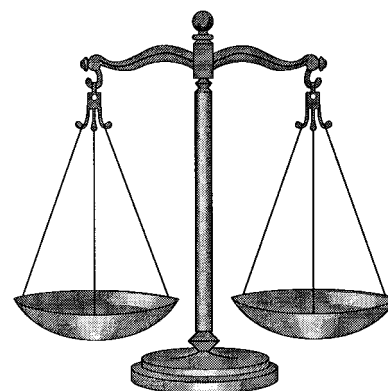
He appealed to the Virginia Supreme Court. In affirming the conviction, the Virginia Supreme Court held that the Confrontation Clause was satisfied because Mark's confession fell within a "firmly

rooted exception" to the hearsay rule. In addition, the court held the statement reliable because he implicated himself in criminal activity, and there was independent corroboration by other trial evidence.

The U.S. Supreme Court reversed the Virginia Supreme Court and remanded the case. It reasoned that the Confrontation Clause ensures the reliability of courtroom testimony by subjecting it to testing through rigorous cross-examination of the witness. Hearsay statements of unavailable witnesses, such as Mark's statement in the present case, should be admitted only when they fall within a "firmly rooted exception" to the hearsay rule, or they contain sufficient "particularized guarantees of trustworthiness" that additional testing through cross-examination would add little or nothing to their reliability.

Accomplice statements, such as Mark's, that shift or spread the blame to a criminal defendant are presumptively unreliable and fall outside any "firmly rooted exception" to the hearsay rule. That is true even if the statement incriminates the maker as well as the criminal defendant. The Supreme Court also found that the state court's particularized guarantees of trustworthiness were insufficient. The state court found that Mark knew he was implicating himself in criminal activity and that his statement was corroborated by other trial evidence. The Supreme Court dismissed that view because he was in police custody at the time the statement was made, and it was made under police supervision and in response to officers' leading

questions. Also, he was under the influence of alcohol at the time and had a natural motive for spreading or deflecting blame for his criminal acts. All of those factors mitigated against a finding that the statement was so inherently reliable that cross-examination was rendered superfluous.



Case Granted
Next Term Review

The Supreme Court carried over one case of particular interest to law enforcement. During the next term, the Supreme Court will consider *Illinois v. Wardlow* 701 N.E. 2d 484, *cert. granted*, 98-1036 (1999), involving law enforcement use of the temporary detention. Specifically, the Court will determine whether an individual's flight upon approach of a uniformed police officer is, standing alone, sufficient to establish reasonable suspicion of criminal activity. ♦

Instructors in the Legal Instruction Unit at the FBI Academy prepared this article.

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 Owens

In the early morning hours, two individuals were the victims of an armed carjacking in an apartment complex. On patrol in a shopping plaza near the complex, Officer Marcus Owens of the Lumberton Township, New Jersey, Police Department observed the stolen vehicle. A suspect fitting the description of the carjacker was walking toward the vehicle from a supermarket that he had just allegedly attempted to rob. After requesting assistance, Officer Owens ordered the suspect to stop and show his hands. Instead, the suspect drew a handgun from his pocket. Officer Owens fired one shot, hitting the suspect in his gun hand and knocking the gun out of his hand. Other officers arrested the alleged carjacker. Officer Owen's quick response thwarted any attempts of additional violence.



Trooper Sims



Trooper Duplessis

During violent thunderstorms and tornadoes, Michigan State Troopers Shannon Sims and Phillip Duplessis stopped to assist several motorists. While on the scene, the troopers learned that an elderly woman was trapped in her basement because her house had been moved 6 feet from its foundation. Also, a broken gas line was quickly filling the residence with dangerous natural gas. After the troopers moved debris to find the basement, Trooper Sims leaned down into the basement as Trooper Duplessis held onto his belt. The gas quickly nauseated the troopers, almost causing them to lose consciousness. After several attempts, the troopers successfully freed the elderly woman and moved her to safety. Troopers Sims' and Trooper Duplessis' unselfish and heroic actions saved the woman's life.



Officer Carraway

While on patrol duty, Officer Terrance Carraway of the Florence, South Carolina, Police Department observed smoke and flames coming from a residence. After contacting the fire department, Officer Carraway forcibly entered the burning residence, discovered three individuals inside, and led them to safety. By risking his own life to save three others, Officer Carraway's exemplifies the highest degree of courage and dedication to the law enforcement profession.