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Weapons of Mass Destruction and Civil Aviation Preparedness

By ROBERT RAFFEL



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Weapons of mass destruction (WMD) pose a threat to the American public and have become an issue of national importance. Law enforcement and public health agencies at the local, state, and federal levels recently have begun to examine and upgrade their response capabilities. New organizations tasked with combating the threat, such as the Department of Homeland Security, have surfaced and started organizing their resources. Today's literature and media, especially in the wake of September 11, 2001,

contain numerous articles and information on this topic, and new sources appear daily. However, with all of this activity, the civil aviation community¹ only recently has begun planning WMD-driven contingencies. On both airport and air carrier levels, many issues remain unresolved, and several hurdles lie ahead. The civil aviation community will continue to prepare for and combat WMD threats, but law enforcement and public health agencies also must pool their resources to fend off the most likely WMD threat: biological weapons.²

PREPAREDNESS AND RESPONSE

Assessment

Biological weapons are natural organisms or diseases used in a harmful or destructive manner (e.g., smallpox, anthrax, and Ebola). Many countries and terrorist groups have the capability to mass produce lethal viruses and distribute them throughout the human population. This creates a serious threat to the American public's freedom and safety. Although the civil aviation community is starting to assess

threats of WMD and biological weapons with its own resources, it typically has relied on the research and resources of law enforcement agencies. Nationally, the FBI, the Federal Emergency Management Association (FEMA), the Department of Defense (DoD), and a multitude of other organizations always have identified groups likely to use WMD and will continue to do so with a sense of urgency after terrorists utilized civil aviation to destroy the World Trade Center and damage the Pentagon. Although the United States remains one of the world's countries most threatened by WMD, it needs cooperation from other countries in investigating and arresting elusive terrorists.

The United States has emerged as the world economic and technological power while fragmentation tears apart other regions of the world. As fragmentation creates conflict and countries choose sides, the resulting instability increases the likelihood of asymmetric threats

directed against the United States.³ Some of these threats most likely will involve WMD and could target the civil aviation community. Furthermore, the pervasiveness of the U.S. civil aviation presence in the world, combined with the vulnerable state of aviation preparedness to combat and respond to biological attacks, creates a significant risk to airports, air carriers, and the American public.

Biological pathogens exacerbate this risk. Incidents involving biological pathogens may arise that terrorists have not initiated. These incidents may happen randomly and with no foul intentions. For example, a Canadian woman on a plane flying from Congo to Montreal, which then proceeded to New York, began exhibiting signs of hemorrhagic fever. The Ebola virus, foreign to American soil and lethal to humans, induces hemorrhagic fever, which is an airborne disease. It could have infected the airplane staff or other passengers

traveling to the United States, even though the woman did not continue with the plane from Montreal to New York. The woman had no intention of transporting the biological pathogen to the United States, but she created an incident that could have proven fatal for many people.⁴ The emergence of new and more virulent strains of disease around the world increases the probability of civil aviation involvement in a biological event. Although not predictable and not as serious a threat to the American public as WMD, these situations deserve attention from the civil aviation community.

Crisis Management

The FBI has been designated the lead agency for crisis management response to threats or acts of terrorism. FEMA and other federal agencies will provide direct support upon request.⁵ If WMD are involved, the FBI may request a domestic emergency support team to provide expert advice and assistance to the FBI on-scene commander. FEMA's deployment of a team will take time, however. In the interim, the local airport will manage the crisis according to procedures, which typically include the activation of the emergency operations center (EOC) and, possibly, a mobile command post. Airports and air carriers have experience providing support in crisis situations, and they know what kind of resources law enforcement agencies will request.

When a WMD incident occurs, the rules change. Generally, complex biological attacks have lacked association with civil aviation



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”**

incidents. When a biological event takes place, the calculus of crisis management differs from what the civil aviation industry commonly takes for granted and has practiced over the years. This makes cooperation between the civil aviation community and federal, state, and local law enforcement agencies more important than ever.

First Responders

Who is trained and equipped to respond quickly when a biological incident occurs on an aircraft or at an airport? Firefighters and police, otherwise trained to respond quickly and decisively to a disaster scene, have new requirements for response to biological events. Testing protocols and isolation factors become important, as do proper equipment and training.

New Players

Who is responsible for quarantine of an aircraft? A biological incident places new organizations on the civil aviation crisis management platform. During a suspected biological attack, the public health community will play a major role because it has a more comprehensive understanding of the problem. The Centers for Disease Control and Prevention (CDC), together with local and state health authorities, will assume part of the decision-making process and, in non-criminal cases, may even take the lead.

New Issues

At what point does a biological scene become a criminal investigation? Biological events may be difficult to connect with criminal intent, especially in the early stages,



but an assessment of criminality must be completed. Some questions exist that may be pertinent to this issue.

- What kind of viruses/outbreaks have authorities found?
- Are the viruses/outbreaks lethal to humans?
- Could the use of this particular virus be considered a weapon?
- How was the virus discovered?
- How widespread is the damage?
- Is this widespread nature normal, or would it only happen if the virus was purposely released?

Answering these and other specific questions will provide guidance to law enforcement officers in determining the need for investigative procedures. Moreover, although the issue of criminality will arise continually during a biological incident, only interagency cooperation will ultimately determine if a biological event requires a criminal investigation.

EOC Composition

During a WMD incident, the EOC group, comprised of decision makers, may react differently compared to its behavior in other crisis situations. Given the need for trained and expert guidance, the EOC may become a unified command post responsible for managing the biological crisis. A lead individual retains ultimate decision-making powers in the unified command post. However, the EOC group gains input via a team of firefighters, medical personnel, police, and airport and air carrier representatives, any of whom (especially the firefighters and medical personnel) could become the key decision makers when the need arises.⁶ Carrying out this strategy also assumes a high level of training in unified command procedures and a firm partnership with local, state, and federal public health entities.

Mitigation

On the federal level, FEMA has been designated the lead agency for consequence management.⁷ Crisis

management transitions to consequence management when a hijacked plane has been brought down or when a bomb explodes. The FBI manages the crisis while in progress, and FEMA handles the aftermath and coordinates the clean up. While the consequence management roles of the federal agencies, firefighters, and local health authorities tend to be organized and frequently exercised, experts scarcely have studied the response to biological incidents within the framework of civil aviation. All levels of authority have learned, however, that WMD incidents involving civil aviation demand unique procedures.

Response to a WMD plight always has life safety as the first priority. Therefore, the response falls primarily in the hands of local firefighters, in concert with FEMA and other appropriate federal and local assets. However, follow-up

responsibilities also exist for civil aviation. Record keeping, especially in the wake of a biological event, becomes critical. Following the arrival of the aforementioned plane from Congo and its Canadian passenger who was exhibiting signs of the hemorrhagic virus, the CDC failed to obtain information on the individual from the airline. As a result, the CDC has begun working with the aviation industry to determine ways of retrieving information when necessary.⁸ More complete and archived passenger information will benefit the mitigation of a WMD incident.

Air carriers should examine their procedures and capabilities regarding WMD threats. The devastation brought on by biological attacks might be susceptible to air carrier countermeasures. In what ways are aircraft vulnerable to biological attacks? In what ways can airlines reconfigure airplanes to

defend against such threats? The aviation community only recently began trying to answer these questions and explore various options.

CONCLUSION

Within the foreseeable future, biological attacks against the United States and its interests are a distinct possibility. The events of September 11, 2001, and the resulting anthrax cases prove that this threat against the United States remains real. Because of the historical use of civil aviation as a terrorist target, the aviation industry is at high risk. This risk becomes even greater when investigators consider the accidental (nonterrorist) possibilities.

At present, civil aviation remains ill-prepared to deal with these types of events. At the airport level, partnerships must be formed with local, state, and federal law enforcement and public health entities. Agencies must examine their standard operating procedures for conformity and consistency. Airports also must practice their responses to WMD threats. Tabletop exercises should lead into planning for full-scale exercises. Air carriers also have a role in defending against these types of incidents beyond their involvement in exercises. Airplane crew training should include information about WMD. Personnel should know what procedures to follow if a biological event occurs. Furthermore, airlines should develop and implement means to assist with passenger tracking after the conclusion of flights.

Finally, the entire civil aviation community (e.g., air carriers, airports, Federal Aviation Administration, and Transportation Security



Administration) should establish both preventive and countermeasures against WMD. National-level procedures focusing on “best-risk” airports into which flights may be diverted should be considered.⁹ Federal agencies should closely coordinate their efforts to combat WMD with local airports and air carriers. Additionally, partnership opportunities across the civil aviation spectrum should be explored. A better prepared and more coordinated response is essential to providing safety to the public against a WMD threat. ♦

Endnotes

¹ In the current context, this group includes passenger and cargo carriers, but does not expand into the general aviation community. General aviation response to biohazards is a subject deserving further study, but will not be examined in this article.

² The second and third weapons of the WMD triad, chemical and radiological hazards, are not examined in this article. Given the present state of delivery systems, biological events may be more likely to occur in a civil aviation context. Further, response protocols for chemical and radiological events are sufficiently unique and deserve separate treatment.

³ The phrase “asymmetric threat” has become a call sign of counterterrorism that means covert or nontraditional war operations.

⁴ “Woman Falls Ill After Trip to Congo, Doctors Suspect Hemorrhagic Virus,” *Associated Press*, February 6, 2001.

⁵ Presidential Decision Directive-39.

⁶ Drielak and Brandon, *Weapons of Mass Destruction* (Springfield, IL: Charles C. Thomas, 2000), 60. “By its very nature, a WMD incident will most likely involve many different agencies, multiple disciplines and numerous jurisdictions...all the involved agencies contribute to the command and management process by determining the overall goals and objectives of the incident and in jointly developing tactical objectives.”

⁷ *Ibid.*

⁸ The information requested concerned passengers seated next to the stricken woman. The CDC ultimately obtained passenger information from U.S. Customs, which provided their declaration form.

⁹ According to the author, “best-risk” refers to locations where organizations and equipment needed to combat a WMD strike are positioned.

Crime Data

U.S. Correctional Population

The U.S. Department of Justice’s Bureau of Justice Statistics (BJS) has announced that the adult U.S. correctional population reached a record of almost 6.6 million men and women at the end of 2001. This was an increase of 147,700 people from December 31, 2000.

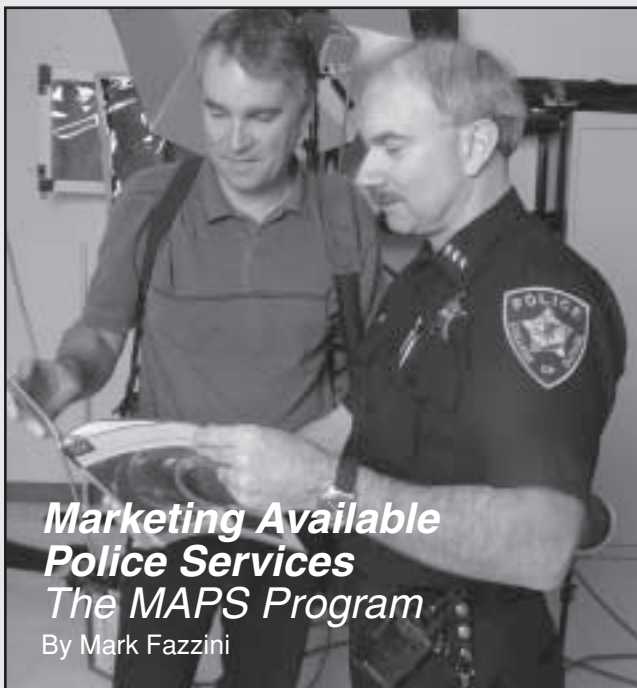
At the end of 2001, about 3.1 percent of the nation’s adult population, or 1 in every 32 adult residents, were on probation or parole or were held in a prison or jail. The adult probation population grew 2.8 percent during 2001, an increase of 106,542 probationers. The nation’s parole population increased by 1 percent in 2001, or by 7,249 men and women.

Approximately 3 out of 4 probationers were under active supervision and were required to regularly report to a probation authority in person or by mail or telephone. An estimated 53 percent of all probationers had been convicted of a felony, 45 percent of a misdemeanor, and 1 percent of other infractions, according to a BJS probation and parole bulletin. Approximately 25 percent were on probation for a drug law violation and 18 percent for driving while intoxicated.

Of the almost 2 million adults discharged from probation in 2001, more than 3 out of 5 successfully met supervision conditions. About 13 percent were reincarcerated because of a violation of parole conditions or a new criminal offense.

The bulletin, *Probation and Parole in the United States, 2001* (NCJ 195669) was written by BJS statistician Lauren E. Glaze. Single copies may be obtained by calling the BJS Clearinghouse at 1-800-732-3277 or by accessing <http://www.ojp.usdoj.gov/bjs/abstract/ppus01.htm>.

Focus on Police-Community Relations



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Police departments typically do not think of using marketing concepts when trying to improve their image. In the past, for-profit companies and corporations have used marketing techniques to increase customer satisfaction. But, police agencies easily can adapt the concepts of business marketing to help them reach their customers (citizens) and educate them about the many services that they provide.

Marketing available police services (MAPS)¹ is a process whereby communities can learn what services their law enforcement agencies offer to meet public safety needs and wants. In return for providing these services, the police department receives more positive contacts, cooperation, and an improved image from the community that it serves. This proves true no matter what type of population (e.g., college campus, city, county, or state).

Police services marketing attempts to attract new customers who are unaware of police services and to keep a positive relationship with those individuals who already have had contact with the department. While reaching out to new people is important, it is even more important to keep those people agencies have contact with satisfied. Various research has

indicated that satisfied people tell their stories of police contact to at least 3 other people, whereas dissatisfied individuals will tell, on average, 10 others about a negative experience with the police.

COMPONENTS

Marketing consists of understanding, creating, communicating, and delivering services to obtain members' satisfaction. Adding each of these components together creates a marketing plan for success.

Departments must understand the makeup of their communities, as well as the needs and expectations that citizens have of their police services. Knowing the diversity of the service population (e.g., age and national origin) helps agencies define who they serve. Even understanding who passes through the community at different times of the day can help determine what public safety needs exist. For example, if a community has a high school population of 1,500 students who come from many different neighboring communities, law enforcement must consider providing for their public safety needs while they are on the way to school, at school, and when they leave school. Or, a college campus police department might have a significant Spanish-speaking segment of the student population that would impact services by creating a need for documents produced in both English and Spanish.

Once agencies define their service population, they must survey their communities' needs. What expectations do citizens have as they relate to public safety issues? What services could the department provide to meet concerns of community members? Creating a planned response can help answer these questions. Departments can focus on crime prevention programs, hold community workshops, use focus brochures, or take other steps to respond to their communities' needs.

Once agencies develop plans, programs, and new services, they must communicate these initiatives to their constituents. A department can have many services, but if no one knows about them, they waste resources. Communication constitutes a vital link between the police and the community, and it can develop a positive relationship between the two entities.

Finally, agencies must deliver police services to the public. In turn for the services, the police department's image will improve, and agencies will serve their communities more effectively.

THE MARKETING MIX

Today, the single most significant marketing doctrine is the marketing mix, which encompasses all of the agency's tools that it uses to influence a market segment to accomplish its objectives. These tactical tools are used to influence customers, and, in law enforcement, they can help realize the police department's goal of a positive image.

When determining the marketing mix for which tools to use in a marketing plan, managers must remain cognizant of the internal and external environments of the organization. Neighborhood and community groups may influence what services a police department offers. Local newspapers and radio and television stations can carry news of department activities and services, as well as provide editorial comments to influence public opinion of the department.

Public relations, the single most important mass-promotions tool that significantly can impact the department's image, has the ability to create favorable publicity, build on the department's image, and prevent or handle rumors and incorrect information. Therefore, law enforcement agencies must have an excellent working relationship with the local media. Positive media stories are free marketing ads about the department. The more trusting a relationship a department has with reporters, the better it will be able to work with them during times of crisis.

Most services provided by police departments are intangible. When possible, the department should look for ways to leave a tangible product behind. For example, officers can leave brochures, patches, rulers, frisbees, stuffed animals, and other departmental memorabilia with citizens.

Police services' design, variety, public relations, advertising, location, and quality form much of an agency's marketing mix. An agency's use of technology, collaboration with other partners, management perspective, and selection of staff members also prove important considerations of the mix.

Use of Technology

In today's technological society, the Internet should play an important part in any MAPS plan. A department's Web site can offer services reaching large groups or providing for one-on-one contact. Some possible uses of a Web site include sharing department information, crime statistics, and safety tips; providing opportunities for citizen feedback; adding a silent witness program; and using e-mail as a vehicle for communication with the public. Video clips from a department's Web site can serve as an easy way to have community members see and hear what it has to offer. The Internet is an economical and

Case Example

After becoming the college's police chief in December 2000, I met with constituents from different departments. In these meetings, I advised them of the services the department provides and learned that many employees had questions about what number to dial for emergency police assistance. Several people thought that they should dial 911, some believed 9-911 was the correct number, and, yet, other employees thought that they should dial extension 2000, which is the number to the Public Safety Police Department on campus. As a result of these meetings, we developed red stickers with the words "Public Safety Emergency Dial 2000" on them. Then, student employees searched each building and attached one of the stickers to every phone on campus. Our department received a tremendous amount of praise for this idea, which improved the staff's ability to contact the police department in an emergency.

valuable tool for reaching out to the community and beyond.

Marketing Alliances

Small departments often face difficulties when offering services that take a significant amount of resources, but they may find that collaboration with other departments can result in an attractive solution to the problem. Businesses consider this collaboration as creating marketing alliances. One such service is the formation of a citizen police academy (CPA) that residents attend for several weeks to learn how police operations work in the community.² Combining resources and staff efforts from one or more departments can make this service become a reality. Members of each participating department's community should have the opportunity to attend the CPA.

The Management Perspective

For any MAPS plan to succeed, it must have support from upper management, from the chief of police to the command staff. Supervisors should mandate that their line officers deal with everyone with a customer service approach; they should treat everyone with respect and dignity, even during arrests.

No marketing plan can be successful without appropriate financial support. Therefore, departmental management support can help ensure that financial resources, through the budget process, are focused toward marketing efforts.

In addition to concentrating on quality services, managers must use internal marketing strategies and train all employees who interact with the public to deliver quality customer service. Departments also must have a good service recovery plan, which focuses on turning a complainant into a contented customer.

Police administrators should take advantage of every opportunity to become a willing participant in local law enforcement and community organizations. Joining committees and participating in community groups increases the department's exposure and contacts.

The Marketing Staff

With any marketing effort, only employees with a positive attitude should reach out to the community and customers. To select someone for marketing efforts who does not express an interest in working with people can result in disaster. In fact, selecting the wrong officer can create the opposite of the department's intended effect and, possibly, lead to a negative impression about the department and its employees.

Regardless of rank, those officers who have positive attitudes, enjoy public speaking, can think on their feet when asked questions, and present a positive appearance for the department prove ideal candidates to work on marketing efforts. Adding bilingual staff to the resource bin also can help departments. Many parts of the country are experiencing a growth of minority groups; therefore, reaching out to them only enhances a department's marketing efforts.

Finally, while criminals will not consider contact with the police as a positive experience, it must remain one in which officers treat them fairly and with respect. This approach reduces complaints, results in fewer lawsuit-related legal expenses, and, possibly, brings more cooperation from arrestees.

CONCLUSION

The marketing available police services plan focuses on providing citizens with a positive experience. The concept can constitute an important component to improving and maintaining the image of a police department. For the marketing plan to be effective, agencies must understand, create, communicate, and deliver their services to community residents. Additionally, managers can use various tools in their marketing mix, such as the use of technology, collaboration with other agencies, and the appropriate selection of staff members.

While preventing and solving crimes is the mainstay of every police agency, knowing what community members expect beyond crime solving,

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Once agencies define their service population, they must survey their communities' needs.
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and then providing those services, can prove just as important for positive community relations with police. Implementing a police services marketing plan can be the mechanism to do so. ♦

Endnotes

¹ The author coined this phrase to describe the process he uses in his department.

² For descriptive accounts of CPA programs, see Elizabeth M. Bonello and Joseph A. Schafer, "Citizen Police Academies: Do They Do More Than Entertain?" *FBI Law Enforcement Bulletin*, November 2002, 19-23; Giant A. Aryani, Terry D. Garrett, and Carl L. Alsabrook,

"Citizen Police Academy: Success Through Community Partnership," *FBI Law Enforcement Bulletin*, May 2000, 16-21; Ellen G. Cohn, "The Citizen Police Academy: A Recipe for Improving Police-Community Relations," *Journal of Criminal Justice* 24 (1996): 265-271; Martin Alan Greenberg, "Citizen Police Academies," *FBI Law Enforcement Bulletin*, August 1991, 10-13; Ronald E. Ferguson, "The Citizen Police Academy," *FBI Law Enforcement Bulletin*, September 1985, 5-7.

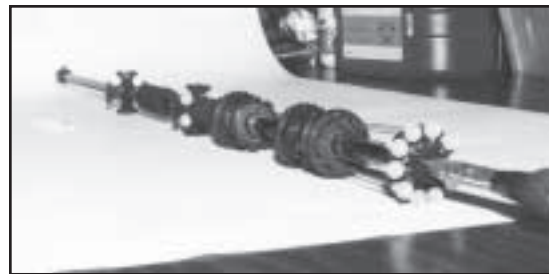
Chief Fazzini heads the College of DuPage Police Department in Glen Ellyn, Illinois.

Unusual Weapon

Handmade Blowgun

Officers with the Vacaville, California, Police Department confiscated this weapon, which had been made from a broken auto shade. The blowgun measured approximately 36 inches in length and was equipped with a front sight that was painted red. A folding rear sight was manufactured and attached approximately 10 inches behind the front sight with a sheet-metal screw. A piece of foam had been attached with electrical tape to form a mouthpiece. The 20 metal spokes used to turn the shade hardware had been converted into 4-inch metal darts. The tip of the darts had been filed to a sharp point, and the end of the darts had been equipped with a yellow plastic chute to catch the air when blown.

*Submitted by the Vacaville,
California, Police Department*



National Criminal History Improvement Program, 2002

The U.S. Department of Justice announced that it is awarding over \$36 million to the 50 states, District of Columbia, and three territories to improve the quality and accessibility of the nation's criminal history record systems. States can use the funds for a variety of purposes, including to strengthen their criminal record systems to support the nation's efforts to reduce crime and fight terrorism.

Funding, which is approved under the U.S. Department of Justice's National Criminal History Improvement Program (NCHIP), is administered by the Office of Justice Programs' (OJP) Bureau of Justice Statistics (BJS). The goal of NCHIP is to improve the nation's public safety by enhancing and upgrading the nation's criminal history records, which are used for background checks for firearms purchases, criminal sentencing, and employment in sensitive jobs. Since the program was initiated in 1995, the U.S. Department of Justice has awarded nearly \$391 million to the states and territories, which has led to a 23 percent increase in the number of criminal history records held nationwide and a 40 percent increase in the number of automated records available to law enforcement.

A list of projects undertaken by states with previous NCHIP awards is contained on the OJP Web site at <http://www.ojp.usdoj.gov/bjs/nchip.htm>. Additional information about BJS, NCHIP, or other OJP programs can be found on the OJP Web site at <http://www.ojp.usdoj.gov>.

Mediation Programs

Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders addresses the implementation, expectations, and evaluation of mediation programs. The mediation process focuses on solving problems by understanding the conflict and the stakeholders involved, not on placing blame. Mediation programs have been successful in settling disputes, but implementing them can be difficult. This Office of Community Oriented Policing Services guide by Samuel Walker, Carol Archbold, and Leigh Herbst examines how to deal with implementation obstacles and how to overcome police and citizen resistance to a mediation program. It also reviews a successful mediation process for communities considering developing a mediation program. Key issues, such as eligibility, cultural barriers, and creating a level playing field between the police and those involved in the conflict, are discussed. For availability and ordering information, contact the U.S. Department of Justice Response Center at 800-421-6770 or access the guide electronically at <http://www.cops.usdoj.gov/pdf/e04021486web.pdf>.

Public Safety Officers' Benefits and Educational Assistance Programs

The Public Safety Officers' Benefits (PSOB) program and the Public Safety Officers' Educational Assistance (PSOEA) program provide valuable benefits to the families of public safety officers whose deaths or permanent and total disabilities are the direct result of a traumatic injury sustained in the line of duty. The U.S. Department of Justice's Bureau of Justice Assistance (BJA) manages both programs.

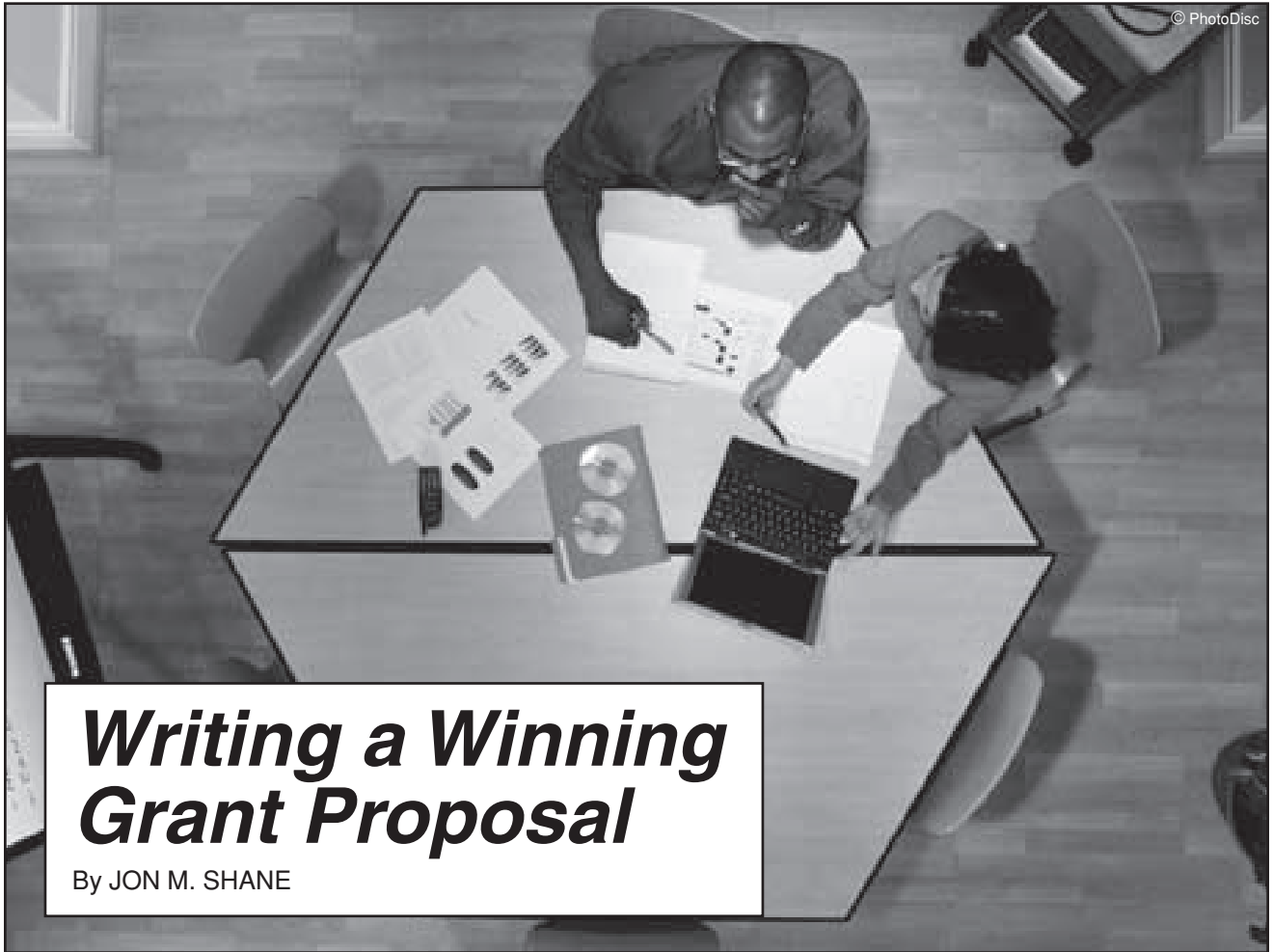
The PSOB program provides a one-time financial benefit to the eligible survivors of public safety officers. The program offers peace of mind to men and women seeking careers in public safety and makes a strong statement about the value American society places on the contributions of those who serve their communities in potentially dangerous circumstances.

Initially, the PSOB program provided benefits only to state and local law enforcement officers and firefighters. However, in 1984, it was expanded to include federal law enforcement officers and firefighters, and, since 1986, it has covered federal, state, and local public rescue squads and ambulance crews. PSOB program benefits are not subject to federal income tax, federal estate tax, or attachment by creditors. State and local benefits must not be reduced by benefits received under the PSOB Act, and the PSOB program benefit is not reduced by any benefit received at the state or local level.

The PSOEA program was established in 1998 to provide educational assistance to spouses and children of police, fire, and emergency public safety personnel killed or permanently and totally disabled in the line of duty. PSOEA program benefits may be used solely to defray educational expenses, including tuition, room and board, books, supplies, and education-related fees. Assistance under the PSOEA program is available for 45 months for full-time education or training or for a proportional period of time for a part-time program.

For additional information on these two programs, contact the Office of Benefits, Bureau of Justice Assistance, 810 Seventh Street, N.W., Washington, D.C. 20531, telephone 888-744-6513, fax 202-616-0314, e-mail: AskBJA@ojp.usdoj.gov. To obtain a copy of the July 2001 programs' fact sheets, access the Bureau of Justice Assistance's Web site at www.ojp.usdoj.gov/BJA.

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



Writing a Winning Grant Proposal

By JON M. SHANE

At a time when many communities, through their elected officials, are asking law enforcement agencies to do more with less, using grant funds to supplement departmental budgets provides a perfect route toward achieving their goals. Policing is an expensive endeavor, sometimes accounting for as much as 20 to 30 percent of a city's entire budget, with the police department often dedicating 90 to 97 percent of its budget to salaries and benefits. That leaves very few dollars for equipment or overtime to embark upon new initiatives. Grant programs,

however, can provide a source of relief for fiscally strapped cities and towns. Whether their law enforcement agencies are large or small, all communities can benefit from using grants.¹

During the 1970s, the Law Enforcement Assistance Administration (LEAA) began establishing grant programs. The LEAA program sought to improve the infrastructure and to bring about change within law enforcement agencies. Purchasing equipment, sharing technology, hiring personnel, and increasing training were the themes. Although much has changed since

the 1970s, much has not. These same themes continue to dominate most program strategies.

Improvement and change represent the key considerations of most grants. Whether a department's current methods and operations need improvement or its practices need to change to conform to contemporary standards, grants serve to bridge the gap between imagination and practice.

Receiving grant funds can prove advantageous. A combination of hiring initiatives and equipment purchases will improve service delivery while bolstering a

department's image and reputation. Moreover, the public is the indirect recipient of the grant award. A department's grantsmanship can have a profound effect on crime, the fear of crime, correctional measures and alternatives, juvenile delinquency, and the overall quality of life for every citizen the agency serves.

Conversely, disadvantages also can occur when applying for funding. The process can be labor intensive and involve conducting research, designing charts, obtaining letters of support, gathering endorsements, and forming partnerships. Then, should funding be awarded, the department must adhere to special conditions set by the funding source. Finally, the funding source monitors and tracks the grant. Did the department meet its intended goals? Did the department supplant?² Is the department at risk for an audit? The funding source also requires a myriad of different forms and reports—usually on a monthly, quarterly, and annual basis—all due amid the department's regular work, of course.

All too frequently, criminal justice agencies find themselves separated from the grant process because of inexperience. Where do we find the funds? How do we apply? What's expected of us? These questions come from *all* agency executives seeking grant funds for the first few times. The assumption is that when the chief says to the deputy chief, "I want you to apply for this grant. Just write it up and get it done," miraculously, the funding source will select *that* proposal over the 2,000 other proposals it

receives. Not so, grants are both competitive and often discretionary. To the uninitiated, writing competitive discretionary grants is intimidating. The entire research and writing process often appears to require a creative genius *and* may not result in an award. However, if departments follow some basic principles, they can learn not only *where* to seek funding but *how* to write a winning grant proposal and improve their prospects for obtaining some much-needed funds.

FUNDING SOURCES

Departments can contact a variety of funding sources, from federal and state agencies to private corporations. The most overlooked source is the private sector. Many companies have a philanthropic extension willing to fund projects and programs that represent their company's interests.³ Another source is the National Criminal Justice Reference Service (NCJRS), a

federally sponsored information clearinghouse for people around the country and the world involved with research, policy, and practice related to criminal and juvenile justice and drug control.⁴

When contacting the funding source, the department should ask for an RFP (request for proposal), the official announcement from the source indicating the availability of grant funds. The funding source may have many RFPs available. If so, a department should specify which RFPs it needs, such as ones for hiring personnel, purchasing equipment, or creating a special initiative for a target population. If the funding source states that it does not have an RFP that fits a specific program, then the department should request all available RFPs. Sometimes, the person receiving the call may not have sufficient training to interpret the request, possess a criminal justice background, or fully understand what

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Whether their law enforcement agencies are large or small, all communities can benefit from using grants.

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Captain Shane is the commanding officer of the Policy and Planning Division of the Newark, New Jersey, Police Department.

the caller actually means. Once the department receives the RFPs, it can digest the individual programs and determine whether funding is applicable.

LIFE OF A GRANT

The life of a grant begins with the decision to apply for funding. Usually, a member of the command staff or the chief executive first creates the interest (e.g., the desire to form a new anticrime task force, to enhance services for domestic violence victims, or to implement an overtime program for DWI). Once officials determine that their current operating budget is insufficient to harness the idea, the grant process begins.

Because the funding process can prove labor intensive and intimidating and depending on the jurisdiction's form of government and the level of bureaucracy, the grant development team may face a very cumbersome application process or, instead, one that flows rather easily. The typical grant application process involves about 15 steps that represent approximately 4 to 6 months of effort. In most situations, a department spends approximately 30 to 50 percent of the time waiting for the funding source to review the proposal. Departments must remember that if the funding source is a government entity, it receives hundreds, possibly thousands, of applications from agencies around the country. The source must account for each proposal, assign each one to a reviewer, and ensure that each proposal completes the review process (i.e., gets accepted or rejected for funding)

before, finally, making the award announcement.

Whatever the process, the grant development team should not become discouraged. The rewards, both personal and organizational, are tremendous. A great sense of accomplishment occurs when the team submits the final draft request and receives the award letter congratulating the department.

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Support for the program can come from a variety of origins, such as authorities, concrete examples, or statistical illustrations.
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INFORMATION COLLECTION

Before beginning the writing process, the department should gather sources of information and conduct a literature review on the topic. An excellent starting place is the grant writer's own knowledge and experience. Life experience (particularly within a person's profession) provides riches from which to draw information. The various assignments grant writers may have held throughout their careers, along with their educational pursuits or other jobs, all contribute to their personal libraries of information.

In addition, a natural corollary flows from using personal

experiences to using the knowledge of others. Therefore, grant writers should consider conducting interviews. First, they should define the purpose of the interview. After preliminarily researching the topic, they should select potential interviewees, targeting those at the top (e.g., executives, administrators, division heads, section chiefs, and directors). Such individuals likely will have a broad understanding of the policies, issues, and procedures on the topic in question. Often, they can provide grant writers with specific information necessary to the proposal, and, if not, they at least can identify the correct person to contact.

Probably, the most convenient and extensive way to gather materials is via the Internet, using meta search engines⁵ to reduce the amount of time spent researching the topic. Moreover, every accredited college or university has a Web site. Also, NCJRS and the National Council on Crime and Delinquency (NCCD) collection, along with local libraries' reference sections, provide other places to assemble materials. Finally, research groups dedicated to improving policing can offer indispensable information to grant writers.⁶

SUPPORTING DATA

After gathering resource materials and beginning the writing process, it then becomes necessary to garner support for the idea. Support for the program can come from a variety of origins, such as authorities (subject-matter experts), concrete examples, or statistical illustrations.

Sample Goals and Objectives

Goals

- To reduce narcotics complaints by 25 percent within the first 6 months
- To secure guilty pleas or convictions in 80 percent of all cases

Objectives

- To deploy the Tactical Narcotics Team, which will use covert surveillance techniques within the target area, for the first 8 weeks
- To deploy the Special Investigation Unit, which will conduct undercover (UC) and confidential informant (CI) narcotics “buy” operations within the target area, for the first 12 weeks
- To deploy the Special Investigation Unit, which will apply for search warrants at locations within the target area in response to the UC and CI intelligence, throughout the duration of the program
- To employ the Emergency Response Team, which will execute all search and arrest warrants within the target area, throughout the duration of the program
- To assign a special narcotics prosecutor, who will investigate and prosecute all individual cases as part of a RICO scheme when the case involves a firearm or the weight of the contraband seized equals or exceeds 1 U.S. pound, throughout the duration of the program
- To assign uniformed patrol officers, who will conduct situational crime prevention operations for those locations within the target area that are responsible for 10 or more calls for service, during the last 15 weeks of the program

Authoritative Support

For nearly every program that a department can conceive, an authoritative documented source exists that will support the concept.⁷ Grant writers use authoritative support when they cite respected authors or publications on the topic under consideration. This demonstrates that the department is not just espousing a theory or advancing a supposition but showing that recognized authorities have studied the topic scientifically or proven the theory. Most people are influenced by the testimony of others when dealing with unfamiliar topics. The reader (in this case, the review team) will tend to respect the direct quotations or paraphrased

statements of authorities because of the special knowledge or experience that these individuals possess about the topic in question.

Concrete Examples

“Research has shown that vivid, concrete examples have more impact on [readers’] beliefs and actions than any other kind of supporting material.”⁸ With examples, ideas become specific, personal, and lively.⁹ Grant writers can use two types of examples, factual and hypothetical. A factual example describes a true incident as it relates to the proposal. A hypothetical example, on the other hand, depicts an imaginary situation (often, fiction based on fact) that relates to the

general principle of the proposal. By using a hypothetical example, the grant writer creates a realistic scenario related directly to the proposal and captivates the reader (again, the review team). Then, by incorporating real statistics into the example, the writer gives the perception that this undoubtedly could happen in real life. Indeed, the grant writer *should* use statistics to support a hypothetical example so that it does not seem too far-fetched.

Statistical Illustrations

Because this is an age of statistics, expressing what actually is meant numerically often gives others a sense of security in their own knowledge. It also affords the

reader the opportunity to visualize the intensity of what is being said or to feel the impact of a particular problem. A widely shared belief infers that when used properly, statistics offer an effective way to clarify and support ideas. To avoid falling victim to unreliable statistics, grant writers should ask two questions: 1) Are the statistics from a reliable source? and 2) Are the statistics representative? If the answer to either of these questions is no, then the writers risk misrepresenting what they wish to portray.

Primarily, grant writers should use statistics to quantify ideas and give them numerical precision. Whenever possible, the writers should include visual aids to clarify statistical trends. A simple pie chart, time line, or bar graph will show the relationship between a time period and the particular social condition.

ETHICAL CONSIDERATIONS

The goal of grant writing is to receive funding—but not at any cost. Writing, a form of power, carries a heavy ethical burden. People will be influenced and persuaded by presentation. This is how one department’s proposal receives funding over the others. The question of ethics in grant writing usually centers around the writer’s goals and methods.

Grant writers must make sure that their goals are ethically correct. As criminal justice professionals and (probably) government representatives, grant writers who laud worthless or wasteful programs place their departments on shaky ethical ground. Similar caution extends to the writer’s methods as

well. Even if the goals are ethically correct, grant writers are not being ethical if they employ cheap and careless methods. Basically, this signifies that the “ends do not justify the means.” Writers should review five recognized considerations for ethical grant writing.

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Primarily, grant writers should use statistics to quantify ideas and give them numerical precision.

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1) Subject awareness: Grant writers have an obligation to themselves, the granting agency, and the public they serve. They must understand the program for which the department is applying and how it relates to the city, the department, and its mission or vision statement. *Service* is the credo, not self-service.

2) Honesty: Writers must remain cognizant of the temptation to distort facts and figures for their own purposes. Responsible writers do not falsify facts, present few facts as representative of the whole picture, or use tentative findings as conclusive evidence.

3) Valid reasoning: Responsible grant writers take affirmative steps to avoid making

hasty generalizations, asserting casual connections where none really exist, using invalid or absurd analogies/examples, and yielding to prejudices.

4) Sound evidence: A grant that is awarded is not full of “fluff.” It contains real circumstances supported by qualified, objective sources and avoids plagiarizing.

5) Plagiarizing: Generally, grant proposals are a collaboration between the writers and their sources. To be fair and ethical, the writer must acknowledge borrowing another person’s ideas and words by documenting the source. To borrow without proper documentation constitutes a form of dishonesty known as plagiarism. Plagiarism occurs in two forms: 1) borrowing someone else’s ideas, information, or language without documenting the source and 2) documenting the source but paraphrasing the source’s language too closely, without using quotation marks to indicate that the writer borrowed the words and phrases.¹⁰ Writers should consult a reputable writing handbook and give credit where credit is due. In short, if they use another person’s material, they must cite it.

WRITING PROCESS

Needless to say, the process of actually writing the grant will test the writer’s determination and creativity, but can coalesce into a comprehensible, meaningful, and persuasive document that brings

money into the department. Grant writers are selling something—a concept, a belief in their cities and departments. They must convince people to invest in them because they have a worthwhile service to offer. Therefore, grant writers should draft their proposals with the two basic principles of presentation and content at the forefront.

Presentation

Presentation probably represents the single most salient feature of grant packages because no second chances exist in first impressions. Therefore, the grant writer should—

- create the document on a quality word processing program, *never* handwrite the proposal;
- put headers and footers in the document and number each page;
- use letterhead with original signatures and never fold or crease the paper;
- print in color, but do not make the document gaudy with too many different colors;
- include charts and graphs to depict data;
- organize the document logically and according to RFP requirements;
- grammar check and spell check the document and have it proofread by another person;
- bind the document in quality material; and, most of all,
- follow the instructions offered by the funding source.

Content

Content includes the language, grammar, and punctuation that the writer employs. Words are the tools of the writing craft. Writers must choose the right words for the task they want to accomplish. They should not use words unless they



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know their meanings. If uncertain, writers should check the dictionary. They also should vary their words, but not use complicated ones, except when explaining or clarifying difficult subjects (e.g., DNA testing procedures, forensic science materials, or computer equipment). Writers always should use bias-free language. They should not refer to all members of an occupational group with a masculine pronoun. Instead, they should say *he* or *she* or change the noun to plural and use the pronoun *they*. Writers should work with the eight parts of speech—nouns, pronouns, verbs, adjectives, adverbs, prepositions, conjunctions, and interjections—recognized as the traditional parts of English grammar. Finally, writers should ensure that they correctly

employ all of the common punctuation marks, including the period, comma, exclamation point, question mark, semicolon, and colon.

PROPER ORGANIZATION

The funding source sets the substantive provisions of the grant. These will vary among sources, but all have the basic requirements of the problem statement, goals and objectives, program strategy, and budget narrative. Other substantive requirements that funding sources may desire include management structure, organizational capability, an abstract, a curriculum vitae of each participant, matching funds requirement (local match sources), projected milestones or accomplishments, geographic location, a statement of the program's anticipated contribution to criminal justice policy and practice, the program's continuation and retention, additional resource commitments, and a statement of the program's contribution to the state's strategy (Byrne formula).¹¹

Because many departments seeking grant funds do not follow a predefined format, their applications may not flow logically. By following some simple steps, however, grant writers can ensure that their proposals have a smooth continuity, thereby increasing their chances of obtaining an award.

Cover

Grant writers should design a bold and attractive cover that includes the name of the grant, a subtitle if necessary, the names of both the grant program and the funding source, the date of submission, the

city and state, and the department's name. They should use graphics and color to heighten the appearance of the cover.

Table of Contents

Grant writers always should include a table of contents so reviewers can refer easily to a specific provision without fumbling through each page. They should use an outline format and indent the subsections for clarity.

Abstract

Some funding sources require an abstract, a one-page description of what the program proposes to do and the expected results. It summarizes the important points of the program and highlights the key aspects of the problem statement, the program description, and the goals and objectives.

Problem Statement

The problem statement is the bedrock upon which all else rests. If no problem exists, the department needs no funding. Grant writers should set a historical perspective that leads from the beginning of the problem, through different time periods, and up to the current condition. If it is a crime problem, insofar as possible, they should make a correlation between the crime problem and an underlying criminological theory (e.g., rational choice, routine activities, social disorganization, or conflict). Also, writers should identify the antecedents that preexisted or currently coexist with the crime problem. They should use statistics and a variety of charts to bolster their claims and extract percentages, show rates, and add trend lines.

Goals and Objectives

Often used interchangeably, goals and objectives, in fact, are two distinct criteria that must be met. A goal is a broad general statement explaining what the grant program is expected to accomplish. Goal statements often start with an action indicator, such as *to* or *will*

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The goal of grant writing is to receive funding—but not at any cost.

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(e.g., to reduce inmate population, to decrease fear of crime, will strengthen community partnerships, will minimize the temptation to join a gang). By contrast, objectives are specific, precise, and exact statements that lead step by step to the achievement of the goals. Four elements of an objective—subject, assignment, condition, and standard—must be met for it to be measurable.

1) The subject represents *who* is tasked with doing something (e.g., the tactical narcotics team, the patrol division, the municipal court system). The subject is the element or person that will be responsible for accomplishing what the program is designed to do.

2) The assignment depicts *what* the subject is to do (e.g., to effect arrests for curfew

violations, to expedite incoming prisoners, to conduct a workload analysis). The assignment, an action, explains the specific task (or responsibility) required of the subject in question.

3) The condition denotes the given *circumstances* under which the task must be performed. Conditions, either environmental or situational (e.g., in the field, at the domestic violence advocacy center, in the county jail), explain how, where, and with what the assignment is to be done. Because the condition represents the “given” circumstances under which the assignment will be performed, the objective often contains that word (e.g., Given a cellular telephone, the neighborhood patrol officer will....).

4) The standard specifies *how well* the task must be accomplished. The standard defines what the expected or anticipated results will be (e.g., without error, with 90 percent accuracy, according to approved agency policy and procedure, within the first month).

Program Strategy

The program strategy is the specific method or activities that the department will employ for the duration of the grant program. In this section, the grant writer must provide a clear statement of how the department is going to organize and administer the project to meet the intended goals and objectives. The writers should confer with the

Funding Sources

Federal

Bureau of Justice Assistance (BJA)
1-800-421-6770
<http://www.ojp.usdoj.gov/BJA/>

**Office of Juvenile Justice and
Delinquency Prevention (OJJDP)**
202-307-5911
<http://ojjdp.ncjrs.org/>

**National Institute of
Corrections (NIC)**
1-800 995-6423
<http://www.nicic.org/>

**The Office of Community Oriented
Policing Services (COPS Office)**
1-800-421-6770 or
202-616-3031
<http://www.usdoj.gov/>

Office for Victims of Crime (OVC)
1-800-627-6872
<http://www.ojp.usdoj.gov/ovc/>

National Institute of Justice (NIJ)
1-800-851-3420
<http://www.ojp.usdoj.gov/nij/>

State

Contact the state's "administrative agency for assistance." For example, in New Jersey, it is the State Division of Criminal Justice, and, in California, it is the Office of Criminal Justice Planning.

The state's administrative agency is responsible for passing through federal funds to local jurisdictions. Often, the federal government does not make funds directly available to the local jurisdiction. Instead, the federal government passes the money to the administrative agency, which then disseminates it to the local jurisdictions.

A significant source of funding for programs on a state level is the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Byrne Formula Grant). Contact the state's administrative agency to obtain a copy of this program.

Private

There are thousands of private foundations that fund hundreds of program areas each year. Besides the Internet or the library as a research mechanism, companies, such as Research Grant Guides (P.O. Box 1214, Loxahatchee, FL 33470, 561-795-6129), publish resource guides to assist agencies in targeting only those foundations awarding programs in a particular geographical area.

Such guides are extremely useful. First, they are categorized so agencies only need to review the guide for the category for which they are interested (e.g., equipment grants, building grants, social service grants). Then, they are arranged by state, further organizing each guide into a comprehensible format.

various departmental elements involved in carrying out the plan and identify what each is prepared to commit (e.g., 15 police officers from the drug squad, 1 municipal prosecutor dedicated to the program, 5 street sweepers from the sanitation department for neighborhood clean up, and 3 drug and alcohol counselors from social services). If required by the RFP, the grant writer must identify specific individuals who, by virtue of training and experience, will carry out portions of the program and attach their resumes. In short, this section requires that the writer states the means that the department will use to achieve the ends.

Budget Narrative

The budget narrative details a comprehensive itemization and explanation of the costs incurred from the administration and implementation of the program. Budgeted expenses must be reasonable, allowable, and cost-effective for the activities proposed in the program strategy. The budget narrative also must describe and explain how each particular item was calculated. Typical budget categories include personnel, fringe benefits, travel, equipment, supplies, contracts, utilities, construction, indirect costs, and consultants. When creating the budget, the department must not overlook one important issue—the budget must be in proportion to the goals and objectives. Often, the goals of the project far exceed the funds being requested, thus making the goals unattainable. This is known as the *reasonableness* requirement of the budget.

Appendix

Often, a grant application has a page restriction limiting the narrative portion. If this is the case, writers should include an appendix that contains all of the charts, tables, and supporting documents. They should not waste valuable space in the actual narrative section, but append all supporting materials and use an

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Departments can contact a variety of funding sources, from federal and state agencies to private corporations.

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in-text citation (e.g., see chart 1 in appendix). In this way, writers can include organizational charts setting forth specific elements, flowcharts depicting a particular process, Gantt charts¹² denoting a sequence of events and milestones, and additional statistical data. A variety of off-the-shelf, user-friendly software applications exist for creating charts and diagrams. These programs can illustrate complex processes and strategies and can present ideas and information with greater impact through the power of clear visual communication.

CONCLUSION

Whenever criminal justice agencies are tasked with addressing a problem, they should consider the

grant process as a viable solution. They can use grants to start new initiatives or supplement existing ones. Funding sources disperse millions of federal, state, and private funds every year, but agencies have to enter the process to win the award.

If grant writers apply the basic principles of researching, writing, and organizing to the process, they will add strength and credibility to their applications. And, once the award letter comes congratulating the agency on winning the grant, they can proclaim proudly that their efforts directly contributed to successfully gaining some much-needed funds for their agency to create or maintain quality programs to safeguard their community. ♦

Endnotes

¹ Since 1993, the author has sought and received nearly \$40 million in federal and state funding for his agency and community.

² Grant funds always must supplement the city's budget, not supplant the previously authorized budget. Supplanting can occur in several ways, most commonly when the agency uses grant funds *in place of* previously appropriated funds. For example, a city has appropriated \$3 million for vehicles. Its police department then receives a grant for \$3 million and purchases vehicles from grant funds and does not buy any vehicles from the previously budgeted funds. The department just *supplanted* the original funds with the grant funds. This always is impermissible and may result in the city having to return that portion of the funds that was supplanted. Other more subtle ways of supplanting also can occur. If cities are not certain about whether they are supplanting, they should contact the funding sources and pose their scenarios to them.

³ A project, usually short in duration, has a narrow purpose (e.g., to computerize the department or to replace the department's fleet). Normally long in duration, a program is a system of opportunities designed to meet a

social need (e.g., a quality-of-life issue or an auto-theft-suppression effort). Private companies enjoy associating their names with projects and programs that reflect their business (e.g., insurance companies often donate vehicles, while computer firms provide hardware and software).

⁴ For more information, contact NCJRS at <http://www.ncjrs.org> or at 800-851-3420.

⁵ A meta search engine, an Internet "search engine of search engines," accesses several other Internet search engines at the same time for the information requested. This covers more territory with one request as opposed to having to go through each individual search engine.

⁶ For example, the Police Foundation, an independent and unique resource for policing, acts as a catalyst for change and advocate for new ideas and has a Web site at <http://www.policefoundation.org>. Also, the Police Executive Research Forum (PERF), a national membership organization of progressive police executives from the largest city, county, and state law enforcement agencies, is dedicated to improving policing and advancing professionalism through research and involvement in public

policy debate. Its Web site is <http://www.policeforum.org>. Both organizations have conducted studies, such as *The Newark Foot Patrol Experiment*, *The Kansas City Preventive Patrol Experiment*, *Racially Biased Policing: A Principled Response*, and *The Police Response to Gangs: Case Studies of Five Cities*, and have compiled publications on preparing grant proposals.

⁷ For example, if the program is a patrol augmentation program, grant writers could consider authors, such as Charles D. Hale or Tony Pate; for a community policing program, they might try authors Robert Trojanowicz, James Q. Wilson, and George L. Kelling; for a problem-solving or situational crime prevention program, they could review works by Ronald V. Clarke, Marcus Felson, or Herman Goldstein; for a juvenile justice program, they might consider authors John T. Whitehead and Steven P. Lab; and for a supervision program, they could look at works by Nathan F. Iannone. These individuals represent some of the most influential academics and practitioners who have used scientific methods to lend credibility to the social sciences, particularly policing.

⁸ Thomas R. Kobella, Jr., "Persuading Teachers to Reexamine the Innovative Elementary Science Programs of Yesterday: The Effect of Anecdotal Versus Data Summary," *Journal of Research in Science Teaching* 23 (1986): 437-449.

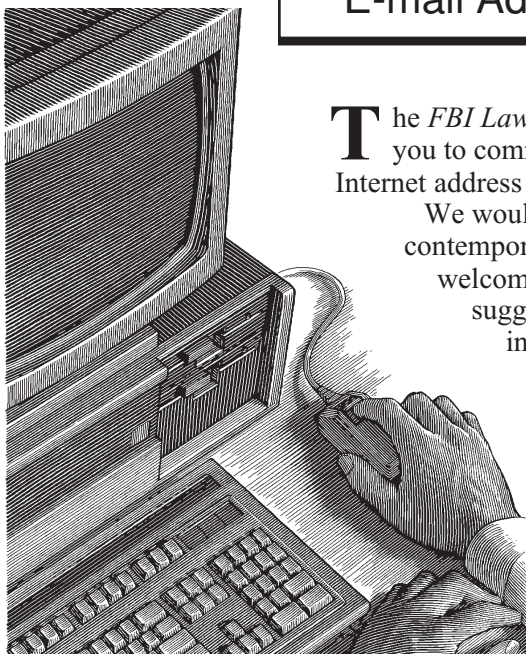
⁹ For example, the Bible is an extraordinary source of examples where stories, parables, and anecdotes make abstract principles clear and compelling.

¹⁰ Diana Hacker, *The Bedford Handbook for Writers* (New York, NY: St. Martin's Press, 1991).

¹¹ Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grants, Office of Justice Programs, Bureau of Justice Assistance, U.S. Department of Justice, Washington, DC 20531; contact the State and Local Assistance Division at 202-305-2088 or access <http://www.usdoj.gov>.

¹² In 1917, Henry L. Gantt, an American engineer and social scientist, developed a horizontal bar chart as a production control tool to provide a graphical illustration of a schedule that helps to plan, coordinate, and track specific tasks in a project.

The *Bulletin's* E-mail Address



The *FBI Law Enforcement Bulletin* staff invites you to communicate with us via e-mail. Our Internet address is leb@fbiacademy.edu.

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Book Review



Enduring, Surviving, and Thriving as a Law Enforcement Executive edited by Thomas J. Jurkanin, Larry T. Hoover, Jerry L. Dowling, and Janice Ahmad, Charles C. Thomas Publisher, Springfield, Illinois, 2001.

Enduring, Surviving, and Thriving as a Law Enforcement Executive shares extensive insights, perspectives, suggestions, warnings, concepts, and ideas that codify over 400 years of wisdom of the day-to-day experiences related to the law enforcement profession. The book contains contributions from 20 experienced law enforcement executives edited by four other veterans of the profession.

It represents an excellent work for the newly appointed, as well as experienced, chief of police, sheriff, law enforcement manager, or supervisor. The authors greatly emphasize law enforcement executives' function in their communities, their interfacing with political institutions, and their roles in law enforcement and general public administration.

Due to the extensive experience of the authors, they ably identify several compelling points. These include executive management rights in collective bargaining, major observations for good employee relations, and five political statesmanship blueprints. The authors also offer several law enforcement executive mission and strategy assessments, as well as points on

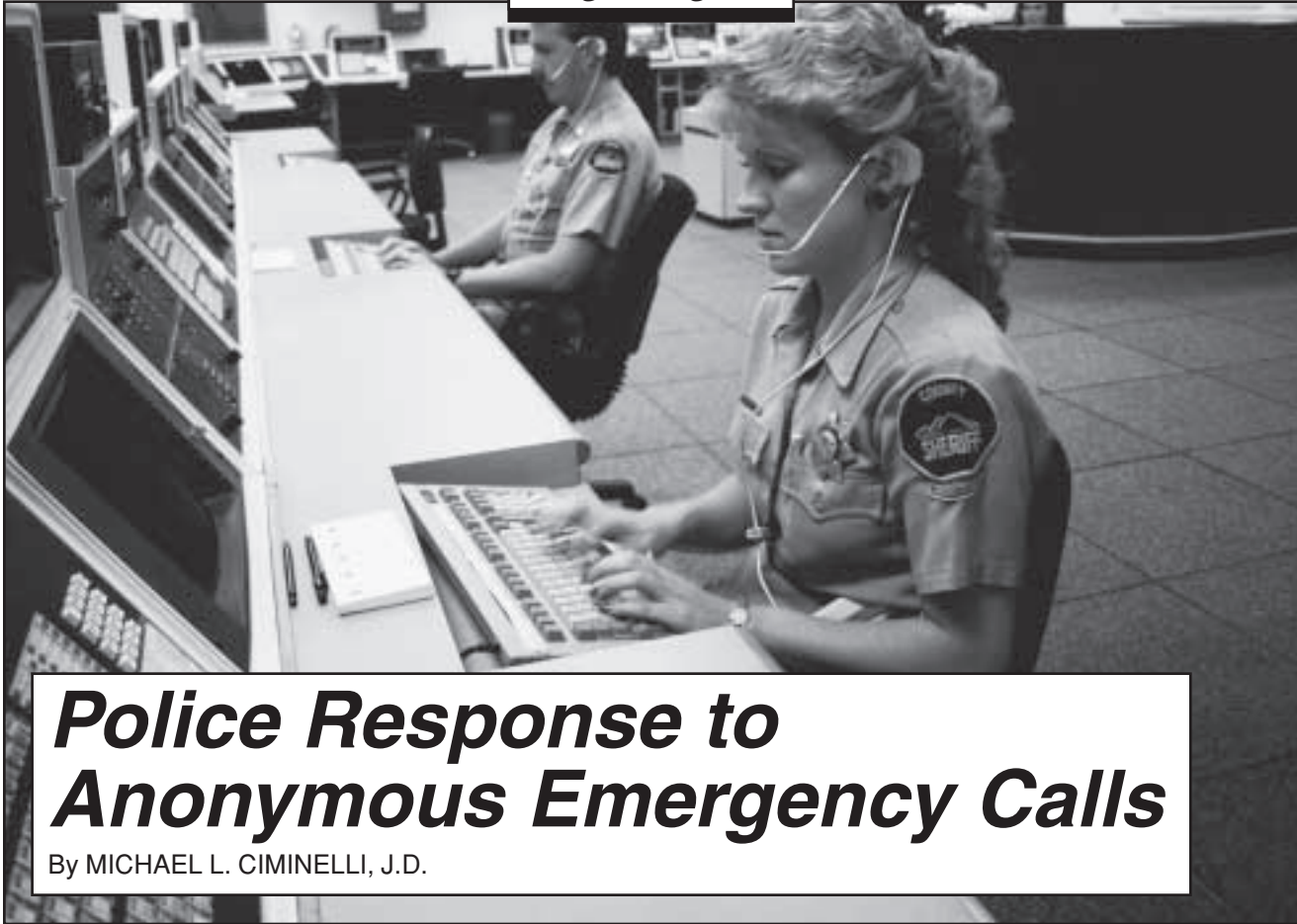
community-oriented policing, organizational values, and the management of important components of legal liabilities and technology interface and use supported by critical incident planning and management application.

The book contains a list of 10 commandments that pertain to the personal and professional conduct of executives along with a number of ways to minimize personal civil liability, including those areas of prime potential for lawsuits. It also provides a list of 10 characteristics for cultivating quality principles in policing and identifies their strengths and weaknesses. A 5-day training course curriculum for newly appointed law enforcement executives or experienced administrators and their managers and supervisors constitutes a compelling contribution that the book makes to the law enforcement community.

The final chapter entails an outline on media relations to assist in maintaining the success of law enforcement executives, managers, and supervisors. In addition, the chapter includes monitoring ideas to measure the public's attitude toward an agency's operations and implemented policies and identifies several critical priorities of an effective law enforcement executive.

Enduring, Surviving, and Thriving as a Law Enforcement Executive will appeal to law enforcement executives at all levels, local government officials, state and local district attorneys, and planning and financial administrators. It also would interest law enforcement executive development schools, national police institutes, and initial and in-service executive training programs. Overall, the book is a critical and helpful compilation of the concepts and ideas used and being tried by some of the best executives in the law enforcement profession.

Reviewed by
Larry R. Moore
Certified Emergency Manager
International Association of
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Police Response to Anonymous Emergency Calls

By MICHAEL L. CIMINELLI, J.D.

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Police officers in the United States respond to numerous and diverse calls for service on a daily basis, often using the nationally recognized “911” emergency number. One court has noted that “[a] 911 call is one of the most common—and universally recognized—means through which police and other emergency personnel learn that there is someone in a dangerous situation who urgently needs help.”¹ In many such cases, callers identify themselves and are available to provide additional information to responding officers. Not only does this information assist the police in assessing the situation and developing the safest and most effective tactical approach, but an

identified caller also helps establish the lawful basis for police action.

Anonymous callers, on the other hand, are not available to provide critical additional information. Thus, determining the proper police response to anonymous emergency calls is more difficult. Furthermore, warrantless, nonconsensual entries into private premises by police officers in response to anonymous calls or reports of an emergency are particularly fraught with legal issues.²

Some anonymous calls may be placed maliciously and convey false information for the purpose of harassing, annoying, or retaliating against another. However, the courts have acknowledged that there may be understandable and

legitimate reasons for anonymous 911 calls: such calls are distinctive in that they concern contemporaneous emergency events, not general criminal behavior. Additionally, the exigencies of the emergency situations often limit the ability of the caller to convey extraneous details, such as identifying information. Furthermore, some callers, particularly neighbors, may be understandably reticent to give identifying information for fear of retaliation.³

THE EMERGENCY EXCEPTION

Many 911 calls result in police officers entering a person’s home. A person’s home enjoys the highest levels of protection from

government intrusion under the Fourth Amendment to the U.S. Constitution.⁴ The U.S. Supreme Court has emphasized that “physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.”⁵ Thus, the general rule is that “searches and seizures inside a home without a warrant are presumptively unreasonable.”⁶ Nonetheless, the Supreme Court has established a few narrowly crafted exceptions to the warrant requirement. These exceptions allow the police to act when “the public interest require[s] some flexibility in the application of the general rule that a valid warrant is a prerequisite for a search.”⁷

Under one such exception, officers may conduct a warrantless, nonconsensual entry and search of a residence when, due to exigent circumstances, there is insufficient time to obtain a search warrant. The Supreme Court has recognized the

following emergency exceptions to the search warrant requirement: 1) prevent escape;⁸ 2) prevent harm to the officers or others;⁹ 3) prevent the destruction of evidence;¹⁰ 4) hot pursuit of a criminal suspect;¹¹ and 5) to render immediate aid to a person in need of assistance.¹² This article focuses on police actions to render immediate aid to a person in need of assistance because many 911 calls to the police involve such emergencies.

The Supreme Court has noted that “[n]umerous state and federal cases have recognized that the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid.”¹³ Thus, a “warrantless entry by criminal enforcement officials may be legal when there is compelling need for official action and no time to secure a warrant.”¹⁴ In such situations, the police are acting to

assist persons in distress, rather than seeking to make an arrest or seize evidence.¹⁵

JUSTIFYING THE EMERGENCY

To make a lawful warrantless, nonconsensual entry and search to render aid, the police must “reasonably believe” that an emergency situation exists requiring immediate police intervention.¹⁶ Most courts have interpreted this to mean officers must have probable cause.¹⁷ A federal appellate court has explained that “[p]robable cause for a forced entry in response to exigent circumstances requires finding a probability that a person is in ‘danger.’”¹⁸ One commentator has summarized the prevailing test used by many courts to review emergency warrantless, nonconsensual entries and searches as 1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; 2) the search must not be motivated primarily by intent to arrest and seize evidence; and 3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.¹⁹

The language used by the courts to describe the amount of knowledge officers must have to justify an emergency entry and search often is confusing. In the test summarized above, the commentator used the phrases, “reasonable grounds to believe” and “reasonable basis approximating probable cause.” One federal appellate court has explained that to justify an emergency entry “requires finding a



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“ Cases upholding police entries and searches in response to anonymous calls typically rely upon one or more factors that corroborate the anonymous report sufficiently to justify police actions. ”

probability that a person is in ‘danger.’”²⁰ It often is difficult to determine if courts are talking about reasonable suspicion, probable cause, or something in between, as the proper test.

Two conclusions can be drawn. First, courts likely will be flexible when they assess officers’ actions in response to emergencies. They recognize that officers must act quickly, often upon ambiguous, incomplete information.²¹ Courts understand that “police officers must be given authority and flexibility to act quickly, based on limited information, when human life is at stake.”²²

Second, regardless of the standard courts use to assess police response to emergencies, no warrantless, nonconsensual, emergency entry will be approved unless officers can cite specific facts, combined with their training and experience, that led them to reasonably conclude that an emergency existed justifying their entry. Unsupported and unexplained claims of emergencies will not suffice.²³ Information acquired after the emergency entry cannot be used to justify the initial entry.²⁴ Conversely, even if officers turn out to be wrong and no emergency actually existed, it will not make their entry unlawful so long as they acted reasonably in light of the information they possessed when the entry was made.²⁵ Meeting this burden is especially difficult, but not impossible, when the information comes available to officers from an anonymous source.²⁶

The scope of the emergency search “must be ‘strictly circumscribed by the exigencies which

justify its initiation.”²⁷ For example, if the emergency involves an entry to search for and aid injured persons, a search of desk drawers is unreasonable and risks not only suppression of any evidence found but also a possible civil suit for violation of the Fourth Amendment.²⁸ Of course, during any lawful emergency search, officers may seize without a warrant items in plain view that they have probable cause to believe are evidence or contraband.²⁹

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...courts likely will be flexible when they assess officers’ actions in response to emergencies.

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NEED FOR CORROBORATION

Several courts reviewing the police response to anonymous calls have held that the police actions were unlawful. In most of these cases, the court’s decision was predicated on a finding that the police lacked probable cause or reasonable grounds to believe that their entry or subsequent search was necessary to respond to an emergency situation. A common thread in these cases is that the police, at least in the opinion of the reviewing court, failed to take adequate steps to

corroborate the reliability of an anonymous tip before acting.³⁰ For example, in *Kerman v. City of New York*,³¹ police received an anonymous 911 call that “a mentally ill man [at a specified location] was off his medication and acting crazy and possibly had a gun.” The federal court held that “[b]ased on the absence of evidence in the record to corroborate the 911 call and the protections afforded to private dwellings under the Fourth Amendment...the officers’ warrantless entry into [the] apartment violated the Fourth Amendment.”³²

In another case, *Alexander v. Commonwealth*,³³ officers responded to an anonymous 911 call from a motel about a woman being held against her will in a specified room. Several police officers went directly to the room and knocked on the door. The door was opened, and police observed four persons inside the room, including one woman. With guns drawn, the police immediately entered the room. Police seized a handgun and cocaine from one occupant’s pocket. The court held that the officers lacked probable cause, and the gun and cocaine were suppressed.³⁴ The court noted that “[u]pon arriving, the officers did not inquire at the front desk or make an independent investigation in an effort to verify the unsubstantiated report that a crime might be occurring.”³⁵ Similarly, in *North Dakota v. DeCoteau*,³⁶ the police were dispatched to an anonymous call of a domestic disturbance. Upon arrival, some children outside told the police that they had heard glass breaking. The officers observed a broken window, but took no steps to determine if the break

was recent and immediately entered the house without consent. Under these facts, the court found that there was “no emergency requiring swift action to prevent imminent danger to life or property.”³⁷

The courts will examine exactly what information is conveyed by an anonymous call in determining whether the police had reasonable grounds to believe that there was an emergency requiring immediate action. For example, in *Feathers v. Aey*,³⁸ officers received an anonymous call that a man on a porch yelled an obscenity at a passerby, appeared drunk, and pointed something unknown at the caller. Officers responded and immediately detained a man on his front porch and patted him down for weapons. The man later sued the officers. The court held that the stop was improper, noting that the officers detained the man “solely on a tip from an anonymous source... [and] the tip itself [gave] no clear indication of criminal activity.”³⁹

In *United States v. Fisher*,⁴⁰ an anonymous caller reported a woman named “Cathy” had been abducted and was being forced into room seven at a specified motel. The caller promised to wait in front of the motel for police. Police officers responded to the motel; the caller was not present as promised. The officers knocked on the door of room seven. The door was opened, and the officers immediately handcuffed the two male occupants. From the doorway, the officers could observe the entire motel room except the bathroom. From this vantage point, they did not see any woman, firearms, or other evidence of unusual activity, nor did they

hear any unusual noises. Without seeking consent, knocking, or making an announcement, one officer, with his weapon drawn, went directly to the bathroom and opened the door. The officer found the defendant sitting on the toilet with his pants down. The officer handcuffed the defendant and escorted him out of the bathroom. The officer then reentered the bathroom and looked in the trash can, finding a firearm.

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The court held that the police entry and search in this case violated the Fourth Amendment. The court gave several reasons for this holding. First, the court noted that the anonymous caller’s dispassionate tone of voice was reason for some doubt. Second, although the caller promised to wait for police outside the motel, he did not do so. Third, the officers heard no screaming or unusual noises, and discovered nothing outside the motel that would suggest any criminal conduct. Fourth, the officers did not see a woman when the room door was opened. Finally, even if the tip had been credible and justified a preliminary search of the hotel

room and bathroom, the officers exceeded the permissible scope of the search by looking into the trash can. Once the bathroom door was opened, it was evident there was no woman in the room, and reentering the bathroom to search the trash can was more intrusive than necessary to resolve the supposed danger.⁴¹

SUCCESSFUL CORROBORATION

Cases upholding police entries and searches in response to anonymous calls typically rely upon one or more factors that corroborate the anonymous report sufficiently to justify police actions. These factors include police observations or conditions found upon arrival at the scene; prior knowledge of the persons, location, or area involved; and steps taken by police to investigate the circumstances before making an entry.

Personal Observations

In *United States v. Holloway*,⁴² the police received two anonymous 911 reports of gunshots and arguing at a specified location. After arrival at the motor home specified in the anonymous calls, the police encountered three adults, one of whom was unresponsive to the officers’ commands. After securing the persons present outside the mobile home, a police officer stepped onto the porch and observed and seized a shotgun and then continued to search the house for possible shooting victims. The court held that “[u]nder the circumstances known to them at that time, the officers reasonably believed an emergency situation justified a warrantless search of appellant’s home for

victims of gunfire.”⁴³ The court reasoned that “when an *emergency* is reported by an anonymous caller, the need for immediate action may outweigh the need to verify the reliability of the caller.”⁴⁴

If officers hear sounds of violence or fighting at the scene of an anonymous report of a disturbance, most courts will find probable cause or reasonable grounds to believe that exigent circumstances exist. For example, in *Ohio v. Applegate*,⁴⁵ officers were dispatched to an anonymous call reporting domestic violence. Upon arrival, they heard yelling, arguing, and bumping noises, as if furniture was being turned over, from inside the reported address. They entered the residence through a partially open doorway and confronted the defendant holding a whiskey bottle. He refused police commands to put down the bottle, and he was arrested after a scuffle with the officer. While being booked at police headquarters, cocaine was found in the defendant’s pocket. The court upheld the police entry in this case, stating that based upon the call to the police and the sounds indicating violent activity was taking place, “[t]he movements of the officers were conservative, prudent, and reasonable.”⁴⁶ On the other hand, the absence of noises or disturbance at the scene of an anonymous call of domestic violence will not necessarily dictate that the police lack reasonable grounds to enter if other factors establishing exigent circumstances exist.⁴⁷

In addition to noises at the scene, visual observations can help corroborate an anonymous call and establish the requisite basis for

police action. In *Colorado v. Thompson*,⁴⁸ officers received an anonymous call of a “domestic dispute, a man beating a woman.” Upon arrival, the officer observed gun shell casings on the driveway and blood on the front door. The door was ajar, and the glass in the front door was shattered around the door knob. The officer knocked on the door and a woman appeared,

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whose face and clothing were covered with blood and who was holding an ice pack to her head. The woman stated that the man was gone and everything was alright. Officers entered and searched the upstairs area, locating a rifle and a handgun in different closets. Over the woman’s protest, the officers then searched the downstairs area for more victims. No additional victims were found, but police located several large marijuana plants in the downstairs area. Later, police obtained a search warrant and retrieved more evidence from the house.⁴⁹ The court held that the police acted properly, concluding that “the evidence establishe[d] the existence of an emergency

justifying the warrantless entry and limited search of [the] residence.”⁵⁰ The court noted that upon entry the officers did no more “than conduct a quite limited search of the premises to ascertain whether additional injured persons were present.”⁵¹ Significantly, given their other observations at the scene, the police were not bound by the woman’s statements that there was no further problem, and it was permissible to search the location for additional victims over the woman’s protest.

Conduct of Persons at the Scene

The conduct of persons at the scene also can corroborate an anonymous call. For example, in *United States v. Arcobasso*,⁵² police were dispatched to a call of “shots fired within a residence.” Upon arrival, they heard the clicking sounds of a gun being “dry-fired” from within the residence. While on the stairs leading to the front porch, officers saw the defendant through an open window sitting on a chair dry-firing a gun. The officers ordered the defendant to exit the house, and he climbed out the open window. Believing that there may have been a shooting victim in the house, the officers entered the house and did a protective sweep, during which they located a shotgun in plain view.⁵³ The court held that the search of the house was lawful and the items seized admissible because, under these circumstances, “there may have been a shooting victim or another armed person inside...exigent circumstances existed to justify the warrantless search.”⁵⁴

In *People v. German*,⁵⁵ police responded to an anonymous call reporting that a man had been shot in the defendant's apartment. Upon arrival, they observed the defendant wearing a gun holster. The officers found narcotics in the course of securing the defendant. On a second occasion, police responded to a different anonymous call that a rape was in progress in the same defendant's apartment. As officers arrived, the defendant ran back inside his apartment. Once again, the officers found narcotics in the course of restraining the defendant. The court held that the warrantless entries by police on both occasions were proper.⁵⁶ The court acknowledged that anonymous phone reports might not be sufficient in themselves to justify a warrantless entry. However, the observation of the holster on the first occasion, and the conduct of the defendant in running from police on the second, combined with the anonymous call to establish exigent circumstances. Similarly, a state appellate court held "that the officers who responded to the initial anonymous 911 report of a burglary in progress and attempted to pursue the defendant as he ran over the rooftop of the location of the burglary had probable cause to arrest the defendant...."⁵⁷ In another case, the fact that the defendant "was sweating profusely and appeared to be agitated" contributed to the corroboration of an anonymous report that someone had been shot.⁵⁸

Prior Knowledge

In some cases, police knowledge concerning ongoing criminal activity at a given location may help

corroborate an anonymous call. In *People v. Love*,⁵⁹ officers responded to an anonymous call of a man with a gun in a specified room at a named hotel. Upon arrival, officers knocked on the door, and it was opened about 15 inches by a woman inside the room. Upon seeing the officers, the woman tried to slam the door shut. The officers pushed the door open and entered the room, observing an automatic handgun, drugs, and drug paraphernalia in plain view.⁶⁰ In upholding the officers' actions in this case, the court

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In addition to noises at the scene, visual observations can help corroborate an anonymous call and establish the requisite basis for police action.
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cited "[t]he nature and specificity of the police radio transmissions, their close temporal proximity, the reputation of the hotel as a locale for drug and prostitution activity, and the hostile reception by [the] woman in the room when the police knocked on the door...."⁶¹

Also, prior knowledge regarding the subject of an anonymous call may contribute to the reasonableness of a warrantless entry. For example, in one case, police received an anonymous call that someone had taken an overdose of

drugs. The responding officer's prior knowledge that the subject was a heroin user, and his personal observation of needle marks on her arms within the past 3 weeks, helped corroborate the anonymous call and establish the reasonableness of the warrantless entry to check her welfare.⁶²

In *United States v. Wiggins*,⁶³ the police received an anonymous call made from a telephone booth that "an individual had been shot in the hand, had run into [a specified building], and that someone was trying to bandage the victim's hand." In holding that the subsequent warrantless entry by police into an apartment in response to the call was proper, the court cited the following factors: 1) the area in which the building was located was a "high-crime area"; 2) there were two apartments in the building and police were able to determine that one was vacant and so turned their attention to the other; 3) the anonymous call was made from a phone booth located in close proximity (about two-tenths of a mile) to the building; 4) the officers found a video surveillance camera outside the door of the apartment, a fact they associated with drug trafficking, which, in turn, is associated with a high prevalence of weapons; 5) the call itself reported a shooting; and 6) when the defendant answered the door in response to the officers' knock, he was sweating profusely and appeared to be agitated.⁶⁴ This case illustrates how a series of factors can sufficiently corroborate an anonymous report, even though each factor standing alone likely would not justify a warrantless entry or search.

Type of Victim

Courts may consider the vulnerability of a potential victim in assessing an anonymous report. In *Wisconsin v. Boggess*,⁶⁵ this factor, among others, was used to justify a warrantless entry to check the welfare of children who were the subject of an anonymous report concerning their physical abuse. Among the factors cited by the court in finding the warrantless, nonconsensual entry into the house by a police officer and social worker to be reasonable was that the call “involved small children inside a home, who are less able to protect themselves from further harm or to independently seek medical attention than are adults.”⁶⁶

Delay to Investigate

Courts typically analyze exigent circumstances in terms of a need for “immediate” action. Nonetheless, a reasonable delay to investigate, obtain further information, and corroborate an anonymous call will not defeat an otherwise valid assertion of the emergency exception. For example, in one case, the defendant made three anonymous calls to a confidential police “helpline” stating that “he had shot and believed he had killed his wife 4 days earlier; that his wife’s body was in an upstairs bedroom near a bathroom; and that he had his four children, at home with him, who ranged in age from a 12-year-old male to a 2-year-old female.”⁶⁷

The caller arranged to meet police but failed to appear as agreed. Thereafter, detectives sought to identify and locate the caller by checking for school absences of

siblings close in age to those identified by the caller. This investigation identified three families that might be involved, including the defendant’s family. After checking the other two residences, police arrived at the defendant’s house nearly 4 hours after the first call was received. At the scene, neighbors informed police that the children had been seen playing in the yard; this further aroused the officers’ suspicions because the children’s father had informed the school that the children were on a vacation. The officers checked the

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exterior of the house and found a broken windowpane next to a door-knob, which raised a suspicion that a burglary may have occurred. There was a further brief delay while officers at the scene decided what to do. Eventually, officers entered the house and located the defendant and his children, the body of the defendant’s murdered wife, and other evidence. The court held that entry and search was lawful and all evidence was admissible.⁶⁸ The delay of several hours to identify the possible location involved in the

anonymous call did not preclude a finding that the police reasonably believed an emergency existed. Similarly, a delay by police to wait for backup officers before entering a potentially dangerous location was permissible as a “reasonable precautionary measure.”⁶⁹ Finally, police are not required to accept a layperson’s determination that someone already is dead.⁷⁰

CONCLUSION

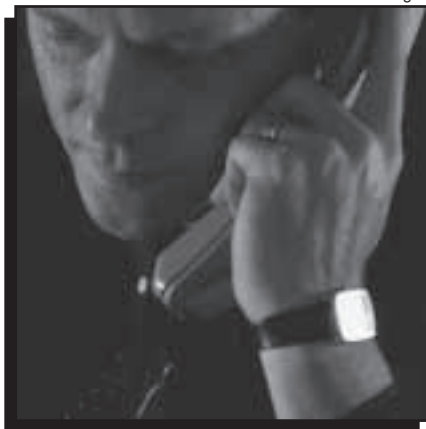
Officers should not hesitate to act reasonably to preserve life and protect others in potentially dangerous situations. Accordingly, officers can follow certain guidelines to help support the legal justification for such actions taken in response to anonymous calls.

- Take reasonable steps to identify the caller before making the entry if circumstances permit. Of course, if the circumstances indicate an immediate need to act (e.g., screams for help, sounds of a struggle, shots being fired), this may not be practicable.
- Where safe and feasible, take reasonable steps to investigate and corroborate the anonymous call before acting. This may include speaking to neighbors and other persons in the vicinity.
- Where safe and feasible, attempt to obtain a valid consent to enter and conduct the necessary search. This will provide an independent basis to establish the legality of police action.

- Accurately document the information given by the anonymous caller. If there is a voice-recording system, a recording of the call should be preserved for evidentiary purposes in cases resulting in an arrest or investigation or which may result in a citizen complaint or civil litigation. Also, recordings of the information provided to officers by the dispatchers, and radio communications among the responding officers, also should be preserved. In some cases, discrepancies between the information provided by the caller and what was dispatched to the officers have become an issue. Also, the specificity and detail in an anonymous call may become an important issue in justifying the police response. Finally, any information from the anonymous caller that accurately predicted future conditions or events should be carefully documented because accurate predictive information from an anonymous source can help establish the anonymous caller's reliability and help justify police actions.⁷¹
- Consider the past history of the location named in the anonymous call and any persons involved. This includes objective knowledge of the telephone operator, dispatcher, or officers. For example, a history of domestic disturbances at a given

location will help corroborate an anonymous call of a domestic disturbance in progress. Many newer computer-aided dispatching systems make location, police response, and personal histories immediately available to dispatchers and officers.

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- Carefully and accurately document conditions found at the scene that may corroborate the anonymous call, especially in cases resulting in a significant arrest or investigation. Examples include broken windows, signs of forced entry, blood, bullets, and signs of a struggle. Documentation should include both written substantiation in reports and photographs or video as appropriate.
- Be prepared to testify fully and accurately about the circumstances justifying response to anonymous calls. It is important that the prosecutor ensure a complete record with all

justifying factors is made at the trial court level to increase the likelihood of success on appeal.

- Persons receiving emergency calls for the police department, whether sworn or civilian, should be well trained for this critical function. This includes techniques in securing the cooperation of the caller, obtaining critical information, and conveying necessary information to the officers in the field.

Given the large number of anonymous emergency calls received by the police, it is critical that law enforcement be prepared to respond to them effectively and lawfully. Indeed, one federal appellate court has noted that “[i]f law enforcement could not rely on information conveyed by anonymous 911 callers, their ability to respond effectively to emergency situations would be severely curtailed.”⁷² ♦

Endnotes

¹ *United States v. Richardson*, 208 F.3d 626, 630 (7th Cir.), cert. denied, 531 U.S. 910 (2000).

² This article will focus on warrantless, *nonconsensual* entries in response to anonymous reports of an emergency. As in other warrantless search situations, a valid consent will authorize the police to enter and search a private premises in response to an anonymous report of an emergency. See, e.g., *United States v. Branch*, No. 01 CR.264(LMM), 2001 WL 1154789 at *1 (S.D.N.Y. Oct. 1, 2001) (occupant of house consented to police entry in response to anonymous call); cf. *Johnson v. Florida*, 386 So.2d 302, 303-04 (1980) (By anonymously calling the police to his own apartment and reporting a dead body was in the bedroom closet, the defendant “initiated the police action and impliedly consented to their entry upon his property.”).

³ *United States v. Holloway*, 290 F.3d 1331, 1339 (11th Cir.), rehearing and rehearing en banc denied, cert. denied, ___ U.S. ___, 2003 WL 138487 (U.S. Jan. 21, 2003).

⁴ The Fourth Amendment states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

⁵ *United States v. United States District Court*, 407 U.S. 297, 313 (1972).

⁶ *Payton v. New York*, 445 U.S. 573, 586 (1980).

⁷ *Arkansas v. Sanders*, 442 U.S. 753, 759 (1979).

⁸ *Minnesota v. Olsen*, 495 U.S. 91 (1990).

⁹ *Warden v. Hayden*, 387 U.S. 294, 298-99 (1967).

¹⁰ *United States v. Santana*, 427 U.S. 38 (1976).

¹¹ *Id.*

¹² *Supra* note 8; *Thompson v. Louisiana*, 469 U.S. 17 (1984); *Mincey v. Arizona*, 437 U.S. 385, 392-93 (1978).

¹³ *Mincey*, 437 at 392 (footnotes omitted).

¹⁴ *Michigan v. Tyler*, 436 U.S. 499, 509 (1978); see also *Anthony v. City of New York*, No. 00 CIV.4688(DLC), 2002 WL 731719 at *5 (S.D.N.Y. Apr. 25, 2002) (“[T]he substance of the call—a plea from a terrified woman who claimed to be under attack—created exigent circumstances, justifying and, indeed, requiring, an immediate response.”); *State v. Applegate*, 626 N.E.2d 942 (Ohio 1994) (exigent circumstances justify a warrantless entry into a residence pursuant to an emergency call reporting domestic violence).

¹⁵ As explained by the U.S. Supreme Court, this is “what, for want of a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.” *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973). For an interesting application of the “community caretaking” doctrine see *People v. McKiernan*, No. F037120, 2002 WL 1365550 at *6 (Cal.App. 5 Dist. June 24, 2002) (unpublished).

¹⁶ “The storage of human remains in a private residence both offends the dignity of the deceased and places the public health at risk.... Accordingly, investigation and removal of unlawfully disposed human remains is an important community caretaking function

exercised by law enforcement officers which, in and of itself, justifies the warrantless entry.”

¹⁷ See *Mincey*, 437 U.S. at 392; see also *supra* note 8; *New York v. Harris*, 495 U.S. 14 (1990); *Steagald v. United States*, 451 U.S. 204 (1981).

¹⁸ See, e.g., *Holloway*, 290 F.3d at 1337; *Kerman v. City of New York*, 261 F.3d 229, 236 (2d Cir. 2001); *Tierney v. Davidson*, 133 F.3d 189, 196-97 (2d Cir. 1998); *United States v. Johnson*, 9 F.3d 506, 509 (6th Cir. 1993), cert. denied, 512 U.S. 1212 (1994); *United States v. Wiggins*, 192 F. Supp. 2d 493, 498-501 (E.D. Va. 2002); *United States v. Fisher*, 145 F. Supp. 2d 853, 858 (E.D. Mich. 2001); *Commonwealth v. Richter*, 791 A.2d 1181, 1185 (Pa. Super. 2002); *State v. DeCoteau*, 592 N.W.2d 579, 582 (N.D. 1999); *People v. Mitchell*, 347 N.E.2d 607, 609 (N.Y.), cert. denied, 426 U.S. 953 (1976).

¹⁹ *Kerman v. City of New York*, 261 F.3d at 236 (citing *Tierney v. Davidson*, 133 F.3d at 196-97). Probable cause to believe an emergency exists provides an independent basis to make an entry; police officers are “not required to have both probable cause to obtain a search or arrest warrant and knowledge of exigent circumstances.” *People v. McKiernan*, 2002 WL 1365550 at *4 (italics added).

²⁰ Wayne R. LaFave, *Search and Seizure—A Treatise on the Fourth Amendment* (LaFave), § 6.6(a) at 392-93 (footnotes and citations omitted). This test sometimes is referred to as the “*Mitchell* test,” as it was first articulated in *Mitchell*, 347 N.E.2d at 609. This commentator also has noted that the continued vitality of the “primary motive” requirement is “unclear.” LaFave, § 6.6(a) at 393 n.16 (3d ed. 1996); see also *United States v. Whren*, 517 U.S. 806 (1996); *Scott v. United States*, 436 U.S. 128 (1978). Even when the “primary motive” test is applied, response to the emergency need not be the sole police motive. Officers responding to the emergency need not “be totally unconcerned with the collection of evidence or the capture of criminals.” LaFave, § 6.6(a) at 393 n.15 (quoting *People v. Duncan*, 42 Cal.3d 91 (1986)) (italics in original); accord *People v. Snead*, 1 Cal. App. 380 (1991).

²¹ *Supra* note 18.

²² *Holloway*, 290 F.3d at 1339; *Kerman*, 261 F.3d at 235 (citing *Graham v. Connor*, 490 U.S. 386, 397 (1989)); see also, LaFave, § 6.6(a) at 391.

²³ *Id.* at 1339-40 (citing *Wayne v. United States*, 318 F.2d 205, 212 (D.C. Cir. 1963)).

²⁴ See, e.g., *Welsh v. Wisconsin*, 466 U.S. 740, 750 (1984); *Holloway*, 290 F.3d at 1337; *Mitchell*, 347 N.E.2d at 609-10.

²⁵ LaFave, § 6.6(a) at 391 (quoting *State v. Sanders*, 8 Wash. App. 306, 506 P.2d 892 (1973)); cf. *Florida v. J.L.*, 529 U.S. at 271 (The fact that the subject actually had a gun does not provide a reasonable basis for a stop and frisk based on an anonymous call because “[t]he reasonableness of official suspicion must be measured by what the officers knew before they conducted their search.”).

²⁶ *Holloway*, 290 F.3d at 1340 (quoting *Wayne*, 318 F.2d at 212 (“When policemen, firemen, or other public officers are confronted with evidence which would lead a prudent and reasonable official to see a need to act to protect life or property, they are authorized to act on that information, even if ultimately found erroneous.”)).

²⁷ The U.S. Supreme Court has had several occasions to analyze the reliability of anonymous tips, calls, or reports in other contexts. See, e.g., *Florida v. J.L.*, 529 U.S. 266 (2000) (using anonymous information to establish reasonable suspicion for a “*Terry* stop”); *Alabama v. White*, 496 U.S. 325 (1990) (same); *Illinois v. Gates*, 462 U.S. 213 (1983) (using anonymous information to establish probable cause for a search warrant). However, the Court has not yet directly addressed the issue of police entry and search of a residence in response to an anonymous call reporting an emergency situation. See, e.g., *J.L.*, 529 U.S. at 274-75 (“The facts of this case do not require us to speculate about the circumstances under which the danger alleged in an anonymous tip might be so great as to justify a search without a showing of reliability.”).

²⁸ *Mincey*, 437 U.S. at 392-93 (quoting *Terry v. Ohio*, 392 U.S. 1, 25-26 (1968)).

²⁹ *United States v. Murphy*, 241 F.3d 447, 457 (6th Cir.), cert. denied, 532 U.S. 1044 (2001); *Tierney*, 133 F.3d 189; *Kerman*, 261 F.3d 229; *Anthony*, 2002 WL 731719; *Feathers v. Aey*, 196 F. Supp. 2d 530 (N.D. Ohio 2002); *People v. Thompson*, 770 P.2d 1282, 1285 (Colo.) (1989) (en banc).

³⁰ *Mincey*, 437 U.S. at 393; see also *Horton v. California*, 496 U.S. 128, 133-34 (1990); *Illinois v. Andreas*, 463 U.S. 765, 771 (1983); *Michigan v. Tyler*, 436 U.S. 499, 509-10 (1978); *Coolidge v. New Hampshire*, 403 U.S. 443, 465-66 (1971); *Harris v. United States*, 390 U.S. 234 (1968).

³¹ In some cases, the initial call was placed anonymously, but the caller was present at the

scene or identified prior to police action. *See, e.g., Imperiale v. Pierce County*, 37 F.3d 1505 (9th Cir. 1994) (unpublished); *Ohio v. Beckman*, Nos. CA2001-08-185, CA2001-08-186, 2002 WL 445079 (Ohio App. 12 Dist. Mar. 18, 2002) (unpublished), *appeal not allowed*, 96 Ohio St. 3d 1441 (2002). In such cases, although the initial call was anonymous, the police are in a position to make an assessment of the caller's veracity, reliability, and basis of knowledge and to obtain additional information. Furthermore, once identified, the caller is subject to prosecution for making a false report. *See Feathers*, 196 F. Supp. 2d at 538 ("...because any anonymous informant does not bear the responsibility of having to answer for misinformation, an anonymous tip must bear some evidence of reliability"). Thus, the concerns associated with anonymous reports are absent in most cases in which the caller is identified before police action. This article will focus on cases in which the caller was never identified, or at least not identified prior to the relevant police action.

³¹ 261 F.3d at 233. Although the police did not know this at the time, the caller was Kerman's girlfriend. Kerman had told her that he was drunk and intended to buy a gun and kill himself or his psychiatrist. The girlfriend knew that Kerman suffered from depression and that he recently had stopped taking his medication. She placed the anonymous 911 call after consulting with Kerman's psychiatrist, who recommended she notify the police.

³² *Id.*

³³ 454 S.E.2d at 40.

³⁴ *Id.* at 41.

³⁵ *Id.*; *cf., New Jersey v. Berlow*, 284 N.J. Super. 356 (1995) (defendant not guilty of obstructing by refusing to admit officers responding to an uncorroborated anonymous tip that a woman had been shot and needed help).

³⁶ 592 N.W. at 581-84.

³⁷ *Id.* at 585.

³⁸ 196 F. Supp. 2d 530.

³⁹ *Id.* at 539.

⁴⁰ 145 F. Supp. 2d at 855-57.

⁴¹ *Id.* at 859-61.

⁴² 290 F.3d at 1332.

⁴³ *Id.* at 1338.

⁴⁴ *Id.* at 1339 (italics in original).

⁴⁵ *Applegate*, 626 N.E.2d at 942-43. Note: the opinion states that the caller was "subsequently identified as [the defendant's] wife." *Id.* at 943. It is not clear from the opinion at what point in the event she was so identified.

⁴⁶ *Id.* at 944.

⁴⁷ *See, e.g., Richter*, 791 A. 2D at 1185.

⁴⁸ 770 P.2d at 1283.

⁴⁹ *Id.* at 1283-85.

⁵⁰ *Id.* at 1286.

⁵¹ *Id.* at 1285.

⁵² 882 F.2d 1304, 1305 (8th Cir. 1989).

⁵³ *Id.*

⁵⁴ *Id.* at 1306-07.

⁵⁵ 169 A.D.2d 427 (1st Dept. NY), *appeal denied*, 77 N.Y.2d 995 (1991).

⁵⁶ *Id.* at 427-28.

⁵⁷ *People v. McPherson*, 750 N.Y.S.2d 862 (1st Dept. 2002).

⁵⁸ *Wiggins*, 192 F. Supp. 2d at 500.

⁵⁹ 204 A.D.2d 97 (1st Dept. NY), *aff'd*, 84 N.Y.2d 917 (1994).

⁶⁰ *Id.* at 98.

⁶¹ *Love*, 84 N.Y.2d at 918.

⁶² *People v. Gallegos*, 13 Cal. App. 3d 239, 241-42 (1970).

⁶³ *Wiggins*, 192 F. Supp. 2d at 496.

⁶⁴ *Id.* at 500.

⁶⁵ 340 N.W.2d 516 (1983).

⁶⁶ *Id.* at 524.

⁶⁷ *State v. Kraimer*, 298 N.W.2d 568, 569 (1980), *cert. denied*, 451 U.S. 973 (1981).

⁶⁸ *Id.* at 571-73.

⁶⁹ *Id.* at 575.

⁷⁰ *Id.* at 579; *see also McKiernan*, 2002 WL 1365550 at *5 (police were not required to accept anonymous caller's statement that the homicide was a week old, particularly in light of contradictory allegation that there still was blood on the suspect's hand); LaFave, § 6.6(a) at 393 n.18 and cases cited therein.

⁷¹ *Cf., J.L.*, 529 U.S. at 270-71; *White*, 496 U.S. at 327; *Gates*, 462 U.S. at 245-46.

⁷² *Holloway*, 290 F.3d at 1339.

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

Wanted: Notable Speeches

The *FBI Law Enforcement Bulletin* seeks transcripts of presentations made by criminal justice professionals for its Notable Speech department. Anyone who has delivered a speech recently and would like to share the information with a wider audience may submit a transcript of the presentation to the *Bulletin* for consideration.

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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 those situations that transcend the normal rigors of the law enforcement profession.



Sergeant Hollwedel



Officer Clanton



Officer McCormick

Sergeant John Hollwedel and Officers Charles Clanton and Patrick McCormick of the Old Brookville, New York, Police Department responded to a call to check on the welfare of a family. The police department was unable to contact the family by telephone, and the officers received no answer when they knocked on several doors. Relatives assured them that the family was home. Sergeant

Hollwedel and Officer Clanton forced entry into the residence. They discovered that the male resident had committed suicide by carbon monoxide poisoning. They found him in the driver's seat of a vehicle parked in the attached garage. The deadly gas had filtered into the rest of the home, leaving the wife deceased and the 5-year-old daughter unconscious. Officer Clanton removed the girl from the home and performed CPR that ultimately proved unsuccessful. Although aware of their exposure to high levels of carbon monoxide, Sergeant Hollwedel and Officer McCormick repeatedly searched the house. They found the couple's two other daughters, ages 2 and 8, unconscious inside the home. After removing them from the dangerous conditions and returning to the home, they located an unconscious female maid and removed her to safety. Although this tragedy claimed three lives, the quick decisive actions of Sergeant Hollwedel and Officers Clanton and McCormick saved three innocent people from certain death.



Officer McDaniel

Officer Dennis McDaniel of the Morris, Alabama, Police Department responded to a report of a possible fire at an apartment. Upon arrival at the scene and prior to the arrival of the fire department, Officer McDaniel heard the smoke alarm sounding and smelled smoke emitting from the residence. Gathering from neighbors that the resident still was inside, Officer McDaniel forced entry into the building and found the female resident unconscious from smoke inhalation. Officer McDaniel checked for other occupants, found none, and removed the victim to safety. The professionalism and humanitarianism of Officer McDaniel, along with his willingness to put his own life at risk, saved the victim's life.

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