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# Sex Trafficking: Identifying Cases and Victims

*by Robert Moossy, J.D.*

Finding 'Common Ground' in Drug Market Interventions

Postconviction DNA Testing

Sleep Deprivation and Public Safety Officers

Protecting America's Ports

Using Technology to Make Prisons Safer

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## DIRECTOR'S MESSAGE

In January, Barack H. Obama was sworn in as the 44th president of the United States. On that cold Tuesday afternoon, he told 1.8 million people on the Mall — and millions more watching around the country and the world — that the question before us is whether government works.

"Where the answer is yes," he said, "we intend to move forward. Where the answer is no, programs will end."

In February, when Attorney General Eric Holder visited the Office of Justice Programs, he emphasized that the U.S. Department of Justice is more committed than ever before to using science to strengthen our entire system of justice.

The National Institute of Justice (NIJ) continues to play a major role in using science to find answers. At the heart of NIJ's mission is the use of scientific principles to determine what works — and what doesn't — in criminal justice.

Speaking of "what works," we are pleased to present in this issue of the *NIJ Journal* a continuing discussion regarding drug market interventions. David Kennedy, director of the Center for Crime Prevention and Control at the John Jay College of Criminal Justice, kept hundreds of criminal justice professionals spellbound during his luncheon address at last year's NIJ Conference. His talk was so compelling and well-received that we asked him to write about his work on the High Point (N.C.) Intervention for the *Journal*. Here Kennedy explores the roots of that groundbreaking program and why he thinks it works. NIJ is currently funding an independent evaluation of the program (findings are due in June), which is now being replicated in more than 20 cities around the country.

We also reached out to one of the top experts in human trafficking in the country to write about the underground criminal industry of sex trafficking for this issue. Robert Moossy, director of the Human Trafficking Prosecution Unit in the Justice Department's Civil Rights Division, leads a team of the most experienced human trafficking prosecutors in the nation. In his article, Moossy focuses on identifying cases and victims of sex trafficking — and many of his points reaffirm findings of recent NIJ studies that have looked at local law enforcement's role in uncovering and investigating these heartbreaking and difficult cases.

I encourage our readers to register for the annual NIJ Conference, being held June 15–17 in Arlington, Va. This year we will feature two plenary panels — one on homicide in the United States and one on what works in probation and parole. Our keynote speaker, Clea Koff (also known as "The Bone Woman"), will talk about her experiences after the genocides in Bosnia and Rwanda.

I'm also pleased to mention that the NIJ Conference is "going green." From name badges to lanyards, many products at this year's event will be made from recycled materials. Register for the conference at [www.ojp.usdoj.gov/nij](http://www.ojp.usdoj.gov/nij).

Exciting changes are on the horizon all across the country ... including here at NIJ. There is one thing, however, that will not change: our commitment to ensuring that science serves justice.



Kristina Rose  
Acting Director, National Institute of Justice



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- Researchers interested in criminal justice
- Students interested in criminal justice issues

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## Sex Trafficking: Identifying Cases and Victims

by Robert Moossy, J.D.

*A police officer at a mall is approached by a frantic and scared young woman running from a store that sells provocative women's clothing. She asks for help and says she's being held against her will. Later, she tells the police that she is a U.S. citizen and is being beaten by a pimp who is forcing her to prostitute herself in motels throughout the area.*

*An anti-trafficking hotline receives a call from a man who says he has just been to a brothel, where he met a Central American woman who cried and said she was afraid the brothel operators would hurt her family in her home country if she did not prostitute. The caller says the brothel is next to a migrant labor community and the women in the brothel are undocumented and afraid of being deported.*

*Federal agents receive a call from a worried parent who says his 13-year-old daughter is engaging in commercial sex to earn money for a man she calls her boyfriend.*

This is sex trafficking, and these women are its victims.<sup>1</sup> If properly identified, investigated and prosecuted, the traffickers in these examples face 15 years minimum mandatory imprisonment and up to a life term in federal prison. Such severe facts and corresponding punishments confirm that sex traffickers are, indeed, engaged in modern-day slavery.

Sex trafficking is a particularly degrading form of human trafficking, defined generally as recruiting, enticing, harboring, transporting,

providing or obtaining either: (1) an adult for commercial sex by force, fraud or coercion, or (2) a juvenile for commercial sex, regardless of the means. Law enforcement and our nongovernment-organization partners most often see cases in which pimps coerce women and girls, both U.S. citizens and aliens, into prostitution.

In the last eight years, since the enactment of the federal sex trafficking criminal statute in 2000,<sup>2</sup> the number of human trafficking cases brought in federal courts

has dramatically increased. Although great strides have been made in combating sex trafficking, we can and must do a better job of identifying victims of this crime. Human trafficking is a serious federal civil rights crime and combating it is a top priority of not only the U.S. Department of Justice (DOJ) and the federal government as a whole, but also of many state and local governments. In fact, to date, at least 39 states have passed sex trafficking laws.

As in all human trafficking cases, our goal is to identify the victims so that we can not only punish the traffickers, but also help restore the lives of those the traffickers have harmed. DOJ and the Human Trafficking Prosecution Unit now have more than eight years' experience identifying and helping sex trafficking victims. We have learned from our successes and our failures and have identified some promising practices for:

- Identifying potential victims of sex trafficking.
- Assessing potential sex trafficking matters.
- Prioritizing which investigative steps to take first.

Common to all these practices is our reliance on a victim-centered investigation and prosecution model, which recognizes that the victims of sex trafficking are often traumatized. During their first contacts with law enforcement, victims are likely experiencing serious physical and psychological harms and injuries resulting from their exploitation. To obtain useful evidence from victims, law enforcement agents — often working with social services providers — first must aid the victims and thereby gain their trust, confidence and cooperation.

## Identifying Potential Victims

Sex trafficking is in some respects a hidden crime, perpetrated in alleys, brothels and illicit massage parlors. But for the sex trafficker to make money — his or her ultimate goal — the trafficker must obtain

a stream of paying clients, or “johns,” and provide an array of new victims. Both these activities require traffickers to become more “public,” providing opportunities for law enforcement to intervene. The following principles will help officers as they seek to do so.

### **Develop and implement training and referral programs on sex and human trafficking for both law enforcement officers and others in the community.**

These programs must include training on recognizing indicators of sex trafficking and reporting potential sex trafficking to experienced investigators.

Although Congress created the federal crime of sex trafficking in 2000 and states are enacting sex trafficking statutes, we still need to raise awareness and educate law enforcement about this crime. Most cases prosecuted by DOJ to date have been identified by line-level police officers who encounter sex traffickers or their victims during the normal course of operations: during routine traffic stops, on domestic violence calls, while inspecting liquor licenses, and when intercepting truant children.

On the other hand, police officers have not always identified the crime during actual encounters with sex traffickers. For example, in one case in which the sex trafficker is now serving a life sentence for beating and raping women to force them into prostitution, local police had suspicious encounters with the offender and his victims on at least two occasions before identifying the situation. In one of these encounters, a patrol officer pulled a van over for a traffic violation and observed that it was occupied by scantily clad young women who

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### Editor's Note

This article is derived from a presentation given by the author at the U.S. Department of Justice's (DOJ) Fourth National Human Trafficking Conference in Atlanta, Ga., in September 2008. The National Institute of Justice participated in the conference, which was funded in part by components of DOJ, including the Bureau of Justice Assistance and the Office for Victims of Crime.

appeared to be afraid of the driver. The officer thought something was amiss, but did not know how to characterize the situation or to whom to report it.

To be truly effective, training programs on human trafficking must teach case identification to all officers in the department (not just vice officers) and offer other specialized training to a few who can then lead a response team when a case is identified. Several law enforcement agencies and organizations, including the International Association of Chiefs of Police and the U.S. Immigration and Customs Enforcement, have developed training programs for identifying sex trafficking victims.<sup>3</sup>

#### **Contact law enforcement agents in neighboring jurisdictions and develop a reporting relationship with them.**

Because traffickers are mobile and cross jurisdictional lines, victim identification training must be implemented not just in one jurisdiction, but in neighboring jurisdictions as well. Sex traffickers often operate in multijurisdictional networks, transporting their victims to various brothels, motels, communities and towns. An officer in one agency might intercept and identify a sex trafficker operating in a neighboring jurisdiction. Likewise, one sex trafficker may prostitute his victims in several towns or even states. The evidence needed to successfully identify a situation as sex trafficking might stem from leads in several different jurisdictions. (See “DOJ-Funded Human Trafficking Task Forces,” page 5.)

**Make regular contact with local nongovernmental organizations that might assist sex trafficking victims and ask for leads.** When sex trafficking victims escape their exploiters, they often do not report their exploitation to the police. Instead, they go to nongovernmental organizations serving domestic violence and sexual assault victims, community health clinics, and groups that assist immigrants or people of a particular ethnicity. Law enforcement should make an affirmative effort to train these groups to recognize sex trafficking indicators and

to report them to law enforcement agencies. Often a key factor in building a successful relationship with these groups — one that will lead to identifying cases — is establishing contact before a victim is identified and emphasizing that law enforcement’s interest is in catching the sex trafficker, not in arresting the health clinic’s or community group’s clients.

#### **Work with confidential informants.**

Law enforcement has identified numerous sex trafficking cases based on information provided by confidential informants, such as taxi drivers, johns, bar patrons and others who have contact with commercial sex operations. Many traffickers operate in and target specific communities: construction workers from a particular region in Mexico, Korean businessmen or regular patrons of a particular nightclub. Because offers of commercial sex are not made to outsiders, such as someone with a different Mexican dialect, traditional “sting” or undercover operations often do not work in these environments. Instead, officers must identify and recruit people who operate at the fringes of these sex trafficking ventures. In one case, a taxi driver reported that he was receiving calls to pick up very young women from a particular address and deliver them to hotel rooms. Law enforcement worked with this informant to identify a network of houses where victims were held by pimps and other taxi drivers who were prostituting juvenile girls. The success of this approach hinges, of course, on an agency’s ability to identify potential confidential informants.

## **Assessing the Matter**

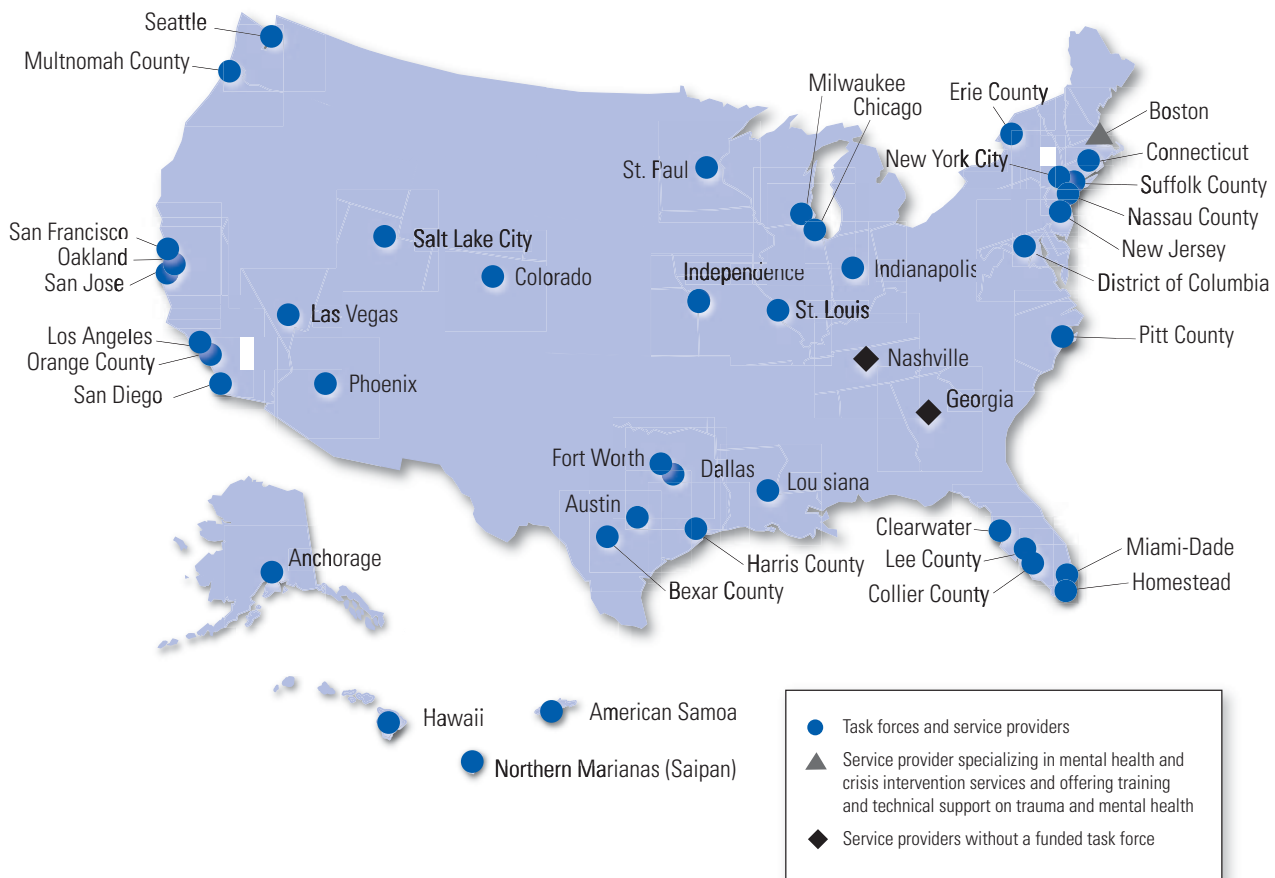
Once a potential sex trafficking victim is identified, an officer must assess the victim and her statement for possible further law enforcement action. This typically involves interviewing the victim and evaluating her credibility.

Interviewing sex trafficking victims presents unique challenges: Unlike many crime victims, sex trafficking victims may be afraid they have committed the crime of



### DOJ-Funded Human Trafficking Task Forces

To facilitate multidistrict contacts and cooperation in sex trafficking cases, the U.S. Department of Justice has funded 42 jurisdictions and 36 trafficking victim services providers to form human trafficking task forces to identify and rescue victims of trafficking by proactively investigating such cases. These task forces bring together federal, state and local law enforcement and victim services organizations to investigate all forms of human trafficking and assist the victims. The task forces can provide agencies with training and other materials to assist in identifying sex trafficking cases and victims. Many law enforcement agencies have formed their own human trafficking task force or working group of officers from local jurisdictions to better coordinate operations.



prostitution, and thus they may be wary of law enforcement. Victims may be aliens from countries with systemically corrupt law enforcement officials who work for the sex traffickers. These victims are often highly traumatized, having lived through months or even years of brutality, sexual assaults by the traffickers and clients, false promises, and fear. In some instances,

victims develop survival or coping mechanisms that manifest as distrust, deceptiveness and an unwillingness to accept assistance. Sometimes they express love for their traffickers. Given these complexities, in-depth interviews with sex trafficking victims are usually best handled, whenever possible, by law enforcement agents with experience and training in interviewing

children or victims of sex trafficking or sexual assault. The following principles will guide law enforcement agents who have identified sex trafficking cases.

**Believe the victim until the investigation shows otherwise, remembering that truth is stranger than fiction.** In several sex trafficking cases, the first-responding officers stated that their initial reaction was disbelief, not necessarily of the victim herself but of the facts she related. For example, in one case, a victim described initiation “parties” in which victims were held down and repeatedly raped by a series of men with the goal of bringing as many men to ejaculation as possible. In another case, victims described being forced to lay naked on a bed while 20 or more men entered the room in approximately 10-minute intervals and penetrated them. In a third case, young middle-class college women described being forced to engage in sex in the backrooms of popular night-clubs in a particular jurisdiction. In each case, the first-responding officer described being suspicious because the statements seemed outlandish. Each of these cases resulted in the prosecution and conviction of a sex trafficker.

**House and interview victims separately, and observe their interactions with each other.** Some women initially thought to be victims may themselves be sex traffickers or enforcers. Sex traffickers often use several techniques to support their exploitative practices. For example, a pimp may empower a one-time victim by giving her enforcement and monitoring authority over other women coerced into commercial sex. These women, if housed or interviewed with other victims, will often seek to impede the investigation. Consequently, when multiple victims are in the presence of one another, it is critical to observe their body language to determine whether they are looking to a particular individual for cues or signals. In addition, such women who are “promoted” to roles as monitors or enforcers of other victims may be observed going from room to room, speaking with each

victim being housed after a raid, or lingering around agents to overhear reports or interviews with other victims.

**Do not stop investigating because victims lie, especially early on.** As discussed above, victims may be traumatized or fearful of law enforcement officers because the trafficker may have threatened to harm them or their families if they are truthful. This may lead victims to deceive law enforcement, especially early in the process. Agents should anticipate this and develop a plan for establishing the victim’s trust in order to secure truthful statements.

Experience has shown that employing a victim-centered investigation and prosecution model secures victims’ trust and thereby fosters truthful statements. This approach includes establishing a rapport with the victim and discussing her involvement in commercial sex matter-of-factly and non-judgmentally, rather than attempting to secure an “admission” to facts that are most likely already known. This approach can also include focusing initially on less sensitive, though still important information before pressing for details on particularly traumatic or humiliating incidents, which are better explored after establishing rapport. Finally, agents who have collected evidence from documents (brothel ledgers, for example) and surveillance (photographs of victims being transported, for example) can use it to challenge those who refuse to be forthcoming.

**Be patient.** Victims of sex trafficking are not like other crime victims, who often actively seek to involve law enforcement. Obtaining truthful statements will often involve multiple interviews over weeks or months, as the victim begins to recover from her trauma. Sex trafficking victims are often most forthcoming once they realize that law enforcement will not return them to their traffickers, and once they see that officers are genuinely interested in and attentive to their well-being. Many traffickers tell their victims that the police will not help them and will be interested only in

arresting the victims for engaging in commercial sex acts or for being undocumented. One primary goal of the interviewing officer is to prove the trafficker wrong by demonstrating respect and understanding of the traumas the victim has experienced. Focusing on this goal, rather than on attempting to press the victim into relating the full scope of her victimization right away, will increase trust and reduce the pressure to withdraw, falsely deny or fabricate.

### **Investigative First Steps: Corroborating Victims' Statements**

Sex trafficking victims provide the most complete and compelling evidence for a successful prosecution. Law enforcement officers should seek to develop additional evidence — no matter how small — to corroborate victims' statements. This might come from the testimony of other victims and witnesses or from physical evidence.

#### **Once you have found one victim, look for additional and "historical" victims.**

Sex trafficking operations tend to involve multiple victims because traffickers seek to supply their clients with new women. Even in cases where the trafficker is exploiting only one woman at any particular time, a history of exploiting victims is likely. Victims from the past are called "historical" victims.

Identifying additional and historical victims is often key to developing a successful sex trafficking case for prosecution. Like all human trafficking cases, sex trafficking cases involve lengthy and often complex relationships between the trafficker and the victim. Frequently, the only people who know the facts of the exploitation are the traffickers and their victims. Although many sex trafficking operations keep cryptic or coded ledgers, few offenders keep detailed documentary evidence of their exploitative conduct. A client may see parts of the operation for a brief moment, as might a driver or a hotel operator. But it is the victim who has suffered the coercion and repeated sex acts, and thus her testimony most completely describes the sex trafficking operation.

*Most cases prosecuted by DOJ to date have been identified by line-level police officers who encounter sex traffickers or their victims during normal police operations.*

Even if one victim's testimony seems less convincing — for example, as a result of biases against women who have engaged in commercial sex or who have provided initially conflicting statements — the cumulative testimony of several women, each describing the trafficker's use of coercion and fraud, can be persuasive to judges and juries.

Victims often know the identities of other victims or have heard stories about them. Where practical, law enforcement agents might delay arresting the trafficker or raiding the operation until they have conducted surveillance of known locations for additional victims and defendants.

Law enforcement may also identify additional and historical victims through media coverage of the arrest of the trafficker. For example, after the publicized arrest of a sex trafficker in one case, local law enforcement received several calls from women who said they had escaped his operation and now felt safe coming forward. Although law enforcement must be careful not to generate undue community (and possibly jury) prejudice against an arrestee or to further traumatize victims through excessive publicity, responsibly written and measured press releases that provide a contact number for possible victims can lead additional victims to come forward and help corroborate a case.

**Use covert methods and exhaust them before conducting a raid or arresting the sex trafficker.** Many law enforcement officers, upon finding a credible victim of sex trafficking, seek to immediately raid locations the victim identifies and arrest the trafficker. Where there is evidence

of immediate and ongoing physical harm of victims or the exploitation of children, immediate raids and arrests may be the only acceptable path. However, officers should look to gather as much evidence as possible before raiding a sex trafficking enterprise

and thereby terminating its operation. This evidence is critical for corroborating testimony and determining the scope of the enterprise, including finding other commercial sex locations and victims. Although I cannot describe details of

## COMBATING HUMAN TRAFFICKING AT THE STATE AND LOCAL LEVELS

by Karen J. Bachar

As Robert Moossy makes clear in this article, local law enforcement agencies are often in the best position to identify human trafficking victims. Recent research, however, indicates the difficulty of uncovering and investigating human trafficking cases is often caused by a lack of training, the need for enhanced communication between local law enforcement and victim service agencies, and the hidden nature of this crime. Additionally, human trafficking may take a back seat to other priorities, such as violence and drugs.

Recent studies funded by the National Institute of Justice (NIJ) have revealed a need to better understand the problem. One study, for example, found that in general, officers, prosecutors and service providers could not:

- Identify types of trafficking (for example, trafficking in sexual exploitation or trafficking in general laborers).
- List elements of trafficking.
- Differentiate between severe and non-severe forms of trafficking.
- Distinguish trafficking from smuggling.
- Differentiate between domestic and international trafficking.

The same study also found communication gaps between local law enforcement and victim service agencies.<sup>4</sup>

Another NIJ study found that law enforcement agencies participating in the Department of Justice's human trafficking task forces (see "DOJ-Funded Human Trafficking Task Forces," page 5) are more likely to perceive human trafficking as a problem in their communities and to have training, protocols and specialized units of personnel devoted to investigating these cases.<sup>5</sup>

These findings highlight the need for additional training for and increased awareness among state and local criminal justice practitioners to help them recognize and prosecute trafficking cases either under state statutes or with federal partners. Promoting interagency cooperation remains vital.

### About the Author

Karen Bachar has been a social science analyst in NIJ's Violence and Victimization Research Division since 2005. Her expertise is in the fields of violence and victimization, human trafficking, program evaluation and translating research into practice. Prior to joining NIJ, Bachar was the research director for violence prevention studies at the University of Arizona's Mel and Enid Zuckerman College of Public Health.

specific covert methods, officers have successfully used pole cameras, consensually monitored telephone calls, tracking devices and undercover operatives to gather evidence.

**Obtain and execute search warrants, and anticipate needing additional warrants predicated on facts you discover during the execution of the initial warrants (i.e., roll-over warrants). Photograph or film the exterior and interior of locations during execution of the warrants.** The most significant corroborating physical evidence in sex trafficking cases typically is found in locations where victims have lived or engaged in commercial sex. This evidence may be documents and other items kept by the trafficker, such as debt and income ledgers, tally sheets, lists of telephone numbers and bank records. Equally important, this evidence may be items kept by the victims, including diaries, provocative clothing, condoms, lubricants and sex paraphernalia. Also look for digital evidence in cell phones, iPods and laptops.

During these searches, officers typically find evidence of additional commercial sex locations and agents of the sex trafficker. In many cases, for example, officers have found addresses and telephone numbers of brothels and nightclubs where victims were taken to engage in commercial sex acts. Agents should be prepared to obtain roll-over warrants to search these locations, based on the evidence obtained in the initial search.

Photographs and film of the locations are also valuable evidence. For example, in one case in which traffickers were sentenced to 50 years in prison, officers filmed their approach to a basement brothel, their entry through a small door, and the squalid and crowded conditions inside. This kind of evidence proves particularly compelling to jurors and corroborates that the victims were not there willingly. Officers should also photograph locks and other restraints, and any posted rules or notices.

**Take a broad view of leads.** Victims often have some contact with people other than the sex traffickers and clients. For example, victims might be taken to a store to buy provocative clothing or to a club to meet prospective clients. Inquire about such activities when interviewing victims, and then interview witnesses who might have observed them. In one case, a store attendant testified that she observed the victims being monitored by the trafficker when they went into a changing room. In another case, a club doorman stated that the trafficker arrived at the club with the victims and that he controlled and monitored their movements and activities. Although these witnesses did not observe brutality or commercial sex, their evidence helped corroborate the victims' statements that they were being compelled and controlled by the trafficker.

Officers should also follow the money. Sex trafficking can generate substantial cash. Determine from victims and other witnesses whether bank accounts, wire transfers, deposit boxes or credit cards were used by the traffickers and seek to obtain the relevant records. Investigators should seize these funds, and through restitution orders, courts and prosecutors can transfer these funds to the victims to compensate them for their trauma.

**Keep track of and in touch with victims.** Sex trafficking investigations and prosecutions can take months or even years. During that time, victims continue to live their lives and may move to different residences or even states. In several cases, law enforcement agents have had to expend considerable resources to re-find victims so they could testify at trial. Some victims relapse into drug use or commercial sex because they feel they have no other desirable options in their lives.

Nongovernmental organizations and social service providers can assist law enforcement in keeping track of these victims. However, many of these organizations are small and have limited resources, so

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law enforcement agents cannot rely exclusively on them to track all the victims in a case. Officers should make routine calls to victims throughout the investigation and prosecution to ensure their availability for trial.

## More to Learn

Federal sex trafficking prosecutions have increased every year since the federal sex trafficking law was enacted in 2000. And law enforcement agents, prosecutors and nongovernmental organizations are learning how to better identify, investigate and prosecute these crimes. But we still have much to learn. Police officers, federal agents and community members across the nation have dedicated themselves to doing the best job they can to combat sex trafficking. Together we will continue to increase our investigations and caseloads, rescue the victims of this brutal crime and punish the sex traffickers who exploit women for their own greed.

NCJ 225759

## For More Information

- To learn more, contact your nearest DOJ-funded Human Trafficking Task Force (see page 5) or e-mail the Human Trafficking Prosecution Unit at the U.S. Department of Justice (Human.Trafficking@usdoj.gov).
- Information on human trafficking and NIJ's work in this area is available at [www.ojp.usdoj.gov/nij/topics/crime/human-trafficking/welcome.htm](http://www.ojp.usdoj.gov/nij/topics/crime/human-trafficking/welcome.htm).

## Notes

1. Men and boys can also be victims of sex trafficking. However, cases involving men and boys do not make up a statistically significant portion of the sex trafficking cases we investigate or prosecute.
2. *Sex Trafficking of Children or by Force, Fraud, or Coercion*, U.S. Code 18 (2007), § 1591.
3. Training through the International Association of Chiefs of Police is available at [www.theiacp.org](http://www.theiacp.org) (click on the training tab) and through the U.S. Immigration and Customs Enforcement at [www.ice.gov](http://www.ice.gov).
4. Newton, P.J., T.M. Mulcahy, and S.E. Martin, *Finding Victims of Human Trafficking*, final report submitted to the National Institute of Justice, Washington, DC: September 2008 (NCJ 224393), available at [www.ncjrs.gov/pdffiles1/nij/grants/224393.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/224393.pdf).
5. Farrell, A., J. McDevitt, and S. Fahy, *Understanding and Improving Law Enforcement Responses to Human Trafficking*, final report submitted to the National Institute of Justice, Washington, DC: December 2008 (NCJ 222752), available at [www.ncjrs.gov/pdffiles1/nij/grants/222752.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/222752.pdf).

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Robert Moosy is a federal prosecutor and director of the Human Trafficking Prosecution Unit in the Civil Rights Division of the U.S. Department of Justice. Previously, Moosy was a deputy chief of the Criminal Section of the Civil Rights Division, where he and the lawyers on his team prosecuted federal civil rights crimes across the country, including police misconduct, hate crimes and human trafficking. Moosy was a member of the prosecution team in *U.S. v. Kil Soo Lee*, the largest human trafficking prosecution ever brought by the U.S. Department of Justice, and has participated in numerous sex and labor trafficking investigations and prosecutions.



## NIJ's Human Trafficking Research

The National Institute of Justice's portfolio on combating human trafficking provides evidence-based research that supports the work of a wide range of practitioners — from prosecutors like Robert Moossy, who heads up DOJ's Human Trafficking Prosecution Unit (see "Sex Trafficking: Identifying Cases and Victims," page 2), to local police officers (see "Combating Human Trafficking at the State and Local Levels," page 8) to victim advocates and other service providers.

### NIJ's human trafficking research focuses on:

- **The nature and extent of trafficking:** Obtaining reliable estimates of trafficking in the U.S. and understanding criminal networks and trafficking operations.
- **Reducing the demand:** Looking at criminal justice strategies and initiatives to reduce the demand for trafficking.
- **Detecting and investigating:** Examining approaches to securing reliable information for trafficking cases; assessing efforts to solve border control and jurisdictional issues that often complicate investigations.
- **Services for victims:** Evaluating the medical and legal needs of victims and identifying effective ways to secure victim and witness cooperation.
- **Prosecuting traffickers:** Understanding the challenges faced when prosecuting trafficking cases; assessing problems and promising approaches in evidentiary issues and in legal tools and procedures.

**For more information** on human trafficking, see [www.ojp.usdoj.gov/nij/topics/crime/human-trafficking](http://www.ojp.usdoj.gov/nij/topics/crime/human-trafficking).



## Drugs, Race and Common Ground: Reflections on the High Point Intervention

by David Kennedy

**Editor’s Note:** At the 2008 NIJ Conference, David Kennedy, director of the Center for Crime Prevention and Control at John Jay College of Criminal Justice, talked about his work to combat drug markets, especially the High Point Intervention, an innovative program that is now being replicated in at least 25 sites around the country. This article is based on his remarks.

When Chief James Fealy arrived in High Point, N.C., in 2003, he found parts of the city awash in drugs and dealers. But rather than relying on traditional suppression and interdiction approaches to fight the problem, Fealy — who had worked narcotics for more than a quarter of a century in the Austin (Texas) Police Department — spearheaded a new, potentially transformative strategy.

Its roots were in the now-familiar “focused deterrence” approach, which addresses particular problems — in this case drug markets — by putting identified offenders on notice that their community wants them to stop, that help is available and that particular criminal actions will bring heightened

law enforcement attention. The High Point initiative, however, added the unprecedented — and initially terrifying — element of truth-telling about racial conflict. The result of these conversations in High Point was two-fold: a plan for doing strategic interventions to close drug markets and the beginning of a reconciliation process between law enforcement and the community.

Here is how the High Point Intervention works: A particular drug market is identified; violent dealers are arrested; and nonviolent dealers are brought to a “call-in” where they face a roomful of law enforcement officers, social service providers, community figures, ex-offenders and “influentials” — parents, relatives and others with close, important



relationships with particular dealers. The drug dealers are told that (1) they are valuable to the community, and (2) the dealing must stop. They are offered social services. They are informed that local law enforcement has worked up cases on them, but that these cases will be “banked” (temporarily suspended). Then they are given an ultimatum: If you continue to deal, the banked cases against you will be activated.

This strategy is being replicated in other cities by the Bureau of Justice Assistance through the Drug Market Intervention Initiative. (For more information on how this intervention model evolved, see “How It All Began: The Evolution of the High Point Model,” page 14.) In High Point and in other cities, the drug markets have closed and there have been large reductions in violent and drug-related crime, with no sign of displacement. A fundamentally new understanding between law enforcement and the community may be the most important outcome. (See “Evaluating the High Point Intervention,” page 16.)

When the conversations between law enforcement and the community began, many people said, “You can’t do anything about drugs. You can’t do anything about growing or trafficking or dealing or addiction.” To move forward, however, both law enforcement and the community needed to be convinced that this was not about *drugs*; this was about a certain form of drug *market*. That is, a community can handle a lot of drug use and survive. But it cannot handle drug dealers taking over public space, attracting drive-through buyers and prostitutes, and shooting the place up. Therefore, our primary goal was to close what we came to call the “overt markets.”

## Hard Talk: A Conversation About Race

Open-air drug markets are found primarily in our cities and in African-American neighborhoods. Although we are loathe to admit it, this issue is soaked in race.

*In High Point, the drug markets have closed and there have been large reductions in violent and drug-related crime. A fundamentally new understanding between law enforcement and the community may be the most important outcome of the intervention.*

As we were developing the High Point intervention model, we heard a consistent narrative from law enforcement officers. They perceived that:

- Drug dealers shoot each other for no good reason, and they recruit children as couriers and lookouts.
- The dealers’ own families — and their own community — do not tell them to stop.
- There is no expectation that people should finish school and take entry-level jobs.
- No one cares. There is no moral backbone left in the community. Everyone is profiting.
- Nothing could be done that involved a partnership with the community because there was no real community left to partner with.

This is fundamentally wrong: The community does care, it is not complicit and it does not approve. But I understand why law enforcement thinks this; it is what they perceive.

Conversely, the community believed that:

- The police are part of a conspiracy to destroy the community.
- The CIA invented crack, and the government brings the drugs into the country.
- The government passed “three strikes” laws to put all our children in prison for the rest of their lives.

*(continued on page 15)*

**HOW IT ALL BEGAN: THE EVOLUTION OF THE HIGH POINT MODEL**

The story began in Boston in 1996, when an intervention called Operation Ceasefire largely stopped gang violence in the city. Operation Ceasefire combined problem-oriented policing with collaboration between law enforcement organizations and community stakeholders.

During face-to-face meetings, it was made clear to gangs that:

- If anyone in the gang shot someone, all members of the gang would receive attention from law enforcement.
- The community needed the violence to stop.
- Social services and other help were available for those who wanted off the streets.

Operation Ceasefire was associated with a 63-percent reduction in youth homicide (ages 24 and under).

In October 2000, the Strategic Approaches to Community Safety Initiative (SACSI) was launched. SACSI mirrored Operation Ceasefire in that it brought together law enforcement organizations, community partners and researchers to address crime problems. Most SACSI sites ended up working to reduce gun violence and using variations of the Boston model, but one site — Memphis — strived to lower the nation’s highest sexual assault rate, with considerable success.

Project Safe Neighborhoods (PSN), established in 2001, builds from an evaluation of the strengths and weaknesses of the SACSI model. PSN creates partnerships among federal, state and local prosecutors; law enforcement; researchers; media and outreach specialists; and community leaders. It tailors the intervention strategy to the needs of each individual district and to the gun problem in that particular area.

The High Point Intervention (also known as the Drug Market Intervention) draws on the principles of Operation Ceasefire, SACSI and PSN to not only stop gun violence, but also to shut down open-air drug markets and the chaos that comes with them: the street sales, crack houses, drive-through buyers, prostitution, gunplay and the taking over of public space. A separate program, the Comprehensive Anti-Gang Initiative, is using a similar approach to address gang membership. (For more information on these initiatives, see [www.ojp.usdoj.gov/nij/topics/crime/gun-violence/prevention](http://www.ojp.usdoj.gov/nij/topics/crime/gun-violence/prevention).)



These views are no more true than the views held by the police. There is no conspiracy; rather, the tragedy we are watching unfold is more akin to a train wreck. But, again, I absolutely understand why the community believes it. African-American communities have historically been subject to deliberate oppression by law enforcement, from slave-catching through Reconstruction, Jim Crow and the civil rights movement. Today the community sees relentless drug enforcement: People are stopped on the street. Their doors are kicked in. They are taken from their families and sent to prison at enormously high rates; and they come back with criminal records, unable to get a legitimate job.

Today, one in three black men in this country will go to prison.<sup>1</sup> In some communities, the majority of young black men end up with criminal records. In Baltimore, Md., for example, half of the African-American males between the ages of 20 and 30 are under court supervision — they are in prison, in jail, on parole or on probation.<sup>2</sup> This is not about bias, profiling, abuse or any other way we usually talk about criminal justice problems. I work in these communities. The crime is real, and overwhelmingly the arrests are legitimate. But we are destroying the village in order to save it.

And none of this gets rid of the crime. The drug markets and violence continue to exist. The relentless enforcement continues. Much of the community believes this is, in fact, the goal of drug enforcement: to put their young men in prison. This is the main reason for the community silence. It does not stem from complicity, support or tolerance. But if standing against drug crime means standing with an “enemy,” people will not do it.

These dynamics have created a brick wall that precludes meaningful conversations. The key to getting through that brick wall in High Point turned out to be telling the truth. You cannot get rid of history, but you can face facts, be honest and find a way to move forward.

*Racial dynamics have created a brick wall that precludes meaningful conversations. The key to getting through that brick wall in High Point turned out to be telling the truth. You cannot get rid of history, but you can face facts, tell the truth and find a way to move forward.*

We found that when we discussed race in the context of a core community issue — drug markets — we could make progress because everyone agreed on the basics. The community, the police, even the dealers wanted to be safe. Everyone wanted to stop filling prisons. Everyone wanted the most dangerous people stopped and help for those who would take it. Everybody would rather have the community step up and law enforcement step back.

### **The Truth-Telling Begins**

Working with the Project Safe Neighborhoods team, we began a series of conversations within the High Point Police Department. We explored why the community thought that law enforcement was an enemy: “We are trying to do good, but here are the unintended consequences of the way we have been doing things. We did not mean for this to happen, but this is what has happened, and we need to understand it.”

These discussions were followed by blunt conversations with the community. The main questions we asked were, “Are you saying no? Are you making a clear community statement about what is right and wrong and what you expect of your own?”

The community’s response was, “No. We’re not doing that ... and we know it.” They told us that their parents and grandparents would never have put up with the situation. “If we are putting up with it,” community members acknowledged, “that is on us.”

**Editor's Note****EVALUATING THE HIGH POINT INTERVENTION**

In 2006, the National Institute of Justice (NIJ) funded the University of North Carolina at Greensboro to evaluate the intervention in High Point, N.C. The researchers are:

- Documenting the process that occurred in High Point.
- Tracking the intervention's quantitative and qualitative outcomes.
- Conducting a cost-benefit analysis.

Preliminary results are promising: The researchers have found that in the four years since the intervention was implemented in one High Point neighborhood, for example, violent crime has declined an average of 39 percent and drug crime has declined 30 percent. The final results from the evaluation are expected this spring. For more information, see [www.ojp.usdoj.gov/nij/topics/crime/gun-violence/prevention/focused-deterrence.htm](http://www.ojp.usdoj.gov/nij/topics/crime/gun-violence/prevention/focused-deterrence.htm).

Here are additional resources related to the High Point Intervention:

- The Bureau of Justice Assistance, one of the NIJ's sister agencies, offers training and technical assistance for local jurisdictions interested in implementing the High Point model in their communities to combat open-air drug markets and associated crime. For more information, see [www.psn.gov](http://www.psn.gov).
- Through a cooperative agreement between the Department of Justice's Office of Community Oriented Policing Services and the National Urban League, the High Point model has been replicated in Providence, R.I. A resource publication for law enforcement that details the efforts in both High Point and Providence will be available later this year.

**Putting the Dealers on Notice**

All of these conversations converged toward a "call-in," a meeting at which everyone could say to the dealers, "Enough!"

The central moment of these call-in meetings comes when community elders, parents and other loved ones look the drug dealers in the eye and say, "We love and care about you. We want you to succeed. We need you alive and out of jail. But if you do not absolutely understand that we disapprove of what you are doing, we are going to set that straight today."

The community is infinitely tougher than anyone else could ever be.

On the law enforcement side, the signal moment occurs when officers tell all the dealers in the room, "We want to take a chance on you. We have done the investigation, and we have cases against you ready to go. You could be in jail today, but we do not want to ruin your life. We have listened to the community. We do not want to lock you up, but we are not asking. This is not a negotiation. If you start dealing again, we will sign the warrant, and you will go to jail."

This strategy does several things: It puts the dealers in a position where they *know* that the next time they deal drugs, there will be formal consequences. It proves to the community that the police are not part of a

conspiracy to fill the prisons with their children. And it frees the community to take a stand — an amazing thing to see.

## Promising Results

The first of these conversations occurred more than four years ago in High Point. Since then, the approach has been replicated in at least 25 other U.S. cities. In each case, the drug market evaporated at the time of the meeting; most of them have not come back. This success has been fairly easy to maintain. Most of the weight is carried by the community, which simply will not let the market come back. If they cannot deal with the situation, they have a new relationship with law enforcement, which will step in.

Overall, we are seeing sustained 40 to 50 percent reductions in violent and drug-related crime, and we have found little or no displacement. We are also seeing a diffusion of benefits — that is, surrounding areas also get better. (See “Evaluating the High Point Intervention,” page 16.)

The difference in these communities is palpable and amazing. The larger lessons are just beginning to be clear to us: We have profoundly misunderstood each other; our current behavior has pushed us to places that none of us liked; and we have all been doing inadvertent but severe harm. We have also learned that community standards can and will do much of the work we currently try to do through law enforcement, that even serious offenders can be reached, and that we can find critical common ground.

These lessons might fundamentally reshape how we think not only about crime, but also about each other.

NCJ 225760

*We found that when we discussed race in the context of a core community issue — drug markets — we could make progress because everyone agreed on the basics.*

## Notes

1. Bonczar, T.P., and A.J. Beck, *Lifetime Likelihood of Going to State or Federal Prison*, Special Report, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, March 1997 (NCJ 160092), available at <http://ojp.usdoj.gov/bjs/pub/pdf/lgsfp.pdf>.
2. Lotke, E., and J. Ziedenberg, *Tipping Point: Maryland's Overuse of Incarceration and the Impact on Public Safety*, Policy Brief, Washington, DC: Justice Policy Institute, 2005.

## About the Author

David Kennedy is the director of the Center for Crime Prevention and Control and a professor of anthropology at John Jay College of Criminal Justice, City University of New York. From 1993 to 2004, he was a senior researcher and adjunct professor with the John F. Kennedy School of Government at Harvard University. His work focuses on strategies for assisting troubled communities. Kennedy has written and consulted extensively in the areas of community and problem-solving policing, deterrence theory, drug and firearms markets, and neighborhood revitalization. He has performed fieldwork in police departments and communities in many American cities and internationally. His new book, *Deterrence and Crime Prevention: Reconsidering the Prospect of Sanction*, has just been published.



## Postconviction DNA Testing Is at Core of Major NIJ Initiatives

by Nancy Ritter

**D**NA technology has become one of the most powerful tools to ensure that justice is done through our criminal justice system. It helps identify offenders and eliminate innocent suspects. Increasingly, DNA is also used to exonerate the wrongly convicted.

When this issue of the *NIJ Journal* went to press, postconviction DNA testing had been used to exonerate 225 people in the United States, according to the Innocence Project. (See “Wrongfully Convicted: One Man’s Story,” page 19.) But using DNA in a postconviction environment presents many challenges.

One challenge is finding old biological evidence that may — or may not — have been retained. Although many jurisdictions have a policy of retaining old swabs and other biological evidence, many do not. And, even in old cases in which biological evidence

may still exist, actually locating it can be difficult. (See “Wrongfully Convicted: One Lawyer’s Perspective,” page 21.)

Biological evidence remains stable when it is properly collected and stored, and scientific advances in DNA technology make it possible to reanalyze evidence in closed and cold cases. But proper maintenance and storage of evidence can be a challenge for police agencies and forensic laboratories with limited space and even more limited budgets. The good news is that there is a national trend to reevaluate the way biological evidence is preserved.

Another challenge is the many samples that still await DNA testing in crime labs and police evidence rooms across the country. (See [www.dna.gov](http://www.dna.gov) for more on NIJ’s ongoing efforts to reduce the backlog of evidence samples.)

And, finally, even if evidence was tested for DNA at the time of an investigation and trial, new, more sensitive techniques may have been developed since then that could yield different results. For example, hair — which previously only could be examined microscopically — can now be tested for DNA.

## Overcoming Barriers to Postconviction DNA Testing

Today, the responsibility for requesting DNA testing on a closed case lies primarily with the person convicted. Although 44 states have laws to allow postconviction DNA testing, the conditions under which this can be done vary widely. Some states allow testing if the DNA technology was not available at the time of trial and a DNA test could demonstrate “actual innocence.” Other states permit testing if there is a reasonable probability of a favorable verdict or if DNA exclusion would be relevant to the defense.<sup>1</sup>

It is possible that the nation’s highest court will soon have something to say about the right to postconviction DNA testing. In November 2008, the U.S. Supreme Court agreed to review a case regarding a person’s constitutional right to have DNA tests of evidence after conviction. William Osborne, an Alaskan man who was found guilty of a 1993 kidnapping and rape, is claiming a right to have advanced DNA testing performed — methodologies that were not available at the time of his trial — to prove his innocence. The 9th Circuit Court of Appeals agreed with Osborne (who currently is serving a 26-year sentence), but the state appealed that decision to the Supreme Court, arguing that the lower court wrongly created a federal right to postconviction DNA testing.<sup>2</sup>

The National Institute of Justice (NIJ) is working to solve some of the challenges in postconviction DNA testing. In 2008, NIJ awarded nearly \$8 million to five states — Arizona, Kentucky, Texas, Virginia and Washington — to identify eligible cases and help defray the costs of postconviction DNA testing.<sup>3</sup> States can use the money to review murder and rape cases, locate evidence, or analyze DNA in cases in which

## WRONGFULLY CONVICTED: ONE MAN’S STORY

by Dwayne Dail

### Editor’s Note:

*On September 4, 1987, a man cut through the screen of a bedroom window in Goldsboro, North Carolina. The 12-year-old girl who was sleeping in the room heard him and ran for the door. She didn’t make it. The man held a knife to her throat and raped her. Dwayne Allen Dail was 20 years old when he was sentenced to two life sentences plus 18 years for the crime. On August 28, 2007, Dail was exonerated by DNA evidence after serving more than 18 years in prison. Dail — and his lawyer, Christine Mumma (see “Wrongfully Convicted: One Lawyer’s Perspective,” page 21) — spoke at the NIJ Conference last summer. Here, in his own words, is Dail’s story.*

On an unusually warm November day in 1987, I was standing in a friend’s yard with some friends when a woman elbowed her way through our circle, instead of walking around us. I was a cocky and sarcastic 19-year-old, so I said, “Excuuuuuse me!” She turned around and blasted me so much so that she kind of scared me. I just backed up and let her say her piece. After she had gone, one of my friends told me that I’d have to excuse her because her daughter had been raped the month before, and she was very upset.

*(continued on page 23)*

the innocence of a convicted person may be demonstrated through DNA. As these five states proceed with their work, NIJ will monitor their efforts and identify lessons learned for the rest of the country.

Although those five grants were an important first step, NIJ is seeking to help many more states apply for federal assistance.<sup>4</sup> Last year, NIJ assembled a steering committee of criminal justice experts from the American Judicature Society, the Innocence Project, the National Association of Criminal Defense Lawyers, the National District Attorneys Association and other key stakeholders. The committee helped NIJ develop the agenda for a symposium to identify strategies to overcome challenges presented by postconviction cases in state and local jurisdictions. The symposium was held in January 2009 and was attended by prosecutors, defense lawyers, laboratory personnel and Innocence Project advocates from nearly all 50 states. The symposium was videotaped and is available at <http://projects.nfstc.org/postconviction>.

In another significant initiative, NIJ is funding the evaluation of postconviction programs in Virginia and Arizona. The study will analyze the exonerations — through DNA testing

of retained forensic evidence — of people who were wrongly convicted of rape, murder and non-negligent manslaughter. The study will consider potential probative predictors of people who may have been wrongfully convicted — such as coerced confession, eyewitness misidentification or ineffective assistance of counsel — by examining cases that primarily occurred before DNA testing was readily available. One of the primary goals of the study will be to answer a critical policy question: What proportion of defendants with retained forensic evidence might be exonerated if that evidence were tested?

The study is designed to identify connections between case characteristics and the likelihood that DNA testing would produce results that could exonerate a convicted defendant. These findings, which are expected in late 2010, could be particularly important if it turns out that there are statistical associations between case attributes and innocence, as this information could then be used by states to prioritize cases for postconviction DNA analysis.

## How Wrongful Convictions Happen

Finally, NIJ is planning to fund an independent review of the exonerations of people who were wrongfully convicted to help our nation better understand how eyewitness testimony, false confessions, poor forensic examinations and investigative practices, and other issues relate to wrongful convictions. Although researchers have collected data on many confirmed cases of wrongful conviction, much of the data is anecdotal. Also, data on pre-DNA-era convictions decrease over time — memories fade, case files are lost, and parties and witnesses die — closing the window on the opportunity to collect crucial information about the characteristics of these cases.

Therefore, NIJ intends to fund an analysis of court records, police reports, newspapers and other published information to determine how people are wrongfully convicted, focusing particularly on cases of DNA exonerations in our country to date. The project

is expected to look at data from three stages of cases of wrongful conviction: the investigation, the trial and postconviction.

- **Investigation:** What happens during the early stages of what becomes a wrongful conviction? How did the investigators identify the suspect(s)? What forms of evidence did investigators collect? Had they identified the person who turned out to be the actual offender? Why did investigators focus on one person over another?
- **Trial:** After the suspect who turned out to be not guilty was identified, what happened when the prosecutor became involved in the case? Was there a grand jury indictment or an information/complaint? What types of evidence were presented? Was there a jury trial or did the person plead guilty (false confession)? Did the wrongly convicted person testify? What type of representation did the person have?
- **Appeal and Remedy:** After a person was wrongfully convicted, what did he do, or what should he (or his counsel) have done? For example, what claims were raised during appeal? How was the wrongful conviction demonstrated? What happened, and how long did it take from the time the conviction was proven to be wrongful to the time of release? What release mechanisms were used (for example, retrial, court order or pardon)? What compensation, if any, was given?

## The Search for the Truth

Justice is the goal of all Americans, and DNA analysis of evidence is a vital tool in our ongoing search for the truth. Wrongful convictions are also a public safety issue because when the innocent are convicted, the guilty remain free to commit other crimes.

Nearly 13 years ago, NIJ published *Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial*.<sup>5</sup> Many



of the challenges discussed in that report are as relevant today as they were then, including:

- Maintaining the highest standards for the collection and preservation of DNA evidence.
- Ensuring that the DNA testing methodology meets rigorous scientific criteria for reliability and accuracy.
- Ensuring the proficiency and credibility of forensic scientists so that their results and testimony are of the highest caliber and are capable of withstanding exacting scrutiny.

Through its postconviction research projects, NIJ is working to ensure that the standards of evidence collection and preservation and the reliability, accuracy and accessibility of DNA testing enable our nation's criminal justice practitioners to make appropriate use of this rapidly advancing and increasingly available technology.

NCJ 225761

## Notes

1. Rules governing DNA testing for federal inmates are contained in the Justice for All Act of 2004, available at [www.usdoj.gov/olp/pdf/jfaa2004.pdf](http://www.usdoj.gov/olp/pdf/jfaa2004.pdf).
2. Osborne maintains that if the more definitive DNA testing that is now available were to be performed on semen and pubic hair from the assault, his innocence would be proven. The pending case is *District Attorney's Office for the Third Judicial District v. Osborne* (a review of the 9th Circuit's ruling in *Osborne v. District Attorney's Office for Third Judicial District*, 521 F.3d 1118 (9th Cir. 2008)). Alaska is one of six states that does not have a statute specifically prescribing conditions under which prisoners can obtain postconviction DNA testing.
3. In 2007, NIJ issued its first "Postconviction DNA Testing Assistance Program" solicitation, which included program eligibility requirements under the Justice for All Act (JFAA). Section 413 of JFAA requires state applicants to demonstrate that they adhere to stringent guidelines for preserving biological evidence and that measures are in fact taken by all jurisdictions within the state to preserve such evidence. Only three states offered proposals in response to the 2007

## WRONGFULLY CONVICTED: ONE LAWYER'S PERSPECTIVE

by Christine Mumma, J.D.

### Editor's Note:

*Christine Mumma, Dwayne Dail's lawyer, spoke at last year's annual NIJ Conference. Mumma is the Executive Director of the North Carolina Center on Actual Innocence and the Executive Director of the North Carolina Chief Justice's Criminal Justice Study Commission. Here are excerpts from her July 23, 2008, remarks.*

About three weeks after the rape, the [rape victim's] mother saw Dwayne drive by the apartment complex. Dwayne was looking for his friends, but the mother thought he was looking up at their apartment complex at their window. She took down the license plate and called the police and said, "I know who raped my daughter."

You can imagine that she was completely focused on who had done this to her 12-year-old daughter. She gave the police the license plate number — and the police said that her daughter had to be the one to ID the attacker, as she (the mother) was not there.

Three weeks after that — six weeks after the rape — the mother saw Dwayne in the parking lot with his friends. She walked through the parking lot with her daughter and basically said, 'Is that him?' And it became "him" in the child's mind.

Misidentification is the leading factor in wrongful conviction across the country. It's present in 75 percent of the wrongful convictions. Cross-race ID has its own very unique issues. On top of that, in Dwayne's case, you had 2:30 in the morning, a young victim, woken in the middle

*(continued on page 22)*

solicitation, and none was able to meet this eligibility requirement; therefore, NIJ was unable to make any awards. In 2008, however, the Consolidated Appropriations Act allowed NIJ to ease the section 413 requirements for funds appropriated for fiscal years 2006–2008. States must now certify only that they have a policy or practice in place that is intended to provide for postconviction testing and preservation of biological evidence in the most serious cases.

4. NIJ's funding opportunities are available at [www.ojp.usdoj.gov/nij/funding/welcome.htm](http://www.ojp.usdoj.gov/nij/funding/welcome.htm).
5. The report is available at [www.ncjrs.gov/pdffiles/dnaevid.pdf](http://www.ncjrs.gov/pdffiles/dnaevid.pdf).

## About the Author

**Nancy Ritter is the editor of the *NIJ Journal*. She has 30 years of experience in the criminal and civil justice field, including as an award-winning legal journalist.**

*Preservation of evidence has to be a priority because science is changing so much that we may be able to solve crimes tomorrow even if we can't solve them today.*

## WRONGLY CONVICTED: ONE LAWYER'S PERSPECTIVE

(continued from page 21)

of the night, very little lighting, a short-interval exposure, weapon focus and trauma. You had all the factors that can cause a misidentification.

Of course, when you have the victim sit on the stand at the trial and point and say, "That's the man who raped me," that's incredibly powerful evidence for a jury.

### On Forensic Evidence

The only "forensic evidence" in Dwayne's case — and I use quotations very purposefully — was the microscopic comparison of hair. Hair was taken from a throw rug in front of the victim's bed; the rug had been bought used three years prior. They vacuumed it and obtained hairs: 40 African-American hairs and three Caucasian.

The letter Dwayne referred to from his attorney (see "Wrongfully Convicted: One Man's Story," page 19) was before they had identified the three Caucasian hairs. Two of the pubic hairs were determined not to match Dwayne, and they determined the other hair — a head hair — was microscopically consistent and therefore could not exclude Dwayne. So that was the forensic evidence that was presented at trial.

### On Preservation of Evidence

The rape kit was destroyed in 1994. The other evidence — the bed sheets and the child's nightgown — was put into a bag after trial, taken back to the police station and put on the wrong shelf. Thanks to a mistake, it was put on a shelf with murder evidence — only murder evidence is preserved — and an inventory was not done for 18 years.

We made countless phone calls and visits asking about that evidence and were constantly told there is no evidence in rape cases, only murder cases. We never dreamed that someone had not actually gone in and checked the shelves to make sure. Then one day, we called when they happened to be doing an inventory, and they had discovered the evidence in Dwayne's case.

### On Selecting Dail's Case

The North Carolina Center gets about 1,200 inquiries a year — and that doesn't count all the mail, people asking for help with sentencing or anything like that. That's 1,200 innocence claims a year that we have to go through. We run about a 95 percent rejection rate.

The things that highlighted Dwayne's case for us were the eyewitness identification — the weakness of that ID — and the fact that he turned down a very, very attractive plea offer. He was dragged from the courtroom by his ankles claiming innocence. He constantly claimed innocence throughout the entire time he was in prison. The weakness of the forensic evidence, the fact that there was a rape kit taken, these were all things that go on our checklist to say this is a case that we need to pursue.

There are many cases, however, where I believe there is a credible claim of innocence and the evidence has absolutely been destroyed ... and there's nothing we can do. Proper collection, storage, preservation and notice of destruction should be the top priority item not only for innocence claims, but for cold case resolution, for rape victims and murder victims and victims of violent crimes. Forensic science in general is changing so much that we'll be able to solve those crimes tomorrow even though we can't solve them today. So, preservation of evidence has to be a priority.

### On DNA Evidence 18 Years Later

Semen was found on the inside seam of the child's nightgown; it excluded Dwayne and matched someone else in CODIS (Combined DNA Index System), who was in prison, serving time as a habitual felon after more than 12 convictions for breaking and entering, as well as convictions for secret peeping, forgery, larceny and charges for a separate incident of first-degree rape. Had we not had that DNA hit, Dwayne's case probably would not have moved as quickly as it did.

## WRONGFULLY CONVICTED: ONE MAN'S STORY

(continued from page 19)

The next day, I went over to my mom's house to visit. A police detective had been there, left his card and asked that I give him a call. He asked me to come to the police station to answer some questions. I had no idea what it was about.

At the police station, they asked me where I was on September 4. That had been a few months prior and I could not remember exactly where I was on that night, so that's what I told the detective. Then, they gave me a court order to submit hair, saliva and blood samples, which I did without a problem and without a worry. Some weeks later, I received a letter from my attorney, saying that I could consider the case over with and that it was obviously a black perpetrator. I had never considered it a "case" to begin with, so it was very easy for me to consider it over with. I hardly gave it another thought and it eventually just faded from all thought.

Months later — on May 13, 1988 — I was having dinner at my mom's house, reading the local newspaper, when I saw an article saying that I had been indicted for first-degree rape, first-degree sex offense, first-degree burglary, indecent liberties with a minor, and a lewd and lascivious act. I drove to the police department, but they said they had no idea what it was all about, so then I drove to the Wayne County Sheriff's office. There, I was taken to a basement, handcuffed to a heating pipe, and fingerprinted. I was taken in front of a magistrate where I pleaded my innocence to no avail and was sent to jail with no bond. I spent four days in jail, getting my brains beat out on several occasions, waiting for my bond hearing, which was on the following Tuesday morning.

At my bond hearing, the judge gave me a \$5,000 bond and I was bailed out by my family. For several weeks afterward, I would wake up screaming from nightmares and was more scared than I had ever been. I spent almost a year out on bond, awaiting trial.

Before my trial began in March 1989, I was offered a plea bargain: I could plead no contest to the misdemeanor and take three years' probation. But I turned that plea bargain down, because I had not done anything, and I was not pleading anything but not guilty.

My trial started on Monday. I was convicted on Wednesday. On Thursday, I was sentenced to two life sentences and 18 years and, on Friday, I was sent to Central Prison in Raleigh, N.C.

I will never be able to remember that Wednesday, Thursday and Friday. I have been shown letters that I wrote to my family on those three days, but I have no recollection whatsoever of writing those letters. I was extremely out of my mind for a long time. It took me a long time before I could get myself back together.

I was taken to Polk Youth Institution in Butner, N.C., where I was processed, and during the orientation process, a programmer was roughing us up a little bit verbally. I was just trying to ignore that, trying not to cry in front of all these people that I had to spend the remainder of my natural life with. Then the programmer said, "It is your fault that your mothers are at home with broken hearts and crying."

That was more than I could take. My mother had to be taken out of the courtroom just the day before and was hospitalized — and it was not my fault — so I stood up, and I cussed him out. I started crying and screaming. The programmer let me vent, then he told everybody to go back to the block — "except you" — and he pointed at me. That may have saved my life. I wish that I could remember his name. He was a very good man.

He was, like, "What is *wrong* with you?!"

So, I told him about my week.

He asked me if I was scared, and I said, "Yes, I was scared." He asked me if I would feel safer in a smaller block around less violent inmates. And I said "Yes,

*I knew the power of DNA and the science — I had read so many stories by that time, so many books, so many magazine articles about the power of DNA.*

please. Any kind of help that you can give me, I will appreciate." So he took me to the sergeant's office, and they told me to sign a paper. I had no idea what "protective custody" was, but I signed myself into protective custody.

They did put me into a smaller block with less threatening inmates. It was a lot less threatening, but it was no less terrifying. I immediately began writing letters to the governor, to senators, to newspapers. My family began the campaign that took us almost 19 years of writing every newspaper, Dear Abby, Oprah, everyone.

I spent two or three months at Polk in protective custody. When I came up for a custody review, they asked me if I wanted to remain in protective custody or if I wanted to go into the regular population. So far, nothing had happened to me in protective custody, so I stayed in protective custody. I was sent from Polk to Blanch Youth Institution, which is somewhere in the mountains of North Carolina, built back in the twenties. It was very old and decrepit, and it should have been razed many, many years ago. I was placed into a single cell. I stayed in that cell for about eight months. I had never been so confined in my life. There is no way that someone who has not gone through it could understand what the mental torture of being locked up for 23 hours and 45 minutes a day — alone — is like. It is a terrible, terrible feeling.

During that time, my family and I continued writing letters. I began reading everything that I could about cases like mine and ran across a mention of DNA evidence, which was new. I wrote my attorney and asked her about DNA evidence. I wanted a DNA test, but she told me that I had to wait for my direct appeal.

So, I turned 21 at Blanch, and after six months, I had another review. They asked me if I wanted to remain in protective custody or if I wanted to go into the regular population. I did not think that I was going to survive anyway, so I chose to

take my chances in the regular population. I could not take any more of that box.

Since I had turned 21, they sent me to an adult prison, Eastern Correctional in Maury, N.C. In comparison to Polk and Blanch, Eastern was a new institution — freshly painted, floors waxed. The inmates there were older and seemed much calmer and relaxed and actually polite. You heard, "Excuse me," whereas everywhere else that I had been, you had to walk around a corner very broadly because you never had any idea of what was on the other side of that corner.

I stayed at Eastern for a few months, started taking a couple of classes and met a few people who became friends. I became comfortable, and because of that — because I became too comfortable — I was raped. I let my guard down. I was not as vigilant as I could have been, and as a result, I was raped and beaten. That was just the beginning of a long, long road of brutalities that I suffered.

I was transferred maybe 18 times to 16 different prisons.

I wrote my attorney continuously. I wrote the governor every day. Every day, I wrote the governor about my innocence. I wrote the President. And I got no response, no help, no one was willing to do anything.

Then, I read about a Virginia case in *USA Today* about a man who had requested a DNA test, but the evidence in his case had been destroyed. I immediately wrote my attorney, and I asked her to please file an injunction so that the evidence in my case could not be destroyed. I said I wanted a DNA test done. She wrote me back and promised me that she would. I did not hear back from her, so after a few weeks, I wrote her again. I did not hear back from her.

In 1995, my family was told that evidence in my case had been destroyed the year before. I knew the power of DNA and the science — I had read so many stories

by that time, so many books, so many magazine articles about the power of DNA — so, when I heard that the evidence in my case had been destroyed, I felt like my life was actually over.

Then, in 2001, my sister heard about the North Carolina Center on Actual Innocence. We immediately contacted them, and they sent me an application. I knew that it's very rare that a case is accepted for investigation, but when my case was accepted, I started counting the days until I was going home.

In 2004, the center wrote me back, saying there was nothing they could do for me, that the evidence had been destroyed. They had inquired on every angle that they could, but the evidence in my case had been destroyed. They had contacted the victim — which was a very rare circumstance — and the victim was not interested in speaking about it. And of course, you cannot push that. She had been a 12-year-old child.

So, my family and I started doing the only thing that we could. We started looking for ways to make parole, which I was eligible for in 2009. But part of my being able to make parole would have been going through a sex offender class and expressing remorse to the parole board — and I just could not do that. I *would* not do that. My attorney told me that I would have to do that, and I told him I would just have to die a very old man in prison because I was not going to admit guilt for a crime that I did not commit.

On August 1, 2007 — a day I'll never forget — I was called to the visitation area. That's when Chris Mumma introduced herself as the executive director of the North Carolina Center, which kind of threw me because they had written me three years before that the evidence in my case had been destroyed and there was nothing they could do. Chris said that evidence in my case had been destroyed, "or so we had been told" — twice.

*Mine was the fastest exoneration in the nation — my DNA test results came back one day, and I was exonerated the next.*

Then, she said, "Mr. Dail, we have found evidence in your case, and we're going today to put our hands on it."

I fell out of my chair and just burst into tears because I knew the evidence meant freedom. Evidence meant that I was going home, and I knew that.

Chris said, "Dwayne, I want to be sure. I need you to look me in the eye and tell me if there's any way that this evidence can link you back to this crime. You need to let me know now because it's going to hurt you as much as it can help you."

I told her, "Test anything and everything you can find. Test it. You test it fast ... and when am I going home?"

On August 27, Chris told me, "Dwayne, your wait is over. You're going home tomorrow." I was released the very next morning. Mine was the fastest exoneration in the nation — my test results came back one day, and I was exonerated the next.

Throughout the years I was in prison — as a child rapist and it was a cross-racial crime ... that should not matter, but unfortunately, it does: I was convicted for raping a 12-year-old black girl, and everyone in prison knew that — I endured many, many, many unimaginable things, things that are very hard to discuss, things that are very hard to deal with to this day. But the most important thing to me is that I survived. I'd like to think that I'm on my way back to being the same person that I was before all this happened. It's a long, hard road, but I'm on that road.



## Sleep Deprivation: What Does It Mean for Public Safety Officers?

by Bryan Vila, Ph.D.

When I speak to police officers about my research on sleep, job performance and shift work, they always ask, “What’s the best shift?”

I always answer, “That’s the wrong question. Most shift arrangements have good and bad aspects.” The right question is this: “What is the best way to manage shift work, keep our officers healthy and maintain high performance in our organization?”

Scheduling and staffing around the clock requires finding a way to balance each organization’s unique needs with those of its officers. Questions like “How many hours in a row should officers work?” and “How many officers are needed on which shift?” need to be balanced against “How much time off do officers need to rest and recuperate properly?” and

“What’s the best way to schedule those hours to keep employees safe and performing well?”

After all, shift work interferes with normal sleep and forces people to work at unnatural times of the day when their bodies are programmed to sleep. Sleep-loss-related fatigue degrades performance, productivity and safety as well as health and well-being. Fatigue costs the U.S. economy \$136 billion per year in health-related lost productivity alone.<sup>1</sup>

In the last decade, many managers in policing and corrections have begun to acknowledge — like their counterparts in other industries — that rotating shift work is inherently dangerous, especially when one works the graveyard shift. Managers in aviation, railroading and trucking, for example, have had mandated

hours-of-work laws for decades. And more recently they have begun to use complex mathematical models to manage fatigue-related risks.<sup>2</sup>

All of us experience the everyday stress associated with family life, health and finances. Most of us also feel work-related stress associated with bad supervisors, long commutes, inadequate equipment and difficult assignments. But police and corrections officers also must deal with the stresses of working shifts, witnessing or experiencing trauma, and managing dangerous confrontations.

My colleague, John Violanti, Ph.D., a 23-year veteran of the New York State Police, is currently a professor in the Department of Social and Preventive Medicine at the University at Buffalo and an instructor with the Law Enforcement Wellness Association. His research shows that law enforcement officers are dying earlier than they should. The average age of death for police officers in his 40-year study was 66 years of age — a full 10 years sooner than the norm.<sup>3</sup>

He and other researchers also found that police officers were much more likely than the general public to have higher-than-recommended cholesterol levels, higher-than-average pulse rates and diastolic blood pressure,<sup>4</sup> and much higher prevalence of sleep disorders.<sup>5</sup>

So what can we do to make police work healthier? Many things. One of the most effective strategies is to get enough sleep. It sounds simple, but it is not. More than half of police officers fail to get adequate rest, and they have 44 percent higher levels of obstructive sleep apnea than the general public. (See “What is Sleep Apnea?” page 28.) More than 90 percent report being routinely fatigued, and 85 percent report driving while drowsy.<sup>6</sup>

Sleep deprivation is dangerous. Researchers have shown that being awake for 19 hours produces impairments that are comparable to having a blood alcohol concentration

*Sleep deprivation is dangerous. Research shows that being awake for 19 hours produces impairments comparable to having a blood alcohol concentration of .05 percent. Being awake for 24 hours is comparable to having a blood alcohol concentration of roughly .10 percent.*

(BAC) of .05 percent. Being awake for 24 hours is comparable to having a BAC of roughly .10 percent.<sup>7</sup> This means that in just five hours — the difference between going without sleep for 19 hours versus 24 hours — the impact essentially doubles. (It should be noted that, in all 50 states and the District of Columbia, it is a crime to drive with a BAC of .08 percent or above.)

If you work a 10-hour shift, then attend court, then pick up your kids from school, drive home (hoping you do not fall asleep at the wheel), catch a couple hours of sleep, then get up and go back to work — and you do this for a week — you may be driving your patrol car while just as impaired as the last person you arrested for DUI.

Bars and taverns are legally liable for serving too many drinks to people who then drive, have an accident and kill someone. There is recent precedent for trucking companies and other employers being held responsible for drivers who cause accidents after working longer than permitted. It seems very likely that police departments eventually will be held responsible if an officer causes a death because he was too tired to drive home safely.

Sleep and fatigue are basic survival issues, just like patrol tactics, firearms safety and pursuit driving. To reduce risks, stay alive and keep healthy, officers and their managers have to work together to manage fatigue. Too-tired cops put themselves, their fellow officers and the communities they serve at risk.

## WHAT IS SLEEP APNEA?

“Apnea” refers to a breathing pause that lasts at least 10 seconds. Obstructive sleep apnea occurs when the muscles in the back of the throat fail to keep the airway open, despite efforts to breathe.

More than 18 million American adults have sleep apnea, according to the Sleep Foundation. Ongoing sleep research involving police officers is expected to give us a better understanding of the situation among this group.

**Symptoms:** Snoring during sleep, drowsiness and fatigue during awake times, difficulty concentrating, depression, irritability, sexual dysfunction, learning and memory difficulties.

**Consequences:** High blood pressure, heart attack, stroke, depression and car crashes.

**Risk factors:** Being overweight, being older than 40 years of age, having a large neck size (for men, a large neck size is 17 or larger), smoking cigarettes and using alcohol. Research seems to indicate that apnea runs in families.

**Treatment:** The most common treatment is the use of a continuous positive airway pressure device mask worn during sleep. Some cases may be treated with a dental appliance. Lifestyle changes can also be highly effective: lose weight, avoid alcohol and quit smoking.

Learn more at [www.sleepfoundation.org](http://www.sleepfoundation.org).

### Normal Upper Airway During Sleep

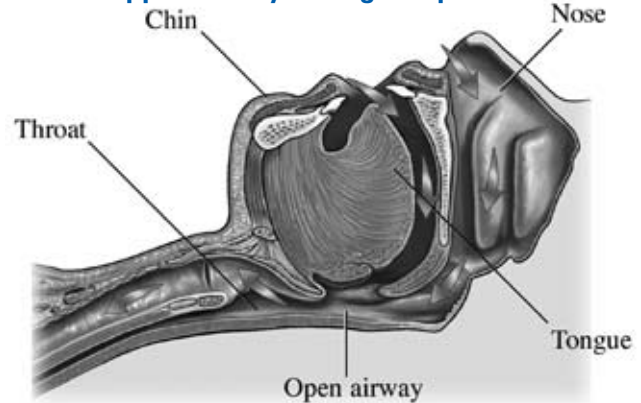


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### Obstructive Sleep Apnea: Blocked Upper Airway

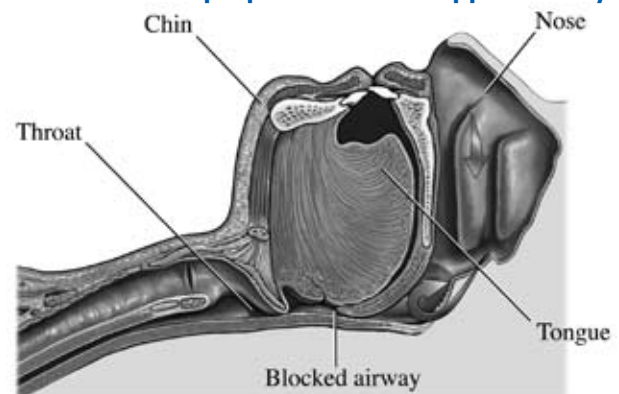


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## Accidental Deaths and Fatigue

The number of police officer deaths from both felonious assaults and accidents has decreased in recent years. Contrary to what most people might think, however, more officers die as a result of accidents than criminal assaults. (See “Police Officer Deaths in the United States, 1980–2007,” page 29). Ninety-one percent of accidental deaths are caused by car crashes, being hit by vehicles while on foot, aircraft accidents, falls or jumping. (See “Police Officer On-the-Job Injuries and Deaths,” page 29.)

We know that the rate of these accidents increases with lack of sleep and time of day. Researchers have shown that the risk increases considerably after a person has been on duty nine hours or more. After 10 hours on duty, the risk increases by

approximately 90 percent; after 12 hours, 110 percent.<sup>8</sup> The night shift has the greatest risk for accidents; they are almost three times more likely to happen during the night shift than the morning shift.

## Countering Fatigue

Researchers who study officer stress, sleep and performance have a number of techniques to counteract sleep deprivation and stress. They fall into two types:

- Things managers can do.
- Things officers can do.

The practices listed below have been well received by departments that recognize that a tired cop is a danger both to himself and to the public.



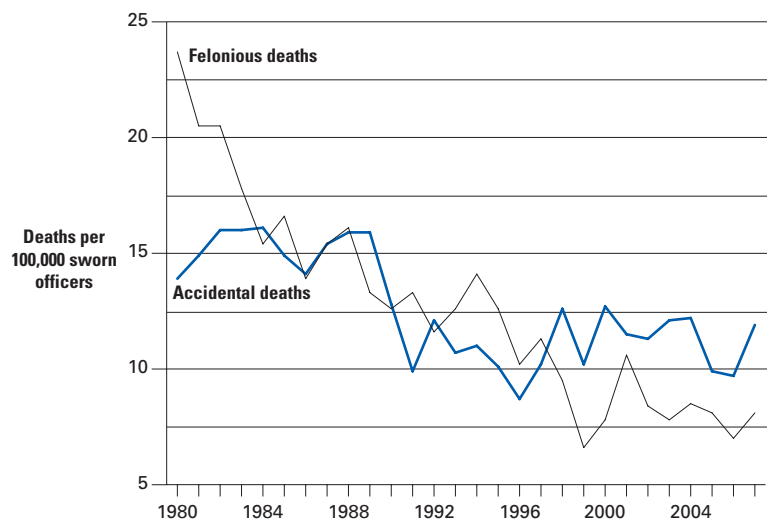
### Things Managers Can Do

- Review policies that affect overtime, moonlighting and the number of consecutive hours a person can work. Make sure the policies keep shift rotation to a minimum and give officers adequate rest time. The Albuquerque (N.M.) Police Department, for example, prohibits officers from working more than 16 hours a day and limits overtime to 20 hours per week. This practice earned the Albuquerque team the Healthy Sleep Capital award from the National Sleep Foundation.
- Give officers a voice in decisions related to their work hours and shift scheduling. People’s work hours affect every aspect of their lives. Increasing the amount of control and predictability in one’s life improves a host of psychological and physical characteristics, including job satisfaction.
- Formally assess the level of fatigue officers experience, the quality of their sleep and how tired they are while on the job, as well as their attitudes toward fatigue and work hours issues. Strategies include: administering sleep quality tests like those available on the National Sleep Foundation’s Web site ([www.sleepfoundation.org](http://www.sleepfoundation.org)), and training supervisors to be alert for signs that officers are overly tired (for example, falling asleep during a watch briefing) and on how to deal with those who are too fatigued to work safely.

Several Canadian police departments are including sleep screening in officers’ annual assessments — something that every department should consider.

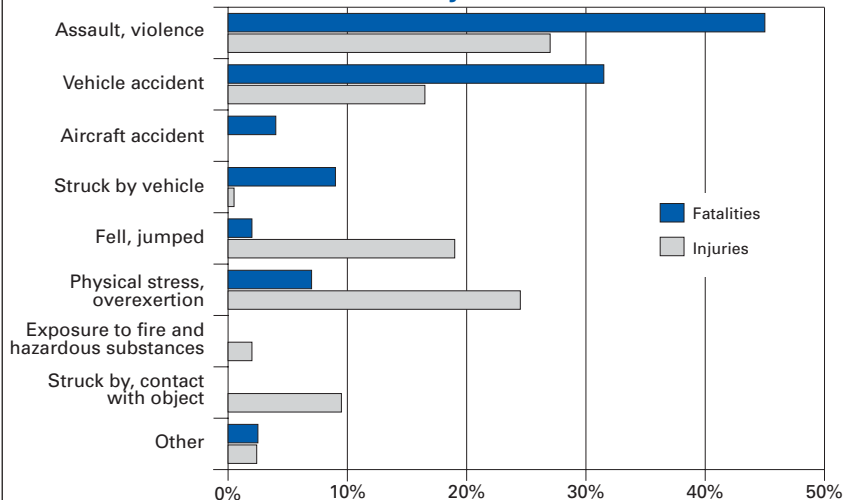
- Create a culture in which officers receive adequate information about the importance of good sleep habits, the hazards associated with fatigue and shift work, and strategies for managing them. For example, the Seattle Police Department has scheduled an all-day fatigue countermeasures training course for every sergeant, lieutenant and captain. In the Calgary Police Service, management and union leaders are conducting a long-term,

### Police Officer Deaths in the United States, 1980–2007



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### Police Officer On-the-Job Injuries and Deaths\*



\*Adapted from Houser, A.N., B.A. Jackson, J.T. Bartis, and D.J. Peterson, *Emergency Responder Injuries and Fatalities: An Analysis of Surveillance Data*, Santa Monica, CA: RAND, March 2004, available at [www.rand.org/pubs/technical\\_reports/2005/RAND\\_TR100.pdf](http://www.rand.org/pubs/technical_reports/2005/RAND_TR100.pdf).

research-based program to find the best shift and scheduling arrangements and to change cultural attitudes about sleep and fatigue.

### Things Officers Can Do

- Stay physically fit: Get enough exercise, maintain a healthy body weight, eat several fruits and vegetables a day, and stop smoking.

- Learn to use caffeine effectively by restricting routine intake to the equivalent of one or two eight-ounce cups of coffee a day. When you need to combat drowsiness, drink only one cup every hour or two; stop doses well before bedtime.<sup>9</sup>
- Exercise proper sleep hygiene. In other words, do everything possible to get seven or more hours of sleep every day. For example, go to sleep at the same time every day as much as possible; avoid alcohol just before bedtime; use room darkening curtains; make your bedroom a place for sleep, not for doing work or watching TV. Do not just doze off in an easy chair or on the sofa with the television on.
- If you have not been able to get enough sleep, try to take a nap before your shift. Done properly, a 20-minute catnap is proven to improve performance, elevate mood and increase creativity.
- If you are frequently fatigued, drowsy, snore or have a large build, ask your doctor to check you for sleep apnea. Because many physicians have little training in sleep issues, it is a good idea to see someone who specializes in sleep medicine.

NCJ 225762

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## About the Author

Bryan Vila is a professor of criminal justice at Washington State University Spokane and director of the Critical Job Tasks Simulation Laboratory in the Sleep and Performance Research Center. Vila served as a law enforcement officer for 17 years. He has authored numerous research articles and four books, including *Tired Cops: The Importance of Managing Police Fatigue*.

## WAYS TO AVOID SLEEP DEPRIVATION

by Charles H. Samuels, MD, CCFP, DABSM

*This excerpt is from Inside Source, the newsletter of the Calgary Police Service (Volume 4, Issue 4, May/June 2005).*

Humans require six to eight hours of sleep every 24 hours to restore memory and concentration, physical and emotional function. People have individual needs for amount of sleep and their own circadian sleep phase (the timing of their sleep rhythms).

Humans are also diurnal mammals, which means they prefer to be awake in the day and asleep at night. Day sleep has been clearly shown to be shorter and less efficient than night sleep. One's resistance to sleep deprivation is a function of age, environmental distraction, and internal or external stimulation. As we age (usually as we enter the mid-40s), we become less able to tolerate the effects of acute and chronic sleep deprivation.

Substantial research from NASA and the U.S. military in both acute and chronic sleep deprivation protocols has established that there is a significant impairment in cognitive function following 15 to 17 hours of sustained wakefulness.

Shift work imposes a state of both acute and chronic sleep deprivation as well as chronic circadian dysrhythmia (a disruption of the body's biological clock that may feel like jet lag). Being deprived of sleep has a serious negative effect on police performance, which requires a high level of alertness and attention.

Shift workers can take action to avoid incurring additional sleep debt, above and beyond the debt imposed by the nature of shift work.

The adage "Protect Your Sleep" is the fundamental cornerstone of successfully managing the impact of shift work on the patrol officer.

### How to protect your sleep:

- 1. Determine how much sleep you need** to feel well rested on a daily basis. Multiply that number by 7. The resulting number is the amount of sleep you need per week.
- 2. Determine how much sleep you get.** Add up the total amount of sleep you get on day/afternoon/evening shifts per week and night shift per week. Then determine your sleep debt in each situation by subtracting those numbers from your sleep need.
- 3. Focus on minimizing your total sleep debt** by taking the following actions:
  - a. Improve your day sleep environment.
  - b. Catch up on your sleep on your days off.
  - c. Learn to catnap.
  - d. Sleep longer during the day when you have a night rotation or tour of duty.
- 4. Give yourself a quiet, completely dark, comfortable day-sleep environment** with no distractions.
- 5. Try to get two three- to four-hour blocks of sleep** during the day when you work the night shift.
- 6. Learn to catnap.** Take a short 20–30 minutes of time with eyes closed, situated in a comfortable and resting position. You do not have to sleep to get the benefit of a catnap.

**Remember:** The treatment for sleepiness and fatigue is SLEEP!

### About the Author

Charles Samuels is the medical director at the Centre for Sleep and Human Performance in Calgary, Alberta, and a clinical assistant professor at the University of Calgary, Faculty of Medicine.



## Protecting America's Ports

by Bruce Taylor, Ph.D., and Pat Kaufman

The recent terrorist attacks in Mumbai, India, brought to the forefront long-standing concerns about the vulnerability of our ports. After Sept. 11, for example, U.S. seaports were closed for several days, an acknowledgment that ships, like airplanes, could also serve as deadly weapons. Coast Guard vessels were immediately dispatched to provide security at all major American ports.<sup>1</sup>

Few would dispute that, if terrorists used a cargo container to conceal a weapon of mass destruction and detonated it on arrival at a U.S. port, the impact on global trade and the world economy could be immediate and devastating.

Protecting America's ports against a terrorist threat is daunting because of the sheer size and sprawling nature of the U.S. maritime system and because the United States has no central port authority to oversee security. Approximately 8,000 ships with foreign flags make 51,000 calls on U.S. ports each year. Fully 95 percent of overseas commerce (and

100 percent of foreign oil) comes by ship.<sup>2</sup> In addition, more than 6.5 million passengers from cruise ships pass through the nation's ports each year, along with approximately 9 million cargo containers — about 26,000 cargo containers a day.<sup>3</sup> The complex structure of ports and the port authorities that govern them — including the variation in public and private ownership, the involvement of multiple governmental and private agencies, and the differences in levels and scopes of authority — makes securing U.S. ports a tremendously difficult task.

Because little was known about the nature of anti-terrorist activities in the nation's ports or which security practices might be worthy of further examination and testing, the National Institute of Justice (NIJ) funded the Police Executive Research Forum to identify promising local practices to safeguard America's ports against terrorist attacks.

The researchers used an exploratory or descriptive case study methodology to

analyze interorganizational relationships in port security operations between 2003 and 2006. Because port security practices have not been evaluated, even with non-rigorous methods, they took a basic qualitative approach to learn what we do not know, gain an elementary understanding of the challenges and create a foundation for future research, which the researchers hope will include traditional evaluation methods, such as quantitative surveys and randomized control trials.

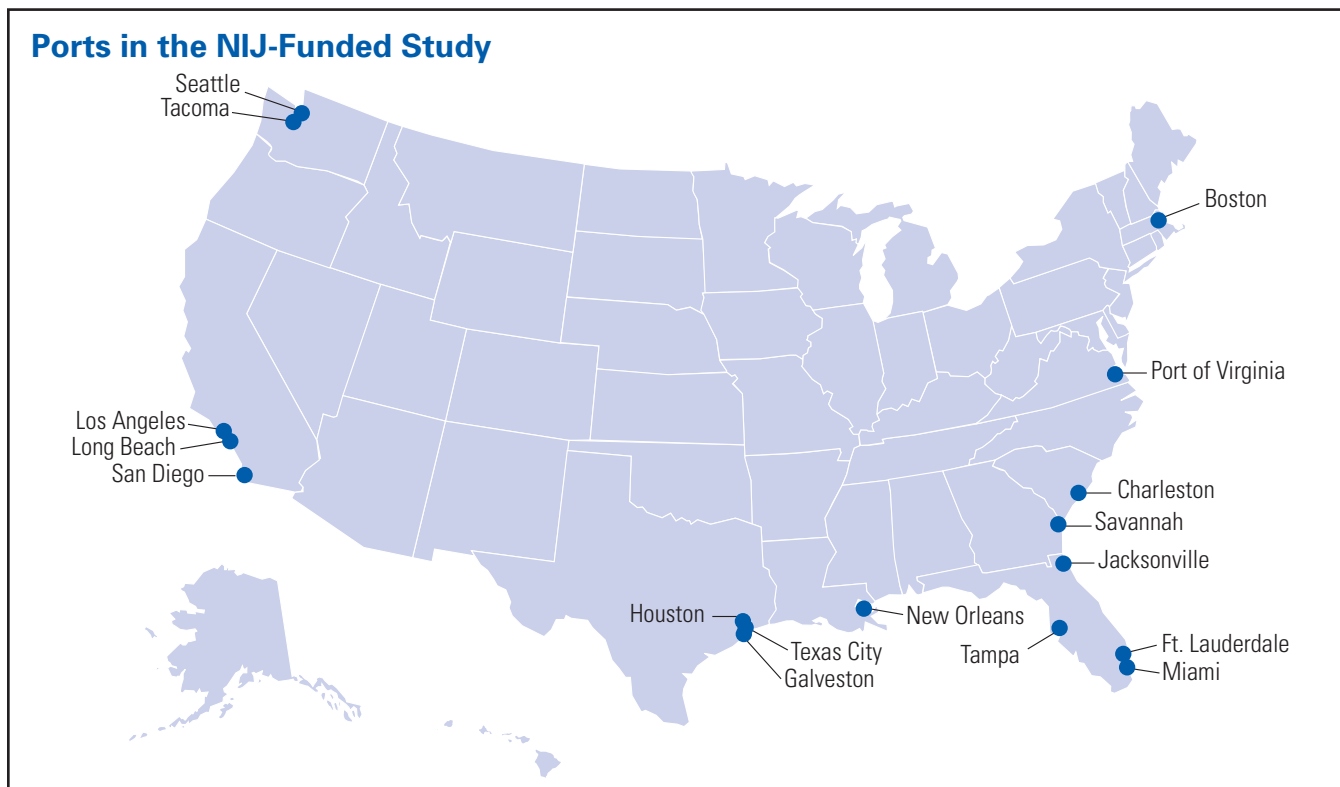
The research team assembled rich descriptions of the problem and context for port security and identified promising practices based on the expert opinion and experience of port personnel. The resulting research offers valuable insights into practices used in a variety of ports. In the future, by building on the findings, researchers will be in a better position to evaluate the effectiveness of the security initiatives.

With the help of an expert advisory board of stakeholders in the port security community, the research team selected 17 ports to study (see “Ports in the NIJ-Funded Study”

below).<sup>4</sup> These ports represented America’s maritime industry in terms of the variety of vessels, the volume of cargo and passengers, the types of ownership, law enforcement presence, and geographic location. To identify promising security practices, with a particular focus on successful intergovernmental and public-private partnerships, the team met with local, state and federal agency officials who were involved in managing each port and providing for its security.

### Promising Practices for Port Security

The study focused on local practices — that is, it excluded federal activities, such as those managed by the U.S. Department of Homeland Security or the U.S. Department of Justice.<sup>5</sup> Although not included in the study, port security policies taken by the federal government before and after Sept. 11 were found to be key factors at all of the ports the researchers visited and to have had an impact on all ports in the United States. The study explored only cases where one of these nationwide practices had been adapted locally in a compelling manner.



The researchers identified practices in five general areas:

- Awareness of threats.
- Prevention of an attack.
- Preparedness for an attack.
- Response to an attack.
- Recovery after an attack.

They chose practices that stood out from the others because of their innovativeness, comprehensiveness or rigorous implementation.

### Awareness of Threats

Awareness is heavily dependent on information sharing and requires a high level of cooperation among public and private sectors. The research revealed that the ports had undertaken two main efforts to increase awareness of an attack:

- Stakeholder coordination and collaboration initiatives.
- Protocols for detecting and monitoring port-related security risks.

The most notable promising practice in coordinating local stakeholders was the establishment of area maritime security committees (AMSCs). These committees (recommended in the 2002 Maritime Transportation Security Act) are made up of federal, state, local and private representatives who meet to identify and address vulnerabilities in and around ports and provide a forum for sharing information about port security issues. Although AMSCs existed at all the ports in the study, the groups varied considerably in size, stakeholders represented, frequency of convening and methods of functioning.

The research team also discovered a number of port-specific practices intended to detect and monitor security risks. These included port security teams within homeland security centers, recruiting a voluntary port security force to work in conjunction with the port police agency, and implementing Port Watch, similar to Neighborhood

Watch, which encourages tenants in the port to keep each other informed about security concerns.

### Prevention of an Attack

Prevention practices are based on the premise that a strong, visible defense will deter an attack. The team identified a number of promising practices in preventing port attacks, including:

- Improvements to physical security and infrastructure at seaports.
- Protocols and processes limiting entry to seaports.
- Technological detection and inspection systems.
- Law enforcement-related activities.
- Interagency operational centers.

Measures included creating physical barriers, limiting access, installing detection equipment, increasing law enforcement activity and coordinating strategies among agencies. Seaports are difficult to defend because much of their perimeter is water. The researchers saw great potential in the development of the next generation of closed-circuit televisions (CCTVs) and sensors designed to detect chemical, biological, radiological and nuclear weapons of mass destruction, especially when they are used in combination with traditional security practices.

Some of the better systems combine CCTV and video analytics to analyze video proactively based upon observed behavior. Operators are trained to respond to certain anomalies or perceived threats. Another promising practice is the use of sensor technologies for screening, although there is still no technological substitute for good security procedures and well-trained human inspectors.

Not every prevention practice was high-tech or expensive. One simple strategy used by most of the ports visited was stacking empty shipping containers door-to-door. While not foolproof, stacking containers

with their doors facing each other is an easy way to block entry to terrorists, stowaways or smugglers who would seek to hide in shipping containers.

### Preparedness for an Attack

Preparedness requires a measurable, demonstrated capacity to respond to threats with coordinated efforts by all essential participants, including elected officials; emergency services, fire, intelligence, medical, police and public health personnel; community organizations; the media; and the public at large.<sup>6</sup> Port security officials with whom the researchers talked all agreed that they needed to increase their level of preparedness.

Terrorist attacks are rare, and few people have direct experience handling them. Therefore, the promising practices in this area are centered on various forms of training.

Awareness training for all port personnel is a low-cost approach that rapidly increases the number of people who are able to notice when something is amiss. Field exercises have also proven useful in simulating a potential attack and testing various aspects of the port's terrorism response plan. Ports are increasingly using models, games and simulations that prepare first responders for a seaport attack by letting them "experience" dangerous events without exposing them to hazards or accidental injury and without requiring the use of expensive resources such as personal protective equipment.

### Response to an Attack

Responding to an attack against a port requires planning for uncertainty, fast action in moments of crisis and operations that almost always cross agency lines.<sup>7</sup> The experts interviewed emphasized the need for federal, state, local and tribal authorities to rapidly assess the human and economic consequences and calculate the effects that could radiate to regional, national and global interests. Established contingency procedures can help ensure continuous operations and essential public services

and the resumption or redirection of maritime commercial activities to mitigate larger economic, social and national security effects of an incident.

Many of the ports visited used the Incident Command System (ICS), which establishes a "unified command" whereby agency managers share decision-making responsibility. There is no formal leader; the agency overseeing emergency operations depends on the nature and location of the event. Individual agencies maintain operational control of their own personnel and assets, and agency leaders act cooperatively, transferring decision-making authority within the unified command group based on the nature of an incident. This system allows agencies to adapt to changing situations as an incident unfolds by avoiding a rigid organizational structure. However, the effectiveness of this promising practice hinges on trust, cooperation and a clear understanding of which agency leads under what circumstances.<sup>8</sup>

Another promising practice is a team response model, which fosters strong partnerships among various first responders, such as firefighters, hazardous waste experts and medical personnel.

### Recovery After an Attack

Recovery is a vitally important issue, because billions of dollars worth of cargo pass through the U.S. port system on a daily basis. Delays in reopening port facilities could result in dramatic, long-term economic (and other) consequences on a national and international scale.<sup>9</sup>

Compared to the other four areas, the research team did not observe many promising practices in the area of recovery. This is unfortunate because effective recovery actions would go a long way toward preserving life, property, the environment, and social, economic and political structures, as well as restoring order and essential services for those who live and work in the maritime domain.

One promising practice observed at two ports was the adoption of a consequence-management approach, which addresses

ways to alleviate the short- and long-term physical, socioeconomic and psychological effects of a catastrophe.<sup>10</sup> Consequence-management exercises demand that seaport personnel and stakeholders consider essential issues in advance, such as when the port would reopen, which cargo would get priority, how passengers should be handled and what are the long- and short-term economic impacts of a complete shutdown.

## Moving in the Right Direction

Researchers identified a number of promising practices but could not determine which were the best because data to conduct an evaluation do not exist. Although federal legislation requires certain minimum security practices, each port must consider and assess the relevance and effectiveness of the identified promising practices on an individual basis.

In the end, there were no magic solutions to assist the port community with the monumental task of protecting the nation's ports against a terrorist attack. But it is clear that seaports are aware of the dangers and are making strides toward securing the maritime domain. Sharing promising practices with each other — through discussions generated by research, U.S. Coast Guard conferences and local maritime security meetings — may well be one of the most promising actions we can take in safeguarding our country's seaports.

NCJ 225763

## About the Authors

**Bruce Taylor** is the director of research at the Police Executive Research Forum (PERF) in Washington, D.C. He has more than 15 years of experience in research and survey design, randomized field experiments, and program evaluation. Before joining PERF, he was a managing associate at Caliber Associates, the deputy director of the Arrestee Drug Abuse Monitoring (ADAM) program at the National Institute of Justice, and a senior associate with the New York City Victim Services Agency.

**Pat Kaufman** is an attorney and freelance writer with more than 10 years of experience in legal writing and editing, mainly in the areas of drug enforcement, particularly in Fourth Amendment privacy and search and seizure issues; criminal drug testing involving violations of probation and supervised release by drug offenders; and corrections law.

## For More Information

- Pate, A., B. Taylor, and B. Kubu, *Protecting America's Ports: Promising Practices*, final report submitted to the National Institute of Justice, U.S. Department of Justice, Washington, DC: January 2008 (NCJ 221075), available at [www.ncjrs.gov/pdffiles1/nij/grants/221075.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/221075.pdf).

## Notes

1. A year after the Sept. 11 attacks, the U.S. Congress enacted the Maritime Transportation Security Act of 2002 (MTSA), a sweeping law that provided an overall planning and response framework for securing the nation's ports. Tasked with implementing many of the MTSA measures, the Coast Guard became the lead agency in maritime and port security. The United States also worked with the United Nations International Maritime Organization to promulgate new international requirements to strengthen maritime security.
2. Council on Foreign Relations, *Terrorism: Questions and Answers*, Washington, DC: Council on Foreign Relations, 2002.
3. Ervin, C.K., *Open Target: Where America Is Vulnerable to Attack*, New York: Palgrave Macmillan, 2006: 118.
4. Although we have chosen in this article not to cite specific ports by name when discussing promising practices, detailed information on the practices of each of the 17 ports is available in our full report.
5. Although the federal measures were not included in our study, we offer a full review of all these efforts in our final report.
6. RAND Corporation, *The Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction*, Arlington, VA: RAND, December 15, 2003, available at [www.globalsecurity.org/security/library/report/2003/volume\\_v\\_report\\_only.pdf](http://www.globalsecurity.org/security/library/report/2003/volume_v_report_only.pdf).
7. Haveman, J., and H.J. Shatz, "Introduction and Summary," in *Protecting the Nation's Seaports: Balancing Security and Costs*, ed. J. Haveman and H.J. Shatz, San Francisco: Public Policy Institute of California, 2006: 1–30.
8. Ibid.
9. Ibid.
10. Seiple, C., "Domestic Response to Weapons of Mass Destruction," *Parameters* (Autumn 1997): 119–134.



# Search. Match. Solve.

## NamUs: National Missing and Unidentified Persons System

NamUs is the nation's first online repository for missing persons and unidentified decedents records. The system is two databases:

### Missing Persons Database

- Anyone — law enforcement and the loved ones of a missing person — can add a case; cases go through a verification process before they are posted.
- Anyone can search the database.
- Resources include geo-mapping technology to locate police and medical examiner offices and links to state clearinghouses, Attorneys General offices and state laws.

[www.findthemissing.org](http://www.findthemissing.org)

### Unidentified Decedents Database

- Anyone can search the database using factors such as unique physical characteristics (tattoos, scars, implants), dental information, clothing and forensics data.
- Only medical examiners and coroners can enter cases.

[www.identifyus.org](http://www.identifyus.org)

[www.NamUs.gov](http://www.NamUs.gov)

**NamUs** is funded by the National Institute of Justice in a partnership with the National Forensic Science Technology Center.

### What You Can Do

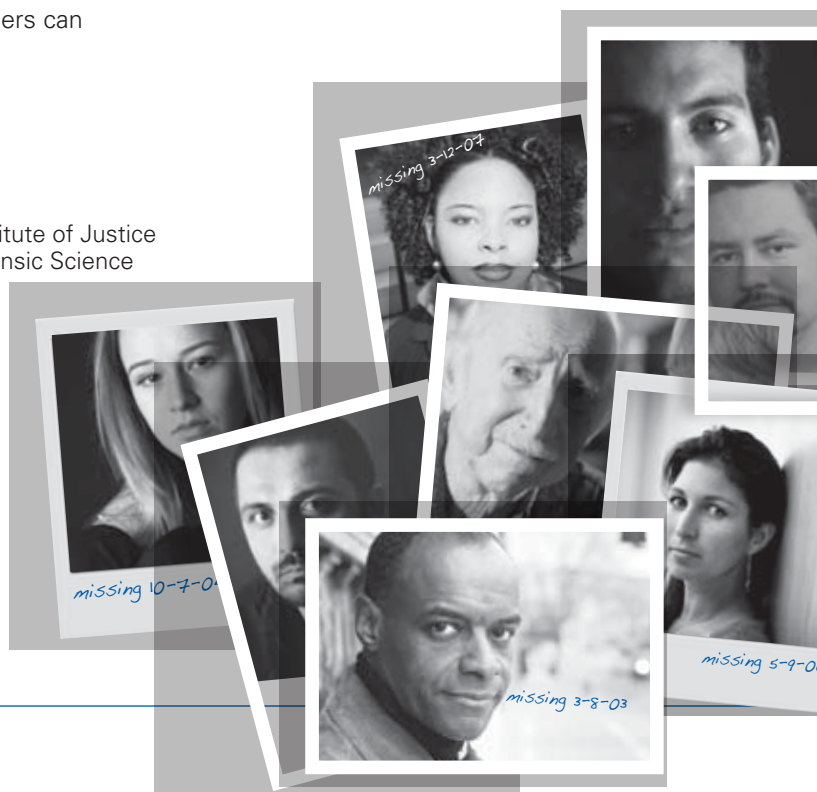
- Raise awareness within your agency or your community about NamUs and its resources.
- Encourage your state missing persons clearinghouse to use NamUs to help solve cases.
- Encourage medical examiners and coroners to enter their cases at [www.identifyus.org](http://www.identifyus.org).

The databases will be linked in 2009 for simultaneous searching and matching of cases.

### Watch a six-minute video:

#### NamUs Behind the Scenes: How It Works, Why It Matters

[www.findthemissing.org/homes/how\\_it\\_works\\_video](http://www.findthemissing.org/homes/how_it_works_video)





## Using Technology to Make Prisons and Jails Safer

by Philip Bulman

This was no ordinary telephone call. A Baltimore man allegedly used a cell phone to arrange a murder, offering to pay \$2,500 for the crime, according to Maryland federal prosecutors. Moreover, the man should not have had a cell phone — he was in the Baltimore City Jail on the evening he allegedly placed the fateful call. Indeed, according to the federal indictment, he was being held on a murder charge and made the call to arrange the killing of a witness to the original murder.<sup>1</sup>

Cell phones and the electric chargers that power them are just the latest form of contraband that correctional institutions grapple with daily. Corrections officers also face attempts to smuggle drugs and weapons into the facilities, as well as inmates who fashion weapons out of ordinary materials.

To help correctional managers detect contraband and run safer institutions, the National Institute of Justice (NIJ) is sponsoring several research projects and pilot programs, based on recommendations from expert

practitioners, to test an array of technologies.<sup>2</sup> Scanning and detection devices can help spot everything, from a cell phone to a knife. Devices using radio waves can track prisoner and staff movements within an institution. New computer programs may help predict where problems are most likely to occur.

### Testing Airport Scanners in Prisons

One NIJ-sponsored pilot program that enjoyed success used a millimeter wave imaging system to scan visitors at the Graterford State Correctional Institution in Pennsylvania. The imaging system can look through clothing to detect weapons, cell phones and nonmetallic objects. Currently used by the Transportation Security Administration (TSA) to scan passengers at an increasing number of airports, the system was tested and evaluated at Graterford, a maximum-security facility that houses about 3,100 inmates outside Philadelphia.

A person steps into a “portal,” which looks like a booth. The system beams radio energy in the millimeter wave spectrum from antennas that rotate around the person. The energy is reflected, and scanners produce an image of the body and any objects hidden beneath the clothing. The system, called the SafeView, is manufactured by L-3 Communications. According to the manufacturer, the system produces less radiation than a cell phone transmission.

Millimeter wave systems have been controversial because they present images of bodies so well — similar to nude photographs — that some people consider the systems intrusive. TSA has taken various measures, such as immediately deleting the images, to win acceptance. This technology has much the same capabilities and limitations as an alternative approach — backscatter X-ray systems — used for the same purpose.

The pilot project at Graterford involved scanning visitors. Thomas Dohman, Graterford’s intelligence captain, said the system was used for more than a year, and officials believe it was successful. “It’s very effective at discouraging smuggling,” he said.

To address privacy concerns, prison officials used a privacy screen that cut out the most explicit views but still allowed the system to signal if something was hidden beneath a person’s clothing. Graterford officials also set up laptop computers when they introduced the system so visitors could see for themselves how the images looked. “The public accepted it,” Dohman said.

The Graterford system completed between 400 and 600 scans in a typical week, and each scan was completed in seconds. “It really didn’t slow down the [screening] process,” Dohman said.

The manufacturer made the system available for free during the testing period, and NIJ coordinated the pilot project because it provided an opportunity to do an operational evaluation in a correctional environment that involved a commercially available system.

*The intelligence captain at Graterford, a maximum-security facility outside of Philadelphia, said the millimeter wave imaging system used in an NIJ-sponsored pilot program had great deterrence effect.*

Overall, the millimeter wave system improved the contraband situation at Graterford, Dohman said. On several occasions, the system detected cell phones. Yet Dohman believes the system’s greatest success is in its deterrent effect. According to Dohman, people who knew about the system did not even try to smuggle something through it. “It’s infrequent that people had anything concealed,” he said.

Although this technology detects contraband hidden under clothing, it does not detect contraband secreted in body cavities. To address this need, NIJ is currently funding the development of a system that can identify contraband hidden in body cavities. The system, which is based on electric field tomography (EFT), is being developed by Quantum Magnetics, Inc.

## **New Portable Scanner Spots Improvised Weapons**

Although a millimeter wave portal can identify objects hidden under clothing, they are large, fixed and relatively expensive. Corrections officials have told NIJ that they would also like to be able to use inexpensive, handheld devices. These would give corrections officials more flexibility by allowing them to screen people at entrances and to perform spot checks anywhere. NIJ is sponsoring the development of a handheld device that can detect everything from cell phones to Plexiglas.

Many correctional institutions have reported that while their metal detection systems work well, the institutions face constant challenges in detecting nonmetallic objects, such as improvised weapons made of wood

or hard plastics. NIJ awarded a grant to Luna Innovations, Inc., to develop a new device that would spot contraband items regardless of what materials are used.

The Weapons and Non-Permitted Devices Detector, or WANDD, is a handheld system similar to handheld metal detectors. The WANDD scans fully clothed people for contraband hidden under their clothing. Although designed specifically to spot nonmetallic contraband, it detects metal as well.

Unlike millimeter wave systems that use radio energy, the WANDD uses sound waves — akin to sonar — to detect objects. The WANDD includes an ultrasonic wave transmitter and an acoustic receiver. The device “listens” to the sound waves that bounce back to it, detecting hidden objects under clothing.

Engineers at Luna tested the prototype at the Virginia Peninsula Regional Jail in Williamsburg. They found that the device works well with various clothing fabrics, including standard jumpsuits. The WANDD prototype successfully detected objects such as cell phones, plastic knives, guns and credit cards.

Meanwhile, some companies are developing similar systems that operate like radar instead of sonar to accomplish the same objective.

## Tracking Prisoners and Pinpointing Prison Hotspots

Corrections officials are beginning to test new technologies that might help meet other challenges as well. One potentially promising approach involves radio frequency identification (RFID) technology, which uses small transponders called “tags” to track movements. RFID tags can be attached to or incorporated into a variety of objects, such as wristbands. Each tag has an integrated circuit and a tiny antenna to handle radio signals and can be used with a network of sensors — called RFID readers —

to track movements. For example, a few correctional institutions have used the systems to provide information on prisoners’ movements and to alert staff if there is an unusual concentration of people in a certain area. Movement information can be stored in computers and could prove useful in investigations to determine who was present in a certain part of a building at a particular time.

RFID technology is mature and has been used to track inventory in warehouses, but its use in correctional facilities is relatively new. Early commercial products incorporating RFID technology came on the market during the 1970s, but specialized systems geared to the corrections environment are 21st century phenomena. Jack Harne, a correctional technology program manager at NIJ, noted that one of the Institute’s technical working groups — the expert panel that advises NIJ on corrections technology — is interested in developing a greater understanding of the capabilities and limitations of RFID technology.

To that end, NIJ is working with the RAND Corporation and the District of Columbia Department of Corrections to assess the effectiveness of an RFID system that will soon be up and running in D.C. jails. RAND researcher Laura Hickman said the challenge involves collecting information about D.C. jail operations to be able to measure any changes that occur. For example, the researchers need accurate measures of violent incidents during a typical month so they can see whether violence declines after the system is installed. The RAND study will determine how much an RFID system helps to detect potentially volatile situations and prevent violence.

The evaluation will help officials determine the effectiveness of the system and will offer an objective view of the strengths and weaknesses of RFID systems in correctional settings. Existing information about RFID in such settings comes from suppliers, who are not perceived as objective sources, Hickman said.

“Institutions don’t have anyone to listen to except for vendors,” she said, noting that the NIJ study will provide independent evidence about how effective an RFID system can be in a corrections environment.

In addition to evaluating the new system in D.C., the project also involves a survey of correctional institutions across the country to learn how many are using RFID technology and how well the technology is working.

In another effort to adapt existing technology to corrections, NIJ has teamed up with the Florida Department of Corrections (DOC) to test a computerized system that predicts potential trouble spots within prisons, allowing managers to assign extra staff or take other actions to prevent violence and other problems.

Linda McInnis, the Office of Information Technology project manager at the Florida DOC, said the effort involves using data warehousing and data mining techniques to pinpoint where trouble is most likely to occur. Dubbed COTAS (Correctional Operational Trend Analysis System), the system uses historical information and computerized number crunching to give supervisors a reading of the “climate” of a facility or parts of a facility, right down to individual cells. COTAS uses information about prisoners — such as age, gang membership, escape attempts, violent incidents, and medical and psychological conditions — to predict potential trouble spots.

The Florida DOC developed the computerized system, and NIJ provided funding to expand its use and to test it. COTAS is now available to administrators in Florida’s 137 correctional facilities. These include 60 prisons and a variety of other operations such as work camps. Florida (which, as of June 2008, housed 95,000 inmates) is testing and refining COTAS, which will be independently evaluated in 2009. If COTAS is found to be effective, the Florida DOC will make

*Researchers need accurate measures of violent incidents during a typical month so they can see whether violence declines after the system is installed. The RAND study will determine how much an RFID system helps to detect potentially volatile situations and prevent violence.*

copies of the software available in 2010 to correctional institutions outside of Florida.

Meanwhile, NIJ will continue to work with officials around the country in an effort to apply technological advances that will make prisons and jails safer for corrections officers and inmates alike.

NCJ 225764

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### For More Information

- Additional information on NIJ’s corrections technology work can be found at [www.ojp.usdoj.gov/nij/topics/corrections/technologies](http://www.ojp.usdoj.gov/nij/topics/corrections/technologies).

### Notes

1. For more information regarding the February 2008 indictment by the U.S. Attorney’s Office for the District of Maryland, see [www.usdoj.gov/usao/md/PublicAffairs/press\\_releases/press08/FourMenIndictedonFederalChargesforBaltimoreCountyMurderofWitness.html](http://www.usdoj.gov/usao/md/PublicAffairs/press_releases/press08/FourMenIndictedonFederalChargesforBaltimoreCountyMurderofWitness.html).
2. The technologies discussed in this article are still in development. NIJ has not yet completed rigorous evaluation of these tools.

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### About the Author

**Philip Bulman is a writer and editor at the National Institute of Justice. He has more than 25 years of experience as a journalist and writer specializing in science policy, scientific research and technology development.**



# Preventing, Preparing for Critical Incidents in Schools

by Beth Schuster

Ten years ago, on a sunny day in April, Eric Harris and Dylan Klebold walked into Columbine High School in Jefferson County, Colo., and began shooting. They killed 13 people and wounded 21 others before turning the guns on themselves. The events of that spring day mark one of the most devastating school shootings in U.S. history.<sup>1</sup>

Statistically, shootings and other homicides are a rare event in U.S. schools — they represent less than one percent of the homicides among children aged 5–18. From 1999 to 2006, 116 students were killed in 109 school-associated incidents.<sup>2</sup>

But as those in Jefferson County know all too well, school shootings can be a very real and very frightening part of school violence in this country. Each attack has a terrible and lasting effect on the students, school and surrounding community — and on the nation as a whole. Even one school shooting is too many.

The National Institute of Justice (NIJ) is working to help people who work in and around schools create safe environments for teaching and learning. The Institute develops and distributes tools to aid teachers, administrators, staff and law enforcement in preventing, preparing for and responding to critical incidents in schools.

## A Closer Look at School Shootings

A 2002 study by the U.S. Secret Service and the U.S. Department of Education — funded in part by NIJ — took a closer look at 37 incidents of targeted school violence in the United States between December 1974 and May 2000.<sup>3</sup> “Targeted violence” — a term developed by the Secret Service — refers to any incident of violence where a known (or knowable) attacker selected a particular target prior to the attack. The study explored the behavior of the student-attackers in the 37 incidents in an effort to identify information that could help communities prevent future school attacks.

The study found that these were rarely sudden impulsive acts. In 95 percent of the cases, the attacker had developed the idea to harm the target before the attack. Most had access to and had used weapons prior to the incident. More than two-thirds of the attackers obtained the guns used in the attack from their own home or that of a relative.

There is no accurate profile of a “school shooter,” according to the study. The shooters came from a variety of racial and ethnic backgrounds and ranged in age from 11 to 21 years. Some came from intact families with ties to the community; others came from foster homes with histories of neglect. Their academic performance ranged from excellent to failing. Few had been diagnosed with any mental disorder prior to the incident, and less than one-third had histories of drug or alcohol abuse. Almost three quarters

*Ninety-three percent of the school attackers in the study of 37 incidents behaved in a way that caused concern to others.*

of the attackers (71 percent) had felt bullied, persecuted, threatened, attacked or injured by others.

Prior to the incident, 93 percent of the attackers behaved in a way that caused others concern or indicated a need for help. In fact, in more than three-fourths of the cases examined, the attacker had told a friend, schoolmate or sibling about his idea before taking action. But rarely did the person who was told about the impending attack — in nearly all of the cases, a peer — bring the information to an adult’s

**What Do We Know About School Attackers?**

The National Institute of Justice contributed to the funding of a study by the U.S. Secret Service and the U.S. Department of Education that examined 37 incidents of targeted school violence in the United States between December 1974 and May 2000. Here is what researchers learned about the attackers in those incidents.

Developed idea to harm target before attack	95 percent
Behaved in a way pre-incident that caused others concern or indicated a need for help	93 percent
Told friend, schoolmate or sibling about idea before incident	81 percent
Felt bullied, threatened, attacked by others	71 percent
Obtained gun used in attack from own (or relative’s) home	68 percent
Had a known history of weapon use	63 percent
Had a known history of drug/alcohol abuse	24 percent
Previous diagnosis of mental health or behavior disorder	17 percent
Academic performance	Ranged from excellent to failing

Source: *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States*, Washington, DC: U.S. Secret Service and U.S. Department of Education, May 2002, available at [www.secretservice.gov/ntac/ssi\\_final\\_report.pdf](http://www.secretservice.gov/ntac/ssi_final_report.pdf).

### How Prepared Are Our Schools?

School districts with a comprehensive plan to address crisis preparedness, response and recovery	95 percent*
Among school districts with comprehensive plans, those that provided funding for training or offered training on the plan to faculty and staff during preceding two years	82 percent*
Schools with a crisis preparedness, response and recovery plan	97 percent*
Among schools with plans, those that provided training on plan to faculty and staff during preceding two years	87 percent*
School-based police officers who said emergency plans were not adequate	51 percent†
School-based police officers who said emergency plans were not practiced on a regular or ongoing basis	67 percent†

\* *School Health Policies and Programs Study 2006* (see note 5).

† *School Safety Left Behind? School Safety Threats Grow as Preparedness Stalls & Funding Decreases* (see note 6).

attention. A 2008 follow-up study by the Secret Service and Education Department explored how students with prior knowledge of attacks made decisions about what steps, if any, to take after learning the information. The study found that the school's culture and misjudgments about the likelihood and immediacy of the planned attack influenced whether the students came forward with the information.<sup>4</sup>

For more information on the 2002 study, read a related *NIJ Journal* article, "Preventing School Shootings," at [www.ncjrs.gov/pdffiles1/jr000248c.pdf](http://www.ncjrs.gov/pdffiles1/jr000248c.pdf). The complete findings from the 2008 follow-up study can be found at [http://ustreas.gov/uss/ntac/bystander\\_study.pdf](http://ustreas.gov/uss/ntac/bystander_study.pdf).

### How Prepared Are Schools?

Many of the critical incidents examined in the Secret Service and Education Department study lasted no more than 20 minutes. In fact, 47 percent lasted 15 minutes or less from the beginning of the shooting to the time the attacker was apprehended, surrendered, stopped shooting, left the school or committed suicide; one-quarter were

over within five minutes. Given the short duration of most school attacks, it is crucial for schools to have prevention efforts and critical incident response plans in place.

But how prepared are schools?

According to a 2006 national survey by the Centers for Disease Control and Prevention, approximately 95 percent of school districts had a comprehensive plan to address crisis preparedness, response and recovery. Of these districts, about 82 percent provided funding for training or offered training on the plan to faculty and staff during the two preceding years. As for individual schools, 97 percent had a crisis preparedness, response and recovery plan, and among these schools, 87 percent provided training on the plan to faculty and staff.<sup>5</sup>

Yet in a national survey of more than 750 school-based police officers, about half of the officers said the emergency plans for their schools were not adequate. More than 66 percent indicated that their emergency plans were not practiced on a regular or ongoing basis.<sup>6</sup>



## Helping Schools Prepare and Respond

NIJ makes tools and training programs available to help schools and school districts resolve conflict, manage critical incidents and prevent school violence.

The tools and programs were developed with evidence-based practices and the recommendations of experts in NIJ's School Safety Technology Working Group in mind, said Mike O'Shea, program manager for the Institute's school safety portfolio. "These resources — all of which are free — can help teachers, administrators, staff and law enforcement officers prepare and respond to any type of critical incident in their school," O'Shea said.

Here are some of these resources:

### School Crime Operations Package

This NIJ-funded software allows school-based police officers, administrators and security officers to map and analyze crime incidents that occur in and around schools. They can enter a daily log of incidents of school violence and crime, quickly display incidents involving a particular student and produce graphics showing school "hot spots" or year-to-year trends. For example, a map can show where bullying incidents have occurred on a school campus. This software can help schools establish policies for school safety, target school violence and prepare for future threats. (For more information, see [www.schoolcopsoftware.com](http://www.schoolcopsoftware.com).)

### School Safety Plan Generator

Law enforcement officers and school staff can use this to create a document that helps prepare the school and serves as a reference guide for all first responders during critical incidents. The document can include the school's demographics, members of the critical incident planning team, roles and responsibilities, emergency locations, supplies and equipment on hand, and critical lines of communication.

## THE LARGER SCOPE OF SCHOOL VIOLENCE

School shootings are only part of the problem of violence in schools. During the 2005–2006 school year, for example, 86 percent of public schools reported that at least one violent incident, theft or other crime occurred at their school, according to the *2007 Indicators of School Crime and Safety* by the U.S. departments of Education and Justice. In 2005, students aged 12–18 were victims of approximately 1.5 million nonfatal crimes at school.<sup>7</sup>

In the same study, 8 percent of students in grades 9–12 reported being threatened or injured with a weapon in the past 12 months. Meanwhile, 28 percent of students aged 12–18 reported having been bullied at school during the previous six months.<sup>8</sup> Six percent of students aged 12–18 said that they had avoided a school activity or a particular place in school during the past six months because of fear of attack or harm.<sup>9</sup>

### A Critical Incident: What to Do in the First 20 Minutes

Developed by the North Carolina Office of the Attorney General and Department of Juvenile Justice and Delinquency Prevention, this video shows a school shooter scenario. Viewers watch the school's response to the shooting and then discuss what went right, what went wrong and how they can use the lessons learned to improve their own critical incident plans.

### Incident Commander

Incident Commander uses electronic gaming software to mimic a school shooting, a chemical spill, the aftermath of a severe storm and similar incidents so managers can practice what to do in the event any of these situations occurs. Users take the role of the incident commander, who manages the command team. They can act alone or coordinate with a team to employ emergency and public services. Developed by BreakAway, Ltd., with funding from NIJ, this computer simulation program also allows users to download maps of their city, county or state, so the scenario is played where they would respond to a real-life critical incident. (For more information, see [www.incidentcommander.net](http://www.incidentcommander.net).)

### Active Shooter

This NIJ-funded program — scheduled to be released later this year — will train local police on how to respond to a school shooting. An emergency response system known as Rapid Response is first installed in a local school. The system takes surveys, videos and photographs of the school and creates a Web-based tool that police officers can then use in a crisis. Officers can access the tool on their patrol car computers, get an electronic view of the school, and identify hazards, exits and vantage points for a fast, accurate response.

To obtain any of the tools discussed in this article, contact NIJ program manager Mike O'Shea at Michael.OShea@usdoj.gov, or the Rural Law Enforcement and Corrections Technology Center at 866-RURAL LE (866-787-2553).

### Protecting Students

In the decade since Columbine, other communities across the country — such as Blacksburg, Va.; Lancaster County, Pa.; and Red Lake, Minn. — have experienced similar tragedies.

Schools should be places of learning and development — not violence and fear. Keeping students and schools safe should continue to be at the top of every school administrator's and police department's agenda. NIJ's ongoing efforts will help them achieve that goal.

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### About the Author

Beth Schuster is an award-winning writer and editor with more than eight years of experience in technical writing and editing, mainly in the area of education policy. She is the managing editor of the *NIJ Journal*.

### For More Information

- Additional information on NIJ's school safety research and technology can be found at [www.ojp.usdoj.gov/nij/topics/crime-prevention/school-safety](http://www.ojp.usdoj.gov/nij/topics/crime-prevention/school-safety).

### Notes

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