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# FBI Law Enforcement

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# Officers' Perceptual Shorthand

## What Messages Are Offenders Sending to Law Enforcement Officers?

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

**O**n an extremely dark night, a uniformed patrol officer observed a minor traffic offense—only one headlight functioning on a vehicle. The officer initiated a traffic stop on an unlit portion of the rural roadway. The vehicle, a late model four-door sedan, pulled to the right and stopped. As the officer approached the vehicle, he noticed a bumper sticker supporting the local youth soccer league. When the officer reached the driver's door, he was shot once in the chest. As he fell to the ground, the car sped away. Unknown to the officer, the driver had stolen the vehicle earlier that evening and used it during a robbery. The driver later reported that

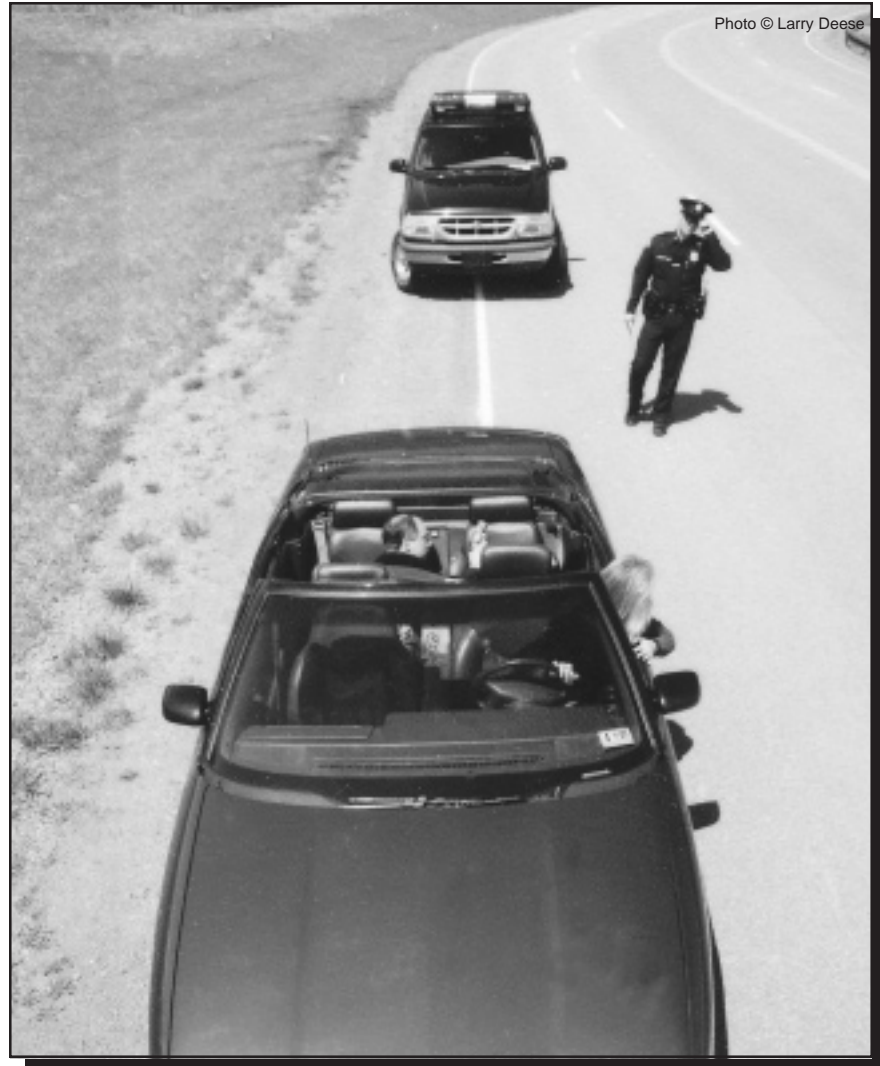


Photo © Larry Deese

he thought the officer was going to arrest him for those crimes. Fortunately, the officer had on a bullet-resistant vest and survived the deadly attack on his life.

How many other officers have sustained serious or fatal wounds during similar circumstances? What caused these officers to become victims while performing such everyday duties as stopping a vehicle for a minor traffic violation? Because the officer in the opening scenario survived the at-

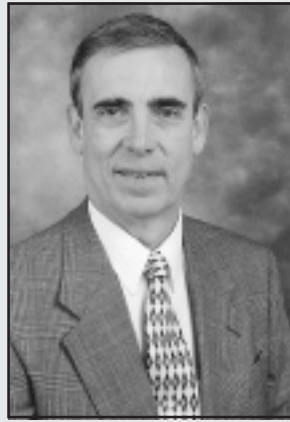
tack, he could objectively and constructively review his actions during this “routine” traffic stop and offer his experience to other officers in the hope of preventing a similar occurrence from happening to them.<sup>1</sup>

### EXAMINING A TRAFFIC STOP

The first reflection that this officer offered involved his making several very quick and potentially life-threatening assumptions about



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the vehicle and the driver. He began with a set of observations: the driver was not speeding, driving erratically, or acting suspiciously prior to the traffic stop; the vehicle, which needed a headlight replaced but had no other apparent damage, displayed a sticker supporting a local soccer league on the rear bumper. The officer had a child who played in that league, too. From these observations, the officer made several judgments: the driver was a local resident, probably a parent of a child involved in soccer activities, and they would more than likely have a friendly conversation. From these judgments, the officer's actions followed: he neglected to notify the dispatcher and report the location of the stop; he approached the vehicle without having made a computer search of the license plates; and he advanced psychologically, emotionally, and tactically unguarded. After all, this was only a "routine" traffic stop. What caused

this officer to make these dangerous assumptions?

#### **ANALYZING OFFICERS' PERCEPTUAL SHORTHAND**

Over the past several years, FBI researchers have investigated cases where law enforcement officers were seriously assaulted.<sup>2</sup> Specifically, the researchers examined the actions and observable behaviors of these officers and their offenders immediately before the assaults occurred. They accomplished this by interviewing both the officers and their assaulters and found that the offenders paid very close attention to the officers' behaviors prior to assaulting them. The assailants often used a "perceptual shorthand"<sup>3</sup> in processing the officers' observed behaviors and actions.

Similarly, the research indicated that officers need to examine their own use of perceptual shorthand, that is, what behaviors they observe on the part of

individuals and what meaning or attributes that they give to these behaviors. In fact, the way officers process this material may result in their subsequent actions. In short, their lives may depend on *their* use of perceptual shorthand. For example, the research suggested that 64 percent of the 52 officers interviewed did not realize that the attack was about to occur.<sup>4</sup> Interestingly, 62 percent of the 42 offenders interviewed in this study stated that they believed that the assault blindsided the officers, finding them "surprised, unprepared, and indecisive."<sup>5</sup>

#### **The Deadly Mix**

Not surprising, the research found that the way officers process and perceive the totality of the circumstances of an incident results in their actions. As illustrated in the opening scenario, the officer's perception that he was dealing with a nonthreatening "soccer parent"

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resulted in his being caught off guard. The research revealed additional situations that officers processed in their perceptual shorthand.

- It was *just* a minor offense, that is, littering or drinking in public.
- It was *just* a minor traffic stop, that is, a tail light that needed replacing.
- It was *just* a call to the “same family” with the “same drunk husband.”
- It was *just* another transport of someone else’s prisoner that they assumed their fellow officer had searched thoroughly.

In several cases, the officers related that they thought to themselves, “He’s just a kid (or just a woman); there’s no real threat here.” “I’ve arrested this drunk before; he’s no real threat.” From these assumptions, the officers concluded that the incidents *posed no threat to their lives*. Tragically, such encounters often resulted in officers sustaining serious or even fatal injuries.

### **The Killing Zone**

From 1989 through 1998, 682 local, state, and federal law enforcement officers in the United States lost their lives due to criminal action.<sup>6</sup> Of those 682, nearly 75 percent (509) received fatal wounds while within 10 feet of their assailants.<sup>7</sup> What perceptions—or inaccurate perceptions—on the part of the officers drew them into this 10-foot “killing zone?” In some cases, it is true, officers had little, if any,

choice as to their movement into the killing zone. However, have other situations occurred where officers perhaps misread the signs that the offenders sent? Is it possible that officers, after making one observation and judging the situation as posing no threat, failed to process other signals that the offenders sent? For example, an officer stops a young man because of a traffic infraction. He looks about 16 years old, 5’8” in height, approximately 110 pounds, and has on shorts and a

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**...the way officers process and perceive the totality of the circumstances of an incident results in their actions.**  
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tank top. He does not appear to be armed and obeys the officer’s commands. His physical appearance and compliant attitude combined with a commonly occurring traffic violation suggest to the officer a low level of threat. Yet, statistics for the years 1989 through 1998 reveal the enforcement of traffic laws as a category in which one of the highest number (93 of 682) of officer deaths occurred.<sup>8</sup> Of these 93 deaths, 78 took place within the 10-foot killing zone.<sup>9</sup>

Of the remaining 431 officers slain within the killing zone, the

circumstances varied. They included such activities as responding to disturbance calls, investigating suspicious persons or circumstances, attempting other arrests, and dealing with individuals with mental illness.<sup>10</sup>

The weapons used to kill these 509 officers included handguns (396), rifles (39), shotguns (18), knives or other cutting instruments (12), bombs (11), personal weapons—hands, fists, or feet—(6), and other weapons, such as vehicles, clubs, and blunt objects (27).<sup>11</sup>

With these chilling statistics in mind, law enforcement agencies must teach their officers that no singular profile of an offender exists. Although statistics detail such demographic variables as average age, height, and weight, an average never kills or assaults an officer. Rather, one discreet, distinct data point, that is, one particular person, assaults or kills an officer. And, this person may appear “threatening,” “nonthreatening,” “suspicious,” “trusting,” “old,” or “young.” Agencies must train their officers to process observed appearances and behaviors but not to draw conclusions that result in their dropping their guard.

### **AVOIDING THE PERCEPTUAL SHORTHAND TRAP**

By interviewing officers who have survived assaults, examining incidents where officers were killed in the line of duty, and interviewing individuals who have killed or assaulted law enforcement officers, FBI researchers developed recommendations for avoiding the

perceptual shorthand trap. These recommendations fall into two basic categories—safety-related training issues and the officer’s mental mind-set.

### **Safety-Related Training Issues**

Law enforcement safety-related training throughout the United States differs from department to department, from training academy

to training academy, and from individual officer to individual officer. Research demonstrates the need to review, analyze, and alter safety-related training on a continual basis.<sup>12</sup> Safety training is a dual responsibility of the agency and the individual officer. Many of the officers interviewed stated that they survived because they took training seriously and practiced on their own

time and, in some cases, at their own expense.

Safety-related training should include such issues as searching procedures, handcuffing techniques, traffic stop guidelines, and use of deadly force policies. For example, experienced officers know that they should search all prisoners thoroughly before placing them in police vehicles. Officers also understand that properly used handcuffs serve to protect both the officer and the individual the officer takes into custody. In addition, they realize that a “routine” traffic stop does not exist. Every officer making a traffic stop should consider the proper selection of the stop location with a view toward both the safety of the violator and the officer. Officers always should notify the police dispatcher of the location and nature of all vehicle stops. Finally, officers throughout the United States have reported that the use of deadly force was the most difficult decision that they ever had to make in their law enforcement careers. Officers should review their departments’ use of deadly force policy constantly and prepare themselves to act quickly in potentially lethal situations. Along with addressing specific safety issues, officers also must focus on the relationship between these procedures and their own mental mind-set to survive an attack.<sup>13</sup>

### **Behavioral Descriptors of Officers Killed and Assaulted**

In an attempt to better understand both the circumstances in which officers are killed and assaulted, as well as the officers themselves, FBI researchers examined some behavioral descriptors used by peers, supervisors, offenders, and, in some cases, the researchers to characterize these officers. They discovered that most victim officers appeared—

- friendly, “laid-back,” and “easy going;”
- well-liked by community and department;
- hardworking;
- to look for “good” in others;
- to use less force than other officers felt they would use in similar circumstances;
- to perceive themselves as more public relations- and service-oriented than law enforcement-directed;
- to not follow all the rules, especially in making arrests, confronting prisoners, enforcing traffic laws, and waiting for backup (when available); and
- to feel that they could “read” others and situations and would drop their guard as a result.

*Source: Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers (Washington, DC, 1997), 12.*

### **Officer’s Mental Mind-set**

Officers must understand that individuals’ perceptions of reality come about through a combination of biological, psychological, and environmental factors. Officers

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also must realize that such elements as experience, expectations, and training affect the way they perceive reality. From these perceptions of reality, individuals act. Within a law enforcement setting, these actions determine whether an officer lives or dies. What can officers do to ensure their safety and the safety of the communities they serve?

First, officers' perceptions of incidents and their instantaneous analysis of those perceptions determine their state of readiness to employ the necessary safety tactics to successfully defend themselves against life-threatening attacks. Through experience and informal training, officers have learned to expect minor physical resistance when making arrests. However, officers must ask themselves, at what point does a seemingly small wrestling match with an offender become a fight for survival? All too often, officers have received severe injuries before they realized that they were fighting for their lives.

When a physical confrontation or struggle begins, officers must remember that they cannot predict offenders' thoughts or to what lengths offenders will go to escape. Instead, officers must realize that faulty beliefs contribute to their forming inaccurate perceptions. For example, the researchers found that some of the officers' faulty beliefs exhibited themselves in such statements as, "This was just another routine wrestling match." "This person wasn't a threat, he just committed a larceny." "I couldn't shoot him because he didn't have a gun." This last officer then explained how the

offender took his service weapon and shot him.<sup>14</sup>

### Safety Versus Mind-set

Three FBI research examples illustrate how officers misread the circumstances of the incidents. In other words, their perceptions of reality did not match those of their assailants.

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**...at what point does a seemingly small wrestling match with an offender become a fight for survival?**

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### *Just a Minor Traffic Violation*

FBI researchers discovered that officers often initiated traffic stops for a perceived minor traffic violation, only to learn that the offenders had very different perceptions. For example, an officer initiated a traffic stop for traveling the wrong way on a one-way street. The three occupants of the vehicle perceived that the officer stopped them for an armed robbery that they had just committed. The officer's ensuing actions reflected his perception of a minor traffic violation. However, the offenders reacted as if fleeing from a major crime scene. In reality, the incident ended tragically with an officer killed over what he thought was a minor traffic violation.

### *Just a Subject I Know*

Another incident examined by the researchers combined the faulty perception of the officer and his subsequent actions, which resulted in his injury. This incident included such safety-related issues as waiting for backup, handcuffing, and pursuing offenders on foot. An officer observed a vehicle that matched the description of one involved in a street robbery. As the officer notified the dispatcher, a second patrol officer radioed that he was in the area. The officer stopped the vehicle and had the driver get out and place his hands on the trunk. At that time, the offender knocked the officer to the ground, removed the officer's firearm, and ran from the scene. During the ensuing foot pursuit, the offender shot the officer with his own service weapon.

The officer thought that the offender was not dangerous based on his numerous previous contacts with him, that the backup officer would arrive within seconds, and that he could handcuff the offender by himself because the offender presented no threat to him. In contrast, the offender perceived that the officer was arresting him for a felony offense and realized that the officer was neither physically nor mentally prepared to restrain him. The offender successfully defeated the officer by executing an escape/disarming technique that he had perfected while in prison.

In reality, the backup unit did not arrive on the scene. Moreover, without formulating a plan, the officer nonetheless pursued the offender on foot and was shot with his own service weapon.

### *Just a Female Offender*

A final incident combined the safety-related issues of searching and handcuffing. An officer arrested a female for a minor assault charge and placed her, handcuffed with her hands in front of her body, in the rear of his patrol vehicle. As the officer waited for the arrival of a transport vehicle, the woman removed a small-caliber handgun from inside her shirt and shot the officer in the head, killing him instantly. When the transport vehicle arrived, they found the officer slumped over the wheel, and the offender still seated in the back of the patrol car.

This incident suggested that the officer may not have viewed the female as a threat to his safety. According to the offender, the officer did not search her prior to placing her in the patrol vehicle. The female perceived that she would spend a good portion of her life in jail and feared this possibility. She resolved to shoot the officer in order to escape.

The reality of this incident showed that the officer placed the woman in the rear of the patrol car with a gun in her possession. He lost his life, and she did not escape.

### CONCLUSION

Law enforcement officers face many challenges in the daily performance of their duties. Sometimes their activities involve seemingly innocuous situations. However, even the most everyday law enforcement tasks can turn deadly if officers make judgments based on incorrect or incomplete observations. These assumptions, in turn,

can cause officers to act inappropriately. What they perceive as no threat to their lives can, in fact, become lethal.

During their training and subsequent years on the job, officers must remain vigilant in employing proven safety techniques and in staying alert to the dangers of making assumptions about the individuals they encounter. Officers must not become complacent when faced

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**Although statistics detail such demographic variables as average age, height, and weight, an average never kills or assaults an officer.**  
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with everyday law enforcement duties. They must realize that they must treat each encounter as if their lives depended on their perceptions of reality because, as research has shown, they do. ♦

#### Endnotes

<sup>1</sup> For a detailed discussion of traffic stops, see Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, *In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers* (Washington, DC, 1997), 35-37.

<sup>2</sup> Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, *In the*

*Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers* (Washington, DC, 1997).

<sup>3</sup> For additional information on offenders' use of perceptual shorthand, see Anthony J. Pinizzotto and Edward F. Davis, "Offenders' Perceptual Shorthand: What Messages Are Law Enforcement Officers Sending to Offenders?" *FBI Law Enforcement Bulletin*, June 1999, 1-4.

<sup>4</sup> *Supra* note 2, 17.

<sup>5</sup> Unpublished data from the research for *In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers*.

<sup>6</sup> Department of Justice, Federal Bureau of Investigation, Uniform Crime Reporting Program, *Law Enforcement Officers Killed and Assaulted, 1998* (Washington, DC, 2000), 25-26.

<sup>7</sup> Information relative to the distance between victim officers and their assailants appears in the FBI's Uniform Crime Reporting Program's *Law Enforcement Officers Killed and Assaulted, 1998* publication only as it pertains to officers slain with firearms. The authors obtained the data presented in this section from special compilations prepared by FBI Uniform Crime Reporting Program staff members.

<sup>8</sup> *Supra* note 5, 36.

<sup>9</sup> *Supra* note 6.

<sup>10</sup> *Supra* note 6.

<sup>11</sup> *Supra* note 6.

<sup>12</sup> Department of Justice, Federal Bureau of Investigation, *Killed in the Line of Duty: A Study of Selected Felonious Killings of Law Enforcement Officers* (Washington, DC, 1992); and Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, *In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers* (Washington, DC, 1997).

<sup>13</sup> For additional information on safety-related issues, see Department of Justice, Federal Bureau of Investigation, *Killed in the Line of Duty: A Study of Selected Felonious Killings of Law Enforcement Officers* (Washington, DC, 1992); and Anthony J. Pinizzotto, Edward F. Davis, and Charles E. Miller, U.S. Department of Justice, Federal Bureau of Investigation, *In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers* (Washington, DC, 1997).

<sup>14</sup> *Supra* note 2.

### **Management Training for Police Supervisors A Cost-effective Approach**

By Patrick Mahaney, J.D.



**D**eriving the greatest productivity from their officers has become the primary challenge of today's law enforcement leaders. Agencies invest a considerable sum of money in each recruit before they even complete the police academy. In one department, an agency's initial cost to recruit, test, select, conduct physical and psychological examinations, and complete an in-depth background investigation exceeds \$3,500 per applicant.<sup>1</sup> By the time the applicant has completed the traditional 4 to 6 months in the training academy, the agency will invest another \$15,000 to \$25,000 in training costs and officer compensation.<sup>2</sup>

Each state requires entry-level police training or certification as a condition of continued employment. Yet, this certification of basic law enforcement skills for entry-level officers has not progressed to mid- and senior-level training to support the needs of the law enforcement community. Many law enforcement agencies simply do not make management training a priority. In fact, many administrators believe that training at the police academy level remains sufficient

for the agency workforce and that a formal system of continuing education and training for sworn officers is unnecessary or too expensive. For many of these agencies, training costs become a second or third priority to the more immediate needs of salaries, overtime costs, patrol vehicles, and fixed operating expenses. As a result, sworn officers seldom receive a systematic program of instruction in law enforcement education that will provide the leadership, supervisory, and management training necessary for effective police operations. This results in the inefficient and unproductive use of one of an agency's most valuable and expensive resources—the patrol officer. Without effective supervision and competent leadership, the trained and certified patrol officer becomes increasingly disillusioned and disaffected. Thus, law enforcement agencies have a significant interest in maximizing the patrol officer's day-to-day efforts by providing effective mid-level management.

Fortunately, during the past decade, some senior law enforcement officials have recognized a critical need for mid-level management training. While some departments traditionally have focused their programs on developing the skills of the chief or senior staff officers, other agencies recently have addressed the professional development of mid-level supervisors. In response, several well-recognized law enforcement training institutions have developed courses of instruction for mid-level managers. These courses focus on the practical aspects of police administration (e.g., decision making, problem solving and analysis, and budget formulation).

However, the tuition costs of \$3,000 to \$5,000 per attendee can impede agencies from sending supervisory officers to such courses. Only the most generously funded agencies can afford to enroll their entire command structure of sergeants and lieutenants. The continuing conflict of providing quality training and affording the costs associated with such a long-term endeavor has prompted other organizations and educational institutions to offer alternative courses.

Offering a low-cost instruction program presents one of the most important challenges in law enforcement management training. This training must prepare officers for a leadership position within the agency, while requiring the least amount of time away from their supervisory duties. This requirement is true



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particularly in the small- to medium-sized agencies that represent the foundation of law enforcement. Very few of these agencies can afford the training cost of \$3,000 to \$5,000 per officer. Additionally, many agencies cannot operate without one of their key employees for 10 to 12 weeks while they receive training. The Alabama Department of Public Safety (DPS) recognized this need and responded accordingly.

### FINDING AN ANSWER IN ALABAMA

Alabama occupies approximately 50,000 square miles and has a population of 4.2 million. Most of the police and sheriff departments in Alabama are small to medium in size. Of the state law enforcement agencies, the Alabama DPS employs the most officers—700 state troopers—and provides state law enforcement services, such as highway patrol and motor carrier enforcement, as well as related police support services.

In 1998, DPS encountered serious budgetary shortfalls, a lack of experienced command staff, a new and more streamlined operational structure, and a transition to a newly elected administration. As a result, DPS needed to develop a cost-efficient management program for their officers. In addition, Alabama law enforcement officers wanted to provide their small- to medium-sized law enforcement agencies with a low-cost, mid-level, management training course but did not have the funding to start a program.

After determining the need, the Alabama DPS began planning a training program for its officers.<sup>3</sup> Extensive research identified several important steps in the planning process.

### Planning the Program

One of the first steps in planning the program included analyzing the areas of training and instruction that other institutions used in their curriculums. First, the program coordinator analyzed the training

curriculums other institutions used. Every curriculum covered leadership (theory and values), operational management (personnel issues, budgets, training), and critical incidents (crisis management). DPS structured the management course around the most commonly accepted programs of instruction and designed a three-phase course centered on these areas.

Second, DPS determined the appropriate amount of training and identified a target audience. The department focused on sergeants as the program's intended audience because under DPS rank structure, the sergeant is the second-echelon supervisor and, in many instances, serves as a mid-level manager.

Additionally, the department took several issues into consideration when determining how much training to devote to the course—the state code requirement of a 40-hour workweek, the federal Fair Labor Standards Act, and the critical lack of supervisory personnel throughout the department. The program could not interfere with existing supervisory work or case management, yet it had to provide a sound basis of professional instruction. Therefore, DPS decided to use a modular concept of three blocks of instruction conducted during 32 hours of classroom instruction per week. Classes begin at noon on Monday and end at noon on Friday. DPS resolved another issue—appropriate class size—by limiting classes to 25 students per class.

Next, the department had to choose a textbook. DPS reviewed several nationally recognized texts and chose one for the entire course. Using one text provided a general framework for the students and addressed the department's economic constraints as well. The department used the academy's operating funds to pay for the textbook. Each student received the book and the course outline approximately 3 weeks prior to beginning the course. Each student had to complete reading assignments for the course's entire first segment prior to the first day of class. Instructors supplemented their blocks of instruction with additional handout material and notes.

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Selecting instructors for the course presented one of the department's most difficult challenges. Originally, the program coordinator planned to have supervisory personnel with a college degree—of the rank of sergeant or higher—to serve as instructors, particularly individuals who had completed the FBI National Academy (NA). But, in 1998, only a few NA graduates remained in the department. The program coordinator prepared and sent a survey to each captain, lieutenant, and sergeant in the department to locate qualified instructors. From the survey, DPS determined the number of personnel who held a college degree or had completed a management course. Next, the program coordinator recruited qualified instructors and matched their individual skills to course topics. Three committee chiefs, one for each major topic of instruction, selected a primary and an alternate instructor for each block of instruction and developed supporting lesson plans for each topic. The committee chiefs also selected a list of courses or schools to help instructors obtain professional competency and qualify for their particular areas of instruction. Finally, because the program required that each instructor hold a valid Method of Instruction certificate from a recognized training institute, DPS worked with the Alabama Peace Officers Standards and Training Commission (POSTC), the state's licensing commission for law enforcement officers, to develop and implement a formal method of instruction training course.

As the department developed the course, it requested that POSTC fund part of the training for instructor development. They sent a formal request to POSTC commissioners, the seven-member panel that oversees the operation of the state agency, for \$15,000 to pay for instructor development. POSTC appropriated the money, contingent upon DPS's agreeing to offer the course to supervisors from other law enforcement agencies. As a result, the department now trains officers from city and county agencies throughout Alabama.



### Analyzing the Results

DPS identified several valuable purposes of the training program. First, the economical use of resources provided several benefits. The program costs less than \$500 per student, which reflects room and board costs for a 3-week period. Living in dorms at the training academy eliminates a long commute for students who attend from agencies around the state. DPS assumes the actual cost for instructors and facilities as part of its operating expenses.

The department did not experience any long-term loss of key personnel because the training program lasted only 3 weeks. Student-officers suffer minimal disruption of their work or family lives by staying at the DPS academy for 5 days and 4 nights per segment. Additionally, because the course follows a modular mode, if student-officers miss a segment, they can enroll in a subsequent class to complete the required instruction.

Second, attending officers receive standard training. They use a nationally recognized police administration textbook and receive training from qualified, college-graduate instructors. This uniformity of text and classroom instruction theoretically should result in the development of a common doctrine for police administration and operations within the state.

Finally, the program encourages professional growth within the agency. The use of department instructors required that DPS develop at least one primary and one alternate instructor to serve as subject-matter experts in their designated training areas. DPS will direct future training funds to develop qualified individuals to teach the management course. In the future, DPS officers who have attended a senior management course will assist the instructional staff.

The Alabama POSTC adopted this program recently as a standard course of instruction for Alabama police supervisors. The program satisfies the educational and instructional needs of the department's sergeants and lieutenants without

disrupting the department's current operations. Law enforcement agencies in metropolitan or regional areas can adapt this curriculum, with appropriate modifications for state law and procedure, to train supervisors from several agencies. An agency's training academy or a community college can absorb overhead costs to administer the program, with each attending officer paying a proportional share of the administrative costs (approximately \$25 per day).

### CONCLUSION

The development of the DPS Management Course has become an important first step in the professional development of Alabama law enforcement supervisors. The course has laid a foundation for leadership training and the development of more advanced training courses. Although the DPS course provides an essential foundation in management training, it does not equal the training courses at nationally

## Department of Public Safety Management Program Course Syllabus

Segment 1	Segment 2	Segment 3
<ul style="list-style-type: none"> <li>• Registration/Welcome</li> <li>• Pretest</li> <li>• Organization Theory</li> <li>• Leadership Principles</li> <li>• Management of Police Organizations</li> <li>• Organizational Goals</li> <li>• Media Relations</li> <li>• Problem Solving/ Decision Making</li> <li>• Time Management</li> <li>• Stress Management</li> <li>• Ethics and Integrity</li> <li>• Test</li> <li>• Effective Communications</li> </ul>	<ul style="list-style-type: none"> <li>• Yearly Operational Budget/ Fiscal Management</li> <li>• Hiring Process</li> <li>• Training Process</li> <li>• Measuring Productivity</li> <li>• Employee Evaluations</li> <li>• Police Discipline</li> <li>• Special Problems in Personnel Issues</li> <li>• Legal Aspects of Discipline and Termination</li> <li>• Public Relations and Public Interaction</li> <li>• Motivation—Theory and Practice</li> <li>• Test</li> <li>• Effective Public Speaking</li> </ul>	<ul style="list-style-type: none"> <li>• Laws of Public Order</li> <li>• Civil Liability</li> <li>• Use of Force and Escalation Principles</li> <li>• Contingency Planning</li> <li>• Tactical Operations</li> <li>• Exercise (table top)</li> <li>• Intelligence Preparation</li> <li>• Logistical Support for Operations</li> <li>• Communications and Reporting</li> <li>• Psychological Aspects of Critical Incident</li> <li>• Critical Incident Debriefing</li> <li>• Review of Critical Incident</li> <li>• Final Exam</li> <li>• End of Course Critique</li> <li>• Graduation</li> </ul>

recognized institutions nor did DPS intend the program as a substitute for a formal 10- or 12-week training course. However, the 3-week course represents an important first step in providing a statewide, inexpensive, and cost-efficient management training program to Alabama law enforcement supervisors.

Additionally, and perhaps more important, other agencies can model and adopt the program, as well. Training in leadership, supervision, and management does not come without costs, but the alternative—inefficient use of police resources—is much more expensive. By making mid-level management training a priority, law enforcement agencies will provide their officers with the leadership and supervisory skills necessary for effective police operations in their communities. ♦

#### Endnotes

<sup>1</sup> The author based these figures on his experience hiring officers for the Alabama Department of Public Safety.

<sup>2</sup> Ibid.

<sup>3</sup> The author served as the project officer and coordinator of the Alabama Department of Public Safety's "DPS Management Course." He designed a cost-efficient management program to satisfy the educational and instructional needs of the department's mid-level management. To meet this objective, the author thoroughly researched courses offered by other institutions and organizations.

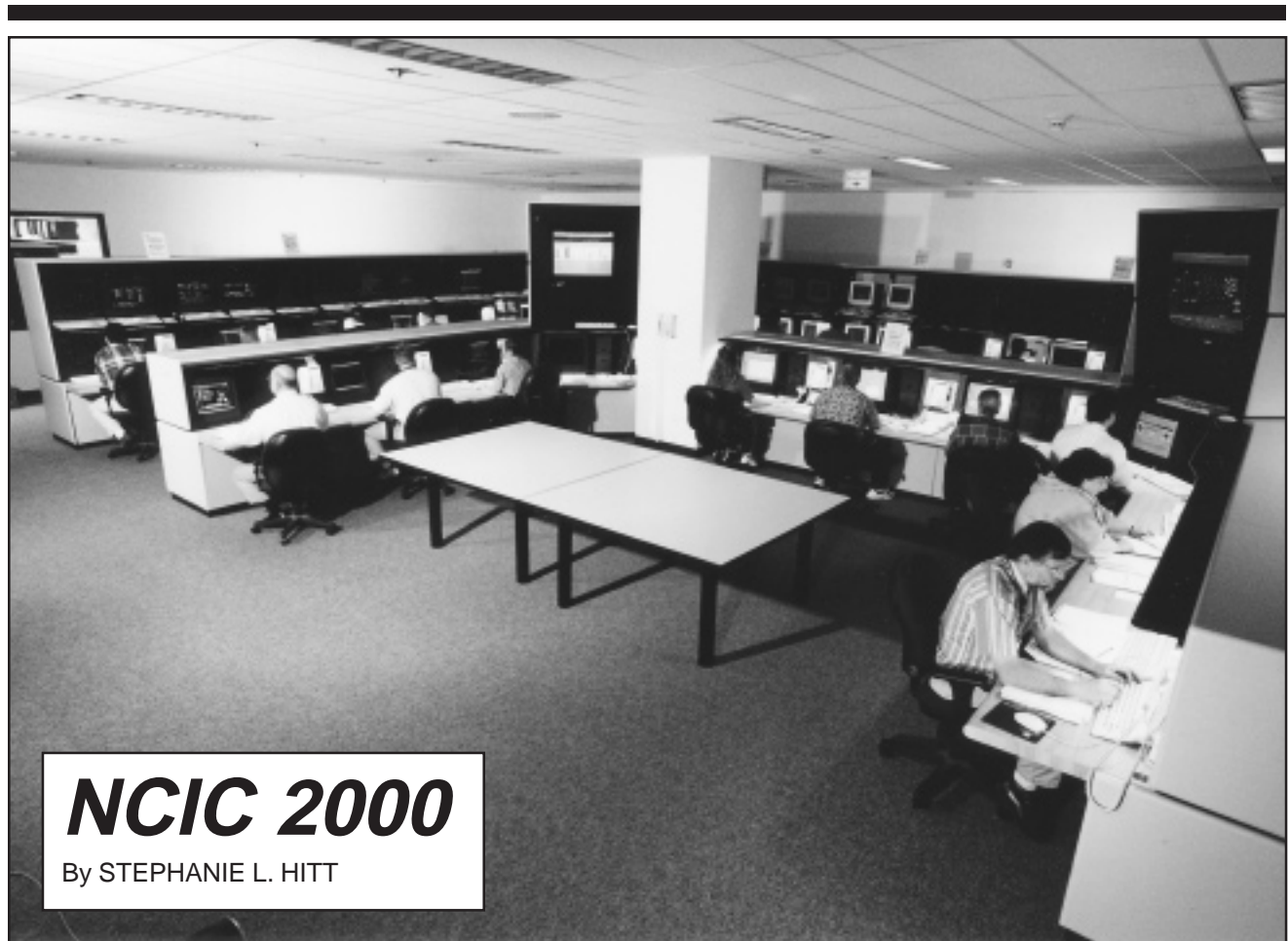
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*Formerly a lieutenant with the Alabama Department of Public Safety, Mr. Mahaney developed the department's management training program. He now serves as a legal instructor at the Federal Law Enforcement Training Center in Glynco, Georgia.*

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## **NCIC 2000**

By STEPHANIE L. HITT

In 1968, the FBI searched its new computer system to identify fugitives whose fingerprints might match a latent print taken from the gun that killed Dr. Martin Luther King, Jr. The search revealed 1,200 possibilities. A closer examination by FBI fingerprint experts resulted in an exact match—James Earl Ray, the man subsequently convicted for the murder.<sup>1</sup> Twenty-seven years later, federal investigators ran Oklahoma City bombing suspect Timothy McVeigh's name through this same system and discovered that an Oklahoma state trooper had stopped this individual a little more than an hour

after and about 88 miles away from the site of the explosion. The police still had McVeigh in custody.<sup>2</sup>

Between these two major incidents, countless other successful investigations have proved the merit of this computer system. Law enforcement agencies have used it to help them solve crimes that perhaps otherwise would have remained unsolved. What system has assisted the criminal justice community so ably for over 30 years?

### **Background**

The National Crime Information Center (NCIC) is an online computer system dedicated to

serving law enforcement and criminal justice agencies throughout the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Mexico, and Canada. Since NCIC's inception in January 1967, transactions have gone from 2 million for that entire first year to approximately 2.5 million *a day* currently. Interestingly, the FBI accounts for only about 1 percent of all NCIC transactions, indicating that nearly 99 percent of all NCIC inquiries come from other federal, state, or local criminal justice agencies.<sup>3</sup>

Over the years, law enforcement personnel have grown

increasingly reliant on the NCIC database, basically a computerized index of documented criminal justice information concerning crimes and criminals.<sup>4</sup> This index includes files, or databases, on wanted persons, stolen property, criminal histories, and other information compiled during the investigation of crimes. In addition, the data bank contains locator-type files on missing and unidentified persons.

For three decades, NCIC has efficiently and reliably aided the criminal justice community in its effort to safeguard law-abiding citizens. However, it has long since outlived its intended computer-system life. Therefore, the FBI implemented the new generation of NCIC—NCIC 2000—in July 1999. NCIC 2000, with its powerful new computers and software technology, takes up the challenge of meeting the ever-increasing demand for instant criminal justice information. Through enhancements to existing systems and newly created capabilities, NCIC 2000 facilitates the exchange of information between agencies, better equips members of the law enforcement community to perform their duties, and increases police officer safety.

#### **Enhancements**

NCIC 2000 offers a variety of enhancements within a number of existing NCIC files. For example, the legacy NCIC permitted the entry of only stolen or recovered guns. NCIC 2000 goes a step further by allowing users to enter missing but not necessarily stolen firearms. This increases the pool of identified firearms that users can search when

an unidentified gun surfaces during an investigation. An additional improvement enables users to enter the original offense of a wanted person when that individual's current warrant is for a secondary or ancillary offense. Users *must* enter the original violation when the current offense includes such infractions as escape, parole or probation violation, or failure to appear.

NCIC 2000 also expands the information contained in missing person records by allowing users to indicate whether a stranger abducted an individual, a noncustodial parent took a child, or a person ran away. The new system also captures and stores information regarding the theft of hazardous materials and provides users with the convenience of retrieving specific types of information online rather than in hard-copy format. This online enhancement enables users to submit several inquiries together on wanted or missing persons, vehicles, boats, guns, articles, or securities and to receive the collected

results via a file transfer. In the near future, this improvement also will allow users to access NCIC 2000 operating and code manuals online.

#### **New Capabilities**

NCIC 2000 performs all of the functions of the legacy system augmented with impressive new capabilities. These include the addition of image processing (i.e., mugshots, signatures, and identifying marks); automated single-finger fingerprint matching; and information linking, which provides the ability to associate logically related records across NCIC files for the same criminal or the same crime. For example, an inquiry on a gun also could retrieve a wanted person, a stolen vehicle, or other records associated with the firearm. NCIC 2000 also automates functions that employees previously had to perform manually. For example, the new system supports online validation of records and automatically collects statistics for evaluating the system in terms of usage and benefits.

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***NCIC 2000 performs all of the functions of the legacy system augmented with impressive new capabilities.***

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*Ms. Hitt serves in the Systems Transition Unit of the FBI's Criminal Justice Information Services Division in Clarksburg, West Virginia.*

## The Original NCIC Versus NCIC 2000

**W**hile on patrol, an officer notices an automobile weaving through heavy traffic, stops the car, and radios the dispatcher for an NCIC check on the driver. Within moments, the dispatcher advises the officer that the search proved negative.

From January 1967 through June 1999, this outcome could have occurred fairly often. However, in July 1999, NCIC 2000 became operational, and this scenario now could have several different endings. For example, because of the new Convicted Sexual Offender

Registry and the Convicted Persons on Supervised Release file, the search could show that the driver, who has a young child in the car, is a registered sexual offender who should not be with a young child. Or, it could reveal that the driver, who resides in another state, is on parole and should not have left the state. These substantially different results demonstrate the potential that the enhancements and new capabilities of NCIC 2000 bring to the criminal justice community's continuing efforts to safeguard law-abiding citizens.

New databases, such as the Convicted Sexual Offender Registry and the Convicted Person on Supervised Release, now provide law enforcement officers with instantaneous information about the whereabouts of individuals who have entered the criminal justice system. NCIC 2000 searches all transactions against the new Convicted Sexual Offender Registry. This provides officers with information on convicted sexual offenders under a wide variety of circumstances. For example, the ability to conduct online searches by zip code, which may identify possible suspects during an active investigation, represents a unique feature of the registry. Further, the new Convicted Person on Supervised Release database helps local, state, and federal law enforcement officers and probation and parole officers maintain information concerning the conduct and whereabouts of convicted criminals currently on supervised release. These subjects, previously

convicted of a felony or misdemeanor crime, must meet specific conditions related to their release. While not a wanted person file, this database instead provides information to supervising officials to determine the appropriate action they should take based on the subjects' conduct while on supervised release.

A new feature, with perhaps the most potential, stores and retrieves digital images on records pertaining to persons, vehicles, and articles. NCIC 2000 can associate a mugshot, fingerprint and signature, and 10 identifying photographs with a wanted, missing, or unidentified person record. It also can attach one identifying photograph to a vehicle, boat, vehicle part, or article record. This new capability can help law enforcement officers in many ways, from identifying individuals stopped for traffic violations to finding missing children to returning stolen property to its rightful owners.

### Challenges

Local, state, and federal law enforcement agencies represent the driving force behind the success of NCIC 2000. However, success has not come without some challenges along the way. For example, one specific NCIC 2000 concept that held promise as a valuable tool for law enforcement in theory demonstrated problems for users in reality. From the beginning, the delayed inquiry functioned as an integral part of NCIC 2000. This feature allows the new system to store an inquiry for 5 days. During that time, the system would compare any subsequently entered or modified records with the stored inquiries. The system would send any matches, or "hits," resulting from this process to both the entering agency and inquiring agencies automatically. However, immediately after NCIC 2000 became operational, the FBI received complaints from users that the delayed inquiry caused them to receive an excessive number of

notifications. Therefore, the FBI disabled the function until it could conduct further research into the problem. Once the FBI has modified the delayed-inquiry processing requirements to avoid these problems, it will reactivate this feature.

Another area in the new system that requires additional attention involves the planned index of individuals incarcerated in federal prisons. This feature would notify agencies entering warrants whenever the subject of their warrant was currently incarcerated in a federal prison so they could file a detainer. However, because the Federal Bureau of Prisons (FBOP) maintains this information, the FBI and the FBOP must review carefully the specifications for the transfer of the data to preserve the accuracy of the system.

Criminal justice users also face challenges with the new system. They must find the resources to take advantage of the new enhancements and capabilities of NCIC 2000.<sup>5</sup> Prior to the advent of the new system, the FBI upgraded all of the telecommunication lines from its main computer to the states' receiving centers to support NCIC 2000's new capabilities. However, agencies also may have to update their systems to experience the new features of NCIC 2000. For example, once agencies decide to support the new image capability, they will need the infrastructure in place for the increase in transaction size and volume. Moreover, although the FBI provides the image-processing software used to process fingerprint images, agencies must integrate this free software into their state and local systems and may have to

purchase commercial, off-the-shelf software to support the image-processing software and the equipment (e.g., laser printer, document scanner, single-fingerprint scanner, and digital camera) needed to capture and display the fingerprint images.

How quickly local, state, and federal agencies can implement NCIC 2000 depends on the varying requirements and mandates that govern them. States have a 3-year transition period to implement NCIC 2000. Because computers become obsolete relatively quickly, this 3-year transition period will

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**NCIC 2000...takes up the challenge of meeting the ever-increasing demand for instant criminal justice information.**

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give agencies some time to acquire newer models and the additional equipment capable of supporting NCIC 2000.<sup>6</sup>

### Conclusion

For over 30 years, the FBI's National Crime Information Center has provided the law enforcement community with a valuable crime-solving tool. With databases containing critical investigative information, NCIC often has made the difference between a successful resolution of a crime and a failure to bring the guilty to justice.

With the rapid advancements in technology, however, the original NCIC began to suffer from many of the same ills that affect all long-standing computer systems. To combat these problems and bring NCIC into the 21<sup>st</sup> century, the FBI implemented the next generation of this well-used system—NCIC 2000. The new capabilities and refinements of NCIC 2000 will not only continue to provide criminal justice professionals with instant access to crucial investigative information but also stand as a bulwark in their battle against increasingly sophisticated criminals. ♦

### Endnotes

<sup>1</sup> “National Crime Information Center: 30 Years on the Beat,” *The Investigator*, December 1996/January 1997; available from <http://www.fbi.gov/library/2000/ncicinv.htm>; accessed May 12, 2000.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> To ensure the validity of the records, the investigating agency enters the information into the system, and only the agency entering the records can update or clear these entries.

<sup>5</sup> Agencies can obtain grant information from several Internet sources, including the U.S. Department of Justice at <http://www.ojp.usdoj.gov>; the Bureau of Justice Assistance's Local Law Enforcement Block Grants program at <http://www.ncjrs.org/leblock.htm>; and Justice Grants at <http://www.ncjrs.org/fedgrant.htm>; accessed May 12, 2000. Also, the General Services Administration offers the *Catalog of Federal Domestic Assistance* via its Internet site at <http://www.cfda.gov>; accessed May 12, 2000.

<sup>6</sup> For additional information on technical support for NCIC 2000, see Rebecca Kanable, “NCIC 2000 Sets Wheels in Motion for Mugshot Sharing Nationally,” *Law Enforcement Technology*, October 1999, 98-100; or contact the FBI's Criminal Justice Information Services Division, Education/Training Services Unit, Module E-3, Clarksburg, WV 26306-0156, 888-827-6427.



## *Helicopters in Pursuit Operations*

Recently, the National Institute of Justice presented findings and assessments from a study of helicopters used in pursuit operations for the Baltimore City and Miami-Dade County Police Departments. The study found that helicopters can provide a valuable service to law enforcement in general and to the pursuit function in particular. From their vantage point, the helicopter pilot or observer can monitor a vehicle safely and provide pertinent information to ground pursuit officers. Helicopters can remain in close proximity to the suspect while tracking the location and direction without being noticed, enabling officers on the ground to take action once the suspect has stopped or exited the vehicle. Also, helicopters can assist with a call involving an officer in trouble by providing directions and, if necessary, a show of force.

The study revealed the importance of developing policies and guidelines for using helicopters in pursuit operations. These policies should include specific circumstances when ground unit supervisors authorize their officers to continue ground pursuit. Additionally, the use of the spotlight during pursuits requires structured guidelines to maintain it as an important crime-fighting tool. Agencies should base these guidelines on the spotlight's effect on the fleeing suspect and environment. Also, the guidelines should ensure that the spotlight is used effectively for its intended and appropriate goal and in a manner that does not encourage a suspect to take more risks or continue dangerous actions.

For a copy of *Helicopters in Pursuit Operations* (NCJ 171695) by Geoffrey P. Alpert, contact the National Criminal Justice Reference Service at 800-851-3420 or access its Internet site at <http://www.ncjrs.org>.

## *Youth Gangs Versus At-Risk Youth*

A study funded by the National Institute of Justice compared the criminal behavior of gang members and nongang at-risk youths in three urban and suburban communities. The report corroborates other recent studies that suggest gang membership increases the likelihood and frequency that members will commit serious and violent crimes. Gang members are much more likely than nongang members to possess powerful and highly lethal weapons.

The research showed that gang members were much more likely to sell drugs than nongang at-risk youths. While many gang members and nongang at-risk youths who sell drugs indicated they would not give up drug selling for less than \$15 per hour, a significant number of them said they would accept far lower wages—not much more than currently is being paid in fast-food restaurants—if they could obtain a sufficient number of work hours per week.

Most important, the research found that contrary to popular belief, youths can resist overtures to join a gang without serious reprisals from members. The majority of respondents who knew individuals who had refused to join a gang reported that those individuals suffered no consequences for their refusal. Reprisals suffered by those youths who resisted overtures to join a gang were often milder than the serious assaults endured by youths during their gang initiation. This finding provides an important component for gang prevention programs.

For a copy of *Comparing the Criminal Behavior of Youth Gangs and At-Risk Youths* (NCJ 172852) by C. Ronald Huff, contact the National Criminal Justice Reference Service at 800-851-3420 or access its Internet site at <http://www.ncjrs.org>.

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# Sex Offender Registration Community Notification Laws

By ALAN D. SCHOLLE, M.S.



In October 1989, 11-year-old Jacob Wetterling was abducted less than a 10-minute bike ride from his St. Joseph, Minnesota, home as he, his 10-year-old brother, and their 11-year-old friend rode home from the local video store. Although law enforcement officers never found Jacob or his abductor, they did discover that a number of halfway houses in their county boarded convicted sex offenders from another county.<sup>1</sup>

Ten months after Jacob's disappearance, Pam Lychner, a Houston,

Texas, real estate agent, entered a vacant home to prepare to show it to a prospective buyer. She was brutally assaulted by a twice-convicted felon. Her husband saved her life when he interrupted the beating.<sup>2</sup>

In July 1994, 7-year-old Megan Kanka went to a neighbor's home to see his new puppy. The twice-convicted sex offender—who lived across the street from Megan's Hamilton Township, New Jersey, home—raped and murdered Megan, dumping her body in a nearby park.<sup>3</sup>

As they often do, these tragic events spurred the Wetterlings, the Lychners, and the Kankas to push for legislation to protect the lives of others. Their efforts spawned sex offender registration and notification laws, which require that states maintain registries of sex offenders and release information to the public. Although the laws have generated controversy, they do provide public safety officials with additional tools to more effectively protect the public from predatory sexual offenders.



Special Agent Scholle serves with the Iowa Department of Public Safety in Cedar Falls.

“  
***Criminal justice officials and the public need to work together to reduce sexual violence in their communities.***  
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## THE LAWS

In 1994, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (The Jacob Wetterling Act).<sup>4</sup> The act required that states create sex offender registries within 3 years or lose 10 percent of their funding under the Edward Byrne Memorial program.<sup>5</sup> Offenders who commit a criminal sexual act against a minor or commit any sexually violent offense must register for a period of 10 years from the date of their release from custody or supervision. All 50 states have sex offender registration laws.<sup>6</sup>

The Jacob Wetterling Act gave states the option of releasing information about registered sex offenders to the public but did not require it. This changed in 1996 when Congress amended the act to require that states disclose information about registered sex offenders for public safety purposes. This legislation became known as Megan's Law, in memory of Megan Kanka.<sup>7</sup> U.S. Department of Justice

guidelines allow states considerable discretion in determining the extent and manner of notification when warning the public about sex offenders living in the community. At least 44 states have passed community notification laws since 1990.<sup>8</sup>

The Pam Lychner Sexual Offender Tracking and Identification Act of 1996<sup>9</sup> amended the Jacob Wetterling Act by establishing a national sex offender database, which the FBI maintains.<sup>10</sup> This national tracking system gives law enforcement authorities access to sex offender registration data from all participating states. The Lychner Act also requires that the FBI register and verify the addresses of sex offenders in states that have not met the minimum compliance standards required by the Jacob Wetterling Act, although this may change.<sup>11</sup>

## REGISTRATION REQUIREMENTS

Although sex offender registration requirements vary according to state laws, some common features exist in registries across the

country. In most states, the state criminal justice agency or board (e.g., the state police or state bureau of investigation) maintains the state's registry. Sex offenders register at local law enforcement or corrections agencies, which then forward the information to the state's central registry. Registry information typically includes the offender's name, address, date of birth, social security number, and physical description, as well as fingerprints and a photograph. In Iowa, registration includes information about the sex offense convictions that triggered the registration requirement. At least eight states also collect samples for DNA identification.<sup>12</sup>

Most state laws require that both juvenile and adult offenders register only if their conviction occurred after the law's effective date, although some states, such as Minnesota, require that offenders register after they get *charged* with a sexual offense.<sup>13</sup> Offenders receive notice of the registration requirement from the court or registry agency. In Iowa, offenders can contest the registration requirement by filing an "application for determination" with the state Department of Public Safety.

Usually, offenders must register within a certain number of days following their release from custody or placement on supervision. The type of offense requiring registration varies according to state law but must comply with the Jacob Wetterling Act, which mandates registration for sex crimes against minors and violent sex crimes. For example, in Iowa, qualifying offenses include criminal sexual

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offenses against minors; sexually violent offenses; sexual exploitation; aggravated offenses, including murder, nonparental kidnapping, or false imprisonment; manslaughter; and burglary, if sexual abuse or attempted sexual abuse occurred during the commission of the crime, as well as other relevant offenses, such as indecent exposure.

The registration requirement lasts at least 10 years, with some states requiring lifetime registration for all or some offenses. Some states allow offenders to petition the court for a reduction.<sup>14</sup> Iowa law requires lifetime registration for offenders deemed “sexual predators” by the courts and for any registered offenders who get convicted of a subsequent sexual offense.

Most states make it a criminal offense to knowingly fail to register or report subsequent changes in information, such as the registrant’s name or address. Public officials in Iowa verify annually the addresses of all registrants.

### NOTIFICATION FEATURES

Sex offenders may have to register, but if the public does not know it, the law means little. It may have cost Megan Kanka her life. In response, Megan’s Law allows for release to the public certain information about registered sex offenders. State agencies generally have guidelines or administrative rules regarding what information they will release to whom and how they will disseminate it.

The most basic form of notification, sometimes referred to as “passive notification,” allows inquiring citizens to access registry information at their local law

enforcement agencies. In Iowa, citizens must complete a request for registry information form at their local police or sheriff’s department and provide the name of the person being checked *and* one of three identifiers: address, date of birth, or social security number. If the agency finds the person on the registry, it can release certain information about the offender; however, federal guidelines prohibit states from releasing the identities of victims. Employers also may check on potential employees. Since Iowa’s law took effect in 1995, members of the public have made 14,923 requests for registry information.<sup>15</sup>

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**...registries represent  
a great source of  
information for  
identifying,  
monitoring, and  
tracking sex  
offenders....**  
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Several states provide a toll-free number for citizens to call to obtain information. California and New York operate 900-number services for inquiries.<sup>16</sup> Many states allow public access to sex offender registry information through Internet sites maintained by criminal justice agencies. This information usually includes offenders’ photographs, biographical data, and information about their previous sex offenses.

In addition to these forms of passive notification, a number of states allow government agencies to disseminate information about registered sex offenders to vulnerable individuals and organizations. Using this process of “active notification,” officials may choose to notify prior victims, landlords, neighbors, public and private schools, child-care facilities, religious and youth organizations, and other relevant individuals or agencies. Most officials reserve communitywide notification for only the most dangerous sex offenders. Communitywide notification usually involves using the media and such public forums as neighborhood association and other community meetings.

States have various methods for determining which offenders qualify for active notification. In Florida and Montana, state courts determine which sex offenders pose the greatest threat to the community and target them for active notification.<sup>17</sup> A number of states, including Iowa, allow criminal justice officials or state registry review boards to assess the offender’s level of risk, then law enforcement officials, prosecuting attorneys, or corrections personnel typically make the notification. Louisiana requires that registered sex offenders themselves notify neighbors within 1-square block in the city or a 3-mile radius in rural areas.<sup>18</sup>

### A REGISTRY IN PRACTICE

Iowa’s sex offender registry law took effect on July 1, 1995, in response to the Jacob Wetterling Act. Approximately 3,463 people (97 percent male) are registered, with approximately 600 names

added to the list each year.<sup>19</sup> The law applies to both adults and juveniles convicted of specific crimes on or after July 1, 1995, or who were convicted of qualifying crimes prior to this date and were released from prison or placed on probation, parole, or work release after the law's effective date. Registration takes place at the releasing correctional facility or at the sheriff's department in the county where the offender will reside. A juvenile court has the authority to waive the registration requirement for minors.

The Iowa Department of Public Safety, Division of Criminal Investigation (DCI) operates and maintains the state's registry. A special agent in charge, three special agents, and three staff employees comprise the unit, whose responsibilities include completing sex offender risk assessments, notifying the public when necessary,

and conducting noncompliance investigations.

### Recognizing High-risk Offenders

In Iowa, corrections counselors or probation and parole officers usually conduct risk assessments when offenders are released from prison or placed on supervision. DCI completes risk assessments on offenders who reside in Iowa while on federal probation or parole, offenders who move to Iowa from other states, and offenders released without supervision by sentencing courts.

States that conduct risk assessments on offenders usually use some type of objective scoring instrument. Iowa's risk-assessment tool, developed by the New York Board of Sex Offender Examiners, scores each offender on 15 separate factors that correlate to sex offender recidivism. Next, officials review

the offense that required registration, studying the nature of the sexual acts, whether the offender used force, displayed or used weapons, or injured the victim during the crime; the age of both the victim and the offender at the time of the crime; the offender's criminal history; and the offender's incarceration record. The offender's incarceration record may reveal whether the offender accepted responsibility for prior sex crimes, successfully completed sex offender treatment programs, or faced disciplinary action while in prison or under supervision. The instrument also allows for upward or downward departures for special circumstances not adequately addressed by the assessment tool.

The overall score categorizes the offender as a low, moderate, or high risk to reoffend. Offenders who have a moderate- or high-risk

### A sex offender may:

- be someone you know;
- lure children with convincing ploys, such as looking for a lost puppy;
- take advantage of children's beliefs that they must do what adults tell them to do;
- make potential victims feel special, either telling them so or giving them special privileges to make them feel obliged to give something in return;
- tell victims they look older than or more mature for their ages;
- try to spend time alone with victims;
- violate boundaries by not respecting a child's privacy or by showing or telling the child inappropriate things (showing pornographic photos, talking about sex);
- "accidentally" touch the victim;
- "accidentally" see the victim or be seen naked;
- look at children in a funny or sexual way or make inappropriate, sexual comments;
- tell children to keep secrets.

*Source: Florida Department of Law Enforcement Missing Children Information Clearinghouse, 888-356-4774, available from <http://www.fdle.state.fl.us>.*

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score are classified at risk to reoffend and become candidates for public notification in Iowa. Any previous felony sex crime convictions automatically result in an offender's receiving a high-risk classification.

### **Notifying the Public**

Once offenders are classified at risk to reoffend, they are served with a notice outlining the possible scope and manner of public notification. Offenders have 14 days from the date of service to file a written request to the assessing agency challenging the determination of their risk level. Offenders assessed by the DCI who protest the notification appear at a hearing before an administrative law judge. The appellant may retain private counsel, while an attorney from the Iowa Attorney General's Office presents the state's case. Either party can ask for a review of the judge's decision through additional levels of appeal. About one out of every four offenders in Iowa has challenged planned notifications through the DCI. Rulings have favored the state in the majority of the appeals, although the court has reduced the extent of notification in some cases.<sup>20</sup>

If offenders do not appeal or after they have exhausted all appeals, the DCI initiates the public notification process by forwarding the offender's file to a designated official in the county where the offender resides. Representatives from the sheriff's department, police department(s), prosecuting attorney's office, and corrections or human service agencies review the offender's case history and risk

level to determine whom in the community they should notify about the offender. At a minimum, all at-risk offenders will have a file, which contains their registrant information and photograph, at the sheriff's office and police departments in the county where they reside or frequent. Any citizen who makes an in-person request to review the at-risk sex offender file at the local law enforcement agency can view this information. Citizens also can access this information through the Iowa Department of Public Safety's Web site of at-risk sex offenders.<sup>21</sup>

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***All 50 states  
have sex  
offender  
registration laws.***

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Iowa law allows officials to make emergency public notifications on dangerous high-risk offenders without providing the offender with the opportunity to challenge the notification. In one recent case, police received several reports from school children that a man in a vehicle was following them and photographing them as they walked home from school. Police identified the man as a registered sex offender living in the community. As a result, they made an emergency public notification to schools, neighbors, and to the rest

of the community by distributing fliers and holding a news conference. DCI has notified the public in this way approximately six times so far.

### **Finding Wayward Offenders**

The DCI estimates that approximately 40 percent of Iowa sex offenders required to register have not complied with the state's requirements.<sup>22</sup> This includes offenders who either have failed to initially register or have changed residences and have not reported the change of address within the 10 days required by law. Recently, the DCI, in conjunction with local law enforcement agencies, conducted a sweep of noncompliant sex offenders in the Des Moines area and arrested 25 violators. The DCI works with local law enforcement agencies on a continual basis to track noncompliant sex offenders across the state.

### **THE PROS AND CONS OF THE LAWS**

A 1988 survey of 420 criminal justice agencies across the country found that a majority of the reporting agencies considered registration laws a useful tool in apprehending suspected sex offenders.<sup>23</sup> Moreover, sex offender registries provide law enforcement agencies with an additional tool to help them investigate unsolved sex crimes or other violations, such as burglary, kidnapping, or murder, when sexual assault occurs as part of the offense. Iowa law enforcement officials have access to a list of registered sex offenders by county that they can use to identify potential suspects in unsolved cases. In a recent

### Children should know:

- their full name, address, and phone number;
- how to make a long-distance telephone call, and how to call 911 for help;
- that a stranger is someone they and their parents don't know well (but that strangers can be men or women, friendly or unfriendly, and *they never should go anywhere with anyone—even someone they know—without permission*);
- that no one has the right to touch them or make them feel uncomfortable;
- that they have a right to say no;
- that they should tell their parents (or another adult they trust) if anyone tries to touch them; offers them rides, candy, money, or gifts; wants to take their photograph; or asks them to keep a secret;
- to scream ("I don't know you" or "This person is not my parent"), kick, bite, hit, and run away if someone grabs them.

Sources: *The Iowa Missing Persons Information Clearinghouse (800-346-6507)*; *Florida Missing Children Information Clearinghouse (888-356-4774)*; and "Protecting Your Child," *MetLife Consumer Education Center*, (800-METLIFE or <http://www.metlife.com>).

unsolved rape/murder case in Iowa, investigators received anonymous information from a citizen about a possible suspect in the case. Additional investigation revealed that the individual identified by the caller was a registered sex offender. Although a DNA test ultimately pointed to another subject, the sex offender registry unit provided valuable information about the suspect's background, sex offense history, and methods of operation, which may have helped to link him to or exonerate him from the crime. Iowa law enforcement agencies made over 16,000 registry inquiries during a recent 12-month period, illustrating the potential of the registry.<sup>24</sup>

In spite of these success stories, sex offender registration and notification laws have their critics, who base their opposition on several premises. They argue that such laws violate the civil rights of offenders by imposing additional punishment

on them after they have paid their debt to society.<sup>25</sup> Counselors and correctional officers sometimes express concern about the detrimental effect notification may have on sex offender treatment and rehabilitation efforts. They argue that it makes it difficult for sex offenders to reintegrate into society and that the additional stress from public notification may actually trigger recidivism.<sup>26</sup> The identification of sex offenders in the community may result in a "self-fulfilling prophecy"; that is, offenders may behave in a manner consistent with societal expectations.

Opponents also believe that notification provides a false sense of security to the community.<sup>27</sup> To reduce citizen complacency, law enforcement officials need to warn the public that many unidentified sex offenders reside in the community and may not be listed on the registry. Furthermore, sex offenders also can travel from an area where

people know them to one where people do not.

At the same time, notification may create unwarranted panic and fear,<sup>28</sup> which, in turn, may encourage citizens to become vigilantes who take action against offenders. Although the media have reported occasional incidents of this nature, one study found that notification has led to very few instances of offender harassment or harm.<sup>29</sup> Nevertheless, notifications in Iowa include a warning about possible prosecution for such actions. In a few cases, offenders in Iowa have been evicted from their residences or terminated from their employment following public notification.

Do registration and notification laws keep offenders from committing more crimes? A study of sex offender recidivism in the state of Washington found that offenders subjected to public notification were arrested for subsequent sex crimes sooner than nonnotification

offenders, but no significant differences in recidivism rates existed between the two groups. The study found that the notification process encouraged citizens to report suspicious behavior to the police.<sup>30</sup> Yet, notification may make victims of intrafamilial sex offenses reluctant to report victimization.<sup>31</sup>

The administration of a sex offender registry program requires adequate staffing to ensure that employees can disseminate accurate and timely registry information. Opponents argue that the government could better spend taxpayer money on additional sex offender treatment or longer periods of confinement.<sup>32</sup> Iowa citizens also have complained about the inaccessibility of registry information due to the requirement that citizens submit an offender's name and one of three identifiers in order to determine if the person is on the registry. One alternative would allow inquiring

citizens access to a complete list of registered offenders residing in their county. Placing designated sex offenders on the Internet could expand the availability of this information.

As important, law enforcement officials must educate the public about how to recognize predatory and opportunistic sex offender behaviors and provide citizens with suggestions on how they can protect themselves and their children. Media releases, news conferences, and community meetings represent a few of the ways that officials can provide information to the public. Public officials need to allocate adequate resources to responsible agencies for effective implementation to take place.

#### CONCLUSION

Statistics have shown a dramatic increase in the number of convicted sex offenders that reside

in U.S. communities.<sup>33</sup> Sex offender registration and notification laws strive to increase public safety by mandating the release of information about these dangerous offenders. Policy makers and criminal justice officials disagree on whether these laws actually accomplish their stated purpose of protecting the public. However, registries represent a great source of information for identifying, monitoring, and tracking sex offenders, while providing law enforcement officials with an additional tool in the investigation of unsolved sex-related crimes. The national registry will allow state officials to more effectively monitor transient sex offenders.

For public notification to be effective, officials must educate the community about how to recognize characteristic sex offender behavior, encourage citizens to report suspicious behavior to the police,

#### Parents should:

- never display their children's names on school bags, clothing, or personal belongings;
- always know where their children are, who they are with, and how they can be reached;
- encourage their children to play with other children and in places where people can see them;
- communicate with their children, encourage them to talk, and avoid belittling their fears or concerns;
- teach their children how to call 911 for help;
- keep current photographs of their children;
- have their children fingerprinted and keep the cards in a safe place;
- know where and how to obtain their children's medical and dental records;
- teach children how to stay safe, reviewing rules and role-playing possible scenarios and solutions.

*Sources: Iowa Missing Persons Information Clearinghouse (for publication information, call the Iowa Missing Persons Hotline at 800-346-6507) and the Florida Department of Law Enforcement Missing Children Information Clearinghouse (888-356-4774 or <http://www.fdle.state.fl.us>).*



and provide specific suggestions on what citizens can do to protect themselves and their children. This will help reduce the community fear, panic, and vigilantism that public notification sometimes generates.

Legislators and criminal justice officials recognize that registration and notification laws generate controversy and have inherent limitations and drawbacks. In fact, registration and notification of sex offenders are merely pieces of a comprehensive law enforcement strategy to enhance public safety. Criminal justice officials and the public need to work together to reduce sexual violence in their communities.

It has been said that good fences make good neighbors.<sup>34</sup> Yet, when sex offenders move into the neighborhood, residents may need more. Sex offender registration and notification laws, in conjunction with community education and cooperation, can provide a stronghold against the dangerous criminals who live among us. ♦

#### Endnotes

<sup>1</sup> Patty Wetterling, "The Jacob Wetterling Story," speech, in *National Conference on Sex Offender Registries: Proceedings of a BJS/SEARCh Conference*, NCJ 168965, by U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, April 1998, 3-7.

<sup>2</sup> *Ibid.*, vii.

<sup>3</sup> *Ibid.*, 3-7.

<sup>4</sup> 42 U.S.C. §14071; The National Criminal Justice Association, *Sex Offender Community Notification Policy Report* (Washington, DC, October 1997), 5.

<sup>5</sup> The Edward Byrne Memorial State and Local Law Enforcement Assistance Program provides grants to states to "improve the functioning of the criminal justice system, with

emphasis on violent crimes and serious offenders...." Available from <http://www.ojp.usdoj.gov/BJA/html/byrnef.htm>; accessed 2/22/2000.

<sup>6</sup> Scott Matson and Roxanne Lieb, *Sex Offender Registration: A Review of State Laws* (Washington State Institute for Public Policy, Olympia, Washington, July 1996), 5.

<sup>7</sup> 104 P.L. 145, 100 Stat. 1345; *Supra* note 4, 8.

<sup>8</sup> *Supra* note 4, 1.

<sup>9</sup> 42 U.S.C. § 14072; *Supra* note 4, 8-9.

Congress named the act after Lychner when she and her two daughters died in the TWA Flight 800 explosion off the coast of Long Island in July 1996.

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**Many states allow public access to sex offender registry information through Internet sites maintained by criminal justice agencies....**

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<sup>10</sup> The National Sex Offender Registry (NSOR), an interim system that became operational on February 23, 1997, served as a pointer system for a convicted sex offender's record in the Interstate Identification Index. A part of NCIC (National Crime Information Center) 2000, the permanent registry came online July 28, 1999, effectively ending the interim NSOR. As a part of NCIC 2000, the NSOR will flag sex offenders when agencies request authorized fingerprint-based, criminal history background checks. Information provided by the Crimes Against Children Unit, Criminal Investigative Division, FBI Headquarters, Washington, DC, February 24, 2000.

<sup>11</sup> The U.S. Attorney General has set October 2001 as the date that the Department of Justice (DOJ) will determine whether states have met the compliance standards. To help states develop sex offender registries, DOJ

provides funding, while the FBI's Criminal Justice Information Services Division assists with the technical aspects of the program. Information provided by the Crimes Against Children Unit, Criminal Investigative Division, FBI Headquarters, Washington, DC, February 24, 2000.

<sup>12</sup> *Supra* note 6, 1.

<sup>13</sup> *Supra* note 6, 1.

<sup>14</sup> Elizabeth Rahmberg Walsh, "Megan's Laws: Sex Offender Registration and Notification Statutes and Constitutional Challenges," *The Sex Offender*, Vol II (Kingston, NJ: Civic Research Institute, 1997), 3.

<sup>15</sup> Iowa Department of Public Safety Sex Offender Registry Statistics, 4/28/00.

<sup>16</sup> Scott Matson and Roxanne Lieb, *Sex Offender Community Notification: A Review of Laws in 32 States* (Washington State Institute for Public Policy, Olympia, Washington, July 1996), 3.

<sup>17</sup> *Ibid.*, 2.

<sup>18</sup> Peter Finn, *Sex Offender Community Notification* (Research in Brief), U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (Washington, DC: February 1997), 3.

<sup>19</sup> *Supra* note 15.

<sup>20</sup> Iowa Department of Public Safety Sex Offender Registry Statistics, 10/1/99.

<sup>21</sup> See <http://www.state.ia.us/government/dps/dci/isor/index.htm>.

<sup>22</sup> *Supra* note 20.

<sup>23</sup> *Supra* note 4, 2.

<sup>24</sup> *Supra* note 20.

<sup>25</sup> *Supra* note 6, 3.

<sup>26</sup> *Supra* note 18, 14.

<sup>27</sup> *Supra* note 6, 4.

<sup>28</sup> *Supra* note 6, 4.

<sup>29</sup> *Supra* note 18, 13-14.

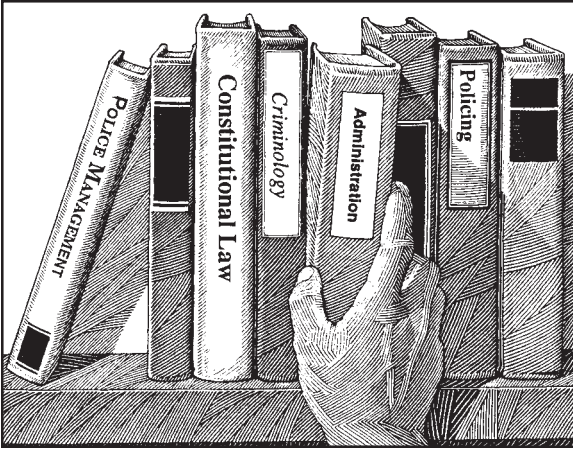
<sup>30</sup> *Supra* note 18, 12.

<sup>31</sup> *Supra* note 6, 4.

<sup>32</sup> *Supra* note 6, 4.

<sup>33</sup> Lawrence A. Greenfeld, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault* (Washington, DC, February 1997), 15.

<sup>34</sup> Robert Frost, "Mending Wall," in John Bartlett, *Familiar Quotations*, 16th ed., ed. Justin Kaplan (Boston: Little, Brown, and Company, 1992), 622:21.



**Police Management** by Roy Roberg and Jack Kuykendall, Roxbury Publishing Company, Los Angeles, California, 1997.

*Police Management* is an outstanding book for the experienced and newly promoted police chiefs, police commissioners, sheriffs, other law enforcement executives and ranking officers who seek to improve their department and meet management challenges ahead. It incorporates the latest contemporary techniques, law enforcement management concepts, and practices.

It is a well designed book that makes effective use of periodic side bars to support each chapter's theme and content. It contains in-depth information on contemporary leadership and management styles with emphasis on the team manager, the latest behavioral theories in police departments, and theories and practices from industry and business that have direct applications to the service and protection role of the law enforcement family.

The authors have assessed the state-of-the-art in management control, accountability, preproblem and problem analysis and dimensional and definitional analyses that are available to the law enforcement manager in their quest of meeting organizational and

community goals and objectives. It first reviews traditional management methods and the transitions to proven contemporary police models. The authors identify industry and business management concepts such as the 14-points for the Transformation of Management that reflect how the points can be applied to the "serve and protect" roles of law enforcement to maintain or enhance performance indicators, competence, and department effectiveness.

The book also contains the latest information on planning and research with emphasis on creativity and types of police plans; management's planning responsibilities and perspectives, their contemporary methods and processes, organizational design and contingency response and control. The authors assess outstanding case studies for the reader such as the Knoxville, Tennessee, Community Policing Task Force, which uses local utility members, fire station personnel and equipment, etc. in mission support. Another study is the Santa Ana, California, Police Department's Reorganization Effort to include the Quality Management Improvement experience implemented at Madison, Wisconsin, using the Experimental Police Districting model. The authors highlighted the Houston, Texas experience in the department's successful transformation from the Community Policing concept to the Crime-Specific Policing model, as well as addressing other innovative models and programs.

*Police Management* is an essential tool for all chiefs of police and law enforcement administrators. The book can be of interest to others in law enforcement as well, such as civil service testing administrators and merit and promotions board members.

Reviewed by  
Larry R. Moore  
Knoxville, Tennessee



## ***Media Ride-Alongs Fourth Amendment Constraints***

By KIMBERLY A. CRAWFORD

**T**he American public recently awoke to the news that INS agents had ended a standoff with the relatives of young Elian Gonzalez by forcibly entering the relatives' Miami home under the authority of a federal search warrant and seizing the boy. Within hours of the operation, poignant pictures of the seizure appeared on televisions and front pages of newspapers across the country. Probably the most memorable photograph is

one depicting a terrified young Elian, cowering in the arms of a man, as an armed INS agent reaches for him.

While many Americans were undoubtedly startled by the swift actions of INS in this case, it is likely that few were surprised by the comprehensive media coverage of the event. Americans have grown accustomed to detailed news coverage of law enforcement activities. The public's seemingly

unquenchable interest in viewing the exploits of law enforcement officers has spawned the ever increasing media coverage of such events. Unfortunately, the media's efforts to satisfy the public's interest also has generated a number of civil suits against individual law enforcement officers.

Unlike the Gonzalez home in Miami, most residences that law enforcement officers enter are not surrounded by hoards of reporters

keeping constant vigil. When the media is present to document law enforcement activities inside most private premises, they are there at the invitation of the officers. It is this invitation to the media to enter private premises that has given rise to a number of civil suits against law enforcement officers.<sup>1</sup>

Over the past few years, these civil suits alleging violations of the Fourth Amendment right of privacy, have met with varied success in federal court.<sup>2</sup> As a result, the question of whether media ride-alongs violate the Fourth Amendment and, if so, to what extent are individual law enforcement officers liable, has remained unanswered. Recently, however, in *Wilson v. Layne*,<sup>3</sup> the Supreme Court of the United States confronted and resolved these issues in a manner that will undoubtedly curtail media ride-alongs in the future.

This article reviews the Supreme Court's decision in *Wilson* and examines its potential impact on the media policies of law enforcement agencies. Additionally, the likely effect the *Wilson* decision may have on police practices unrelated to the media will also be considered.

#### **WILSON V. LAYNE**

Early one morning, Charles and Geraldine Wilson were awakened by the sounds of individuals forcibly entering their home. Scantily clothed, the Wilsons ran to investigate and found several armed law enforcement officers and two reporters in their living room. The Wilsons were restrained by the officers while a protective sweep of their premises was conducted. The

officers, under the authority of an arrest warrant, were searching for the Wilsons' son. At the completion of the search, the officers learned that the subject was not in the home, and they departed. The entire event was witnessed and captured on film by the reporters on the scene.

Although the photographs taken that day were never published, the Wilsons filed a civil suit against the officers<sup>4</sup> who invited the reporters into their home. The action was based on the claim that bringing the media into the home constituted an unreasonable search in violation of the Wilsons' Fourth Amendment rights. The named officers, arguing that they did not violate a clearly established law, moved for dismissal of the action on the basis of qualified immunity. The district court denied the officers' motion.

On interlocutory appeal to the U.S. Court of Appeals for the Fourth Circuit, a divided court granted the motion and dismissed

the suit. In doing so, the court declined to rule on the constitutionality of taking the media into private premises. Rather, the court concluded that, if the Fourth Amendment was violated by the presence of the media, the officers could not be held liable because the prohibition was not clearly established at the time the invitation was extended to the media.<sup>5</sup> The Supreme Court subsequently granted review.<sup>6</sup>

#### **Fourth Amendment Violation**

Before reaching the question of qualified immunity, the Supreme Court first considered whether the underlying action of inviting the media to enter private premises<sup>7</sup> to observe the execution of a warrant amounted to a constitutional violation. The Court began by reviewing the historical underpinnings of the Fourth Amendment and reflecting upon the intent of the framers to embody the "centuries-old principle of respect for the privacy of the home."<sup>8</sup> Out of this respect for

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Special Agent Crawford is a legal instructor at the FBI Academy.

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privacy, the Court traditionally has required law enforcement officers who enter premises under the authority of a warrant, to constrain their actions in execution of the warrant to those that are reasonably “related to the objectives of the authorized intrusion.”<sup>9</sup>

In the case under consideration, the Court recognized that the law enforcement officers entered the Wilsons’ residence under the lawful authority of a warrant<sup>10</sup> and were entitled to take steps reasonably necessary to accomplish the legitimate government purpose of making an arrest. However, the Court found that the reporters were not present for any purpose reasonably related to the execution of the warrant and, thus, the officers exceeded the authority of the warrant by inviting the media to take part.

In reaching its conclusion, the Court specifically rejected the officers’ argument that the presence of the reporters was reasonable because it “furthered their law enforcement mission”<sup>11</sup> by publicizing the government’s efforts to combat crime and minimizing the likelihood of both police abuse and physical resistance of subjects. While acknowledging the legitimacy of these government objectives, the Court held that they were not sufficient to outweigh the “right of residential privacy at the core of the Fourth Amendment.”<sup>12</sup>

### **Qualified Immunity**

Having determined that the presence of the media at the invitation of the law enforcement officers constituted a violation of the Wilsons’ Fourth Amendment

rights, the Court next turned its attention to the issue of qualified immunity. This inquiry required the Court to determine whether in 1992, when the events that lead to the civil suit took place, a “reasonable officer could have believed that bringing members of the media into a home during the execution of an arrest warrant was lawful, in light of clearly established law and the information the officers possessed.”<sup>13</sup>

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***Law enforcement agencies should carefully craft media policies that follow the parameters established by the Supreme Court in Wilson.***

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

participate in the execution of the warrant. Thus, the Court granted the officers qualified immunity.

### **MEDIA POLICY CONSIDERATIONS**

Although the officers involved in *Wilson* were granted qualified immunity, the decision of the Court in that case makes the law in this area “clearly established” and, thus, the defense of qualified immunity will not be available to officers involved in similar conduct in the future. Because the public appears to be genuinely interested in law enforcement activities, it is likely that the media will want to continue its past practice of participating in ride-alongs with officers. Law enforcement agencies should carefully craft media policies that follow the parameters established by the Supreme Court in *Wilson*. Moreover, agencies should provide training designed to alert officers to the potential personal liability of exceeding those parameters.

When crafting media policies, it is important to note that the decision of the Supreme Court in *Wilson* only prohibits law enforcement officers from inviting representatives of the media or others into private areas protected under the Fourth Amendment. The holding in the case does not preclude the media from witnessing and filming law enforcement activities that take place in public areas. Nor does it proscribe attempts to obtain consent from occupants of residences prior to inviting the media to enter.

In many instances, it would be impractical, if not impossible, for law enforcement officers to obtain

consent from the occupants of private premises prior to making an entry. In this case, the media must resign itself to filming from the exterior of the residence.

If representatives of the media are not satisfied with documenting law enforcement activities that occur in public places or filming from the exterior of residences, they may attempt to use waivers of liability to justify intrusions into private areas. Law enforcement officers and agencies contemplating a cooperative operation with the media should be cautioned against such waivers.

Waivers of liability are the equivalent of a business contract entered into by the media and occupants of the premises. The initial concern of law enforcement officers and agencies should be that the waiver protects both law enforcement officers and media representatives from liability. However, even the most expansive waiver may not be sufficient to protect officers and agencies from liability if it is obtained under coercive circumstances. Because waivers of liability are contracts, they are unenforceable if made under duress.<sup>14</sup> It is very likely that waivers, signed by individuals as law enforcement officers are making a forcible entry into their home to search for evidence of a crime or to make an arrest, would be viewed by courts as contracts under duress and insufficient to shield officers or agencies from liability.

### **OTHER POLICY CONSIDERATIONS**

The decision of the Supreme Court in *Wilson* was intended to restrict more than just media



ride-along programs. Caution must be exercised *anytime* law enforcement officers invite third parties into private premises. Whether third parties are participating in a citizen ride-along program or are part of an assembled search team, their presence in private premises is subject to review under the standard set by the Court in *Wilson*. An example of the type of police practice that is now clearly prohibited can be found in *Buonocore v. Harris*.<sup>15</sup>

For nearly two years, Buonocore lived with his girlfriend, Linda Sue Taylor. Following their breakup, Taylor advised local law enforcement officers that the Buonocore home contained illegal weapons and telephone company equipment that he had stolen from his employer. The information regarding the illegal weapons was provided to agents of the ATF and a federal search warrant was obtained.

Prior to executing the federal warrant, a deputy sheriff contacted the telephone company and invited

one of their security officers to go along on the search to identify any property belonging to the company. The initial search of Buonocore's home was conducted by the law enforcement officers. Once the preliminary search was completed and no illegal weapons were found, the telephone company security officer was called in to identify any company equipment that may have been in plain view. The subsequent search by the security officer resulted in the seizure of a "number of relatively inexpensive items belonging to" the telephone company.<sup>16</sup>

Although no criminal charges were brought against him, Buonocore was dismissed from his job for failing to secure "specific authorization" to have company property in his residence. Buonocore thereafter filed suit against the law enforcement officers who allegedly invited the company security officer to accompany them during the execution of the search warrant.

The officers moved to dismiss the action on the grounds of qualified immunity. However, the trial court denied the motion and the case proceeded to a jury trial. Following an award of damages<sup>17</sup> in favor of Buonocore, the officers appealed. On review, the United States Court of Appeals for the Fourth Circuit concluded that the deputy who invited the security officer to go along had violated the Fourth Amendment by "allowing a search warrant to be used to facilitate a private individual's independent search of another's home for items unrelated to those specified in the warrant."<sup>18</sup> Of particular concern to the court was that the facts could support a jury finding that the deputy failed to properly supervise the security officer while on the scene and, instead, allowed him to rummage through Buonocore's personal property.

If the actions of the deputy sheriff in *Buonocore* were reviewed under the standard recently set by the Supreme Court in *Wilson*, the focus of the court would likely change but the outcome of the case would remain the same. Instead of concentrating on the issue of supervision, the court could simply consider the reasons for inviting the third party into the private residence and declare the action unconstitutional.

The warrant authorizing the entry of Buonocore's home allowed the government to take any steps reasonably necessary to locate or identify the items listed in the warrant. Because the warrant listed only illegal weapons as the items to be seized, it would be implausible to argue that the officers reasonably

required the assistance of a telephone security guard to accomplish their mission. Thus, properly supervised or not, the presence of the security officer violated Buonocore's Fourth Amendment rights.

## CONCLUSION

Not every invitation for third parties to enter private premises will violate the Fourth Amendment. There are numerous law enforcement situations that reasonably call for the assistance of private individuals. For example, officers may invite emergency medical personnel into private premises when their

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**Caution must be exercised anytime law enforcement officers invite third parties into private premises.**

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services are reasonably required; a locksmith or computer expert may be summoned by law enforcement officers when reasonably necessary to gain access to areas the officers have the authority to search; and private individuals may be called in to identify stolen property that is not otherwise easily recognizable by the officers.<sup>19</sup>

Department policies should be carefully drawn to limit the involvement of third parties with law enforcement activities unless those

activities take place in public locations, the third parties are there at the lawful consent of those occupying private premises, or the third parties are reasonably necessary to assist law enforcement officers in the performance of their legitimate duties. Moreover, because violations of the rule set by the Supreme Court in *Wilson* can result in officers' personal liability, training should be established to insure that officers comply with the standard. Prior to inviting *any* third party into private premises, officers must first consider the legal justifications for the government intrusion into those premises, then determine whether presence of the third parties is "reasonable related to the objectives of the authorized intrusion."<sup>20</sup> ♦

## Endnotes

<sup>1</sup> See, e.g. *Ayeni v. Mottola*, 848 F. Supp. 362 (E.D.N.Y. 1994) aff'd 35 F.3d 680 (CA2 1994), cert. denied 115 S. Ct. 1689 (1995); *Berger v. Hanlon*, 129 F.3d 505 (CA9 1997) cert. granted 119 S. Ct. 443, vacated and remanded 119 S. Ct. 1706 (1999); *Wilson v. Layne*, 141 F.3d 111, (CA4 1998), cert. granted 119 S. Ct. 443 (1998), aff'd 119 S. Ct. 1692 (1999).

<sup>2</sup> In *Ayeni* and *Berger*, *supra*, the courts denied the officers' motions for qualified immunity. In *Wilson*, however, the court granted the officers qualified immunity.

<sup>3</sup> 119 S. Ct. 1692 (1999).

<sup>4</sup> The local law enforcement officer was sued pursuant to 42 U.S.C. §1983 and the federal officer was sued under the authority granted by the Supreme Court in *Bivens v. Six Unknown Federal Narcotics Agents*, 91 S. Ct. 1999 (1971).

<sup>5</sup> 141 F.3d. 111 (CA 4 1998).

<sup>6</sup> 119 S. Ct. 443 (1998). Certiorari was granted because of the split in the circuit courts that is reflected in the cases contained in endnote 2.

<sup>7</sup> Private premises include home, businesses, and anywhere else individuals have a Fourth Amendment right of privacy.

<sup>8</sup> 119 S. Ct. at 1697.

<sup>9</sup> *Id.* at 1698.

<sup>10</sup> The officers entered the Wilsons' home under the authority of an arrest warrant. In *Payton v. New York*, 445 U.S. 573 (1980), the Supreme Court held that an arrest warrant carries with it the authority to enter the subject's premises as long as, at the time of entry, officers have probable cause to believe the subject is inside.

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

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

<sup>13</sup> *Id.* at 1700.

<sup>14</sup> See, 66 Am. Jur. 2d *Restitution and Implied Contracts* §11 (1973).

<sup>15</sup> 134 F.3d 245 (1998).

<sup>16</sup> *Id.* at 249

<sup>17</sup> The jury found no liability on the part of the ATF agent. However, the jury assessed \$8,500 against the sheriff's deputy.

<sup>18</sup> 134 F.3d at 251.

<sup>19</sup> See, e.g. *Bills v. Aseltine*, 958 F.2d 697 (CA6 1992).

<sup>20</sup> 119 S. Ct. at 1698.

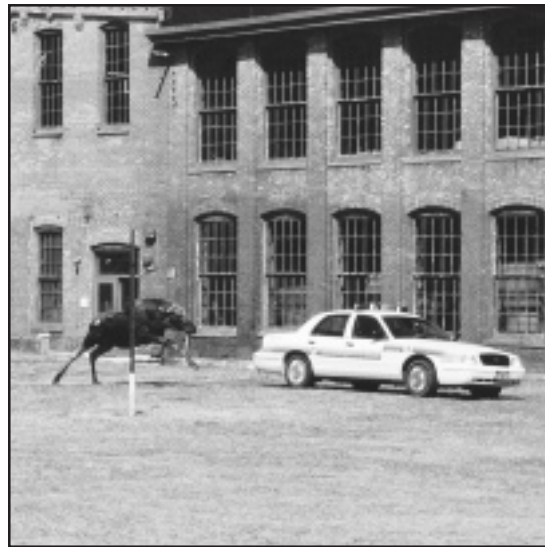
*Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.*

## Snap Shots

### Moose Attacks Police Cruiser

The Bennington, Vermont, Police Department received a call that a moose had been hit by a car. Actually, the moose had run into the left rear of the vehicle, but was not seriously injured. Confused and disoriented, the young moose became trapped in a 3-sided courtyard. Attempting to encourage the animal to move into a wooded area, Sergeant Ronald Elwell maneuvered his police cruiser behind the moose. Instead of retreating, the angry moose began to charge at the cruiser. Sergeant Elwell was able to move his vehicle out of the moose's way just in time. Eventually, the moose left the courtyard and meandered through town until he reached a stream. The moose managed to climb the bank out of the stream and then disappeared into the nearby woods.

*Submitted by Nicolle Woodward, Bennington Police Department.*



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# *FBI Law Enforcement Bulletin*

## Author Guidelines

### GENERAL INFORMATION

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

**Frequency of Publication:** Monthly.

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

### MANUSCRIPT SPECIFICATIONS

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

**Format:** Authors should submit three copies of their articles typed and double-spaced on 8 1/2- by 11-inch white paper with all pages numbered. When possible, an electronic version of the article saved on computer disk should accompany the typed manuscript.

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

**Writing Style and Grammar:** The *Bulletin* prefers to publish articles in the third person (Point of View and Perspective submissions are exceptions) using active voice. Authors should follow *The New York Public Library Writer's Guide to Style and Usage* and should study several issues of the magazine to ensure that their writing style meets the *Bulletin's* requirements.

Authors also should contact the *Bulletin* staff for the expanded author guidelines, which contain

additional specifications, detailed examples, and effective writing techniques.

### PHOTOGRAPHS AND GRAPHICS

A photograph of the author(s) should accompany the manuscript. Authors can submit photos and illustrations that visually enhance and support the text. Black-and-white glossy prints (3- by 5-inch to 5- by 7-inch) reproduce best. The *Bulletin* does not accept responsibility for lost or damaged photos or illustrations.

### PUBLICATION

**Judging Manuscripts:** The *Bulletin* judges articles on relevance to the audience, factual accuracy, analysis of the information, structure and logical flow, style and ease of reading, and length. The *Bulletin* generally does not publish articles on similar topics within a 12-month period or accept articles previously published or currently under consideration by other magazines. Because it is a government publication, the *Bulletin* cannot accept articles that advertise a product or service.

**Query Letters:** Authors may submit a query letter along with a 1- to 2-page outline before writing an article. Although designed to help authors, this process does not guarantee acceptance of any article.

**Author Notification:** The *Bulletin* staff will review queries and articles and advise the authors of acceptance or rejection. The magazine cannot guarantee a publication date for accepted articles.

**Editing:** The *Bulletin* staff edits all manuscripts for length, clarity, format, and style.

### SUBMISSION

Authors should mail their submissions to:  
Editor, *FBI Law Enforcement Bulletin*, FBI Academy, Madison Bldg., Room 209, Quantico, VA 22135; telephone: 703-632-1952; fax: 703-632-1968; e-mail: leb@fbiacademy.edu.

# The Bulletin Notes

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



Officer Dolan



Sergeant Calenda

Officer Thomas Dolan of the Johnston, Rhode Island, Police Department was on his way to work in his personal vehicle when he saw a male running along the road next to a business. When the male disappeared between several parked cars Officer Dolan pulled beside the cars, and the subject leaped out. Officer Dolan identified himself as a police officer and the subject fired on him, wounding him in the face and hitting him in his bullet-proof vest. Officer Dolan returned fire and radioed a distress call to dispatch. Subsequently, the subject ran into an industrial park. More than 60 fellow officers from other agencies converged upon the scene and determined

that the subject fit the description of an armed robbery suspect. At this time, Sergeant Michael Calenda of the Johnston, Rhode Island, Police Department located the subject who appeared to be ready to fire on two approaching uniformed officers. When Sergeant Calenda ordered the subject to drop his weapon, the individual turned and pointed his weapon at Sergeant Calenda, who fired two rounds at the subject, striking him at least once. The subject was taken into custody and transported to the hospital where he later died from his gunshot wound. The courageous efforts of these officers exemplifies their dedication to the law enforcement profession.



Deputy Johnson

Deputy John Johnson of the East Baton Rouge Parish, Louisiana, Sheriff's Office was off duty when he saw a woman trying to drown a 21-month-old boy in an apartment complex swimming pool. The child's mother, who the subject also had tried to drown, was attempting to free her son from the woman. Deputy Johnson jumped into the pool fully clothed and managed to get the baby away from the subject. After getting out of the pool, the subject hit two people before Deputy Johnson managed to get her

away from others. Deputy Johnson walked with the subject around the apartment complex until other police officers arrived. Deputy Johnson's quick response saved the toddler's life.

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

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## Patch Call



The Basalt, Colorado, Police Department patch depicts a train with the number 309, which was the last train to leave Basalt at the end of the mining era in the early 1900s. Basalt was a railroad center for the Colorado Midland Railroad for mining done in the Aspen area. Today, the depot serves as a local bank and the old railroad bed is the town's main street.



The patch of the Alpharetta, Georgia, Police Department portrays the city seal. The year Alpharetta became incorporated appears at the bottom of the patch.