

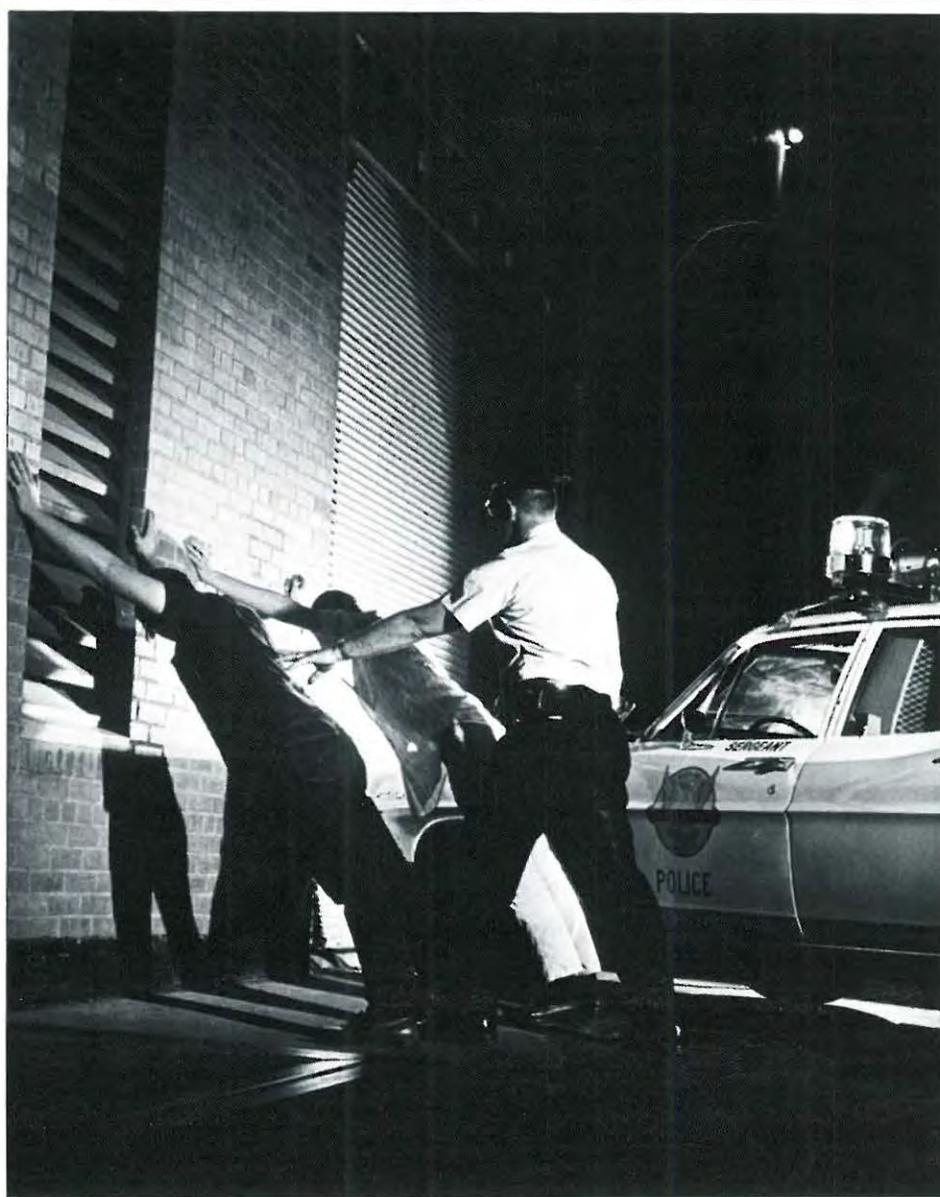


FBI

November 1986

Law Enforcement Bulletin

POLICE FOUNDATION



A Special Report

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The Cover:

With the Police Foundation vertical logo, the cover symbolizes the foundation "Crime File" video project.

FBI

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William H. Webster, Director

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Patrick V. Murphy (left) presents award from the Police Foundation for law enforcement leadership to FBI Director William K. Webster.

The Police Foundation A Special Report

The dramatic opening moments of the Police Foundation's series of "Crime File" videos are reminiscent of the popular "Hill Street Blues" television series: Scenes of officers at role call, on patrol, in raids, ending with a courtroom scene. More realistic than commercial television, these videos, produced by the Police Foundation under a grant from the National Institute of Justice, contain thoughtful, balanced analyses of issues affecting police work today.

These half-hour programs, a new medium for dissemination of research results and debate in criminal justice,

are important to the public, the public's elected policymakers, and to the police themselves. The newly appointed President of the Police Foundation, Hubert Williams, wants to increase the foundation's support of law enforcement agencies seeking to adopt more-effective means to accomplish their missions. Generating public and policymaker support of innovation, a purpose of these "Crime File" television productions, is one way of helping law enforcement to achieve this goal.

By
THOMAS J. DEAKIN
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Special Agent Deakin

The Police Foundation was initially best known for its year-long Kansas City Preventive Patrol Experiment, conducted with the cooperation of Clarence M. Kelley, then Chief of the Kansas City, MO, Police Department. Completed in 1973, this study showed that the level of preventive police patrol did not affect the crime rate or citizens' fear of crime.

This conclusion caused a re-examination of one of policing's basic tenets, that crime is prevented by random police patrol. Perhaps as important, the study opened policing's door to experimentation by showing that experiments could be conducted while a police department carried out its responsibilities to life and property. This was one of the goals of the Police Foundation: To overcome natural police objections to experimentation, objections based on fear the process would interfere with normal operations and obligations.

What is the Police Foundation and what is it trying to accomplish? What has been its impact on policing? How will the foundation's work affect the future of policing?

"The mission of the Police Foundation is to foster improvement and innovation in American policing and, thus, to help the police in their mission of reducing crime and disorder in America's cities."¹

Beyond this basic mission statement, underlying assumptions about police work guide the foundation; over the last 16 years, these assumptions have become guiding standards for much of American policing. The foundation believes that the control of crime and the maintenance of order depend on the cooperation of citizens,

thus police must be close to the citizens they serve. This belief is now a tenet of police practice that has helped to foster today's neighborhood policing programs and a variety of other programs designed to bring police and the citizenry closer together.

Other Police Foundation operating assumptions include:

"That the police must be willing to examine their practices and question and experiment with the ways they use their resources; That the police must be prudent and civil in the ways they use their discretion, especially in the use of force; That to be effective in controlling crime and maintaining order in the diverse communities of the nation's cities, police departments should actively hire and promote members of minorities and women; That, because of cutbacks in local funding for many police departments the police must do more with less."²

In many ways, especially the last, these assumptions are today governing the ways police do their job. Experiments with ways of using resources, prudence in the use of force (also as mandated recently by the Supreme Court), and hiring and promoting minorities (the number of black chiefs of police has greatly increased in recent years) are ways in which the police are seeking to do more with less, as evidenced in the pages of this Bulletin.

Ford Foundation Origins

On July 1, 1970, McGeorge Bundy, President of the Ford Foundation, met with then FBI Director J. Edgar Hoover and outlined the Ford Foundation's plan to begin a Police Development Fund, which would have \$30 million to spend over the next 5 years. Three weeks later, on July 22,

“The mission of the Police Foundation is to foster improvement and innovation in American policing...”

Bundy held a press conference in New York City to announce the fund, which would make grants to police departments to bring about major reforms.

At the press conference, Bundy introduced Ivan Allen, Jr., former Mayor of Atlanta, GA, who would be the chairman of the board of the new organization. The board would include members of the legal, academic, and police communities, including Quinn Tamm, Executive Director of the International Association of Chiefs of Police (IACP) and a former FBI executive. Executive Director of the fund would be Charles H. Rogovin, former head of the Law Enforcement Assistance Administration and previously an Assistant Attorney General of Massachusetts.

Other members of the board with police backgrounds included Michael Canlis, then President of the National Sheriff's Association; Hubert Locke, former Deputy Police Commissioner of Detroit and a professor at Wayne State University; David McCandless, Director of the Southern Police Institute in Louisville, KY; Lawrence Pierce, a former Deputy Commissioner of the New York City Police Department; and Stanley Schrotel, former Chief of Police in Cincinnati.³

A report on the newly established police development fund was issued at the press conference. In the foreword by McGeorge Bundy, the social changes of the 1960's were outlined as reasons for this new Ford Foundation effort:

“The need for reinforcement and change in police work has become more urgent than ever in the last decade because of rising rates of crime, increased resort to violence, and rising tension, in many communities, between disaffected or angry groups and the police.”⁴

The report noted that America had realized in recent years that there was a “seriously high incidence of crime” and the “system of criminal justice is inadequate for its prevention or the apprehension of criminals.” The 1965 Presidential Commission report, “The Challenge of Crime in a Free Society,” recommended far-reaching improvements, and later reports from the Commission on Civil Disorders (the Kerner Commission) and the Commission of the Causes and Prevention of Violence (the Eisenhower Commission) added significant observations on the need for more effective policing.

These commission reports observed that a fundamental attack on crime would require a national effort to lessen poverty, slums, ill health, and illiteracy, but the Ford Foundation said remedies to the criminal justice system “cannot wait for action on the full range of our social ills.” Noting that Federal funds would be available in the 1970's to assist local police for the first time (the Law Enforcement Assistance Administration), the foundation expressed concern whether our society would end up with more of the same system or with “something new and significantly different” in policing, because:

“We leave to the police many of society's problems, whether or not they are equipped to handle them. We have neither articulated a precise role for them in combatting crime, nor structured their broader role in the community. Nevertheless, whenever the lid blows, we call the police.”⁵

The Ford Foundation established a \$30 million fund to “assist a limited number of police departments in ex-

periments and demonstrations aimed at improving operations, and to support special education and training projects.” The fund would join with Federal, State, and local agencies in order to increase its impact.

James Q. Wilson, today's Chairman of the Board of Directors of the Police Foundation and a Professor of Government at Harvard University, told the Bulletin that the Police Foundation took its present name immediately after the Ford Foundation announcement of the formation of a Police Development Fund, to avoid any connotation that the “fund” was to improve policing in the manner of improving underdeveloped countries.

Wilson, an original member of the board of directors, said that a difference in policy priorities between the board and the Police Foundation's first President, Charles H. Rogovin, led to the selection of Patrick Murphy as the new chief executive officer of the foundation in 1973. The board wanted a research focus for the foundation while Rogovin, the board felt, was more interested in an emphasis on police leadership development and training.⁶

Another member of the Police Foundation's Board of Directors noted that the board is self-perpetuating; members elect new members as vacancies occur, and there is now a 6-year term of office for members of the board. The board, in the main, depends on the Police Foundation staff to present potential research topics which the board considers.⁷

Preventive Patrol Experiment

The first study to impact police operational practices was the landmark Kansas City Preventive Patrol Experiment. Conducted from October 1,

“whenever the lid blows, we call the police.”

1972, to September 30, 1973, this study showed that increasing or decreasing the level of routine preventive patrol had no appreciable effect on crime, fear of crime, or citizen satisfaction with police services.

As Murphy's foreword to this report noted:

“It is not easy for police departments to conduct operational experiments. For one thing, maintaining experimental conditions cannot be permitted to interfere with police responsibility for life and property.”⁸

Murphy had just become President of the Police Foundation after beginning his law enforcement career as a New York City patrolman and working his way up to commissioner of the country's largest police department. Along the way he served as the top police executive in three other large cities. His willingness to experiment, advocacy of new ideas, and police experience, along with his unique service as the top police executive in four of the country's largest cities, made him the best known and most respected police innovator since August Vollmer, many police executives have noted. Murphy retired from the Police Foundation in 1985; his long-range impact on American policing nationally probably will be judged by students of police history as significant as that of August Vollmer or J. Edgar Hoover.

The Kansas City Police Department and the Police Foundation began the experiment under Chief of Police Kelley, who was appointed Director of the FBI before the study's completion. His successor, Joseph D. McNamara, said the experiment repudiated “a tradition prevailing in police work for almost 150 years.” Routine preventive patrol is the widely practiced patrol

strategy which assumes that the impression of police omnipresence on the streets through cruising patrol cars will deter potential offenders.

The principal spokesman for this widely accepted theory of preventive patrol had been O. W. Wilson, a veteran of the Berkeley Police Department, Chief of Police in Wichita, KS, and a prominent academic theorist on police issues. Later, he was the Superintendent of Police in Chicago. As Murphy noted:

“<this project> ranks among the very few major social experiments ever to be completed . . . never before had there been an attempt to determine through such scientific examination the value of visible police patrol.”⁹

This was only the first in a series of social experiments to test the tenets of policing. The concluding chapter of Murphy's 1977 book, *Commissioner*, speaks of the work of the Police Foundation: Its philosophy “rests not on the proposition that American policing, with minor modifications, is in good shape but on precisely the opposite.”¹⁰

The Police Foundation initiated experimental studies using proven scientific technique. For example, the Kansas City preventive patrol evaluation divided one patrol division's 15 beats into an experimental area of 3 groups of 5 beats, using computer-based techniques, with similar crime figures, population characteristics, and calls for police service. One group of beats was designated “reactive,” where preventive patrol was eliminated and patrol cars entered only in response to calls for service. A second set of beats was the “control,” where the usual level of preventive patrol was maintained. A third “proactive” group of beats, with two or three times the usual level of preventive patrol, was established.

Victimization surveys before and after the experiment, reaching a total of 1,200 households, also determined the fear of crime and attitudes of citizens and businessmen toward police. The three sets of experimental patrol conditions—reactive, proactive, and control—appeared not to affect crime, delivery of police services, or the fear of crime in the way police often assume they do. Even one fear of the experimenters, that traffic accidents would increase in the reactive group of beats, did not occur.

This experiment was conducted by the Kansas City Police Department and evaluated by the Police Foundation. One police officer was one of four authors of the subsequent report, and another officer acted as one of the observers of the experiments. Three other officers and seven administrators of the department contributed directly to the project. Numerous academic consultants and the Midwest Research Institute helped design the surveys used and analyzed the data produced.¹¹

Other Studies

The decade of the 1970's brought numerous experiment reports and other studies of law enforcement issues to this country's police community. These experiments were carefully designed by social scientists using the latest methods of statistical analysis and verification, in cooperation with the various police departments that were helping conduct the tests. And the various experiments and reports were on subjects that the law enforcement community recognized as important issues for policing. This was a successful effort to prove the validity of Police

Foundation experimental methods that produced valid conclusions. The few earlier analyses of policing had not been accepted by the law enforcement community because the research methods or the data had been found lacking in some aspects.

Some of the issues addressed in 1974, the year of the Kansas City patrol experiment, included the subject of policewomen on patrol in Washington, DC. The Police Foundation report concluded that gender is not a legitimate occupational qualification for patrol work. This year also saw publication of *Guidelines and Papers from the National Symposium on Police Labor Relations*, jointly sponsored by the IACP and the Police Foundation. The next year, 1975, brought a study of officer height and its relationship to selected aspects of performance; a study of the cost and impact of police corruption; and an experiment in San Diego, CA, that showed the value of field interrogation in deterring certain crimes, particularly those committed by youths in groups.

Then, in 1976, there were reports on experiments that addressed the peer review approach to modifying the behavior of police officers (*Kansas City Peer Review Panel*, 1976); the effectiveness of patrol officers and detectives working in teams in Rochester, NY (*Managing Investigations*, 1976); a study of three intervention approaches—authority, negotiation, and counseling—which led a majority of officers in the experiment to decide that negotiation was the most important approach for recruits to learn (*The Police and Interpersonal Conflict*, 1976). Police personnel exchanges, the experi-

ence of six California cities; *Police Response Time* not strongly affecting citizen satisfaction with police service in Kansas City, MO (1976); and different approaches to criminal apprehension in Kansas City were published in 1976, along with *Police Chief Selection: A Handbook for Local Government*.

The next year brought a report on *Patrol Staffing in San Diego* (1977), a most important study of the comparative effectiveness and safety of one- or two-officer units which concluded that one-officer units are more efficient and safer. This year saw the results of studies in Detroit and Kansas City showing the importance of threats as predictors of domestic violence (*Domestic Violence and the Police*, 1977), a critical area to police patrol officers. The hard-to-maintain, but useful, team policing concept as an alternative to traditional patrol methods was detailed (*Cincinnati Team Policing Experiment*, 1977).

Performance Appraisal in Police Departments, Police Personnel Management Information Systems, and Selection through Assessment Centers: A Tool for Police Departments were all the subjects of 1977 reports. The next year brought a general administrative survey, *Police Practices*, 1978, which was a continuation of a study begun in 1951 by the Kansas City Police Department, and the history of a failed attempt to bring about radical change in a major American police department (*The Dallas Experience*, 1978).

The quality and quantity of these experiments and reports brought credit to the Police Foundation and to the social scientists who designed and implemented these pioneering studies. In a single decade, the Police Foundation had become a force for change and improvement in American policing.

Deadly Force

Consistency in his views on police use of deadly force is one mark of Patrick Murphy's innovative philosophy. When he was Police Commissioner of New York City, he changed the department's policies in this area, modeling them after the long-established FBI policy of using firearms only when necessary to protect the lives of officers or citizens, not to shoot those fleeing from a crime. In his testimony before the House District Committee, Murphy noted that restrictions on the use of deadly force can ease police-citizen tensions that lead to urban unrest. As he put it:

"The most distinctive characteristic of policing is the authority to use force. But with this authority comes the responsibility never to misuse it. This responsibility translates into an imperative on the part of police management to control police discretion so that officers employ only that degree of force necessary to do their job fairly and humanely.

"The use of force at its most extreme is the use of deadly force which can be described as the decision of a police officer to point a service revolver at another human being and fire it. This is the most momentous decision a human being can make—to take another life.

"Limiting the frequency of such decisions is one of the most important goals for the police chief and for the police agency."¹³

Six years later, the U.S. Supreme Court confirmed Murphy's, and the FBI's, views on law enforcement's use of deadly force for all the Nation's police.

This concern with police use of deadly force was also seen in the Police Foundation's review of the litera-

“[Murphy’s] long-range impact on American policing nationally probably will be judged by students of police history as significant as that of August Vollmer or J. Edgar Hoover.”

ture on the subject and a survey of seven cities’ use of it in a 1977 report, *Police Use of Deadly Force*, followed in 1981 by *Readings on Police Use of Deadly Force*, edited by American University professor James J. Fyfe. Fyfe is a former lieutenant with the New York City Police Department, where he served for 16 years, and today is recognized as one of the foremost authorities in this field. Fyfe’s anthology of major articles from authorities on police use of deadly force includes two that originally appeared in the *FBI Law Enforcement Bulletin* written by an FBI Agent in the Legal Counsel Division.

This valuable collection of articles was in response to the many requests of the Police Foundation for information on deadly force. As Fyfe noted:

“Often these requests come from small and medium sized jurisdictions in which single shootings have made deadly force a major concern. In some cases, that concern has also expressed itself in disorder, protests, and tensions which have led to the downfall of city administrations and police chiefs, and in enormous burdens to taxpayers.”¹⁴

Fyfe currently is directing an experiment, funded by the Metro Dade County, FL, Police Department, that is designed to identify techniques useful in defusing potentially violent police encounters with citizens.

Foot Patrol

In 1968, James Q. Wilson wrote of the three major styles of policing in America in *Varieties of Police Behavior*. These are the “watchman” style (police who are mainly concerned with the physical security of the community and its people), the “stranger” style (police as virtual outsiders brought in

to impose order in a community), and the “community service” mode, where police recognize their dual roles of crime prevention and order maintenance, plus miscellaneous service duties. While some suburban departments have long had this last style of policing and some big city departments are moving in this direction, more needs to be done, according to Wilson.

People want a “visible police presence” to improve the quality of life in their communities, recent studies have shown, according to Wilson, and this requires at least some police foot patrol. The Kansas City preventive patrol experiment early on showed that random motor patrol did not materially affect the crime rate or the community’s fear of crime. The most promising developments for actually having an impact on the crime rate are the programs targeted at removing high-rate repeat offenders from the streets.

As a young patrolman in New York City after World War II, Patrick Murphy learned the value of contact with the citizens he served on foot patrol. In New Jersey, passage of the Safe and Clean Neighborhoods Program in 1973 made State funds available for foot patrol in selected cities (28 in 1975, rising to 32 in 1980) in compliance with State criteria. Two-thirds of the \$12 million allocated was available for the “safe” part of the program. As a result of inquiries from State officials to the Police Foundation as to the cost-effectiveness of this program, the foundation undertook a multi-faceted study of the question of foot patrol.

In Newark, NJ, the foundation worked with the police department and the State to design an experiment with foot patrol to test a number of hypotheses: That (1) foot patrol would improve citizen attitudes toward police, (2) foot patrol would reduce crime, ei-

ther reported crime or crime victimization, (3) foot patrol would increase the number of arrests, and (4) foot patrol would increase job satisfaction of officers assigned it.

The complexities of conducting the overall New Jersey survey, and especially the Newark experiment, fill a 130-page report (*The Newark Foot Patrol Experiment*, 1981), which affords a perception of the difficulties faced by the researchers in such a project. But the findings developed shed new light on foot patrol: (1) Residents were aware of foot patrol to a much greater extent than motorized patrol and viewed police more favorably as a result, (2) crime rates, measured by reported crime or by victimization surveys, were *not* affected, (3) residents *perceived* diminishment of crime and disorder problems, and (4) officer job satisfaction did increase.

As Murphy’s preface to this report notes:

“One of the questions citizens most asked of mayors, council members, and police chiefs is, ‘Why don’t we have foot patrol, like in the good old days?’ The good old days were a time of tightly knit urban neighborhoods . . . and few patrol cars in which officers could be encapsulated and made remote from the citizens they served. . . . Citizens associate the officer on the foot beat with a time when crime rates were low and they felt secure in their neighborhoods.

“<This> study concludes that, although foot patrol (like routine motor patrol . . .) does not appreciably reduce or prevent crime, it does measurably and significantly affect citizens’ feeling of safety and mobility in their neighborhoods.”¹⁵

Domestic Violence

Perception of citizen safety, on the part of women especially, entered into the Minneapolis Domestic Violence Experiment, which took place over a year and a half in 1981 and 1982. Under a grant from the National Institute of Justice (NIJ), a cooperative effort on the part of the Minneapolis Police Department and the Police Foundation tested police responses to domestic violence, which is "the staple and bane of every patrol officer's work life," according to former police officer James K. Stewart, now NIJ Director.

As the Police Foundation summary report on this project noted, this "was the first scientifically controlled test of the effects of arrest for any crime." And the experiment showed that of the three standard methods police use in responding to domestic violence—arrest, counseling both parties, or sending assailants away from home for several hours—arrest was the most effective response as it resulted in considerably less recidivism.¹⁶

The purpose of this experiment was to test the validity and effectiveness of 1) the traditional police response of doing as little as possible in domestic violence cases because the offenders would not be punished by the courts, 2) the psychologists' view that police mediate these disputes, but not make arrests, or 3) the approach recommended by the Police Executive Research Forum and by many women's groups that police treat domestic violence as a criminal offense subject to arrest.

Previous research in this area suggested that arrests take place in less than 10 percent of the cases, in spite of violence in one- to two-thirds of the incidents. Recently liberalized legislation in Minnesota, allowing police to make arrests for misdemeanor

assault without having witnessed the assault, allowed design of a classic lottery-type experiment. The three different responses being tested—arrest, counseling, and separation—were governed by a color-coded set of report forms for officers' use, alternating colors dictated the response the officers were to follow in each case.

Followup interviews by a female staff, plus criminal justice reports on the alleged assailants, were collected for 6 months after the experiment in the 314 cases studied. Only 3 of the 136 suspects arrested received formal sanction from a judge, but all spent the night in jail. The Police Foundation Report on this experiment carefully notes all the variables that might have affected the results, but the clear conclusion is that arrest has the best potential of reducing repeat violence in these types of cases. This could have tremendous impact on legislative action in other States that would effect police actions in domestic violence cases.

"Crime File" Videos

Domestic violence, like the police use of deadly force, is also the subject of a "Crime File" video, a new medium for the Police Foundation. Funded by the National Institute of Justice (NIJ), part of the U.S. Department of Justice, the "Crime File" is a series of 22 half-hour video presentations that the NIJ calls a "quick course in criminal justice." Four-page study guides have been developed for each program to supplement the visual information with necessary historical background and additional sources.

Covering a broad range of topics—deadly force, domestic vio-



James Q. Wilson, Chairman of the Board of the Police Foundation, is the moderator of the Crime File videos.

lence, foot patrol, gun control, prison crowding, jail, search and seizure, victims, etc.—these tapes can be used before community gatherings to broaden perspectives for citizens and their community leaders, according to NIJ. The FBI is also using the tapes as part of its nationwide police training effort, as the programs present authorities in each area who address all sides of sometimes controversial issues. Professionally taped at a public television station in Washington DC, the whole series of programs, with study guides, is available for under \$400 from the NIJ.

Moderator of these programs is James Q. Wilson, Chairman of the Police Foundation's Board of Directors,

To obtain tapes of the Crime File series, write National Criminal Justice Reference Service, Box 6000 BCD, Rockville, MD 20850, or call 800-851-3420.

“[The Kansas City Preventive Patrol Experiment] ranks among the very few major social experiments ever to be completed....”

who selected the topics and questions for these videos. Wilson's even-handed appearance as moderator adds credence to the authority and balance of the programs. Some of the videos include presentations by veteran police officers who participated in Police Foundation experiments, which add a great deal of weight, particularly in the Newark Foot Patrol Experiment for example.

Change in Leadership

Patrick Murphy's retirement in 1985 requires an examination of future developments that can be expected under the law-trained Newark police executive who succeeded Murphy as the new President of the Foundation. Murphy and the new President, Hubert Williams, had been chiefs of police because the board, as Chairman Wilson explained, wanted to preserve the "strong roots" of the Police Foundation in the law enforcement community by choosing presidents with practical experience. Wilson sees this policy continuing for the foreseeable future.¹⁸

Hubert Williams, for 12 years a Newark, NJ, police officer who specialized in undercover narcotics work, and since 1974, the Police Director in Newark, was selected as President of the Police Foundation in 1985. Williams' undergraduate degree is from John Jay College of Criminal Justice and he holds a law degree from Rutgers University School of Law.

Williams told the Bulletin that the overall mission of the Police Foundation will continue to be to improve American policing and the principal tool to realize this mission will continue to be experimental research in the field. But Williams said the foundation seeks to do more through technical assistance to help police departments in

implementing the results of research. In addition, Williams said the foundation seeks to develop centers of expertise to assist police agencies in dealing with problems as diverse as the threat of domestic terrorism, the growing incidence of liability suits, and the challenge of developing and using reliable, practical measures of police effectiveness.

"In all of our efforts, we will continue to anchor our work in our constituency, the police departments of America," said Williams.

He noted that the Ford Foundation originally funded the Police Foundation for a 5-year period. But because of the organization's contributions to policing and society, the Ford Foundation has seen fit to continue its support of the Police Foundation, helping to transform it into the permanent entity it is today.

The Police Foundation currently is exploring endowment possibilities from the private sector and has taken on projects, on a selective basis, from the Federal Government to help accomplish its mission. For example, the "Crime File" video series, the Minneapolis Domestic Violence Experiment, and a project on reducing fear of Crime in Houston and Newark were all undertaken with grants from the Justice Department's National Institute of Justice.

The current President of the foundation observed that a long-standing need of police executives was a means, or combination of means, of objectively evaluating the effectiveness of their agencies. This has to be coupled with means of measuring the effectiveness of their personnel; arrest statistics are only a small part of the answer to this need. Since the Police Foundation has developed methodology to measure the effectiveness of some law enforcement programs on

specific issues, the next area to be addressed should be the overall effectiveness of police departments and their personnel.

Williams called drug problems the most pressing domestic concern of the whole society. He noted its close ties to the overall crime problem; that narcotics addicts are usually unemployable and have to support their habit through street crime, often in poorer neighborhoods. He sees the unemployed of America, often uneducated, becoming "soldiers in the drug armies" that are growing across this country.¹⁹

Current Projects

Brian Forst, Director of Research for the Police Foundation, told the Bulletin that recently completed foundation projects includes the Houston and Newark Fear Reduction Experiment. A summary report was published this year by the Police Foundation (*Reducing Fear of Crime in Houston and Newark: A Summary Report*, 1986). Since the 1980 Figgie report on the fear of crime, the existence of this fear has been targeted by a number of strategies. The foundation and NIJ designed a testing program for many of these strategies and found that opening neighborhood police stations and stimulating formation of neighborhood organizations works best for combating fears of white, middle-class homeowners, but is less effective in rental neighborhoods. The most successful programs, such as neighborhood police centers, door-to-door contacts, community organizing by police, and the coordination of several such approaches, had two characteristics in common:

- They provided time for police to have frequent discussions with citi-



Director William H. Webster meets with Patrick V. Murphy (left), former President of the Police Foundation, and Hubert Williams (right), the new President of the Foundation.

zens who were encouraged to express their concerns about their neighborhoods, and

—They relied upon the initiative and innovativeness of individual officers to develop and implement programs responsive to the concerns of the public.

Police officers may resist these neighborhood assignments (see “The Detroit Ministration Experience” in the February 1985, issue of the *FBI Law Enforcement Bulletin*), but initial resistance gives way when officers learn how receptive citizens are to this strategy. This type of program involves a “proactive” strategy—a positive outreach—and careful recruitment of personnel, plus a commitment to the experimental method, are needed.

A summary report on the Washington, DC, repeat offender study was published in July 1986 (*Catching Career Criminals: The Washington, DC Repeat Offender Project*), and this approach is being replicated in San Antonio and other cities. In a program developed by the Washington, DC, Metropolitan Police Department recognizing that a small proportion of criminals commit a disproportionate number of crimes, the foundation study found that the operation of a special police unit that focused on repeat offenders increased the likelihood of arrest, prosecution, and conviction of these offenders.

In the near future, the results of an experiment testing the results of arrest or warning strategies on recidivism among shoplifters will be published.

Forst said that a recent survey of police strategies to deal with the drug

problem is the beginning of a new Police Foundation focus on law enforcement and the narcotics problem, which will be the subject of a future article in the *FBI Law Enforcement Bulletin*.²⁰

The Future

FBI Director William H. Webster, speaking last May 17 at Patrick Murphy’s retirement as President of the Police Foundation, said that the “foundation has responded well to the challenge of the hard question.” In accepting the first Patrick V. Murphy Award in law enforcement leadership, established by the foundation’s directors, Webster praised Murphy’s “aspirations for effective, Constitutional law enforcement.”

Clarence M. Kelley, the former Chief of Police in Kansas City who worked closely with the Police Foundation on its earliest projects, became a member of the Police Foundation Board when he retired as Director of the FBI in 1978. Kelley told the *Bulletin* that since the report by the Police Foundation on preventive patrol in Kansas City, which addressed the effectiveness of patrol and has since been replicated by other police departments, the solid research work done by the foundation has led to a greater acceptance over the years of the foundation’s reports and studies by police executives. Kelley said the foundation has contributed “a great many studies of great value,” citing the recent report on the handling of domestic violence, that go to the heart of policing today.

"FBI Director William H. Webster... said that the 'foundation has responded well to the challenge of the hard question.'"

Mentioning the pioneering work the Police Foundation did in 1973 in executive training for FBI executives, Kelley believes, as a result of Police Foundation work and the FBI's National Executive Institute for police officials, that police departments are today in "good hands." Police executives are willing to experiment, to learn from the experimental process, and are willing and able to institute needed changes. The Police Foundation is achieving its goal of learning how police can be more effective and police managers are now more capable of transforming their departments.²¹

The now former President of the Foundation, Patrick Murphy, said that increased education of police is at least part of the reason that police executives are willing to experiment and institute needed changes. Federal money available in the 1970's through the Law Enforcement Assistance Administration, which Murphy headed in 1968, "created the model" for the college-educated policeman. Now some States or departments offer pay incentives to police officers with college education. And the FBI National Academy, in cooperation with the University of Virginia, now offers some college credits in connection with its training. Today, Murphy sees at least those officers interested in police management as continuing on their own to get college educations, even without availability of Federal funds.

Murphy's view of policing in the near future notes that the art is improving, "but there is still an enormous amount of work to be done." He summarized to this writer five areas of con-

centration that need to be addressed in the remainder of this century and the next:

1) Neighborhood policing programs of all kinds need to be developed, improved, and expanded.

2) More police officers need college and graduate-level education.

3) There should be more civilianization of police departments. Civilian specialists can add to department operations and release sworn officers for police duties.

4) Departments must continue to become more representative of the communities they serve by recruiting women and minorities.

5) Restraint in the use of force, especially deadly force, must be increased.²²

In a soon to be published chapter of a new book, the current President of the Police Foundation, Hubert Williams, echoes these needs for the future in policing.

For 12 years, the Police Foundation was led by a man of innovative and strong ideas about the directions that policing should take. Experimental testing proved many of Patrick Murphy's ideas correct. Now Hubert Williams, another innovator with his own philosophy, has taken the helm, but both men base their philosophy on that originally developed by Robert Peel, the founder of modern policing in England. Peel's view was that policing in a democratic society must be deeply rooted in the consent of those policed. Williams' thoughtful essay, "Retrenchment, the Constitution, and Policing," in the American Bar Association's recently published collection of articles by leaders in the law enforcement community comments on the English roots of modern policing, ending with the comment that "the preservation of peace in our society cannot and

should not be achieved at the expense of hard-won freedoms."²³

We already have seen some police departments acting on conclusions that the Police Foundation has offered after rigorous experimentation over the last 15 years. And more are to come.

FBI

Footnotes

¹Police Foundation brochure, 1986, p. 1.

²Id., pp. 2-3.

³M.A. Jones to Mr. Bishop FBI memo 7/23/70, "Concerning Police Development Fund to be sponsored by the Ford Foundation."

⁴Ford Foundation, *A More Effective Arm*, August 1970.

⁵Id., pp. 4-5.

⁶James Q. Wilson, telephonic interview with author, July 7, 1986.

⁷Patrick V. Murphy, interview with author, June 26, 1986, at Council of Mayors office, Washington, DC.

⁸George L. Kelling, et al, *The Kansas City Preventive Patrol Experiment* (Washington, DC: Police Foundation, 1974), p. iii.

⁹Id.

¹⁰Patrick V. Murphy and Thomas Plate, *Commissioner: A View from the Top of American Law Enforcement* (New York: Simon & Schuster, 1974), p. 256.

¹¹Supra note 8, pp. xi-xii, 1-10.

¹²Police Foundation, Testimony of Patrick V. Murphy, President, before Committee on the District of Columbia, U.S. House of Representatives, June 27, 1980, typescript, p. 1.

¹³Id., p. 4.

¹⁴Police Foundation news release, August 9, 1982, p. 2.

¹⁵Police Foundation, 1981, *The Newark Foot Patrol Experiment*, Washington, DC, p. iii.

¹⁶Lawrence W. Sherman and Richard A. Berk, *Minneapolis Domestic Violence Experiment*, Police Foundation Reports #1, April 1984, p. 1.

¹⁷Police Foundation & National Institute of Justice, "Crime File" brochure, undated.

¹⁸James Q. Wilson, telephonic interview with author, July 7, 1986.

¹⁹Hubert Williams, interview with author at Police Foundation office, Washington, DC July 8, 1986.

²⁰Brian Forst, interview with author at Police Foundation office, Washington DC, June 23, 1986.

²¹Clarence M. Kelley, telephonic interview with author, July 3, 1986.

²²Patrick Murphy interview with author, as above.

²³William A. Geller, ed, *Police Leadership in America: Crisis and Opportunity* (New York: Praeger, 1985), p. 347.

To obtain Police Foundation publications, write to the Foundation's Communications Department, 1001 22nd Street, N.W., Washington, DC 20037, or call (202) 833-1460.

NIJ Study— “When the Victim is a Child”

The National Institute of Justice (NIJ) has published a study of new methods for easing the trauma faced by child victims and witnesses who have to go through criminal proceedings. The report is designed for prosecutors, judges, police officers, and other professionals interested in improving the way the criminal justice system treats child abuse victims.

The study, “When the Victim is a Child,” responds to an urgent need expressed by the Attorney General’s Task Force on Family Violence, which called for research into the court treatment of child victims. It discusses the competency of child witnesses, child victim advocates, videotaping statements, and testimony, as well as recommended changes in hearsay statutes. Included is a comparative survey of each State’s legislation to protect child witnesses in sexual abuse.

After discussing in detail the various problems both the system and the child victim face, the report makes a number of recommendations for improvements. For example, it called for an end to State laws requiring that witnesses be at least a certain age. Many States bar or greatly curtail testimony from young witnesses, whereas Federal rules permit testimony from any competent witness irrespective of age.

In addition, the report recommends the adoption of State legislation to permit special exceptions to the hearsay rule for children. Such laws

would admit certain out-of-court statements to counselors or prosecutors that might otherwise be ruled out because they are not available from the young witnesses during direct

Other legal provisions examined in the report include proposals for:

- Permitting a child witness to have a support person during testimony;
- Offering services to explain the court procedures to the child and his or her family;
- Directing law enforcement officers social service agencies, and prosecutors to conduct joint investigations in each child sexual abuse case using a single trained interviewer; and
- Scheduling trials to give priority to those involving young victims and discouraging postponements.

The study, which was conducted by a private research firm, also contains appendixes on interviewing child victims and videotaping a child’s statement or testimony.

The publication is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC (stock number 027-000-01248-5). The price is \$3.25. Microfiche copies are available from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, telephone (301) 251-5500. The toll-free number is 800-851-3420.

Fighting Fear in Baltimore County **The COPE Project**

“... a new role for police might very well be that they identify all problems [in the community] that might cause fear and disruption and address them as part of their duties.”

By
CORNELIUS J. BEHAN
Chief of Police
Baltimore County, MD

Criminal justice costs the American taxpayer \$30 billion annually. Of this amount, the Federal Government spends about one-seventh; State governments, a third; and local governments, the remainder. Yet, our local police departments operate *without* a clearly defined, agreed-upon mission. Nowhere in the laws, rules, or regulations is a specific mission stated.

One reason for this is the way law enforcement developed in America. Police officers were not meant to have too much power; Americans cherish individual liberty and freedom.

At first, citizens policed themselves. Each family knew the rules of the community and the sanctions imposed for breaking the rules. Police were not needed, nor were they wanted. Many came to this country from Europe to escape political, religious, or economic oppression. Determined not to create regulators here to oppress them, they believed they could take care of their own problems. Law violators were “run to the ground” by the “hue and cry” and often punished right on the spot.

Private justice prevailed. Each individual took care of himself. When wronged, he made it right. The fault in that position is that the weak in the community were not strong enough to exercise private justice. They did not have either the wherewithal or the strength to bring it about.

Most police departments evolved as did the one in Baltimore County, MD. Prior to the Civil War, there was no police department. A night burglary from the county courthouse vault in Towson 118 years ago caused a demand, not for a policeman, but for a watchman, who was hired for the specific purpose of watching during the night. Later, when Baltimore County hired a police force, it was limited to 30 men—just 30—to ensure they wouldn’t intrude on anyone’s personal freedom.

Private justice was being replaced by public justice, which allows that everyone is equal under the law and equal in its protection. Victims without the physical or mental capabilities to capture their assailants now had the State to do it for them. Obviously, this makes more sense and has more equity than private justice.

In this process, however, citizens never gave up their right to protect

themselves. They kept the power of arrest and the power to use force to protect themselves from bodily harm.

Today, this country’s 16,000 or more local police departments are decentralized—accountable to the people in their own jurisdictions and limited in their power. The police mission is what the public wants, and that changes constantly. Citizens want more than crime fighting. At least 70 percent of our efforts in Baltimore County have nothing to do with crime but apply to service. It’s the same in other communities. This shows how vague the police mission is—that people mainly decide what police do. We help stranded motorists. When a storm breaks a power line or a water main bursts in the street, the police are called. When a woman goes into labor, or a boat overturns, or a child is missing, people turn to the police. At one time, the police in New York City picked up the garbage. Public health was considered an appropriate police objective.



Chief Behan

Through this unstable environment, the police forces in this country have tried to improve. We have always asked ourselves, "What should we do about crime; how do we improve our service or use technology?" Improvement comes by diligently trying to answer these questions. We now study constitutional law. We have substituted constraint for confrontation and modified our use of force. We study and deal with human and civil rights. And, we're trying to adapt to mini- and micro-computers.

Twenty years ago, these matters were not even discussed. Now, they are part of all basic and inservice police academy training and are very important to the way police departments operate.

Attacking Fear

We recently asked ourselves two new questions: "What is being done about the fear of crime?" and "Whose role is it to reduce fear in a community, if fear is, in fact, worse than the crime itself?"

At a seminar held at the University of Maryland's College Park Campus, Dr. Charles Wellford, Director of the university's Institute of Criminal Justice, delivered a thoughtful paper on fear of crime. It held:

- The fear of crime is not directly related to crime levels.
- The older people become, the less likely they are to be a victim; but, they become more fearful.
- Most fear of crime comes from vicarious experiences rather than from being the actual victim of crime.

That's when we ask ourselves whose job is it to attack fear and who is actually doing it. The answers are that it was *our* job and it wasn't being done.

Since we have no definable mission, and as we have in the past met crises head on because no one else was around to do it, we took it upon ourselves in Baltimore County to assume that fear is a problem to be addressed, and perhaps, the police should address it. Not knowing much about where this was going to take us, we went to work.

We created a new unit—Citizen-Oriented Police Enforcement (COPE). Its mission was to identify and reduce citizens' fear.

The term "fear of crime" is nebulous, but after interviewing hundreds of people, we learned that they were:

- Afraid to go out at night,
- Afraid to open the door when someone knocked.
- Afraid to walk past a stranger,
- Afraid to come out of the bank,
- Afraid in the grocery store parking lot,
- Afraid to leave their curtains open, and
- Afraid to call the police or to sign a complaint if they saw a crime or had a specific problem.

COPE police officers had to be carefully selected and retrained. The traditional ways had to be replaced by new, innovative approaches to problem solving.

We equipped our COPE officers with motorcycles and compact cars. These vehicles brought them closer to the people. Motorcycles and cars were to be driven slowly, stopped frequently, so officers could greet neighbors and allow youngsters to become acquainted with officers and their equipment.

“COPE is becoming more active in identifying community problems that might not ordinarily come to police attention....”

Dr. Herman Goldstein, University of Wisconsin School of Law, had written a paper entitled “The Problem-Oriented Approach to Improving Police Service.” He suggested that “police examine all facets of a problem and do whatever is required to restore peace to a neighborhood.” Dr. Goldstein joined our retraining effort. Going beyond crime, he taught COPE to identify the causes of citizen fear and to do something about them. He believed that a new role for police might very well be that they identify all problems (in the community) that might cause fear and disruption and address them as part of their duties.

COPE began operation in July 1982. Each of 3 units is staffed with 13 police officers and 2 supervisors, for a total of 45 law officials. Placed under the jurisdiction of an area commander, they are deployed as needed. COPE officers have a great deal to say about how they are assigned. The police officers and the supervisors are required to frequently discuss what they have learned about a problem, what additional data must be developed, and what to do about it. It is new for a police officer to be at the problem identification and planning stages and then be involved in the solution. As a result of this involvement, the COPE teams have developed an esprit de corps that enhances their job performance.

Garden Village Project

On June 7, 1983, a gunfight occurred at Garden Village, a low-income, predominantly black-occupied apartment complex adjacent to the City of Baltimore. On June 18, a rape took place. Neither crime was reported to police, although one person was wounded in the shooting. Two factions

had developed in the community, and they were struggling for dominance. Crime in the area was above normal, with robbery heading the list. The people in Garden Village were living in terror, and their relationship with the government had so deteriorated that they had stopped reporting crimes.

A COPE officer was assigned as project coordinator. His team conducted house-to-house problem identification surveys, which revealed:

- 91 percent black residency,
- Low income,
- On the average, 3-5 years of residency,
- 59 percent of residents under age 29,
- 65 percent of respondents calling juvenile crime a main concern,
- Area lacking in recreational facilities,
- Lighting and alley deterioration in evidence, and
- No community leadership.

Seeing no government commitment to the area, people had a high degree of apathy toward law enforcement. The project team decided on a two-pronged approach: 1) *Community interaction*—to open lines of communication and attempt to alleviate community problems, and 2) *criminal intervention*—to gather intelligence information on all criminal activities and to coordinate this information with the patrol and detective forces in the department.

Through community interaction, data were gathered showing a need to upgrade street lighting. The COPE officer arranged meetings with the county lighting supervisor and the local utility company. Using data to show crime patterns related to lack of lighting, the COPE officer was able to convince utility officials to repair and upgrade 31

existing lights and to add 3 new mercury vapor lights.

Although the alleys were private property, COPE got the county roads department to repair the roads and alleys. COPE officers learned that the county could not afford to construct a new park facility, so they assisted the community in applying for a Federal grant through the community development coordinator's office. When the area did not meet Federal guidelines for funding, \$70,000 for construction of a multipurpose (volleyball, basketball, tennis) court and tot lot was included in the 1986 county capital improvements budget. Present playground apparatus was repaired and painted, and dilapidated equipment was removed. The overall general maintenance of the park has been improved. In the meantime, COPE is helping to organize a youth group in the area.

Since crime prevention in Garden Village was nonexistent, the management of the complex willingly responded to suggestions by COPE officers. Shrubbery was trimmed, locks upgraded, vacant apartments secured, and a crime reporting system established.

The interaction group secured a meeting place for the community to meet and organize. With their guidance, the citizens have filed for a charter.

The criminal investigation officers had similar success. Gaining the confidence of the youngsters, they developed information on the burglaries and several arrests were made. High visibility patrols were established and

maintained. When an arrest was made in the original shooting, friction between the two groups ceased. One community member was particularly disruptive. Learning that he was on parole, COPE officers had him returned to the penitentiary. Burglaries were reduced 80 percent; auto larceny, 100 percent.

COPE involved 11 agencies in this project. This is a far cry from the traditional police response. A forgotten neighborhood was shown that government cares, and fear was reduced accordingly.

Pioneering a New Idea

COPE is a new idea in law enforcement. It is pioneering. We had to rethink and retrain in regard to traditional police responses. Never before has fear reduction been a unit's mission. Sometimes it was a secondary accomplishment due to crime fighting or a patrol strategy. It requires identifying what people are afraid of, rather than making assumptions based on crime statistics or police know-how. Our experience shows that people are frightened for reasons the police never imagined. Also, if fear is not present in an area, COPE does not become operable.

In its first 3 years, COPE's mission—to reduce fear—has not changed. Its strategy has undergone significant refinement, however, and has achieved a uniqueness among today's policing concepts. This transition has been stimulated by COPE's training and acceptance of Dr. Goldstein's problem-oriented approach to policing. COPE has shown strong evidence of becoming more skillful in problem identification and analysis and more creative in approaching solutions to community problems.

It is devoting more time to the individual community, i.e., committing itself to fewer communities for *longer* periods of time:

- 121 communities in 1983 (average of 3 weeks each),
- 63 communities in 1984 (8 weeks each), and
- 34 communities in 1985 (18 weeks each).

The average total hours committed to each community have tripled since the first year.

COPE is now more selective and learning to verify alleged problems and is more proficient at recognizing community problems needing its services. COPE has improved significantly in its efforts to identify underlying conditions contributing to fear/disorder and pays less attention to police perspective and more to citizen perceptions. For example, a fear elderly persons had of purse-snatching was identified and greatly reduced through education, including a 7-minute police/citizen home-made video.

COPE is becoming more active in identifying community problems that might not ordinarily come to police attention, hoping to avert disorder before it occurs. For example, in the case of a citizen threatening to shoot or kill juveniles who were harassing him, the police met with the citizen, ensuring police attention, interacted with the juveniles, changing gathering patterns, and became involved with the police public information office, to obtain media support and coverage of efforts.

To deal with panhandling, alcoholic vagrants who were causing fear among shoppers and merchants, the chamber of commerce helped with fliers asking citizens not to contribute to panhandlers in order to discourage the lifestyle. COPE helped develop and supported local ordinances to better

control panhandling and obtained support of the health department and social services for a detoxification facility. The assistance of local liquor stores in controlling sales was obtained, and COPE established a dialogue with vagrants to compile personal histories, developing profiles of hard-core vagrants for court and police use.

A Final Fact

One underlying discovery, or truth, comes clear in this endeavor. If any government system, including criminal justice, is to work, support and leadership from the highest elected officials are essential. The police cannot get roads paved, shrubbery cut, panhandlers convicted, or parks cleaned without the help of other agencies. Only "the people's choice," their elected officials, have the position and power to force cooperation and coordination.

Unfortunately, not all political leaders understand this role. Therefore, the public must demand it of them. As a condition of office, this kind of leadership must become a main priority. If the police, who are on the cutting edge of community fear and discontent, discover the causes, then a mechanism—like COPE—is needed to provide the solution. This, the elected officials must realize, is the most important part of their job.

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FBI

The Nature of Police Authority

“... recognizing that in many situations officers cannot rely strictly on organizational rules and regulations to guide their actions ... [law enforcement] should develop a more-flexible model for its officers to use in their more-routine duties.

By

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Many writers have discussed the similarities between law enforcement and the military, such as uniforms, rank structures, and insignias. Perhaps the most important similarity, however, is their authority to employ force to maintain order. In emergency situations, both require near-automatic and unquestioned acceptance of authority by their members. This kind of discipline is crucial to success in a situation that demands the use of deadly force by a police officer or a concerted attack on an enemy stronghold. As a result, law enforcement has traditionally been founded on this “military model of authority.”

Yet in reality, while disciplined performance is always required in emergency law enforcement situations, such circumstances make up a very small percentage of normal policing time. Studies have shown most police officers spend the majority of their time on rather routine, administrative, and non-law enforcement duties.¹ We question, therefore, if officers should base their routine activities on the old military model. We believe law enforcement—recognizing that in many situations officers cannot rely strictly on organizational rules and regulations to guide their actions—should develop a more-flexible model for its officers to use in their more-routine duties.

Clearly, no organization can develop rules to cover every conceivable situation in which its officers might find themselves. Police administrators would be appalled if their subordinates did not exercise judgment and discretion in the performance of their duties. Most officers operate intuitively during their day-to-day activities, an approach that is largely based on each officer's previous experiences. In each new situation, officers unconsciously will ask themselves: What actions or approaches worked in similar situations in the past? They will rationally consider alternative behavior strategies before doing anything and then select that approach that has worked best. Officers rely on their judgment to handle the situation, and they use discretionary authority to resolve the situation. This whole process we describe as the discretionary model of behavior. The behavior of the officers is primarily determined by their judgment and discretion, and it is guided by their goal to resolve the situation.

With the high quality of people entering police work in recent years and with the relative rarity of emergency situations in a normal working day, law enforcement need not rely exclusively on the military model of authority to accomplish its goals. In fact, this article will suggest that the discretionary model is appropriate for many, if not most, of the situations police officers encounter.



Special Agent Witham



Special Agent Gladis

We contend that the most effective patrol officers already perform their duties using the discretionary model. Therefore, continuing to pay homage to a military model of law enforcement is misleading. Departments need to bring the discretionary activities of their members out of the closet into clear view for all to see and emulate. Such behavior is not inherently bad. As Kenneth Davis argues in his important work, *Discretionary Justice*, the problem is not with discretion in governmental activities, but with excessive discretion.² Davis suggests that organizations should structure discretion so it is exercised within designated boundaries. To achieve this aim, officers must first recognize the existence of discretionary behavior, then be trained in appropriate and departmentally acceptable uses of discretion.

In addition, the authors believe this discussion of different behavioral models is related to the recent debate in the literature over policing philosophy.³ There are two basic views about the proper philosophical posture of police—to enforce the law or to maintain order. It may be that the philosophy is not to choose one or the other, but to combine the two views. The police have both a law enforcement and an order maintenance function. In the law enforcement mode, the proper approach would be to follow a military-type authority model that would ensure equitable law enforcement. In the order maintenance mode, officers should be guided by a discretionary model to resolve the situation fairly.

As law enforcement strives to be accepted as a profession, it must expect and require its officers to exercise judgment. Such behavior is the hallmark of all professionals. Therefore, this paper seeks to examine the military model and the discretionary model. Also, the authors will provide some ideas about incorporating these concepts into the training process.

A Military Model

The perception of the traditional American police authority model as a military one evolved from several influences. First, the American model evolved from a 19th century English authority-based system which was imported to the United States in 1844. In 1829, Sir Robert Peel instituted in London a police force based in part on a military model of internal discipline to respond to the failure of an undisciplined and ineffective citizen/watchman system and the violent overreaction of the military to order situations. Impressed with Peel's success, a New York delegation recommended that Peel's concepts be replicated in New York City. Thus was the birth of the military model in the United States.⁴

Second, the responsibility of deadly force that has been entrusted to the police absolutely requires strict discipline in its exercise. The strict military discipline necessarily associated with the use of firearms thus reinforces the military model daily as officers strap on their guns each day.

Third, the organization and rank structure of most traditional police departments mirror closely the military model. Departments are divided into squads and platoons and led by sergeants and lieutenants, not organized into groups and departments and headed by supervisors and managers.

“... agencies should address discretion during recruit and inservice training in order to institutionalize and legitimize its acceptable uses.”

Further, police uniforms, ceremonies, and training all project a military model.

Fourth, men and women drawn to the profession hold authority-based values, an observation substantiated by Milton Rokeach in his research.⁵ The impact of individually held, authority-based values on the profession is enormous, giving it a military look, philosophy, and atmosphere.

What happens when all these influences converge on law enforcement? Necessarily, officers and managers assume that a military model is relevant for all of policing. Traditionally trained officers are taught discipline and strict obedience to orders, and they will dress, act, and use the tools of the trade in a military fashion. Therefore, it is predictable that we see this military model translate into an operational authority model.

Such a military-based authority model views authority as residing with the chief executive of the organization; that is, authority that originates from and is vested solely in a central official. The lines on an organization chart from the chief to his subordinates symbolize the downward flow of authority within the organization and imply that all situations are governed by laws, rules, and prescriptions. Such a model fosters unquestioned and immediate conditioned responses to all orders.

In sum, the military model places a high premium on discipline and discourages the exercise of discretion. A necessary model in times of potential conflict and especially when the use of deadly force might be involved, it is deliberately taught to all recruits. As a consequence of this history, tradition,

and training, many of today's officers tend to use a heavy authority-based (military) model for all circumstances and in all situations, regardless of its suitability.

A Discretionary Model

Black's law dictionary offers the following definition of discretion:

“Discretion means a power of right conferred upon them by law of acting officially in certain circumstances, according to the dictates of their own judgment and conscience, uncontrolled by the judgment or conscience of others.”⁶

While most types of organizations increase discretionary power with rank, law enforcement allocates such power at all levels. Low-ranking police officers routinely exercise an enormous amount of discretion in the normal course of their duties. Traffic officers can choose to issue a citation to a citizen exceeding the speed limit, arrest the individual, provide a warning, or ignore the situation entirely. Similarly, a patrol officer can follow several courses of action when responding to a family dispute. Virtually all routine calls can potentially be handled in a variety of ways—at the discretion of the individual officer.

At higher levels in the police organization, on the other hand, a number of officials routinely exercise administrative discretion; that is, “the activity of officials in which they advise, report, respond, initiate, inform, question, caution, complain, applaud, encourage, rebuke, promote, retard, and mediate in a way that has an impact upon what emerges as ‘agency policy.’”⁷

In public administration literature, administrative discretion has become synonymous with the political activity of appointed officials, and the adminis-

trative discretion of police managers is quite comparable to the discretion exercised by public officials.

The general policy of discretion rests on the belief that the individual official present at a scene is best able to decide how to resolve the situation. Confidence is placed in the officer's ability to see distinctions and to act accordingly. Since any one situation can vary in any number of ways, police management must rely on the responding officer's judgment.

The professionalism of any discipline is conventionally measured by the autonomy it allows its members over certain tasks and the discretion it grants to them to insure that tasks are performed within the appropriate laws or regulations.⁸ Thus, necessarily, organizations using discretionary models must require a lengthy training period to familiarize new members with the core knowledge of the discipline.

Comparisons of the Two Models

Within the discipline of law enforcement, the criterion for effective discretionary performance is the successful resolution of the problem at hand. In the discretionary model, success is defined as the minimum intrusion and use of coercion by the police. By way of contrast, performance within a military model is measured by ascertaining how closely the relevant rules and policy were followed. This letter-of-the-law mentality can lead to an over-reliance on rules and may serve to negate any skills, talent, or experience that an officer brings to the scene. The rules can take on an infallible quality often misused by many. Hence, many low-ranking bureaucrats love to play the game “Now I've got you by the rules.” Worst of all, follow-

ing the rules can become the desired end, not resolving potentially threatening situations with a minimum of violence or injury.

On the other hand, some situations absolutely require that all parties closely follow the appropriate rules. In law enforcement, rules must be followed exactly during the use of deadly force, the pursuit of a fleeing felon, or circumstances where coordinated action is taken by several officials. Free-lancing in these matters would be inappropriate and potentially dangerous. Thus, departments must recognize that most of their sworn officers require two different sets of guidelines to discharge their duties.

Departments must give their officers firm guidelines to assist them in identifying appropriate situations for the exercise of their discretionary authority. Beyond this situational assistance, administrators must instruct their officers in acceptable discretionary behaviors. If the actions of law enforcement officers are not acceptable to the public, behavioral guidelines for officers will be imposed on the organization by some outside authority.

Whenever society becomes disenchanting with the manner in which officials exercise their discretion, it acts to remove the privilege. For example, mandatory sentencing of certain types of offenders was brought about by citizens who perceived that a number of judges were "too soft" on criminals. If discretionary powers are taken away, officials have fewer options available to them and also have their professional status lowered. Police administrators must ensure that the status of their subordinate is always enhanced,

not lessened. By providing their subordinates with guidelines for acceptable discretionary behavior, they will help realize this end.

Training in Discretion

How, then, can the concept of discretionary powers be incorporated into practical departmental life? We believe that agencies should address discretion during recruit and inservice training in order to institutionalize and legitimize its acceptable uses.

Several teaching methodologies can be employed to present key discretion concepts. For example, case studies which describe actual situations, where officers relied on their experience and judgment to resolve potentially explosive situations, are excellent teaching aids. Ideally, the officers involved in the incident would participate with the training staff and the class. Additionally, case studies could be developed to highlight specific policy points regarding acceptable practices.

One of the most important training goals should be to provide officers with a clear notion of when and where to apply discretionary behavior. Guidelines and checklists can assist officers with these critical questions. Also, by clearly specifying the types of situations where discretion would be unacceptable or perhaps illegal, departments can clearly demonstrate the bounds of acceptable behavior.

Role playing provides an excellent technique to frame problems of discretion. Elements of realism and immediacy can be injected into many role-playing scenarios. Videotaping these scenarios has the added benefit of letting officers criticize their own actions. A common exclamation of officers after viewing a tape is: "I wouldn't have believed I did that unless I had seen it!"

Practical problems are also appropriate vehicles for discussing discretion. Whenever officers are required to participate physically in an exercise, they are more likely to remember the teaching objective.

In the field of management and leadership training, there are a variety of situational and contingency models that can be employed. Certainly a situational-type model could be developed to present ideas with a discretionary dimension. Possible dimensions of such a model might be order maintenance and law enforcement.

All in all, the methods by which departments discuss and teach discretion are not nearly as important as the fact that the topic is formally presented. Leaders have an obligation to their subordinates to guide and train them in their duties. Until policing openly faces the issue of discretion, it will not provide officers with the appropriate support they need.

Conclusion

Throughout this commentary, we have attempted to legitimize those activities of police officers that can be described as fitting a discretionary model. Enlightened law enforcement administrators are already well aware of the absolute necessity for their subordinates to understand and use discretion. Teaching its use, of course, makes the administrator's job more difficult and unpredictable but also more challenging. Most administrators recognize the impossibility of crafting rules which cover all exigencies. The problem for police administrators is not with discretion itself—the problem is how to structure the discretion. As a first step, we believe that all parties must recognize that discretionary behavior exists in law enforcement. Next,

“When an officer is fulfilling his law enforcement duties, he might choose the military model ... when an officer is performing his order maintenance responsibilities, he should use the discretionary model.”

the department should attempt to develop some mechanisms to instruct its officers in the acceptable uses of judgment. Training programs must begin to discuss the locker room folk wisdom and common sense that officers pick up after months, even years of experience. Methods to record and to institutionalize this human knowledge must be found, and ways to communicate the resulting techniques to the officers must be developed. Training programs that ignore this part of the work run the risk of being irrelevant to their officers.

We have suggested that both the military model and the discretionary model are relevant guides for the behavior of police officers. The problem is to decide which model is appropriate to use within any specific circumstance. Here we believe that the law enforcement order maintenance dichotomy may be helpful in providing guidance. But rather than accept the dichotomy's either/or approach, departments should integrate the two approaches. When an officer is fulfilling

his law enforcement duties, he might choose the military model rules-dominated approach, particularly when his actions will be later scrutinized in a court of law. However, when an officer is performing his order maintenance responsibilities, he should use the discretionary model. Clearly, implementing these ideas will not be an easy task. They need to be implemented, however, in fairness to the professional aspirations of law enforcement, and even more importantly, to describe accurately the actions of law enforcement officers.

It is time to bring police discretion out of the departmental closet and recognize the skill, competence, and judgment of police professionals. These practitioners of the art of policing are the most important asset of effective and equitable law enforcement in this great Nation. Let us not fail to recognize their many talents. It is time to reconsider the traditional control myth implicit in a purely unconstrained military authority model view. Depart-

ments must develop mechanisms to capture the human knowledge and experience of their members. By allowing officers an opportunity to discuss how they approach various circumstances, the department can speed organizational learning and improved performance.

FBI

Footnotes

¹ J. Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, MA: Harvard University Press).

² Kenneth C. Davis, *Discretionary Justice: A Preliminary Inquiry* (Baton Rouge, LA: LSU Press, 1969), pp. 9-14.

³ Readers interested in the philosophy of policing questions should see: Merlyn C. Moore, "The Police in Search of Direction," *Managing the Police Organization—Selected Readings*, eds. Larry K. Gains and Truett A. Ricks (St. Paul, MN: West Publishing 1978), pp. 50-72.

⁴ Henry M. Wroblekian and Karen M. Hess, *Introduction to Law Enforcement Justice* (St. Paul, MN: West Publishing, 1979).

⁵ L. A. Radelet, ed., *The Police and the Community* (New York: MacMillan Publishing Co., 1980).

⁶ Henry Campbell Black, *Black's Law Dictionary*, revised fourth edition (St. Paul, MN: West Publishing, 1968), p. 553.

⁷ John A. Rohr, *Ethics for Bureaucrats: An Essay on Law and Values* (New York: Marcel Dekker, Inc., 1978), p. 28.

⁸ Donald C. Witham, *The American Law Enforcement Chief Executive: A Management Profile* (Washington, DC: Police Executive Research Forum, 1985), pp. 26-32.

Concealed Pistol— Hand Carried Cooler

Picnic coolers with thick liners of insulating material separating the outer shell from the inner may be used to conceal items, including weapons, as illustrated here. The inner liner, used to carry food or beverages, covers the weapon when in place. This cooler was carried by an alien who was arrested by California police.

(Information furnished by U.S. Border Patrol, Fresno, CA)



Law Enforcement Career Management

Planning for Promotion

"... diverse professional training and experiences can only enhance an individual's chances for promotional success."

By

LT. THOMAS MAHONEY

*Police Department
Culver City, CA*

There was a time in law enforcement when, if an officer did not cause any trouble and put in the requisite number of years on the street as a patrolman, promotion, if desired, was more or less assured. Another approach was, as one police administrator remarked, "The police officer who had the most personal influence or who was willing to pay the highest price for promotion was raised to the next highest grade."¹

Examinations usually weren't given, and if they were, they were merely formalities. The officer with the "right connections" and enough time on the job became the new sergeant. Fortunately for the profession, things have changed considerably in the 1980's.

Today, most law enforcement agencies have established minimum requirements that must be met before an employee can be considered for promotion. These usually consist of varying combinations of length of service with the agency, advanced education, and/or some form of professional certification.

For promotion to higher ranks, other factors may be considered or specific qualifications are necessary or desired. As an example, the following is taken from an employment bulletin for the position of chief of police in Canton Township, MI, in 1985:

"Applicant must be a police professional with command experience at the executive level. Must possess demonstrated experience as a change agent for the rehabilitation, professional development and management of a full-service department. Minimum qualifications: related college degree or equivalent experience and training ... and demonstrated management, O.D., staff and program development experience."

Clearly, these qualifications are not just "picked up" over years of experience, nor are they the subjects of instruction at police recruit academies. How, then, does a law enforcement officer increase his or her chances for advancement?

A number of researchers have suggested strategies for career advancement. In his book, *Executive Career Strategy*, Alan Schoonmaker suggests the following:²

- 1) Do excellent work,
- 2) Become visible within the organization,
- 3) Present the right image,
- 4) Avoid becoming deadwood,
- 5) Control resources, especially information, and
- 6) Develop good personal relationships.

To these tactics can be added three others recommended by Andrew J. Dubrin:³

- 1) Be mobile—move within the organization,
- 2) Help your boss succeed, and
- 3) Find a sponsor.

It is the intention of this article to reduce these excellent, albeit generalized, career advancement tactics into three basic concepts—education, diverse professional experience, and a proven ability to get the job done.



Lieutenant Mahoney

Education

Professionalism demands education. Career success in the 1980's requires more than just a high school diploma.

Law enforcement personnel have been attending college courses in programs specifically designed for the profession for 50 years, when the first of such courses was established at the University of California at Berkeley, CA. Since then, the number and variety of police-related college programs have expanded tremendously, especially during the late 1960's and in the early 1970's. Between 1965 and 1969, the number of criminal justice baccalaureate degree programs increased by 260 percent!⁴ Even more dramatic was a later report stating that from the academic year 1966-67 to the year 1975-76, criminal justice programs at all levels had risen 596 percent!⁵ (See table 1.)

With college-level programs available, what is there to prevent a serious promotional candidate from using them? William Shaw commented that "the idea of college-educated police officers is being pushed very hard and those who have dreams of reaching the top should keep this thought in mind."⁶ Another, more recent article in a management publication that analyzed a trend toward career plateauing made the point that "we have the largest population of educated and qualified people competing for positions in our history."⁷

There is also another potential benefit from obtaining a college education. It has been suggested that increased levels of education are associated with greater job satisfaction and personal involvement with the job.

Sanderson reported that officers who attended college used less sick/injured days, performed better at the training academy, and received fewer citizens' complaints.⁸

Diversification of Experience

As a potential supervisor or manager in a law enforcement organization, the well-rounded individual is always more attractive to police administrators than the one who has spent an entire career as a patrol officer. The complexities of the job demand that supervisors and managers possess a wide body of knowledge and experience to draw from in order to be successful.

For promotional aspirants, movement within the organization is highly desirable. Experience across the functional lines of an organization, for example, will assist the candidate in developing the variety of skills that will later be needed as a supervisor and manager. Experience at the different geographical locations of an organization (for larger law enforcement agencies) will also foster an understanding of the organization as a whole and may bring the individual to

Table 1

Change in Number of Degree Programs in Law Enforcement and Criminal Justice 1966-67 to 1975-76

Years	Associate	Baccalaureate
1966-67	152	39
1968-69	199	44
1970-71	257	55
1972-73	505	211
1975-76	729	376

Source:

John DeDoux, et al., "Higher Education for Law Enforcement: Half a Century of Growth," *The Police Chief*, April 1984, p. 22.

“... high performance and work excellence are the basic foundation of a career strategy.”



Elwin E. Cooke
Chief of Police

the attention of those at the executive level.

Obviously, the size of any given agency may tend to either aid or hinder a promotional candidate's efforts in seeking job diversification. A large agency, such as the Los Angeles Police Department, has literally hundreds of specialized assignments, while other, much smaller departments may have none.

Most medium-sized departments and many smaller ones, however, have some form of specialized assignments such as detective, traffic enforcement, and narcotics. Other specialized jobs that may present themselves to the potential supervisor are personnel and training, community relations, internal affairs, the academy instruction staff, and budget preparation.

The main point is that diverse professional training and experiences can only enhance an individual's chances for promotional success. In his article in *The Police Chief*, Edward Tully said:

“Common sense indicates that just as a patrolman needs training prior to assignment to the street, so also should sergeants, captains, and even chiefs of police receive training prior to their elevation to higher positions within the organization.”⁹

Proven Ability

A college degree and a variety of professional assignments are just the foundation for a motivated individual with a record of success and accomplishments. As a general rule, the better an individual's work performance, the greater the individual's chances for organizational rewards such as a promotion. In fact, in his *Management* textbook, James Stoner stated quite emphatically, “There can be little question that high performance and work excellence are the basic foundation of a career strategy.”¹⁰

This feeling was echoed by Reeser and Loper in their analysis of the requirements for top management positions when they commented, “The criterion for consideration of individuals for top management posts is almost always singularly impressive performance in middle-management.”¹¹

In almost any given organization, professional recognition is an end product to the completion of outstanding work. If this is not the case, the promotional candidate might seriously consider moving to a different organization for the completion of his or her career goals.

This professional recognition may come in the form of written or oral commendations, professional recogni-

tion awards, merit pay increases, or possibly, selection for assignment to specialized joint functions within the organization. In any event, after first savoring this recognition as validation of excellent efforts an individual should then take the time to carefully document it in the form of a resumé for presentation in the promotional process.

A resumé is a neat, thorough compilation of an individual's professional capabilities. In effect, it is a statement of an individual's education, experience, and proven ability.

Conclusion

Promotional advancement in law enforcement clearly is no longer a matter of political pull, monetary inducement, or just plain “luck.” It is estimated that there are approximately 30,000 police officers in the United States occupying positions ranging from first-line supervisor to chief of police.¹² The competition for these positions continues to get tougher.

Career police professionals must accept the fact that promotions must be sought after and won; the successful candidate for promotion is aggressive in his pursuit, thorough in his preparation, and confident in his execution.

While organizations can help individuals manage and develop their careers, career management is ultimately the individual's own responsibility. Conscious career management by the individual can have many advantages; individuals who plan for what they want to achieve are more likely to achieve their goals than those who stumble about trusting to fate. They can focus their energies on the career

“... career management is ultimately the individual's own responsibility.

goals that they have selected, rather than just drifting within their organization or occupation. In addition, they are less vulnerable to chance events and to have undesirable career decisions made for them by others. Finally, individuals who are competent in managing their own careers and who have well-defined goals and plans for reaching them tend to be somewhat more motivated and purposeful; they are more useful in their organizations and more likely to be successful within them.

Success in law enforcement is no longer a matter of chance. In fact,

Ralph Waldo Emerson once said: “Shallow men believe in luck.” In today's modern, constantly changing world of the law enforcement professional, the supervisory and management ranks are being filled with fewer and fewer shallow men.

FBI

Footnotes

¹Leonard Fuld, *Police Administration: A Critical Study of Police Organizations in the U.S. and Abroad* (New York: G. Putnam & Sons, 1909), p. 425.

²Alan N. Schoonmaker, *Executive Career Strategy* (New York: American Management Association, 1971).

³Andrew J. Dubrin, *Fundamentals of Organizational Behavior* (New York: Pergamon Press, 1974), pp. 147-158.

⁴C.A. Tracy, “Survey of Criminal Justice Subject Matter Baccalaureate Programs,” *Journal of Criminal Law, Criminology and Police Science*, vol. 61, 1970, pp. 576-579.

⁵R. Adams, “Criminal Justice: An Emerging Academic Profession and Discipline,” *Journal of Applied Psychology*, vol. 4, 1976, pp. 303-314.

⁶William Shaw, “Police Education in the 80's,” *Law and Order*, March 1980, p. 6.

⁷Judith M. Bardwich, Ph.D. “Plateaued: What if You've Stopped Climbing the Corporate Leader?” *SPD Management*, vol. 4, No. 1, 1985, p. 7.

⁸B.E. Sanderson, “Police Officers: The Relationship of College Education to Job Performance,” *The Police Chief*, vol. 44 (1977) pp. 62-63.

⁹Edward J. Tully, “The Challenge of Police Education During the 1980's,” *The Police Chief*, September 1980, p. 41.

¹⁰James A.F. Stoner, *Management* (Englewood Cliffs: Prentice Hall, 1978), p. 548.

¹¹Clayton Reeser and Marvin Loper, *Management: The Key to Organizational Effectiveness* (Palo Alto, CA: Scott, Foresman & Co., 1978), p. 259.

¹²Supra note 9.

1986 Preliminary Officer-Killed Statistics

Preliminary Uniform Crime Reporting (UCR) statistics showed a decrease in felonious line-of-duty deaths in the first 6 months of 1986 as compared to the previous year. There were 42 law enforcement officers slain between January 1 and June 30 in the United States and its territories, whereas 47 officers were feloniously killed during the same period of 1985. Law enforcement agencies have cleared 40 of the 42 slayings.

The firearms used in 40 of the officer killings this year included handguns (32), rifles (6), and shotguns (2). The remaining 2 victims were intentionally struck with vehicles.

Geographically, 20 officers were slain in the Southern States, 9 in the Western States, 6 in the Midwestern States, 5 in the Northeastern States,

and 2 in Puerto Rico. Twenty-one of the victims were city police, and 14 were county officers. Three were employed by Federal agencies, 2 by State agencies, and 2 by agencies in the U.S. territories.

Fourteen of the 42 victims were attempting to apprehend or arrest suspects when slain. Of these victims, 6 were attempting to thwart robberies or were in pursuit of robbery suspects; 4 were involved in drug-related situations; 1 was attempting to arrest a burglary suspect; and 3 were attempting arrests for other crimes.

Seven officers were killed while enforcing traffic laws; 6 upon answering disturbance calls; 5 while investigating suspicious persons or circumstances; and 4 while handling or transporting prisoners. Four officers were ambushed, and 2 were dealing with mentally deranged individuals when killed.

Urinalysis Drug Testing Programs for Law Enforcement (Part II)

“... a law enforcement department could choose to start its urinalysis drug testing program by requiring all applicants for the position of sworn officer to submit to a urinalysis drug test.”

Part I of this article began a discussion of the balancing test required to determine whether mandatory urinalysis drug testing was reasonable under fourth amendment standards. It noted that the right to privacy, protected by the fourth amendment, generally precludes warrantless searches unless the government has superior interests in conducting a search. In terms of drug testing of police, the right of privacy of an individual officer must be outweighed by a legitimate governmental interest(s), if it is to be legal. The right of privacy must be balanced against the need to protect public safety, preserve public trust and integrity, prevent corruption, present credible testimony, insure employee morale and safety, maintain productivity, and forestall civil liability.

However, in determining whether drug testing is legally permitted, those competing interests must be analyzed and weighed in the specific context in which drug testing would be used. This part of the article will examine the legality of a urinalysis drug testing program which might require testing at various events or occasions. The concluding part of the article will discuss the legal issues which must be addressed and resolved once drug testing is implemented and close with a proposed model analysis for law en-

forcement agencies and departments which choose to adopt a urinalysis drug testing program.

WHEN A URINALYSIS DRUG TEST MIGHT BE REQUIRED

The fourth amendment's balancing test for reasonableness in the adoption of a urinalysis drug testing program requires a determination of whether the governmental interests in favor of urinalysis outweigh the privacy interests of the individual in the specific context of the situations which will trigger the demand for urinalysis drug testing. Law enforcement agencies may seek to implement drug testing in a variety of situations. They include: 1) Application for employment, 2) training and probationary status, 3) scheduled medical examinations, 4) change of assignment, or 5) observable conduct or behavior. In addition, an agency may believe it necessary to engage in drug testing on a completely random, unannounced basis as a safeguard against drug abuse and as a protection of its ability to accomplish its mandated responsibilities. Each of these situations will be analyzed to determine if urinalysis drug testing would lawfully be permitted as a reasonable search under the fourth amendment.

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.



Special Agent Higginbotham

Testing Applicants

The special role of law enforcement in our society confers enormous powers and responsibilities upon those persons who are chosen to serve as law enforcement officers and officials. The powers to make arrests and conduct searches are, perhaps, the most intrusive of all governmental activities into the private affairs of citizens. But with that enormous power must also come equal responsibility. Law enforcement must carefully select its officers, choosing only those persons who will exercise the powers granted to them with unflinching consistency to standards set forth by the Constitution and the laws of the States. It can be strongly argued that persons who are drug abusers fall outside the category of people to whom we should entrust those powers. For many of the reasons discussed earlier, e.g., public safety, public trust, preventing corruption, presentation of credible testimony, officer safety, and effective police work, drug abusers should be detected and disqualified from entering the field of law enforcement. Urinalysis drug testing of law enforcement applicants is one method of furthering the objective of necessarily selective hiring.

Such a position appears to be legally defensible. Required submission to a urinalysis drug test by a law enforcement applicant would find support in any of three legal theories. First, if urinalysis were made a condition of the employment application process, submission to the testing would become voluntary and consensual. It would force self-selection by causing drug abusers to forego employment application because they would know their

drug abuse would be detected. This would leave only those applicants who voluntarily agree to the testing procedures. Second, most law enforcement agencies require an applicant to submit to a complete medical examination before a final hiring decision is made. Providing a urine sample for routine medical testing and screening is a normal part of such physical examinations. Having provided that urine sample for medical purposes and examination, no privacy interest remains which would preclude analyzing the urine for the presence of illegal drugs as well. Third, it could easily be argued that the government's interests, outlined earlier, in removing candidates from the applicant process who are unqualified by reason of current or recent drug abuse is simply superior to the privacy interest of the individual, particularly where the test is relatively unobtrusive.

The few court cases where this issue has arisen have uniformly concluded that drug testing of law enforcement applicants through urinalysis is lawful. As the trial court in *City of Palm Bay v. Bauman*³⁹ noted:

"Certainly, municipal police and firefighters must expect to meet required minimum standards of physical condition in order to be hired and retained. Physical examinations conducted to insure that those standards are met are to be reasonably expected even though urine testing is a part of those examinations."⁴⁰

Similarly, the U.S. District Court in Iowa noted that:

"The Fourth Amendment . . . does not preclude taking a body fluid specimen as part of a preemployment physical examination. . . ."⁴¹

Accordingly, it appears a law enforcement department could properly choose to start its urinalysis drug

“... a comprehensive urinalysis drug testing policy should provide for mandatory testing when warranted by certain actions, conduct, or behavior observed in a law enforcement officer.”

testing program by requiring all applicants for the position of sworn officer to submit to a urinalysis drug test.⁴²

Testing Trainees and Probationary Officers

The second situation when drug testing may be considered is during training and/or probationary periods. Though there is no reported case law directly on this issue, the same rationale which has generally supported drug testing of applicants could be advanced to support drug testing of law enforcement trainees and probationary officers. The training and probationary periods of a law enforcement career should be viewed as an extension of the application process. The goal in hiring new law enforcement officers is to select persons who are both qualified and able to perform the duties and responsibilities to which they will be assigned. The application process identifies those persons who are qualified to serve as law enforcement officers. The training and probationary periods identify those individuals who are capable of completely fulfilling those duties and who are deserving of retention as tenured, career officers. Drug testing of urine may be an appropriate way to accomplish that goal.

Testing at Regularly Scheduled Physical Examinations

A third part of a urinalysis drug testing program could lawfully require a law enforcement officer to submit to drug testing as part of a regularly scheduled physical examination. Drug testing of urine as part of regularly scheduled physical examinations can be viewed as an extension of the urine testing done for other medical purposes. Routine (p)hysical examinations ... by medical personnel are

common occurrences. We are subjected to them in the armed services, before getting married, and as a requirement to gaining access to many schools and jobs. Sound medical counseling dictates that we voluntarily undergo periodic medical checkups.⁴³ And, as noted in *McDonnell v. Hunter*:⁴⁴

“One does not reasonably expect to discharge urine under circumstances making it available to others to collect and analyze in order to discover the personal physiological secrets it holds, *except as part of a medical examination.*”⁴⁵

Of course, it can readily be seen that drug testing of urine as part of a routine medical examination may not be a particularly effective way of detecting and deterring drug abusers. Notice or knowledge of a regularly scheduled physical examination may allow a drug abuser to refrain from the abuse of drugs for a period of time prior to the examination sufficient to purge his/her system of drug residue, thereby avoiding detection. Nonetheless, drug testing as a part of a medical examination would be legally permissible.

Testing at Change of Assignment

A fourth instance in which urinalysis drug testing might be considered is in connection with a law enforcement officer's or official's change of assignment.

With regard to a change of assignment not involving a promotion, the critical factor in determining the legality of a mandatory urinalysis drug screen is probably the nature of the new assignment. If the reassignment cannot reasonably be expected to increase the risks or adverse consequences of drug abuse, drug testing based solely

on a change of assignment raises difficult legal issues. However, where the change of assignment requires an officer to become more closely associated with narcotics investigations or criminals associated with illegal drugs, a strong argument can be made that it is imperative the reassigned officer be determined to be free from the abuse and the inclination to abuse drugs, as well as the influence or association with persons known to be criminally involved with drugs. Although there are only a few decided cases supporting this type of drug testing,⁴⁶ a forceful legal argument can be made by a law enforcement agency which can articulate the specific need which requires newly reassigned narcotics or vice officers to be and remain drug-free.

A similar argument might be made for testing as a condition of promotion. To the extent that consent might not be viewed as sufficient authority to require drug testing of urine before receipt of a promotion, a law enforcement department could reasonably argue that concomitant with the prestige of promotion is the responsibility to be a model representative of the organization. Damage to public trust, poor policy and decisionmaking, and lower morale are the unfortunate byproducts of drug abuse at high levels of a law enforcement organization.

Accordingly, a department might argue that drug testing is needed to insure that only the most competent law enforcement officers receive positions of greater trust and responsibility, urinalysis drug testing is necessary. Again, there is no reported case law on this type of drug testing,⁴⁷ but it is believed a well-reasoned and articulated policy requiring drug testing as a condition of promotion could survive a legal challenge.

“... the drug testing program should clearly state that it is applicable to every officer.”

Testing Warranted by Actions, Conduct, or Behavior

The discussions thus far of the situations of law enforcement officers which would justify the actual drug testings have focused on specific occasions, unaffected by performance or behavior. However, a comprehensive urinalysis drug testing policy should provide for mandatory testing when warranted by certain actions, conduct, or behavior observed in a law enforcement officer. The analysis of the legality of such behavior-oriented drug testing can be divided into two subcategories: 1) A serious incident of on-duty conduct and 2) observed behavior which has not caused any specific incident but provides some level of suspicion of drug abuse.

As noted at the outset of this article, in excess of 50 railroad accidents have been attributed to drug or alcohol impairment. Is there a parallel to law enforcement situations? May urinalysis drug testing be ordered in any instance in which a law enforcement officer was involved in a serious automobile accident, shooting incident, or similar mishap? One case, though not a law enforcement case, suggests that the answer is yes.

In *Division 241 Amalgamated Transit Union (AFL-CIO) v. Suscy*,⁴⁹ the Chicago Transit Authority required submission to a urinalysis drug screen for all employees involved in serious accidents. In upholding the legality of that “serious accident” policy, the court stated:

“... the Chicago Transit Authority has a paramount interest in protecting the public by insuring that bus and train operators are fit to perform their jobs. In view of this interest, members of plaintiff Union can have no reasonable expectation of privacy with regard to submitting to blood and urine tests.

“Certainly the public interest in the safety of mass transit riders outweighs any individual interest in refusing to disclose physical evidence of intoxication or drug abuse...”⁵⁰

There is little, if any, difference between a court’s concern for the safety of mass transit riders and the physical safety of persons in the community served by law enforcement officers. In both cases, drug abuse poses a real and measurable threat to the safety of those persons sufficient to warrant urinalysis drug testing following involvement in a serious accident or incident. If drug abuse by a law enforcement officer causes or contributes to a serious incident or accident, it must be detected to prevent its recurrence. Therefore, a department may wish to consider including a “serious incident” provision as part of a comprehensive drug testing program.

Situations may also arise where no serious accident or mishap has occurred, but a law enforcement officer exhibits certain behavior which is suspicious or indicative of drug abuse. When such behavior can be articulated and reaches the level of “reasonable suspicion,” courts will permit a law enforcement agency to require participation in urinalysis drug testing. In three law enforcement cases decided to date, the courts have upheld the right of the law enforcement agency to engage in urinalysis drug testing based on reasonable suspicion.⁵¹ In this context, reasonable suspicion requires that the testing must be predicated “only on the basis of . . . objective facts and the reasonable inference drawn from those facts...”⁵² Based on reasonable suspicion, urinalysis drug testing is lawful “(b)ecause of the clear

public interest ensuring that the police force operates free of narcotics...”⁵³

Certain limitations on “reasonable suspicion” drug testing of urine, should be considered, however. For example, in *McDonell v. Hunter*,⁵⁴ the court held that reasonable suspicion testing would be lawful only if: 1) The articulable facts constituting reasonable suspicion were reduced to writing and made a part of an official record, 2) the facts were disclosed to the employee at the time of testing, and 3) the decision to require submission to drug testing were made by a high-level law enforcement official within the department. These limitations were designed to minimize the chance for arbitrary or capricious selection of persons to be tested, and a department should be well-advised to consider these or similar safeguards.

Unannounced Random Testing

The situations discussed thus far, under which a law enforcement agency might seek to engage in drug testing, have all been based on certain occasions, occurrences, or behavior. Yet, if the purpose of a urinalysis drug testing program is to both detect and deter drug abuse in law enforcement, testing only at application, during training or probation, at medical examinations, upon change of assignment, or as a result of some type of conduct may not be completely adequate. If an officer stays drug-free through application, training, probationary and medical examination periods; does not seek reassignment or promotion; does not become involved in any serious incidents; or does not exhibit behavior creating a reasonable suspicion of drug abuse, that officer’s drug abuse could go undetected and largely undeterred. The solution to that possibility and probably the most effective

method to deter and detect drug abuse is through unannounced random testing.

The legal problem posed by unannounced random testing is that it conceivable permits arbitrary "searches," which the courts have long disdained. In *Delaware v. Prouse*,⁵⁵ the Supreme Court ruled that stopping motorists for driver's license inspections, without any factual indication the person was improperly licensed, and without any standard or safeguard against an arbitrary exercise of discretion, is an unconstitutional practice. The analogy to unannounced drug testing is obvious.

Are drug testing policies which permit mandatory urinalysis not based on any specific event or factual basis constitutional? This is clearly the most controversial aspect of urinalysis drug testing. It evokes strong sentiments from officers who often view it as management's belief that they are guilty of illegal drug abuse until they prove themselves innocent through urinalysis drug testing. Predictably, unannounced random drug testing has spawned much litigation and poses some very difficult and close legal issues.

Three law enforcement agency cases have been decided where policies which included unannounced random testing were involved.⁵⁶ In all three cases, the courts have found the policies, as drafted, were unconstitutional. The court's difficulty with such testing was summarized by the trial court in *City of Palm Bay v. Bauman*: "Without a scintilla of suspicion directed toward them, many dedicated firefighters and police officers are told, in effect, to submit to such testing and prove themselves innocent, or suffer disciplinary action.

When the immediate end sought is weighed against the private right affected, the proposed search and seizure is constitutionally unreasonable."⁵⁷

Can unannounced random testing be legal? One cannot accurately predict whether future litigation will be more successful if a law enforcement agency desires to include unannounced random testing as part of its urinalysis drug testing program. However, there are certain features which, if included in the program, will at least increase the likelihood of success.

First, the drug testing program should clearly state that it is applicable to every officer. A court must be convinced that the drug testing program will either test all officers or subject all officers to an equal risk of drug testing. It is, in essence, a universal testing program designed to deter drug use generally and not aimed at any specific individual or group of officers.

The second feature essential to a legally defensible unannounced testing program requires the removal of the "unconstrained exercise of discretion"⁵⁸ from the selection process. It would do no good to adopt a universal testing policy only to have it undermined by arbitrary selection of persons to be tested. Truly random selection models can be done mathematically or be generated by computer. Regardless of the method chosen to randomly select officers to be tested, it must "not grant the Department carte blanche to order testing on a purely subjective basis."⁵⁹

The third suggested feature, though not imperative, as a constraint on the universal testing-random selection drug testing program is a limit on the number of times that any individual officer can be selected for testing over

a given period of time. Though no court has directly required such a limit, mandatory submission to urinalysis drug testing, even randomly, several times within a short period of time increases the risk that a court could find the testing program to be overly intrusive or unfair.⁶⁰ The negative aspect of this feature is the loss of deterrent value. An officer who is tested the maximum number of times early in the given time period then knows he/she will not be tested again for a considerable period of time.

The fourth suggested feature for an unannounced random drug testing program is to establish the need. A department which has a known problem of drug abuse and can document the adverse impact it has brought upon the department can offer a strong argument that unannounced random drug testing is needed to halt existing drug abuse and deter further illegal drug use by its officers. But a department should not be required to allow drug abuse to plague its operations before it acts to prevent its adverse consequences. Even in the absence of a known or widespread problem of drug abuse, a law enforcement agency can make a strong argument that the deterrent benefits of a drug testing program in terms of integrity and public trust and effective law enforcement operations are sufficient to make the drug testing program legal. This would appear to be particularly true of agencies with unique missions and responsibilities, such as narcotics law enforcement or national security. Where drug abuse can be shown to be totally inimical to the specifically mandated or statutory responsibilities of an agency, unannounced random testing is an arguably appropriate agency response.

“... a universal pool of potential officers subject to testing and selected by a purely random method ... could convince a court that such testing procedures for law enforcement are reasonable and lawful.”

There is only one case in which a universal testing-random selection model was upheld. In *Shoemaker v. Handel*,⁶¹ the New Jersey State Racing Commission required that all jockeys participating in horse races would be tested for drug abuse through urinalysis based on a random selection. Each day, the names of all the jockeys racing were placed in an envelope. Three to five names of jockeys were drawn on a purely random basis and those jockeys were then required to provide a urine sample at the conclusion of the race day. In upholding that policy, the court stated:

“The fair characterization of those tests is that they were administered neutrally, with procedural safeguards substituting for the lack of any individualized suspicion ... Further, every jockey participating in racing on a given evening has an equal chance of being selected to give a urine sample under the name drawing system.

“There is considerable evidence that a testing approach which requires some element of individualized suspicion would actually *increase* the ability of a steward to act in an arbitrary and unreasonable manner...”⁶²

The governmental interests in regulating the horse racing industry and the governmental interests in regulating law enforcement officers' conduct are certainly not identical, and therefore, *Shoemaker* cannot be read as absolute authority to conduct universal testing-random selection programs. However, it highlights the point made by the Supreme Court in *Delaware v. Prouse*,⁶³ that certain

searches and seizures may be reasonable even in the absence of individualized suspicion if “other safeguards ... assure that the individual's reasonable expectation of privacy is not subject to the discretion of the official in the field.”⁶⁴ The safeguards discussed above, a universal pool of potential officers subject to testing, selection by a purely random method and protection against overly frequent urinalysis, coupled with a specialized need to combat drug abuse within a department, could convince a court that such testing procedures for law enforcement are reasonable and lawful.

(To be continued)

FBI

Footnotes

⁴²The discussion in this article of fourth amendment reasonableness as it governs urinalysis drug testing is confined to drug testing for sworn personnel. This is not to suggest that civilian or support law enforcement employees could not or should not be similarly tested. However, the balancing test for reasonableness involves somewhat different factors for nonsworn personnel who, for example, do not generally carry weapons or testify in court. In addition, the paucity of case law, coupled with the many varied duties to which nonsworn personnel are assigned, makes even broad generalizations regarding the legality of such drug testing virtually impossible. The few court decisions regarding urinalysis drug testing outside the law enforcement arena highlight the point that the balancing test for fourth amendment legality is markedly different. See, e.g., *Jones v. McKenzie*, 628 F.Supp. 1500 (D.D.C. 1986) (urinalysis drug testing of school bus attendant permitted only on probable cause).

⁴³*U.S. ex rel Guy v. McCauley*, 385 F.Supp. 193, 199 (E.D. Wisconsin 1974).

⁴⁴*Supra* note 41. See also, *City of Palm Bay v. Bauman*, 475 So. 2d 1322, 1323 (Fla. App. 5th Dist. 1985) (dictum).

⁴⁵612 F.Supp. at 1127 (emphasis added).

⁴⁶There are no reported decisions on this point. However, Mr. Richard J. Koehler, Chief of Personnel, New York City Police Department, in his abstract, “Drug and Narcotic Screening of Police Personnel,” October 1985, quotes an unreported decision of the Seventh Circuit Court of Appeals, *Harris v. Washington*, No. 84C 8812, which upheld such testing, as follows: “... drug screening appears to be part of the department's method for ensuring that officers who have been temporarily away from active service or who are about to undertake new duties are fit to perform their jobs.” See also, *Caruso v. Ward*, N.Y. Sup. Ct., N.Y. Cty, No. 12632-86, July 1, 1986, where a trial court enjoined the New York City Police Department's policy requiring surprise testing of the 1,200 officers assigned to the Organized Crime Control Bureau,

whose duties include undercover narcotics enforcement, but sustained the use of drug testing as a prerequisite to assignment to that bureau.

⁴⁷The language quoted from *Harris v. Washington* in note 46, *supra*, would also support promotion-based drug testing. But compare, *Application of Patchogue-Medford Congress of Teachers v. Board of Education of Patchogue-Medford Union Free School District*, reported in the January/February 1986, newsletter, “Of Substance,” Legal Action Center of the City of New York, Inc., New York, NY. (Urine drug testing as requirement of promotion to tenured teaching position violates fourth amendment).

⁴⁸See note 2.

⁴⁹538 F.2d 1264 (7th Cir.), cert. denied, 429 U.S. 1029 (1976).

⁵⁰*Id.* at 1267.

⁵¹*Turner v. Fraternal Order of Police*, 500 A.2d 1005 (D.C. App. 1985); *City of Palm Bay v. Bauman*, 475 So.2d 1322 (Fla. App. 5th Dist. 1985); *McDonnell v. Hunter*, 612 F.Supp. 1122 (D. Iowa 1985).

⁵²*McDonnell v. Hunter*, *supra* note 51, at 1130.

⁵³*Turner v. Fraternal Order of Police*, *supra* note 51, at 1009.

⁵⁴*Supra* note 51. See also, *Division 241 Amalgamated Transit Union (AFL-CIO) v. Suscy*, 538 F.2d 1264, 1267 (7th Cir. 1976).

⁵⁵440 U.S. 648 (1979).

⁵⁶*City of Palm Bay v. Bauman*, 475 So. 2d 1322 (Fla. App. 5th Dist. 1983); *McDonnell v. Hunter*, 612 F. Supp. 1122 (D. Iowa 1985); *Caruso v. Ward*, *supra* note 46.

⁵⁷475 So. 2d at 1325. (Appellate court's quote of trial court's ruling.)

⁵⁸*Delaware v. Prouse*, *supra* note 55 at 663.

⁵⁹*Turner v. Fraternal Order of Police*, *supra* note 55, at 1008.

⁶⁰For example, in *Shoemaker v. Handel*, 619 F. Supp. 1089 (D. New Jersey 1985), *aff'd* — F.2d — (3d Cir. 1986), the trial court noted that the drug testing program required that if a horse racing jockey were randomly selected for drug testing more than three times within 7 days, the selection was to be disregarded. That finding apparently contributed to the court's ultimate ruling that the testing procedures employed there were not unconstitutional.

⁶¹*Supra* note 60.

⁶²*Id.* at 1103.

⁶³*Supra* note 55.

⁶⁴440 U.S. at 655.

⁶⁵*Caruso v. Ward*, *supra* note 46, slip op. at 6.

⁶⁶See *I.N.S. v. Delgado*, 104 S.Ct. 1758, 1763 (1984)

(“[o]rdinarily, when people are at work their freedom to move about has been restricted, not by the actions of law enforcement officials, but by the workers' voluntary obligations to their employers”).

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on these fugitives' status.



Photograph taken 1975

Willie Joe Daniel,

also known as Joe Daniel, W.J. Daniel, William Joe Daniell, Joe Daniels, Willie Joe Daniels.

N; born 2-9-33, Kerens, TX (not supported by birth records); 5'9" to 5'10"; 180-191 lbs; med bld; blk hair; brn eyes; drk comp; occ-butcher, laborer, meat packer, mechanic, musician, packing room foreman; scars and marks: scar on forehead, surgical scar on inner right wrist, two hernia scars; removable lower left tooth; remarks: plays guitar and saxophone. Wanted by FBI for INTERSTATE FLIGHT-MURDER, ATTEMPTED MURDER.

NCIC Classification:

PMPOPMPOPOPIPM2017

Fingerprint Classification:

20 M 31 W O MO
O 31 W I MO 17

I.O. 4889

Social Security

Number Used: 464-40-8165

FBI No. 583 718 B

Caution

Daniel, a reported drug user, is being sought in connection with the shooting murders of two of his children and the attempted murder of two others. Consider Daniel armed and dangerous.



Right little fingerprint



Photographs taken 1977

Bill Clara Killingsworth,

also known as Bill Killingsworth, Bill Clare Killingsworth, Billy Clair Killingsworth. W; born 10-18-34, San Perlita, TX; 5'9"; 155 lbs; med bld; brn hair; bl eyes; fair comp; occ-buyer, clerk, material investigator, production controller, storekeeper, superintendent of retirement home; scars and marks: scar on chin.

Wanted by FBI for INTERSTATE FLIGHT-KIDNAPING, SEXUAL ASSAULT, ESCAPE.

NCIC Classification:

PO0914PO17161216DI16

Fingerprint Classification:

9 O 9 U IOO 17 Ref: 9 25 25
M 18 U OOI 17 17 18

I.O. 4890

Social Security

Numbers Used: 490-32-8849; 490-32-8949

FBI No. 819 043 P5

Caution

Killingsworth is being sought as an escapee from the New Mexico State Penitentiary where he was serving a life sentence for kidnaping and sexual assault. Killingsworth, a reported narcotics user, should be considered armed, dangerous, and an escape risk.



Right thumbprint



Photographs taken 1979

Joseph Michael Florczak,

also known as Jim Domin, Joe M. Domin, Harvey Emerson, Raul Ozuna Gil, Raul O. Gill, C. Harker, J. Harker, David Lee Harris, Daniel Higdon, Joe Jimenez, Joe Jimenez, Reyes J. Jimenez, Reyes J. Jimenez, Henry Warren Johnson, Craig S. Ronson.

W; born 4-7-26; New Britian, CT; 5'10"; 165 lbs; med bld; brn hair (known to wear beard and/or mustache); blue eyes; ruddy comp; remarks: prefers rural areas.

Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

AA71AA1903AAAA041607

Fingerprint Classification

21 1 aRa 3
1 aA

I.O. 4901

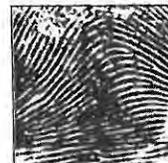
Social Security

Number Used: 049-16-3947

FBI No. 651 259 L5

Caution

Florczak is being sought in connection with the stabbing death of his ex-wife. He is also wanted by local authorities for armed robbery with a handgun. Consider Florczak armed and dangerous.



Left thumbprint

WANTED BY THE FBI



Photographs taken 1979, Retouched

Alphonse Carmine Persico,

also known as A. Persico, Alphonse Persico, Alphonso Persico, Alley Boy Persico, Alley Boy, Allie Boy Persico, Allie Boy, Al, Ally Boy.
 W; born 12-6-29, Brooklyn, NY; 6'-6"2"; 215 lbs; hvy bld; blk-gray hair; brn eyes; olive comp; occ-carpet layer, legal clerk, president of carpet installation firm, security consultant;
 scars and marks: burn scar on left cheek; tattoo: "AL" on right hand between thumb and forefinger;
 remarks: allegedly wears his hair short with a permanent and may be wearing full beard and mustache.
 Wanted by FBI for EXTORTIONATE CREDIT TRANSACTIONS-BOND DEFAULT.

NCIC Classification:
 166313CO05PI61141613

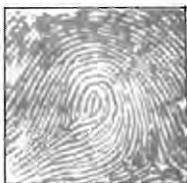
Fingerprint Classification:

16 M 13 R OOO 5	Ref:	13
I 1 R OOO		2

I.O. 4875
 Social Security
 Number Used: 072-22-1415
 FBI No. 263 729 A

Caution

Persico, a convicted murderer and reputed underboss of an organized crime family in Brooklyn, NY, is being sought for failure to appear after being convicted on multicounts of an indictment charging violation of the extortionate credit transaction law. Persico has been known to carry a weapon in the past and should be considered armed and dangerous.



Right index fingerprint



Photographs taken 1979

Donald Eugene Webb,

also known as A.D. Baker, Donald Eugene Perkins (True Name), Donald Eugene Pierce, Stanley J. Pierce, John S. Portas, Stanley John Portas, Donald E. Webb, Eugene Donald Webb, Stanley Webb, Wilfred Y. Reams, and others.
 W; born 7-14-31, Oklahoma City, OK; 5'9", 165 lbs; med bld; gray-brn hair; brn eyes; med comp; occ-butcher, car salesman, jewelry salesman, real estate salesman, restaurant manager, vending machine repairman;
 scars and marks: small scar on right cheek and right forearm; tattoos: "DON" on web of right hand, "ANN" on chest;
 remarks: Webb, who is considered a career criminal and master of assumed identities, specializes in the burglary of jewelry stores. Reportedly allergic to penicillin, loves dogs, is a flashy dresser, and big tipper. He may be accompanied by Frank Joseph Lach, white male, born 11-23-40, Providence, RI, 6', 270 lbs, brn hair, brn eyes, whose apprehension is also being sought by the FBI. Wanted by FBI for INTERSTATE FLIGHT-MURDER; ATTEMPTED BURGLARY.

NCIC Classification:
 080406130804TT020906

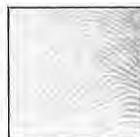
Fingerprint Classification:

8 S 1 U III 8	Ref:	T T U
S 1 T II		T R R

I.O. 4873
 Social Security
 Number Used: 462-48-0452
 FBI No. 4 513 086

Caution

Webb is being sought in connection with the murder of a police chief who was shot twice at close range after being brutally beaten about the head and face with a blunt instrument. Consider Webb and Lach armed and extremely dangerous. Consider Webb an escape risk. FBI TOP TEN FIGITIVE



Left thumbprint



Photograph taken 1979

Neville McBean,

also known as Mack Bean, Tom Bean, Frank Davis, Mack Davis, Cephas Alexander McBean, Cephus Alexander McBean, Nevelle McBean, Nevill McBean, Neville McBeam.
 N; born 1-4-30; Higgin Town, St. Ann, Jamaica (not supported by birth records); 6'0"-6'1"; 190-220 lbs; med bld; blk hair; brn eyes; drk comp; occ-farm laborer, house painter, scrap metal dealer, truck driver;
 scars and marks: scar left finger; knife scars on abdomen; gunshot wound scar right side of spine; pock marks on left side of face;
 remarks: speaks with British accent; illiterate.
 Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
 P11862CIP11716PMPOCI

Fingerprint Classification:

18 I 12 Ur	Ref: 11
L 22 U	22

I.O. 4904
 Social Security
 Numbers Used: 244-18-8835;
 494-42-1188
 FBI No. 193 336 D

Caution

McBean is being sought for the murder of a female victim, whom he shot in the face with a .38-caliber handgun. McBean is known to possess dangerous weapons and should be considered armed, dangerous, and an escape risk.



Right middle fingerprint

Questionable Pattern

This pattern consists of two separate loop formations, with two separate and distinct sets of shoulders and two deltas, and is classified as a double loop whorl. The tracing is meeting. We have referenced this pattern to a loop of three ridge counts, inasmuch as the upper looping ridge is slightly pointed.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name

Title

Address

City

State

Zip

Washington, DC 20535

Official Business
Penalty for Private Use \$300
Address Correction Requested

The Bulletin Notes

Patrolman Jeff Everetts, Brinkley, AR, Police Department, responded to a bus accident on July 14, 1986, and according to doctors, saved the lives of at least three injured victims by applying tourniquets and rendering others first aid. The Bulletin is very pleased to join Patrolman Everetts' chief in recognizing this public service.



Patrolman Everetts
