



Law Enforcement Executive
FORUM

Organized Crime

June 2009

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Editorial

I want to welcome new as well as long-time readers of the *Law Enforcement Executive Forum* to this latest edition. This edition provides readers with a number of insightful articles related to police administration and leadership, criminal investigations, and terrorism. Consistent with the mission of the *Forum*, the articles presented are written by academics and practitioners alike, with the purpose of guiding professional service delivery based upon research and best practice examinations.

On a personal note, the publication of this edition coincides with a transition I am making in my professional career. For the past 17 years, I have had the privilege and honor to work with thousands of police administrators in my capacity as Executive Director of the Illinois POST (Police Officers Training and Standards Board). During this time, I am proud of the accomplishments achieved in founding the Illinois Law Enforcement Executive Institute and the *Forum*. Both projects, now institutionalized, are designed to promote police professionalism, with special attention given to the critical role of informed and intelligent leadership.

I have recently announced my retirement from the State of Illinois and the Illinois Law Enforcement Training and Standards Board after a total of 34 years in law enforcement. I have accepted a faculty position in the Department of Criminal Justice Administration at Middle Tennessee State University. However, I will remain as Senior Editor of the *Law Enforcement Executive Forum*.

In reflecting upon a career of working with police administrators and officers, I am filled with confidence about the future of the profession. The men and women who choose to serve others leave a legacy of unselfish commitment. The following quote by Albert Schwietzer underscores this notion:

"I don't know what your destiny will be, but one thing I know: the only ones among you who will be really happy are those of you who have sought and found how to serve."

Thomas J. Jurkanin, PhD

Senior Editor

Executive Director, Illinois Law Enforcement Training and Standards Board

Drug Cartels: The War on Drugs and Organized Crime at the Southwest Border

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In terms of its sheer magnitude, drug trafficking represents the greatest organized crime threat in the world today (Galeotti, 2005). Some argue that drug trafficking is the “linchpin” of transnational crime (Grayson, 2005). The United Nations’ Center for International Crime Prevention states, “The economic incentives for the illicit drug trade serve to make organized trafficking extremely durable” (Newman, 1999, p. xviii). The United Nations (UN) Office on Drugs and Crime (2003) estimated that approximately \$76 billion in retail sales of illegal drugs occur in the United States annually. Globally, it is estimated that drug trafficking is a \$500 billion business (Galeotti, 2005).

Mexico is a growing source of the narcotics trafficked into the U.S. (Bagley, 2005), and Mexico and Texas share a 1,200 mile border that is difficult to patrol and perhaps impossible to seal. Just the most southern portion of this shared border stretches for six hundred plus rugged miles from Brownsville at the south to Big Bend National Park at the north. This paper serves to provide a basic overview of the organized drug trade and its impacts along the Southwest border. The author also reports on the current status of the “War on Drugs” in this locale and suggests additional strategies.

Overview and Impacts

Along the Texas-Mexico border, violence, money laundering, arms trafficking, and corruption accompany the trade in illicit drugs. Mexico is now estimated to be the second largest source of heroin for the U.S. (Bagley, 2005). The coroner for Webb County, Texas, reports that the average age of death in the county for a heroin overdose is 16, while the average age nationally is 42 (C. Stern, personal communication, February 15, 2009). In the last 18 months, drug-related violence in Mexico has escalated. More than 6,000 persons have died in the last 13 months, and 1,000 of these died in the first month of this year alone (Luhnow & De Cordoba, 2009). The publisher of the largest syndicated newspaper in Mexico has fled to Texas. The Department of Justice states, “Mexican gangs are the biggest threat to the U.S. and the biggest organized crime threat” (Brewer, 2009). In Phoenix, 370 drug-involved persons were kidnapped, making it the *U.S.A. kidnapping capital*.

In response to the threat of increasing spillover of violence to the U.S., President Barrack Obama recently authorized sending additional forces to the border to quell the violence. The Department of Homeland Security (DHS) will double the number of law enforcement personnel working along the Southwest border and may request border states to send National Guardsmen to help stem the spillover violence from Mexico. DHS Secretary Janet Napolitano stated that the goal of increased U.S. efforts along the border is twofold: (1) to provide assistance

to Mexico to break up the large cartels and (2) to guard against an increase in violence against the U.S. as a result of battles between the cartels and between the Mexican authorities and the cartels. The U.S. top law enforcement officer, Attorney General Eric Holder, stated, "Our two nations are bound by more than just a common border and we want to make sure that the fate of Mexico turns out to be a good one, because that will have a residual good impact on the United States" (Associated Press, 2009).

Trafficking in arms is another impact of organized crime along the Southwest border. The cartels are armed with semi-automatic rifles, rocket-propelled grenades, Colt-AR15s, AK-47s, long-range sniper rifles such as the .50-caliber, and the usual assortment of handguns. According to the U.S. Bureau of Alcohol, Tobacco and Firearm and Explosives (ATF), individuals in the U.S. are major suppliers of weapons. The ATF reports that over 7,700 guns sold in the U.S. were traced to Mexico in 2008 alone. Border security is much weaker heading into Mexico than leaving it (Andreas, 2001). In 2008, 1,131 weapons bought in Texas were found at the scene of shootings in Mexico or were seized from cartel gunmen. The ATF is hiring agents and support personnel to boost anti-gunrunning teams in McAllen, Texas; El Centro, California; and Las Cruces, New Mexico. ATF will also add attachés to U.S. consulates in Juarez and Tijuana. Some of the reinforcement costs will be covered with economic recovery money recently approved by Congress.

The extent of Southwest border money laundering is difficult to estimate, but the capture of millions of dollars in cash each year in drug-related arrests suggests very robust activity. Drug trafficking and money laundering in part fuel the very sizeable cash economy along the Southwest border and is the reason for the rapid development of cities such as Laredo, Texas (the second fastest growing city in the U.S.). This development provides ample opportunities for "dirty money" to be mixed with legal financial investments and makes efforts of the Financial Action Task Force (FATF) of the United Nations' Organization for Economic Cooperation and Development to reduce money laundering particularly difficult. However, Operation Firewall, a U.S. Treasury-directed initiative designed to interdict money laundering between Mexico and the United States will receive additional support to confront Southwest border money laundering (Homeland Security Press Briefing, 2009).

Although experts say the major tourist destinations remain safe, many U.S. travelers are avoiding and or limiting trips to border towns such as Juarez, Tijuana, and Nuevo Laredo. According to David Shirk, a criminal justice expert and director of the Trans-Border Institute at the University of San Diego, increased incidences of crimes such as small-scale robbery, assault, and rape do raise valid concerns for tourists (Harmanci, 2009).

Mexico is the second largest trading partner of the United States. Mexican factories exporting to the United States have proliferated as trade between the two nations has quadrupled to approximately \$350 billion a year since NAFTA's inception in 1994. Some argue that NAFTA aided the development of the drug wars in Mexico (Andreas & Nadelmann, 2006). Now there are layoffs in Mexico, however, and many families that rely on money sent to them from relatives in the United States have also been hard hit by the slumping economy to the north. As people become

more economically desperate, they are more vulnerable to the advances of criminal elements trafficking drugs that promise quick and ample cash.

Mexican Foreign Minister Patricia Espinosa is still seeking reforms promised by Bush to give immigrant workers in the United States legal status. Mexico opposed the U.S.-led war in Iraq, but it has just taken up a rotating seat on the UN Security Council. President Obama could seize this as an opportunity to repair strained relations between the two countries. "Canada and Mexico are not relationships that can be put aside," said Peschard-Sverdrup of the Center for Strategic and International Studies in Washington, DC. "The countries are joined at the hips" (Bremer, 2009).

The Major Drug Trafficking Cartels

Drug trafficking within Mexico is dominated by seven principal organizations or cartels. Heroin, cocaine, marijuana, and methamphetamines are procured, produced, distributed, and finally sold. This is often accomplished in complicated and shifting alliances with Columbian, Dominican, and U.S. organized crime groups. The cartels are centrally organized, but they compete for networks of supply, transit, destination, and buyers. The networks are made up of Mexicans, Mexican-Americans, Mexican immigrants, and non-Hispanic citizens living in the United States and Canada.

While the cartels function in major cities like Houston, Dallas, Los Angeles, Chicago, and New York, it is believed that they actually operate in over 200 cities and towns in the United States (Luhnow & De Cordoba, 2009). Canada is another drug customer, though not as major a consumer as the U.S. The cartels appear to cooperate with other groups such as the Cosa Nostra; drug trafficking groups from Columbia, the Dominican Republic, and Guatemala; and even the Russian Mafia. The cartels in Mexico appear to be more centralized than the distribution networks in the United States and Canada, which are more fragmented. The Mexican drug-trafficking cartels are mobile and operate stealthily in the U.S.

The cartels use violence and corruption in Mexico to intimidate and control local authorities, police departments, and trade routes. Violence is freely used against other cartels and competing groups infringing on "cartel territory." Cartel enforcers have tortured and assassinated businesspeople, law enforcement officials, and government officials. Kidnapping for ransom is a growing sideline of Mexican cartels. In the U.S. interior, less violence is used so as not to attract legal attention, but along the Southwest border, violence is more obvious and is directed mostly against law enforcement officers.

Various organized drug cartels have operated in and from Mexico. Some names include the Juarez Cartel and the Cardenas-Guillen, Valencia-Cornelio, and Caro-Quintero groups. The two major Mexican cartels currently in operation are the Gulf Cartel and the Sinaloa Cartel. These two cartels periodically engage in wars against each other and are major targets of Mexican and U.S. authorities. It has been reported that between the major cartels there are at least 100,000 "foot soldiers" (Cornyn, 2009). Mexico's own regular army only contains about 130,000 soldiers. It is believed that the cartels possess enough weapons to provide arms to the entire army of El Salvador.

A paramilitary group called the Zetas protects the Gulf Cartel. Ironically, the original Zetas were trained in the most advanced assault and reconnaissance techniques by our own government. They were designed to be a special force used to combat the cartels. However, after training, they quickly realized they could make much more money defending the cartels and promptly became employees of the Gulf Cartel. They have risen in power and numbers, and their reach has extended into other countries. For example, they have threatened to assassinate the president of Guatemala; have kidnapped transnational businessmen; and have orchestrated, protected, and received substantial payment for the illegal crossing of Mexicans into the United States.

The War on Drugs: Mexico and the U.S.

President of Mexico Felipe Calderon, who promised in his campaign to pursue drug traffickers, has spent over \$6.5 billion in the last two years attempting to apprehend the heads of these cartels and break their corruptive hold on various Mexican authorities. This effort confronts many obstacles. Like many Latin American states, Mexico is considered to be a weak state, and organized crime flourishes in environments produced by these weak states (Bagley, 2005). Mexican authorities are often without the financial and institutional resources needed to fight the spread of organized drug trafficking. The gap between the rich and the poor in Mexico remains wide; poverty is extensive (per capita income is \$4,000); and corruption among police and elected officials is common. Only one crime in 100 is reported in Mexico, and successful arrests often do not lead to convictions. Victims of crime in Mexico are among the world's least satisfied with the response of the police (Newman, 1999). Still, 153 drug-related seizures have been made since Calderon became President. This is a major increase over the 16 seizures under the prior President of Mexico, Vicente Fox.

Some argue that the assault on Columbian drug dealers and the Cali Cartel has only driven the traffickers into Mexico and closer to the U.S. (Ronderos, 2005). It is clear that within Mexico itself, the lucrative trade in cocaine has led to a 20% increase in local demand between 2003 and 2005, and availability of cocaine and heroin in U.S. cities along the Southwest border has also increased.

Over 20 years ago, then President Ronald Reagan officially launched the "War on Drugs" by securing an amendment to the Posse Comitatus Act (Grayson, 2005). This amendment permitted military involvement in civil law enforcement for the first time in over 100 years (Bertram, Blachman, Sharpe, & Andreas, 1996). Critics of the U.S. War on Drugs argue that a "war" on drugs is not an effective solution (Beare, 2005). They suggest that the War on Drugs has militarized a social and criminal problem (Ronderos, 2005) at great financial cost and minimal success. Some argue that the War on Drugs is used to distinguish American national identity from that of others who are described as "morally corrupt" (Grayson, 2005, p. 147) and is, in fact, a no-win strategy.

While there have always been critics of the War on Drugs, the U.S. has continued to spend more military money each year in combating drug trafficking. Recently, the U.S. government spent \$400 million in equipment and training for the Mexican army to combat the cartels. In spite of violence, intimidation, and corruption in Mexico, there have been increased collaborative efforts between Mexico

and the U.S. in the last two years. The Merida Group, which is chaired by the U.S. State Department, is made up of representatives of all the agencies of the U.S. and Mexico that deal with organized crime and drug problems. This group is also attempting to deal with creating economic opportunity and strengthening education in Mexico.

The Customs and Border Protection's Office of Border Patrol coordinates Operation Stonegarden, which is a U.S. initiative. This initiative, started in 2004, gives tribal, local, and state law enforcement agencies additional funding to strengthen and protect U.S. borders. Operation Stonegarden has resulted in increased safety and security in some border communities by making funds available to more than 200 agencies in areas adjacent to either the Canadian or Mexican borders to enhance their border security operations.

The U.S. has also offered rewards for information leading to the capture of cartel leaders as has Mexico. These efforts have resulted in the arrest or death of several cartel leaders, *capos* (lieutenants in the cartel), and *sciaros* (hit men).

In March of 2009, in an elite neighborhood of Mexico City, Mexico's military captured the security and operations chief of the Sinaloa Cartel, Vicente Zambada. In the month prior, President Obama announced that 755 Sinaloa Cartel members had been arrested in cities throughout the United States. Zambada faces a 2003 drug trafficking indictment in the U.S., but he must first face charges in Mexico. Also in March of 2009, alleged Gulf Cartel hit man, Najera Talamantes, who is also suspected of the October 2008 attack on a U.S. consulate in Mexico, was arrested in the northern Mexico city of Saltillo. Last year, Eduardo Arrelano-Felix of the Tijuana Cartel, known as "The Doctor," was captured by a Mexican Special Tactical Team after a protracted gun battle in Tijuana, Mexico. His arrest was the result of collaboration between the U.S. Marshals, the Drug Enforcement Administration (DEA), and Mexican authorities (U.S. DEA, 2008).

The organized crime groups have responded to the increased military pressure by becoming more mobile, less centralized, and more adaptive. They are now using new routes to transport their products. Recent reports suggest that the western coast of Africa has become another route for drug trade due to the ease of corrupting African officials with the huge amounts of money that drug trafficking produces. Drug flows from the Galapagos Islands to the United States have also been reported (Flakus, 2009).

The Hidden Impacts of Organized Drug Cartels

The costs of the organized drug cartels along the Southwest border are many. They can be counted in lives lost, dollars spent, money lost for development and legal business expansion, and the stagnation and reduced productivity of millions of end drug users. Each month, these costs mount for both Mexico and the U.S. The biggest cost may not be one that can be counted, however, and that is the demoralization of the peoples of both nations and the damage to their attempts at friendship and economic cooperation. Given the history between the U.S. and Mexico, building trust and mutual respect has not been a smooth or even path. The War on Drugs often translates into a "war on Mexicans" for citizens on both sides of the Rio Grande. The fear of violence increases the pressure on some Mexican

citizens to immigrate to the United States, and the U.S. has responded with greater limits on immigration from Mexico.

Mexican-Americans living in the United States are the largest Hispanic group in the U.S., and Hispanics are now the largest U.S. minority. While the U.S. struggles to overcome discrimination and racism, we alienate many members of our largest minority by our anti-immigration policies and the proposal and beginning construction of a "Great Wall" along the U.S./Mexico border. The Merida Group faces many challenges to successfully confront organized crime on the Southwest border and to sincere cooperation from north and south of the Rio Grande.

Discussion

Mexico is the 13th largest global economy and a democracy, yet it is without sufficient financial and institutional resources to fight the spread of organized drug trafficking. For all the reasons previously noted, in the last two decades, conditions have ripened for the spread of transnational organized crime between Mexico and the United States. This spread of transnational organized crime has led to demoralization on both sides of the border.

Increased military response, high-tech and enhanced border security, large monetary rewards for information leading to the capture of cartel bosses, and the building of a wall have all been used to fight organized drug trafficking along the border. The cartels have responded with violence, increased corruption, some attempts to engage the support of the poor and unemployed in Mexico, and redirection of trafficking routes. Greater transnational collaboration between Mexico and the United States seems to be bearing some positive results, but experience suggests that as long as there is a strong demand for drugs in the U.S., organized crime will attempt to feed that demand.

Will the War on Drugs become the next Vietnam for the U.S.? Are there alternatives to this approach or additional strategies that might be more effective? Greater military and intelligence collaboration and cooperation between the two countries is a natural extension of a strategy that has yielded some recent success. However, with the new administration in Washington and the intensification of drug-related violence in Mexico and along the Southwest border, the time appears right for the creation of alternative strategies to the reliance on a military style war on drugs. DHS Secretary Napolitano remarked at a press briefing in March 2009, "I look forward to working with the new head of the National Drug Control Office to see what else can be done to increase our demand-reduction programs" (Homeland Security Press Briefing, 2009). This openness to additional strategies would seem consistent with programmatic ideas like the one noted below.

One method to reduce the demand for drugs and also slow supply would be to launch intense, coordinated public education programs and campaigns about the human costs of drug trafficking. The governments of the U.S. and Mexico could enter into a partnership to educate their residents about the impacts of drug use and drug trafficking, perhaps sponsored or coordinated by the Merida Group. Both nations could invest money and expertise in designing public education programs focused on the human costs of organized drug trafficking. The U.S. program would be tailored to address current and potential drug consumers, and

the program in Mexico would target those complicit with the suppliers there. The purpose would be to raise awareness of the extent of the damage being done to individuals, families, and communities in both countries. The harm done to the relationship between neighbor nations, who in fact share fates through geography and democratic governance, would also be emphasized. The campaigns could be conducted in a coordinated fashion and would serve to influence the populations in both countries to desist in demanding and supplying illicit drugs and could be emphasized in schools and in the public media. Each nation would be responsible for designing its own programs, but both countries would review each other's programs and give input so there could be a common voice about drug trafficking between them.

Over the last quarter century, the sword alone has not been mighty enough to win the fight against organized drug trafficking; perhaps use of the pen, along with judicious use of the sword, will be more effective. Conducting coordinated campaigns over five to ten years that repeat the message to desist in demand and stop being complicit with supply could lead to significant changes in people's perceptions, expectations, and behaviors. Reduction in demand, along with continued military attack on the cartels and on drug and arms trafficking, might tip the balance of power in favor of the government and law enforcement in Mexico, bring greater peace along the Southwest border, and reduce the human and financial costs of illicit drug use in the U.S.

Launching coordinated public health campaigns and education programs in the two countries is an ambitious undertaking but one that could galvanize the peoples of each nation to positive complementary action. Public education programs have documented repeated successes in the public health arena, but they have not been vigorously pursued in regards to drug supply and demand. Canada could participate in developing a public education campaign as well.

Another strategy borrows from lessons learned from community policing and could strengthen the War on Drugs. Authorities might partner with particular "volunteering" communities in the U.S. and in Mexico to offer tangible financial, educational, and other meaningful rewards to communities that actively combat the cartels and who interfere with drug and arms trafficking across the U.S./Mexico border. Willingness to provide incentives to communities that actively fight against the cartels would be a powerful reward for many people in poor economic communities in both countries. These communities are often the ones where organized drug networks thrive. Offering tangible economic rewards could improve standards of living and diminish the financial appeal to participate in drug trafficking. Providing educational rewards would allow individuals to develop new skills and knowledge that benefit the community and could eventually contribute to each nation's economy. Both governments are spending billions of dollars and immense human resources to conduct the military War on Drugs. Significant financial investment in improving the education and standard of living for communities who oppose cartels and drug and arms trafficking may be a sound investment in the futures of both nations that the Merida Group may wish to consider.

The world is becoming smaller. The fates of peoples sharing borders are increasingly intertwined. The U.S. shares extensive land and water borders with two great democratic neighbor nations. Perhaps we can partner with them

and develop a common stand against organized drug trafficking that expands proactive methods beyond the military response. A transnational and coordinated stance that empowers the citizens and communities of the northern hemisphere in changing their behaviors in consuming and supplying illicit drugs and uses tangible and meaningful rewards merits consideration.

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Transnational Crime in the 21st Century: Regulating Cyber Crime in a Global Society

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Introduction

In examining the globalized, post-industrial world at the dawn of the 21st century, we continue to live in an Information Age where ideas rather than coal or steel is the basic economic unit. Whether this globalized and post-industrial world of the 21st century is better situated from the growing interconnectedness which began decades ago is debatable. In this paper, the terms *post-industrial* and *globalized world* are used interchangeably to mean that we live in a society that competes within a world economy, most of its citizens are employed within the service sector, and society dominates the production and manipulation of information technology—that is computer technology. One of the consequences for a nation-state in a global society is that its critical infrastructure, which is composed of public and private institutions of agriculture, food, water, public health, emergency services, government, defense, industry, information and telecommunications, energy, transportation, banking and finance, and chemicals and hazardous materials sectors, becomes vulnerable to cyber terrorism or hacktivism.

In the traditional view of political realism, the nation-state is the primary unit of analysis and is a sovereign hegemony. In the anarchical international system, each nation-state must protect its geographic borders against both domestic and foreign enemies, although greater emphasis is placed on the external threat at the expense of domestic protection. The enemy is always another recognizable sovereign nation with geographic boundaries and usually has a legitimate government. The *raison d'état*, or reason of state, is to protect or ensure the security of the state. In this paper, we argue that the traditional notion of national security from a realist's perspective is not only outdated but does not recognize the security complexities of the Information Age in the 21st century. The argument put forward is based on the transformation thesis which means that cyber crimes are "criminal or harmful activities that are informational, global, and networked. They are the product of networked technologies that have transformed the division of criminal labor to provide entirely new opportunities for, and indeed, new forms of crime which typically involve the acquisition or manipulation of information and its value across global networks" (Wall, 2008, p. 4). In the post-industrial and globalized society of the 21st century, the Internet "is seen as a part of the globalization process that is supposedly sweeping away old realities and certainties, creating new opportunities and challenges associated with living in a shrinking world" (Yar, 2006, p. 3).

Why Cyber Terror?

Today, more than ever, nation-states as well as individuals depend on the Internet to conduct business, schedule a vacation, buy and sell goods and services, and even find love. The Internet allows individuals in different quarters of the globe to communicate instantaneously by sending and receiving e-mails. These communications take place between users and Web pages, thus creating what Jack Goldsmith and Tim Wu (2006), in their book *Who Controls the Internet? Illusions of a Borderless World*, have called the “death of distance” (p. 56). Goldsmith and Wu argued that the Internet traffic appears to decline with distance and is increasingly concentrated within localities, countries, and regions. With the collapse of the Soviet Union and the end of the Cold War, perhaps we have not reached the “end of history” as proclaimed by Francis Fukuyama (1992) in his seminal work *The End of History and the Last Man*; instead, the political transformation taking place has led to the *end of geography*, where the borders between countries become more porous with the advancement of the informational society. As a result, geographic boundaries become irrelevant in preventing terrorist organizations worldwide from carrying out their cyber terrorism or acts of hacktivism. Samuel C. McQuade III, in his book *Understanding and Managing Cybercrime*, explains that as a society we need to be concerned about cyber crime or cyber terror for three fundamental reasons. First, every person and organization relying on computers have data that are relatively vulnerable to many forms of cyber crime and are thus in need of protection. Second, all of us have societal responsibility to help prevent cyber crimes from occurring and ameliorate harm associated with being victimized. Finally, society now extensively depends on vulnerable networked information systems for many life-sustaining functions (p. 8). Despite McQuade’s pleas, Salah, the fictional character in *Hacking a Terror Network: The Silent Threat of Covert Channels* (Rogers, 2005), so rightly pointed out, “Americans still mistakenly believe they control the Internet. . . . Their overconfidence and arrogance could be used against them. . . . Threats unseen are threats disbelieved” (p. 12).

In this paper, the term *cyber terrorism* means the “exploitation of electronic vulnerabilities by terrorist groups in pursuit of their political aims” while *hacktivism* is defined as the “mobilization of hacking in the service of political activism and protest” (Yar, 2006, p. 47). This distinction is important here since there is no consensus among scholars on an operational definition of cyber terrorism. For example, Verton (2003) defines cyber terrorism as the use of “execution of a surprise attack by a sub-national foreign terrorist group or individuals with a domestic political agenda using computer technology and the Internet to cripple or disable a nation’s electronic and physical infrastructures” (p. xx). Dorothy E. Denning (2001a), a professor in the Department of Defense Analysis at the Naval Postgraduate School defines the term cyber terrorism with several qualifications to denote the

[u]nlawful attacks and threats of attack against computers, networks, and the information stored therein when done to intimidate or coerce a government or its people in furtherance of political or social objectives. Further, to qualify as cyber terrorism, an attack should result in violence against persons or property, or at least cause enough harm to generate fear. Attacks that lead to death or bodily injury, explosions, or severe economic loss would be examples. Serious attacks against critical infrastructure could be acts of cyber terrorism,

depending on their impact. Attacks that disrupt nonessential services or that are mainly a costly nuisance would not. (p. 1)

In spite of the lack of an operational definition, cyber terrorism is real and it has become the new tool of terrorists and transnational criminal organizations worldwide. For example, Hezbollah, the Lebanese-based Shiite Islamic group also known as Islamic Jihad, established its website in 1995. The Hamas, the Palestinian militant Islamic fundamentalist group, presents political cartoons, streaming video clips, and photomontages depicting the violent deaths of Palestinian children by Israeli soldiers. The Liberation Tigers of Tamil Eelam (LTTE), a guerrilla force in Sri Lanka, offers daily position papers; daily news; and an online store selling books, pamphlets, videos, audiotapes, and CDs. The State University of New York at Binghamton hosted the website of the Revolutionary Armed Forces of Colombia (FARC), while the University of California in San Diego hosted the website for the Peruvian guerrilla group Tupac Amaru (MRTA) (Conway, 2002).

Why cyber terror when perhaps a physical attack would cause more damage and bring greater publicity worldwide? The transition from terrestrial to virtual attacks, according to Yar (2006), is deemed to offer a number of advantages to terrorist groups. First, the Internet, by its nature, enables "action from a distance" (p. 54). Terrorists no longer need to gain physical access to a particular location since the proliferation of the Internet café worldwide can provide terrorist organizations as well as transnational criminal organizations with electronic access to any system from anywhere in the world. Furthermore, by staging cyber-attacks from within the borders of so-called *rogue states* or *failed states*, it is possible to exploit a *safe haven* lying outside the reach of security and criminal justice agencies in the target nations.

Second, the Internet turns actors in relatively small numbers with limited financial and material resources into what has been dubbed "the empowered small agents." This empowerment effect stems from the Internet's ability to become a "force multiplier," that is, something that can "increase the striking potential of a unit without increasing its personnel" (White, 1991, p. 18).

Third, cyber terrorism or hacktivism also provide terrorist organizations as well as transnational criminal organizations with a certain degree of anonymity. Flemming and Stohl (2000) have argued that one of the greatest challenges to law enforcement agencies is the extent to which the Internet environment affords perpetrators a degree of anonymity or disguise. Furthermore, according to Denning (2001b), total anonymity affords the criminal the ability to launder money and engage in other illegal activities in ways that circumvent law enforcement. Combined with encryption or steganography and anonymous re-mailers, digital cash could be used to traffic in stolen intellectual property on the Web or to extort money from victims (Denning & Baugh, 1999). Steganography dates back to Ancient Greece when the Greek historian Herodotus explained how his fellow countrymen would send secret messages back and forth, warning of potential invasion. Herodotus had discovered that if you melted wax off a table, scratched the message on the wood underneath, and reapplied a fresh layer of wax, the message would be hidden and secret (Rogers, 2005). The term *steganography* comes from the Greek word *steganos*, meaning covered, and *graphie*, meaning writing. Therefore, steganography refers

to methods of hiding secret data in other data such that its existence is concealed (Denning & Baugh, 1999).

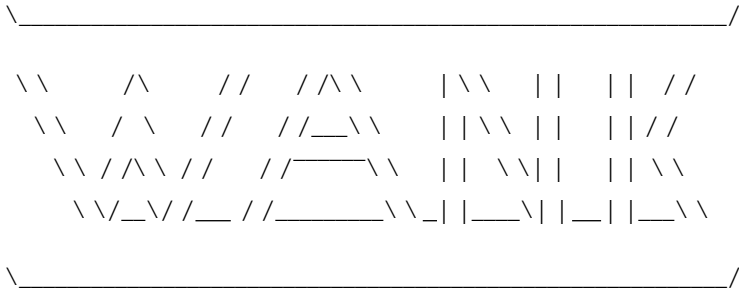
The obvious advantage of steganography as a tool for terrorist organizations and transnational criminal organizations is that information can easily be put on the Internet in plain view of the masses and law enforcement. The most popular method of steganography is hiding information within an image known as Least Significant Bit modification (Rogers, 2005). Least Significant Bit modification takes the “1”s and “0”s from the secret message, that is, the payload, and inserts those into each pixel, starting at the bit least likely to make a noticeable change to the color of the pixel. Steganography is not the only tool available for hiding data. There are a number of tools that can be used, and they are freely available on the Internet such as *S-Tools*, *JP Hide-and-Seek*, *Gif-it-up*, and *Camouflage*, just to mention a few.

Finally, another advantage of utilizing the Internet to launch virtual attacks against the nation-state is the lack of regulation regarding Internet usage. According to Yar (2006), one of the greatest challenges facing law enforcement agencies in their efforts to secure the Internet against potential cyber-attack is the absence of any centralized and coordinated regulation of the virtual environment.

In addition to the aforementioned use of the Internet to launch a cyber-attack against nation-states, terrorist organizations as well as transnational criminal organizations can use the Internet to carry out *hacktivism*, a combination of hacking and activism. Hacktivism, defined here as “mobilization of hacking in the service of political activism and protest” (Yar, 2006, p. 47), can take a number of distinct forms. The most common forms of hacktivism include, but are not limited to, virtual sit-ins and blockades, e-mail bombs, website defacements, and viruses and worms. Virtual sit-ins are the equivalent of the traditional protest method by which a particular site, associated with opposing or oppressive political interests, is electronically occupied by activists (Yar, 2006). An e-mail bomb is the tool used to overload e-mail systems by sending mass mailings, which have the effect of overwhelming the system, thereby blocking legitimate traffic (Yar, 2006). Viruses, worms, and other forms of malicious software are of limited use to hacktivists; still, they have been used by organizations worldwide. One such example of a devastating consequence of hacking occurred in 1989 against the U.S. National Aeronautics and Space Administration (NASA) when its computers became the target of the malicious worm known as the “WANK” worm—Worms Against Nuclear Killers (Yar, 2006). The hacker’s objective was to stop the launching of the shuttle that carried the Galileo probe on its initial mission to Jupiter. According to John McMahon, the protocol manager with NASA’s SPAN office, the estimated cost of the worm was up to half a million dollars in wasted time and resources (Denning, 2001a). (See Figure 1, “WANK Worm Warning,” which was displayed once the computers were infected.)

Figure 1. WANK Worm Warning

WORMS AGAINST NUCLEAR KILLERS



\ Your System Has Been Officially WANKed /

You talk of times of peace for all, and then prepare for war.

Also, during the first Gulf War, Israeli hackers launched virus attacks at Iraqi government systems in an effort to disrupt their communications capacity during the U.S.-led invasion (Yar, 2006). The most recent example of the utility of cyber-attacks or cyber-warfare against a nation-state took place during the conflicts between Russia and the Republic of Georgia. According to the British newsweekly magazine *The Economist*, Russian nationalists who wished to take part in the attack on Georgia could do so from anywhere with an Internet connection simply by visiting one of the several pro-Russia websites and downloading the software and instructions needed to perform a distributed denial of service (DDoS) attack (“Marching Off to Cyberwar,” 2008).

The transition from terrestrial to virtual attacks offers a number of unforeseeable opportunities to terrorist groups and transnational criminal organizations as well as to the nation-state. According to John Robb, a military futurist, the spontaneous, bottom-up mobilization of volunteer cyber-attacks in the Georgia conflict was an example of an open-source cyber-warfare, which has several advantages. “Leaving the attacks to informal cyber-gangs, rather than trying to organize a formal cyber-army, is cheaper, for one thing. The most talented attackers, with the best tools, might not want to work for the state directly. Best of all, from the state’s point of view, is that it can deny responsibility for the attacks. It is the online equivalent of the use, by some governments, of gangs and militias to carry out attacks on political opponents or maintain control in particular regions” (“Marching Off to Cyberwar,” 2008).

Cyber Terrorism Against the State

The concept of globalization, that is, the interconnectedness of the world as a result of great interdependence among nations, is comprised of and reliant on interconnected technological systems which only increases the possibility of

crimes against the nation-state. The concept of crimes against the nation-state involves any activities that “breach laws protecting the integrity of the nation and its infrastructure (i.e., terrorism, espionage, and disclosure of official secrets) (Yar, 2006). In the aftermath of the attacks of September 11, 2001, targeting the Twin Towers in New York and the Pentagon in Washington, DC, the United States took the lead in making legal provisions to protect the nation’s computer systems against terrorist attacks (Yar, 2006).

Information Assurance has become a top priority of the U.S. government in addition to protecting data. Government agencies are also ensuring information confidentiality, integrity, and availability. According to McQuade (2006), Information Assurance became part of the lexicon of the U.S. government with the ratification of the President’s Commission on Critical Information Protection (PCCIP), established in 1996 by Presidential Decision Directive 63. The PCCIP is also responsible for protecting the nation’s infrastructure which consists of “the framework of interdependent networks and systems comprising identifiable industries, institutions (including people and procedures), and distribution capabilities that provide a reliable flow of products and services essential to the defense and economic security of the United States, the smooth functioning of governments at all levels, and society as a whole” (p. 53).

The U.S. infrastructure, therefore, is composed of key technological systems and facilities that enable its society to function (McQuade, 2006). A nation’s infrastructure is composed of critical infrastructures (CIs) and critical information infrastructures (CIIs). According to McQuade (2006), CIs are defined as the “combination of systems and facilities which are so vital that their incapacitation or destruction would have a debilitating impact on the nation’s defense or economic security” (p. 51). A nation’s CI also includes “material assets whose symbolic content or inherent meaning is deemed important to national cohesion and welfare” (Yar, 2006, p. 52). CIIs are “subcomponents of CI that are also required for a nation’s survival, but these consist of interdependent electrical energy, communications, and computing systems” (p. 53).

Regulation of Cyberspace

The United States is also committed to protecting the homeland by utilizing the full force of Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, commonly known as the USA PATRIOT Act. Enacted into law on October 26, 2001, the USA PATRIOT Act is also strengthened by provisions under the Computer Fraud and Abuse Act of 1984, including the provision for life imprisonment of convicted cyber-terrorists (Yar, 2006). Recognizing the importance of securing cyberspace, President George Bush released *The National Strategy to Secure Cyberspace* in February 2003. This 60-page document is part of an overall effort to protect the homeland and complements *The National Strategy for Homeland Security* and *The National Strategy for the Physical Protection of Critical Infrastructure and Key Assets*. According to *The National Strategy to Secure Cyberspace*, “cyberspace is the nervous system of the nation’s infrastructure. It is made up of hundreds of thousands of interconnected computers, servers, routers, switches, and fiber optic cables that make our critical infrastructure work” (p. 1). *The National Strategy to Secure Cyberspace* articulates three strategic objectives and five national priorities. While the strategic objectives

are to (1) prevent cyber-attacks against America's critical infrastructures, (2) reduce national vulnerability to cyber-attacks, and (3) minimize damage and recovery time from cyber-attacks that do occur, the five national priorities include development of (1) a National Cyberspace Security Response System, (2) a National Cyberspace Security Threat and Vulnerability Reduction Program, (3) a National Cyberspace Security Awareness and Training Program, (4) a secure Governmental Cyberspace, and (5) a National Security and International Cyberspace Security Cooperation.

The U.S. is securing its cyberspace¹ by engaging in bilateral as well as multilateral diplomatic relations with other nation-states. Of particular concern to the U.S. is the nature and extent of China's space and cyber activities and their implications for U.S. security. In the U.S.-China Economic and Security Review Commission's 2008 *Annual Report to Congress*, it highlights four significant areas of concern in which China is likely to take advantage of the U.S.'s dependence on cyberspace. First, the costs of cyber operations are low in comparison with traditional espionage or military activities. Second, determining the origin of cyber operations and attributing them to the Chinese government or any other operator is difficult; therefore, the U.S. would be hindered in responding conventionally to such an attack. Third, cyber-attacks can confuse the enemy. Finally, there is an underdeveloped legal framework to guide responses.

The government's effort to regulate cyberspace beyond terrorist threats has been less aggressive. Yang and Hoffstadt (2006) explain that Congress directs federal agencies such as the Federal Trade Commission to investigate and seek civil remedies against perpetrators of cyber crime. Still, federal prosecutors can seek criminal charges for felonies committed under the Computer Fraud and Abuse Act under the commerce clause. The reason more prosecutions do not occur under this Act is due to the requirement that the victim suffered a minimum of US\$5,000 in "losses" in a year. Other options for criminal prosecution include charges under the Electronic Espionage Act for acts involving trade secrets, the Omnibus Crime Control Act for intercepting e-mails or using a keystroke logger to capture data entered on the computer by remote users, and the CAN-SPAM Act for sending more than the allotted number of unsolicited, commercial e-mails.

If the cyber crime does not qualify for prosecution by the federal government, the state government may be left to prosecute for mere theft. Phishing scams qualify whereby the hacker unlawfully takes or exercises control over virtual goods of the victim with the purpose of depriving him of the virtual good. Wallace, Lusthaus, and Kim (2005) describe 40 different federal statutes for which computer-related crimes can be charged, including offenses of pornography (Child Online Protection Act, Child Pornography Protection Act, Communications Decency Act), copyright violations (Copyright Infringement Act), mail and wire fraud, and privacy violations, to name a few. Even though there are numerous causes of action that could be pursued against cyber criminals, it is difficult to calculate the damages caused because (1) it is difficult to define cyber crime, (2) victims are reluctant to report incidents out of fear of losing consumer confidence, and (3) constitutional obstacles for law enforcement to search and seize electronic evidence. The USA PATRIOT Act avoids search and seizure restrictions by having defined a computer trespasser as anyone who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in communications through that computer. As a result, the government is better equipped to intercept

communications and receive notice from electronic communications providers when the provider believes there is a risk of serious physical harm.

In Regards to Discourses About Cyber Terrorism

Again, as Salah poignantly notes, “Threats unseen are threats disbelieved” (Rogers, 2005, p. 12). When Americans think of “acts of terrorism” they usually think of the events of September 11, 2001, when 21 young men of Arab origin hijacked four airplanes and flew two of them into the Twin Towers, one into the Pentagon, and one into a field in Pennsylvania. Hardly does one think of cyber terrorism or cyber-attacks against the state in which its critical infrastructure are attacked via a computer by someone who could be sitting halfway around the world in a *rogue state* or *failed state* and out of reach of the arms of the law. The conception of a cyber-attack or cyber terrorism does not involve the loss of power via attacks on systems that control power grids (Denning, 2001a); disruption of financial transactions, bringing economic systems to a halt (Denning, 2001a; Gordon & Ford, 2003); crippling transport systems such as air and rail by corrupting or crashing the computers used to control them (Verton, 2003); or the theft of top-secret information relating to defense and national security by hacking government computers (Yar, 2006). Perhaps another reason why citizens seem unconcerned about the potential consequences of a cyber terrorist attack has to do with practitioners and scholars who argue that “cyber-terrorism is likely to be at least a few years into the future” (Denning, 2001a, p. 75) and “terrorist groups are using the Internet, but they still prefer bombs to bytes as a means of inciting terror” (Conway, 2002, p. 442).

In conclusion, cyber terrorism is a reality of the 21st century and, for better or worse, it cannot be ignored. Cyberspace, according to Denning (2001b), is now much more than a place for electronic commerce or communication. It has become a digital battleground for hacker warriors and the new battleground for the war on terror in the years to come. It could become the next “digital Pearl Harbour” (“Marching Off to Cyberwar,” 2008, p. 1).

Endnote

¹ The term *cyberspace* was coined by William Gibson (1982) in his story, “Burning Chrome,” and then popularized in his 1984 novel *Neuromancer*. It became a popular descriptor of the mentally constructed virtual environment within which networked computer activity takes place (Wall, 2008, p. 10).

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The Weakest Link: The Dire Consequences of a Weak Link in the Informant Handling and Covert Operations Chain-of-Command¹

Michael Levine, Police Training and Trial Consultant

“Trust but verify.”

—Russian proverb and motto of the KGB

Law enforcement agencies call them CIs (Cooperating Individuals, Confidential Informants, and/or Criminal Informants). Cops who use them call them stoolpigeons, stools, rats, *chotas*, etc. Intelligence agencies (Central Intelligence Agency [CIA], Defense Intelligence Agency [DIA], etc.) call them “assets” or the more confusing “agents.” Whatever they are called, 99.9999% of them have one thing in common: they are traitorous information whores who betray friendships, relatives, business and/or criminal associates, nations, and even terrorist organizations. They are criminals and conmen who use their insider positions of trust to steal and barter information that can and often does destroy those who most trust them.

A good police instructor with *real* first-hand experience will always tell you “Never trust an informant.” A prosecutor who wants to win his case at all costs will always tell a jury “Trust this informant.” If you’re assigned to a narcotics and/or an anti-terror unit, both of which overlap mightily these days, and you believe the prosecutor, do yourself a favor and grab a transfer to the Traffic Division. You’re a danger to yourself and to your community.

I’m not going to talk about the alleged 1% of informants who risk their lives in this very dirty and dangerous game and who training manuals refer to as “good citizens” or people motivated to inform on other people as a result of “ideological motivation” mainly because in my now 44 years of training and experience encompassing the close association with more than 10,000 CIs,² I’ve yet to meet one I would trust enough to give my home phone, except when I was stationed overseas and had no choice.

Yet, every one of the thousands of covert operations in which I have been directly or indirectly involved during my long career has depended upon the manipulation and use of CIs. Thus, as a police instructor and/or Department of Justice supervisory reviewer—as opposed to most, if not all, training that I am aware of—it made no sense to me to separate the use and/or misuse of a CI from the training of law enforcement personnel in undercover tactics. It was for this reason that, when I was asked to devise a course for the New York State Department of Justice Services, the course was entitled Undercover Operations and Informant Handling.³

Failure Analysis

In this paper, I will present real and documented cases of tragic operational failures that resulted entirely from the use and/or failed use of Criminal Informants in covert operations. All the cases presented, with the exception of the first and second attacks on the World Trade Center, the CIA's little known "Thousand Informant Disaster," and the informant child rapist case, come from my own personal involvement as either case agent, supervisory officer, reviewing official, or trial consultant and expert witness. What follows, in essence, will be a failure analysis of each case—as viewed through the lens of my training and experience particularly as an Office of Professional Conduct (OPR) operational inspector—in affixing management responsibility for these operational disasters. I will then summarize this paper with what I believe can be done to best improve our defenses in these areas.

Donald Carlson v. Agents and Officers of the DEA, U.S. Customs, and the San Diego Police Department

Donald Carlson was butt-dragging weary. His job as a top executive with Anacomp, a Fortune 500 company, had kept him working late, and after a very late dinner, he just wanted to get home and get to bed. As he drove through his quiet, upscale neighborhood in Poway, California, he couldn't possibly have noticed the dozen or so cars and vans, strange to this neighborhood, parked on the dark streets approaching his home, most with their engines running.

Not in Donald Carlson's wildest of two-martini dreams could he have imagined that at the very moment he was using his remote to open one of the doors to his three-car garage, nervous voices were barking radio commands calling him "subject" and, "target" and that he was one of several targets of a three-month state, federal, and international narcotics trafficking investigation.

Not even if he were stoned on LSD would Donald Carlson have believed that at the very moment he was making a beeline toward his bedroom, a dozen heavily armed men, a newly formed SWAT team of San Diego police and federal agents, were racing across his meticulously manicured front lawn in combat crouch positions, cradling submachine guns and shotguns, expecting to be met by four Colombian hit men who had sworn never to be taken alive, guarding 500 kilos of cocaine.

Unfortunately for Mr. Carlson, he had a pistol license. So when he heard his door being battered down followed by what he thought was a grenade exploding in his living room, he grabbed his pistol and moved to the hallway, shouting for the intruders to identify themselves. Talk about bringing a knife to a gunfight. Donald Carlson might just as well have been armed with a Swiss Army knife for what was about to happen.

When the raiders clad from head to foot in black combat suits and flak vests with black balaclavas concealing their faces charged through the door, Carlson, his hand trembling a nine on the Richter Scale, fired two times, missing everything moving. A Drug Enforcement Agency (DEA) agent, just back from what is basically a jungle combat tour in South America, then executed a Ramboesque, diving, combat roll firing a dozen shots from an H&K submachine gun, turning the living room into sawdust, but missing Mr. Carlson.

The wily albeit hysterical corporate executive then retreated to his bedroom, threw the gun away, and dialed 911. He was still holding the phone when he was hit twice by gunfire, handcuffed, arrested, and transported to the hospital where he lay close to death in the intensive care unit, handcuffed to his bed. His most vivid memory of the hospital is some officer's voice telling the doctors and nurses attending him that he was a "drug dealer."

Of course, the raiders found no Colombians, no drugs, not even an unlicensed dog to shoot. The Fortune 500 executive, they were about to learn, was a Dudley Do-Right who wouldn't know cocaine from garden mulch.

The Customs supervisory officer commanding the troops, himself undaunted by not finding drugs or Colombians, still had two more search warrants to serve, all of which were based almost entirely on the semiliterate words of a CI who couldn't even speak Spanish. The next house they hit they found vacant, nothing to shoot, not even a stick of furniture to seize.

In the third house, they found a San Diego City Marshal and her husband fast asleep. The Marshal luckily didn't go for her gun. Once again, contrary to what Ron Edmonds—the man the Customs supervisor had described as a "reliable informant" in court papers—had said, the raiders found not an iota of drugs, not even a package of Bambu rolling papers.

Mr. Carlson, who miraculously survived his wounds, sued the government as well as each officer as individuals, and that's where I came in.

Analyzing a Disaster

When the lawyers representing Mr. Carlson contacted me, they were looking for a use of force expert, which happens to be one of my areas of expertise. I don't accept cases against police agencies easily, but when I heard some of the details, my jaw literally dropped and I was on board. The lawyer was surprised when I told him that what he really needed in addition to a use of force expert was an informant handling and undercover tactics expert.

As Mr. Carlson's expert and trial consultant, I was furnished with thousands of pages of reports, transcripts, photos, training records, and sworn deposition statements of every officer involved to read, study, and absorb. My job was to arrive at an expert opinion about which I would testify under oath as to how in the world a semiliterate, street-level CI and petty conman could have possibly fooled teams of supposedly well-trained cops and prosecutors for a three-month period of time into believing in the existence of an international conspiracy that did not exist when the Pacific Bell phone company didn't even trust the man enough to give him a telephone.⁵

The Way It Went Down

"I met this guy Carlos in the park," said Ron Edmonds. "The guy be watchin' me doin' one arm pushups. He say he from the Medellin Cartel and wanna hire me for security to cover a big load of coke comin' in from Colombia. Five hundred kilos." This was the story he told a San Diego DEA group supervisor.

Edmonds, the group supervisor learned, was a street-level informant described as “previously reliable” by the Hillsboro County Sheriff’s Department in Florida.

A short time after listening to Edmonds, the group supervisor, an experienced rat handler, called him a liar and booted him out of the office.

But Edmonds, undaunted and wise to the world of informant competition between all law enforcement agencies, told the same story to a Customs supervisory officer who had recently been placed in charge of a multi-agency task force combining the San Diego Police, the DEA, and other agencies. Let’s call him Weak Link #1 (WL#1).

WL#1 might have been a good administrator, and a courageous leader of men in battle. He might have even had a law degree and taken every course in informant handling available. Whatever his qualifications were on paper, he lacked the most important quality necessary to handle a CI. He was simply not streetwise.

WL#1 believed Edmonds’ claims and assigned the investigation to a Customs Agent/Pilot— WL#2—a man who was equally clueless in the informant handling department. A debriefing report of Edmonds was prepared in which the career stoolpigeon’s incredible story was repeated. This was submitted to an upper-level management figure, WL#3, who read the thing and signed off on it, authorizing operational funding.

The end result of all this listening, writing, and signing was that for the next three months, Ron Edmonds, supervised by WL#1, would be paid a five-figure salary plus expenses for his services. In return for this taxpayer-funded bounty, he would furnish his handlers with a steady flow of tantalizing information implicating dozens of innocent people as members of a cult-like group of fanatical, multi-cultural drug dealers, conspiring to import a massive load of cocaine from the Medellin Cartel at any moment.

Edmonds described the group as being comprised of people who spoke in mysterious codes and held clandestine meetings that he would find out about hours or even minutes *after* they had happened. The “conspirators” had Edmonds’ contact information and would call him regularly to make certain he was ready to perform security duties the moment the massive load arrived, but he had no way of contacting them.

Finally, as the months dragged on and not a single body was put in a cage, nor a gram of drugs seized, WL#1, under pressure from WL#3 for spending all those government greenbacks without results, and hearing rumors that the men and women under his command were laughing at him, amped up the pressure on Edmonds—if he didn’t come up with some proof of his months of allegations, he would be blackballed from ever working as a stoolpigeon again, and maybe even prosecuted.

“No problem” said Edmonds, like most CIs, a man with the equivalent of a PhD in Street Survival. If the feds would give him a tape-recorder, he’d try to record a conversation between himself and a female San Diego City Marshal, who, along with her husband, he had identified as part of the conspiracy. Within days, he was back with the recording. When the Weak Links heard it, they brought it to a secret meeting with one of the Marshal’s bosses, who said that it “sounded” like

her. That was all the combined Weak Links needed to hear. Now their flagging confidence in Edmonds was restored again to new heights.

It would later be learned that the recording had been staged between Edmonds and a female who would never be identified and that Edmonds' "information" about the identities and descriptions of the Marshal and her husband had come from a casual association at a local health club. It would also be learned that the other "suspects" who had been named by Edmonds during his three months of "undercover" work were names taken from old news articles, phone books, and overheard conversations. License plates were picked at random on the street. Some of the names were of people with whom he'd had casual conversations. All were implicated as "drug traffickers" in government databanks on nothing more than Edmonds' uncorroborated words which were repeated in voluminous government reports as "fact."

The specific tactics Edmonds used to turn BS into taxpayer dollars were typical of those that a minimally satisfactory training course should have provided countermeasures against. They are listed as follows:

- Streetwise CI skillfully dangles "the big case" before the noses of decidedly un-streetwise handlers and a supervisor. A typical CI seduction pattern.
- Streetwise informant threatens to "shop" the case—that is, *If you don't believe me, I'll go to the FBI, and they'll get all the credit.*
- Streetwise informant picks out the least streetwise officer he meets and tells the unit leader he'd be the "perfect" handler for the case.
- Cons his handlers to believing that he couldn't wear a wire to record his alleged criminal conversations without "burning" the case. They accept this with no standard corroborative checks.
- Cons his handlers into believing that close surveillance of his activities would "burn" the targets of the investigation.
- Cons his handlers into believing that violators will not speak on the telephone and/or that they have refused to give Edmonds any contact information.
- Edmonds supplies license plates and descriptions of alleged criminal contacts that could easily have been obtained in public records and/or news reports. No standard corroborative checks are performed.
- Edmonds is given a tape-recorder to record his own conversations, with no law enforcement controls or corroborative checks.

When another month passes and Edmonds is still unable to bring the squad of feds any closer to the "big load" he had promised, WL#1 amps up the pressure again. This time he manages to frighten Edmonds into an act of LID (Lying Informant Desperation) that is hard for the unschooled to even conceive of, but "old news" for those of us who have truly been around the block. Edmonds suddenly tells WL#1 that he has *just* learned from one of his mysterious but not fully identified contacts that the 500 kilos of cocaine had *already* arrived and was now hidden in the garage of a home in Poway, California. He'd been given the address but nothing else. He also throws in another address as a possible "stash house." This would be the vacant house.

Prosecutors, many of whom, in my experience, are completely untrained in the tactics of CI handling and covert ops, then accepted a sworn affidavit of WL#1, describing Edmonds as a "previously reliable informant" and issued three search warrants, and two arrest warrants for the Marshal and her husband.

The rest is now civil court history.

Mr. Carlson and his lawyers agreed to accept \$2 million to go away. My own detailed review of the case as the expert retained by Mr. Carlson and his lawyers indicated that none of the Weak Link management officials charged with the oversight of Edmonds had sufficient technical and/or tactical knowledge and/or the aptitude to be assigned to their positions. In the aftermath of this case, no changes were made in training standards or requirements, and WL#1 was promoted in rank to a mid-level management position where he could oversee the handling of dozens of CIs.

No One Bucks a Chain of Command

My review of the case resulted in another extremely important finding that holds true in every informant or undercover disaster case that I have ever reviewed, from those run by small local police departments to those run by the FBI and CIA, that will be covered in the continuation of this article—that no matter how stupid, dangerous, inept, or downright insane the order given by a superior officer, *no* law enforcement officer, military man, or spy will buck that chain of command.

For example, the DEA agents who were assigned to work under the command of WL#1, including the carrying out of a military style assault on an American home, did so in spite of the fact that a DEA supervisor was on record as calling Edmonds an obvious liar. No one would buck the chain of command. One of the San Diego police officers assigned, when interviewed by Internal Affairs, said that the people handling the CI should not be allowed to have badges and guns, yet they were functioning as his superior officers and when they issued orders that he knew from his own experience were both wrong and dangerous, he followed them anyway.

In my Informant Handling & Undercover Tactics classes, I usually wait until there is a certain amount of trust built between myself and the state and federal law enforcement officers sent to attend. Then my question is, “By a show of hands, how many of you with some experience handling informants and/or undercover work have *never* had a superior officer order you to do something that you thought might put lives at risk?”

I have yet to see a hand raised.

This is a serious and even deadly problem in every agency involved in the use of human intelligence as the continuation of this article will point out; however, it is made even more serious by the fact that in most cases of informant and/or undercover disaster, no matter how ill-advised the orders, if they are issued by a weak link in the upper levels of the chain of command, they are followed without question.

Michael Robinson, CI—Pedophile and Child Rapist⁶

Michael Robinson, a man with a serious record for the kidnapping and rape of small boys (three convictions), was removed from incarceration to act as a CI for an Albuquerque, New Mexico, federal task force. Robinson was used to work undercover in the penetration of what was alleged to be a murderous gang of drug traffickers. In fact, on one court record, Robinson admitted to having committed as many as 200 child rapes. Robert Schwartz, former chief of the Albuquerque

District Attorney's Office, said that all the prosecutors in his office knew Robinson as "the most dangerous pedophile we had ever seen."⁷

While working undercover under the "control" of task force agents, supervisors, and federal prosecutors, Robinson kidnapped and raped young boys at knifepoint. During a news report of the incident, Robinson claimed to have told his handlers that he was feeling the compulsion to commit a rape and was told to just "hold out" until the arrests were made in the case.⁸

As the undercover use of the federal CI continued, more reports of child rape were fielded by local police. Albuquerque detectives, unaware that a child rapist was working under the protection of a federal task force, posted artist drawings and descriptions of the rapist and his car in newspapers and on television. Two of his federal handlers would later state that they suspected it was Robinson but no action was taken. Jeanne Webb, one of the detectives trying to find the, at that point, unidentified rapists would later claim that her investigation was thwarted by the task force and the federal prosecutor's office who were protecting their CI and that, as a result, more children were raped.⁹

In a televised interview, the federal prosecutor charged with authorizing the removal of Robinson from prison—thereby putting himself as a top link in the chain of command—stated that he felt that federal agents passing by Robinson's place of employment to see that he was in fact there was "more than sufficient" control of the CI.¹⁰

In my opinion, for the good of the community, anyone currently assigned to duties involving the handling of Criminal Informants who believes that should be immediately reassigned to other duties.

It was then revealed that Robinson's handlers did in fact notify the Sheriff's Department three days *after* the child rapes were published in the media that Robinson might be the attacker. However, the handlers, acting under the authority of their supervisors and prosecutors, told the sheriff's investigators that taking Robinson off the streets would jeopardize their case. Thus, a plan was concocted for the feds and the Sheriff's Department to conduct their own investigation into the child rapes, leaving Robinson on the street to finish his assignment.

There were two problems with this plan. The first was that *no one* was assigned to follow Robinson to stop him from future child rapes. The second was that *none* of the Albuquerque detectives actually working the investigation were ever notified that Robinson was a suspect.¹¹

Days after the secret investigation of Robinson had been initiated by the feds and the Sheriff's Department, Albuquerque detectives found the CI on their own and arrested him. On his way to being booked, Robinson told the detectives that in three days time he was to enter the Witness Protection Program and be whisked away to an unknown location under a new identity. This, of course, was denied by the federal prosecutor, who told a 20/20 interviewer that, even if he could go back and do it all over again, he would still use Michael Robinson as a CI.¹²

The end of the story, which delivers the message to all law enforcement that you *never buck the chain of command*, is that the detective who moved in and arrested Robinson was suspended for acting without “the proper authorization.”¹³

CIA Informant Disaster—Operation Agent Scrub

No one knows how many weak links there are in the CIA when it comes to the handling of informants, who they call “agents,” but if the following event is any indication, one of the best-kept secrets in that top-secret agency may be their massive ineptitude in the handling of their informant agents.

In 1997, the then director of the CIA, John Deutch, under the code name Operation Agent Scrub, reviewed the performance records of all the CIA’s informant agents and found that 1,000 of them—nearly a third of all their informant agents—were nonproductive liars, many of whom used their CIA cover to commit crimes with impunity.¹⁴ The fact that they even designate their criminal informants as agents, by the way, in my opinion as a police instructor and court-qualified expert, adds to the problem by placing common stoolpigeons on an equal psychological footing with their handlers and at the same time giving the CIs a sense of being above the law.

The Venezuelan National Guard Case—Only One of One Thousand

A glaring example of CIA ineptitude in informant handling, and the price paid by the unsuspecting public, began when a Venezuelan National Guard plane landed at Miami National Airport. When Customs agents found a ton of cocaine on board, General Guillen, the commander of the operation, announced that he was working for the CIA. The Customs officers who were not impressed (possibly because they had never read a Tom Clancy novel) said, “Yeah, uh-huh,” and placed the general and his crew under arrest, charging them with enough drug smuggling crimes to bury them in a federal prison.

This of course was not to be. The CIA, acknowledging that General Guillen was in fact their agent, would act to get the general and his crew released from jail and back to Venezuela from where they would never be brought to the U.S. to stand trial.¹⁵

A secret DEA investigation then ensued, revealing that the drug-smuggling general had been recruited by the CIA’s Venezuela station. The investigation spurred the outraged head of the DEA, Federal Judge Robert Bonner, to appear on *60 Minutes* and accuse the CIA of being drug traffickers.¹⁶ Judge Bonner’s assertion was consistent with events in my own career with the DEA wherein I documented CIA agents as being among the most damaging drug traffickers on earth.¹⁷

One cannot even begin to calculate the damage that 1,000 lying, crime-committing, out-of-control informants have done to the CIA’s effectiveness and reputation, and, more importantly, to the American people. A ton of cocaine is only scratching the surface of the activities of only a single, mishandled CIA agent who happened to be a general in the Venezuelan National Guard. My own interview of DEA agents with firsthand knowledge of the investigation indicated that many tons of cocaine had already been smuggled into the U.S. before the Guillen drug smuggling was stopped by the alert Miami Customs officers.

No Effort to Identify CIA's Weak Links

When CIA Director Deutch “fired” the 1,000 agents, it was only half the job that should have been done if our nation is to get the best protection from its defenders. In my experience as an Internal Affairs investigator and/or OPR operational inspector for the Department of Justice, had a single DEA informant gotten away with providing false information and/or committing crimes for any length of time, a criminal investigation and/or fitness for duty review would have been conducted targeting the CI's handler in order to determine how in the world this situation could have come to exist. This type of remedial action is vital for the internal “health” of the agency, the credibility of all law enforcement and intelligence gathering agencies, and the safety and security of the American people we've sworn to protect. All claims that espionage or counterterrorism is ruled by a different god are no longer valid. Drug traffickers and terrorist cells, as the DEA had learned decades ago, function in an identical manner as do the methods of attacking each with the effective use of CIs and undercover tactics.

Yet, no remedial action of any kind has ever happened in the CIA as to the aptitude, ability, and training of every link in their chain of command in the handling of informants which, in my opinion as a trained OPR operational inspector, goes a long way in explaining the horrific human intelligence failures that are the hallmark of that agency's history, including those directly related to 9-11.¹⁸

U.S. v. Roberto Suarez et al.¹⁹

“I'm going to give DEA the biggest most important case in its history,” she said, speaking Spanish with a lazy Bolivian accent. “They, *La Mafia Cruzeña* [The Santa Cruz Mafia], control most of the cocaine in the world, and one man controls the whole organization: Roberto Suarez.”

She said her name was Lucy. She had dark glasses covering bulging frogeyes, the body of an aging roller derby queen, and the face of an Incan war mask. We were in my office at the American Embassy in Buenos Aires at the beginning of my second week in the position of Country Attaché to Argentina and Uruguay in January of 1979. She was my first walk-in CI, and this is precisely what she told me.

Eight years later, when the debacle I am about to summarize was over and the damage done to our war on drugs irreparable, Felix Milian Rodriguez, Medellin Cartel money launderer, convicted of laundering \$1 billion in drug money, would tell a Senate Subcommittee investigating narcotics trafficking and terrorism that Roberto Suarez was the most powerful drug dealer on the face of the earth.²⁰ What neither he nor the senators knew was that an undercover team of DEA agents had netted him, and that inept decisions by a single weak link in the DEA's chain of command—the Empty Suit— had allowed him to escape and to set up what would become “The General Motors of Cocaine.”²¹

How It Went Down

The CI was immediately and thoroughly debriefed as to *all* the information she possessed that would be of any value whatsoever to any agency or department of the U.S. government. The information she supplied had to be carefully reviewed and

corroborated for authenticity, and there were some shortcuts to do this. For example, to corroborate some of her claims, the CI was immediately asked to place a monitored phone call to some of the major targets to whom she claimed she had access.

My review of hundreds of files during my last 19 years as a trial consultant, covering informant handling practices of dozens of state and federal law enforcement agencies, indicates that these simple tactics of informant corroboration are rarely if ever done any longer. I cannot, for example, believe that most of the CIA's 1,000 lying informants who had caused the destruction of innocent lives and gobbled up only God knows how many billions of U.S. taxpayer dollars could have passed such a test nor could have Ron Edmonds, the CI in the Carlson case.

The choreographed phone calls were successfully recorded. It was immediately evident that CI Lucy was telling the truth. At least she knew them, and they were amenable to her bringing them a new U.S. "customer" who wanted to buy "lots of shirts." Thus, the investigation had already begun with physical evidence corroborating her story. If this had failed, the Suarez investigation might not have gone any further. There's a lot of crime out there and not enough money and/or time to waste on a BSing informant.

Then began the critical detailed debriefing of Lucy which was accomplished by both me and an extremely streetwise agent, Max Pooley.

Introduction of an Undercover Agent

Lucy was then asked to make additional controlled and recorded phone calls, this time to key figures in the Santa Cruz Mafia who she had mentioned during her debriefing. She was instructed to ask them to meet with a new "customer" arriving in from the U.S. Her willingness to do this would be a key additional factor in determining the veracity of her information and its potential.

Experienced and well-trained handlers of CIs use this tactic whenever possible to verify information—an art form in itself that requires much experience as both an undercover officer and informant handler. It is also an effective tactic in protecting the informant who, once the undercover agent is introduced to the targets, may never need to testify. It is significant to note that this tactic was never employed in either the Carlson or The Brotherhood cases (see details of The Brotherhood case below).

Lucy made calls to key members of the Santa Cruz Mafia, including Marcello Ibañez, the ex Bolivian Minister of Agriculture, and *El Comandante* himself, Roberto Suarez. The calls continued to corroborate everything the CI had claimed. The CI, as instructed, arranged an undercover meeting between an undercover agent (myself) and a key member of the cocaine cartel for the following week in Buenos Aires. She, as promised, would make the introduction personally.

Undercover Meeting with Target in Buenos Aires

Since by this time in my career I had already logged well over a thousand hours of undercover work, my Spanish was fluent and I was knowledgeable in the esoteric

minutiae of the cocaine manufacturing and distribution business—critical for the assignment, I assumed the principle undercover role.

After long rehearsals of a fictitious history between us, Lucy introduced me to Marcelo Ibañez as an American Mafia capo. During a full week of undercover meetings with Ibañez in Buenos Aires, additional intelligence about the burgeoning power of this organization was gleaned, and a tentative deal for the purchase and delivery of 1,000 pounds of cocaine was made.²² This was to be followed by from 1,000 to 4,000 kilos (4.4 tons) of cocaine a month for the foreseeable future, the minimum acceptable amount required by this organization to do business.

Enter the Bureaucrat

As Chief of the DEA station, I then cabled DEA headquarters with a fully detailed report of the investigation, requesting approval of a suggested operational plan that included the formation of a fictitious Mafia family in Miami along with a bogus cocaine laboratory and an undercover aircraft to pick up the cocaine in Bolivia in order to convince the Suarez Organization to go through with the transaction. The long-range purpose stated in the cable was to buy the drugs and complete the transaction, thus enabling a team of DEA undercover agents to enter the inner sanctum of this organization as highly valued customers and co-conspirators in order to fully identify its hierarchy and operational functions, and then carefully choreograph its destruction from the inside.

I had just convinced the most powerful drug dealers in the Western Hemisphere, that I was a drug dealer with the resources to buy tons of cocaine per month. They were only waiting on my word to start the transaction rolling. It would begin with them coming to the U.S. to inspect my operation. Any delay in my putting my end together would be looked on suspiciously. But as I was about to learn, the officer in charge of calling the shots, the same bureaucrat who later would be in charge of The Brotherhood investigation (see below), had no understanding of undercover work, informant handling, or the inner workings of the drug business. I was in trouble.

It is important to note the term *Bureaucrat* is used in a factual and not a disrespectful manner. The fact is that the use of essentially unqualified people in covert operations, particularly in key supervisory and decisionmaking positions, has and continues to wreak havoc in all U.S. agencies involved in covert activities as will be seen in the continuation of this study.

After a long delay that in itself created distrust by the traffickers in my ability to put together my end of the deal, I received a reply from the Bureaucrat in which he refused permission to continue the covert operation on the basis of there being no record of the Suarez Organization in the data system. The Bureaucrat simply did not have the aptitude and/or hands-on experience as an undercover officer or informant handler to appreciate that traffickers are not bureaucrats and only perceive inexplicable delays as suspicious. Not acting like the “real thing” can be deadly, and the man calling the shots, a top-level link in my chain of command, had no idea how the real thing thought or acted. The Bureaucrat was also applying bean-counter logic to a developing covert operation—that is, if it’s not in the

computer, it doesn't exist. It's a good thing Queen Isabella didn't consult with a databank when Columbus came to her for funding.

In spite of the Bureaucrat's refusal to approve the undercover operation, I did what I would never do again: bucked the chain of command by ignoring orders. I continued to use the CI in making undercover contact with the Suarez organization in South America, keeping them apprised of bogus "problems" the American Mafia was having that were delaying the transaction. In the meantime, I made a direct request to the DEA's Bolivia Country Office to conduct as much of a collateral investigation as they could to corroborate the CI's information. Within weeks, the intelligence picture presented by the Bolivia DEA office was undeniable. The criminal organization headed by Suarez was already in *de facto* control of the police and military and was threatening to overpower the elected government.

After another delay of two weeks, the Bureaucrat finally cabled us with headquarters approval for the operation. The DEA office in Bolivia then skillfully obtained covert support and secret official approval for the operation to enter Bolivia from trusted members of the sitting government, who logically were in great fear of the Suarez organization. We were finally on track. It was May 1980, and we had been stalling the cartel for three months waiting for the Bureaucrat's approval.

As the lead undercover agent, I used the now frightened and demoralized CI to tell Suarez that my "organization" was finally ready to do business. As I feared, they didn't buy the story. All the trust we had garnered during the undercover meeting was now out the window. In the ensuing tape-recorded conversations between myself and the now suspicious Marcelo Ibañez and Roberto Suarez, they demanded that—before doing business with my Mafia family—they come to the U.S. to inspect our fictitious operation. As a security measure, they wanted to verify that we did in fact have \$8 million in cash (the agreed-upon price) ready for payment and to see firsthand that I was who I said I was.

After yet another delay of two weeks, the Bureaucrat finally approved the following operational plan:

- An undercover "mansion" would be rented as my home and headquarters in Fort Lauderdale, Florida, where both Ibañez and Suarez would stay while they were with us.
- A team of Spanish and/or Italian-speaking undercover agents would be gathered to play the role of my Mafia family. They would be equipped with a fleet of luxury cars leased for the occasion.
- Since we were buying a half-ton of cocaine paste, a bogus laboratory would be set up, capable of converting the paste to cocaine hydrochloride.
- Permission was granted to furnish Ibañez and Suarez with prostitutes and cocaine for their personal use if they so desired.
- An undercover plane would be flown in from the DEA air wing by two undercover pilots who would be part of my fictitious organization.
- \$8 million dollars would be brought to a Kendall, Florida, bank vault to first show Ibañez and Suarez, and then, once the cocaine was received, to be used as payment.
- Once Ibañez and Suarez were satisfied with the arrangements and convinced that we were the "real thing," my pilots and my "brother"—the role played by

undercover DEA Agent Richard Fiano—would fly both cocaine barons back to one of the Suarez organization’s jungle laboratories where we would pick up the first 1,000 pounds of cocaine paste. Once I heard from my pilots, via radio, that the cocaine was safely in the air and en route back to the U.S., I would pay the \$8 million in cash to two ranking members of the Santa Cruz Mafia who would contact me in Miami.

- The next step in the plan—after the buy was completed—was to initiate a much larger and more complicated transaction that would provide us with a cover pretext to examine the operations of the then biggest cocaine manufacturing organization on earth—an opportunity under the pretext of business negotiations to fully identify the ruling members of the cartel, and engineer, with the help of the already cooperating Bolivian government, its total destruction. Thanks to a series of inept decisions made by the Bureaucrat, this would never happen.

The Miami Operation—The Bureaucrat Creates More Obstacles

I next flew in from Argentina with the CI, arriving 48 hours before the scheduled arrival of the Bolivians. Saucedo arrived soon after, coming from DC as the coordinator from headquarters. The ultimate decisionmaking power, however, continued to be in the hands of the Bureaucrat.

The Bureaucrat, well-experienced in budgetary, administrative, and political matters but unable to understand customary practices of South American cocaine dealers, had only seen fit to allow for \$2,000 cash expenses for the entire Miami portion of the operation, and this was to include food and provisions for the undercover agents round trip to Bolivia for the drugs.

The CI, upon whose shoulders the entire operation would depend, was now extremely upset by the fact that our “luxury mansion” turned out to be a small suburban house. The Bureaucrat had vetoed the expense for the rental of a large luxury house, stating that the drug traffickers would appreciate that the Fort Lauderdale property values were high.

The rental house had no furniture. At the last minute about a third of our budget was spent renting furniture.

The cargo plane to be used for the undercover trip had been used in Bolivia to ferry corrupt Bolivian police officers around the country and was known as a DEA plane. The Bureaucrat, having had no personal experience in the high-wire world of the undercover operative, had vetoed the expense involved in changing the N number on the plane’s tail (FAA fees) and/or changing the plane’s appearance, concluding that it would be unlikely that any of the police would be at the jungle laboratory at the time of delivery.

The bogus cocaine lab had been put together so much “on the cheap” as per the budget allotted that the undercover team agreed it would be too risky to show it to the targets. We would lie and say that due to police heat it had been temporarily dismantled.

There were only four Spanish-speaking undercover agents in the entire undercover Mafia team. The Bureaucrat had vetoed the expense of flying in Spanish-speaking

agents from other parts of the country for the assignment. As if this wasn't enough, the Spanish-speaking agent who was to play the role of my personal driver was arrested that morning for making obscene phone calls.

Finally, and most important of all, the Bureaucrat had ruled that all subjects within the confines of the United States at the time of the delivery of the drugs and/or payment of the \$8 million would immediately be arrested, and the covert operation would end. No amount of reasoning on the part of the far more experienced field officers would change his mind. Not even the fact that there was no extradition treaty between the U.S. and Bolivia that would cover narcotics violations affected his decision. This, as it would turn out, would make the arrest of Suarez himself impossible if he did not come to the U.S. as scheduled, which is what did happen. The Bureaucrat also ignored current intelligence indicating that if the Suarez organization were left in tact, the sitting Bolivian government that was secretly cooperating with the operation was in grave danger.

And so it was that the Bureaucrat, high ranking in the DEA's chain of command, yet inexperienced, inept, and untrained in matters of covert operations and CI handling, had the last word; and not one of us who knew better had the courage to buck the chain of command.

Results of Operation *U.S. v. Roberto Suarez et al.*

The skills and courage of the undercover team in pulling together a convincing act for Marcelo Ibañez (the paranoid Suarez changed his plans about coming at the last moment), in spite of the obstacles created by the Bureaucrat, were so above and beyond the call of duty that the highest medals for heroism our country bestows were merited but never received. This is particularly true of the pilots and undercover DEA agent Richard Fiano, who agreed to fly into the Bolivian jungle in a plane that any corrupt Bolivian cop on site would have easily recognized as a DEA plane.

The case drew to a close in a Kendall, Florida, bank vault where, with the plane loaded with cocaine winging its way back to the U.S., I paid \$8 million in cash to two Bolivian cartel leaders, Alfredo Gutierrez, an aircraft broker, and Jose Roberto Gasser, scion of the richest and most powerful family in Bolivia. Both were arrested with the money in their hands leaving the bank.²³

The case received much media attention around the world, and was called the "greatest undercover sting operation in history" by *Penthouse Magazine*.²⁴

Unnoticed by media, the Suarez organization would move swiftly to eliminate the Bolivian government that had aided the DEA in causing Suarez a little bit of embarrassment and the loss of \$8 million in merchandise. On July 17, 1980, a Suarez-backed revolution began, which would soon be dubbed "The Cocaine Coup." Its result was the military ousting of the Bolivian government that had aided the DEA in the sting operation. Members of that government would be repaid for aiding the U.S. with rape, murder, and exile. The "General Motors of Cocaine" would centralize its powers and control in the world cocaine market, and, during the next decade, would grow the United States, its primary customer (via Colombian labs), into a \$180 billion

a year habit. In the opinion of those of us who were there, if it weren't for one major weak link in the chain of command, the Bureaucrat, it did not have to be this way.

The Brotherhood Investigation

As opposed to the mainstream media's belief when quoting "experts," cops and agents know that just because you have the job does not mean you know what you are doing.

The use of officers with established knowledge in the "business" at hand and proven expertise in the tactics of informant handling is critical in the debriefing and control of *all* CIs relative to any crime, not to mention those with information affecting national security. Just because a law enforcement or intelligence agency manager has the title—and I don't care how many years of service he's got—does not mean he has the expertise or talent necessary to handle a CI as evidenced by the "The Brotherhood,"²⁵ one of many cases from my personal files.

In The Brotherhood investigation, a CI who happened to be a high-ranking police official of a South American nation, approached the Buenos Aires DEA office with detailed information concerning the existence of a multinational criminal and political terror organization with its headquarters in Paraguay. The then DEA agent in charge, a high-ranking officer with decades of experience, accepted the information at face value since it came from another high-ranking police official. The ensuing investigation continued for more than four years and, in fact, at one point or another involved virtually every DEA, CIA, and DIA office in Europe, the United States, and South America; local and state police agencies within the U.S.; and numerous foreign counterpart military and police agencies.

On assuming command of the Buenos Aires DEA station, as well as the CI, who at that point had been on the payroll for four years and had collected well into six figures in "expense" payments. The Bureaucrat, who directed the Suarez operation, ordered me to make this investigation a priority.

I undertook what should have been a standard corroborative investigation. After two months, the evidence clearly indicated that The Brotherhood was a complete but clever fiction concocted by the CI. By that time, the cost of the investigation was many, many millions of U.S. taxpayer dollars, the total destruction of what had been an innocent man's multinational business, and the loss of several innocent lives.

The 9-11 Terrorist Act

An example of a significant lack of sufficient tools in informant handling tactics throughout the chain of command, from the field-level street agents to the ultimate and most ill-equipped decisionmakers at the headquarters levels, is exemplified in the FBI's handling of a potential informant, the professional handling of whom might have rolled up the tragic Bin Laden plot before the hijackers ever reached an airport.

Zacarias Moussaoui, the convicted "20th hijacker" in the worst terrorist act in American history, had actually been arrested by the FBI almost a month *prior* to 9-11 on U.S. Immigrations violations, and he was arrested *with* his laptop computer.

It remains unknown and unexplored by Congress whether or not any FBI agents even attempted to “flip” the student pilot from the Middle East who paid cash for his jumbo jet lessons and was not interested in learning how to land, and basically did everything but wear a T-shirt with orange glow in dark letters, front and back, spelling out I AM A TERRORIST. But it is now well-known that the agents did seize the 20th hijacker’s laptop computer and *never* explored its contents.²⁶

“Flipping” informants—convincing them to do the right thing and cooperate, and searching without a warrant in circumstances that were clearly exigent—is something rookie DEA agents and New York Police Department narks learn to do in their first weeks on the job. Those of us “cursed” with decades of training and experience in these types of rapid-response law enforcement actions are plagued with questions that never seemed to surface in either the media or during the Congressional hearings—questions that an OPR operational inspector trying to rectify a terrible flaw in our defenses would have asked first:

- From the very moment of the arrest of Moussaoui, what attempts were made to flip him, if any?
- If no attempts were made, why weren’t they?
- If attempts were made, what were they specifically, why did they fail, and why weren’t they documented?
- Why did the agents who had seized Moussaoui’s computer not immediately begin to explore its contents under the exigent circumstances rule?
- Who was in charge of this first-reaction team and why did he or she not know better?
- What was there in the training and/or experience and/or selection of all involved that led to them falling so far short of a professionally acceptable response?

What did come to light, which seems to give us at least one answer, is the fact that the responding agents who did seize Moussaoui’s laptop, instead of just diving into it to find—as they would have—evidence of the whole unfolding plot in time to stop it cold, asked *permission* to do so at the FBI headquarters level and were *refused!*

FBI agent Coleen Rowley, voted *Time Magazine* woman of the year, would later state that the inside joke in the FBI about those policymakers high in the chain of command who were running the war on terror was that they were called “moles for Bin Laden.” This again highlights the problem that, in spite of agents in the field knowing that those leading them were so inept at what they were doing that they were placing lives in jeopardy, it became an inside joke rather than action that would have required jumping the chain of command.

World Trade Center Bombing – 1993

An inept key link in the chain of command may take it on himself to disregard and/or disbelieve an invaluable CI’s information—as happened in the Suarez case—and, without appropriate corroborative checks, abort and/or undermine covert actions that may even be vital to national security. This is precisely what happened during a covert FBI investigation that led directly to the first World Trade Center bombing in 1993 and might have gone a long way toward preventing 9-11 if it were not for orders issued by a weak link FBI bureaucrat who I will designate as FBIWL.

In this case, a female FBI agent had recruited an ex Egyptian police officer, Emad Salem, as her CI. Salem was to infiltrate a terrorist group in New York City headed by the now infamous “Blind Sheik,” Sheikh Omar Abdel-Rahman. Under the skillful guidance of the agent, the CI infiltrated the group then planning to plant a bomb under the World Trade Center. The CI in fact was taking part in the actual building of the bomb, soon to be completed by terrorist Ramsey Yousef, a man who would later be linked to the planning of 9-11.²⁷

The FBIWL did not trust the CI’s claims nor did he apparently trust the abilities of the handler, the female FBI agent. Without bothering to attempt any of the basic CI corroborative tactics taught, for example, in the DEA schools, he assigned another agent to contact the CI to inform him that he was no longer going to receive the \$500 a week salary he’d been receiving and for the CI “not to tell his handler.”²⁸

The FBI agent himself was apparently so inexperienced and/or untrained in the handling of CIs that he violated one of the primary rules of Informant Handling 101: Never discuss anything on a telephone with a CI that you don’t want played back to you in court. In this case, Salem tape-recorded the conversation that would become evidence in the trial of the World Trade Center bombers. Incredibly, the recording remains virtually untouched by mainstream media, who, when it involves covert operations and informant handling, are themselves weak links.

In the recording, Salem is heard telling the FBI agent the consequences of his removal as a paid informant: “The bomb, it is already being built . . . and it will explode, and [the FBI] will not know when, or who did it.”²⁹ FBIWL ordered him off the payroll. He would later claim that Salem was “not producing enough.”³⁰ Apparently, that was not the case, because the bomb did explode precisely as Salem had predicted. The FBI then had to re-recruit Salem and pay him \$1.5 million to help “solve” the bombing case.

The important factor to be noted in this case, that applies throughout the study of informant handling and covert ops disasters, is the reluctance to buck the chain of command by personnel who know and realize that their superior officer’s decision is an ill-conceived one, again, even when national security is involved. The following is an excerpt from the actual conversation between Emad Salem and one of his FBI handlers:

Agent: *“He [the supervisor] doesn’t understand these things.”*

Salem: *“He is the boss. He have to understand these things. We are all running our heads around this boss.”³¹*

Words that ought to be engraved on the cornerstone of the new World Trade Center.

Operation Trifecta and The Mega Suit³²

“Customs is in way over their heads on this one,” were the words of a mid-level officer at DEA headquarters in DC. He’d just called me at the New York DEA office where I was assigned as a Group Supervisor. “They got some stool out of jail in Oklahoma, says he set up a delivery of a ton of coke off the Baja coast. Bolivian

dopers using the Mexican Navy. The CI told them he's got a Mafia customer for the dope. That's you. All you gotta do is one meet. Convince them you're Mr. Big, and they make the delivery."

"There's a problem with the whole story," I said. "Bolivia's a landlocked country. Bolivian dopers don't deliver in boats."

"Yeah, well, apparently nobody in Customs knows that. That's why we want you to kind of take control of the case, without hurting their feelings."

Twenty-four hours later I was on a plane heading for California on the way to what many experts believe would have been the greatest victory in drug war history if it weren't for one weak link in the DEA chain of command.

The Setup

On the way out to the undercover house in La Jolla, my DEA agent driver brought me up to date. The Customs CI, David Wheeler, was pounding rocks in an Oklahoma jail, when the news hit that Congress had censured the Commissioner of Customs, Dwight Van Raab, for calling Mexico a "*bandido* government," and telling him to put up or shut up. Wheeler contacted Customs Enforcement and told them, "Get me out of jail, and I can help you prove that Mexico was in the business of drug trafficking." Customs bought the story, and Wheeler too.

By the time we arrived at the undercover house, I learned that the CI had already engineered himself a dismissal of drug sale charges carrying a twenty-to-life sentence. He'd gotten his handlers to provide him with a salary and expense account comparable to any corporate executive's, expensive jewelry and clothing commensurate with his "role," and the promise of a hefty reward at the end of the case.

I was ushered into an expansive living room with a wall of glass overlooking the Pacific Ocean. The entire place was wired for sound and video, with a hidden control room manned 24/7 by technicians. The rental alone, I learned, cost more than the entire budget for the Suarez operation. It was now just 24 hours before the scheduled arrival of the Bolivians and Mexicans. The undercover team, including a Customs mid-level chief and a group supervisor, were milling around waiting to have our first planning session and rehearsal. "David," I was told, "is taking a shower and cannot be disturbed."

A half hour later, David Wheeler, appeared in a fluffy, terrycloth robe, a solid gold Rolex on his wrist, and genuine alligator boots on his feet. In the middle of a room full of federal agents, the drug dealer turned informant sat down on a recliner and held his hand out for a cigarette. One of the agents handed one to him and lit it. Wheeler then looked me up and down and said "He'll do." The Customs bosses smiled, and I realized that they didn't have a clue about covert operations or informant handling. Trusting a CI to call the shots in an undercover operation is like getting into a car with a falling down drunk driver. Once again, any minimally acceptable training course should have taught that.

As a supervisory officer, when I saw CIs grossly mishandled, I would step in and correct the situation before it went redline, but it wasn't happening now. By

this time in my career, I, like most law enforcement officers involved in covert operations, was well-accustomed to weak links above me in the chain of command, but this time I was working with Customs bosses, and I was DEA. I could work around them, or so I thought.

When Wheeler told me of the specifics of the deal he had allegedly made through his Mexican connection for the delivery of Bolivian cocaine via the Mexican Navy, I called him a liar. I told him that, as far as I was concerned, he was a CI and I was the federal agent. Ergo, he was working for me. The suddenly unsmiling Customs boss called the DEA in Washington and complained about my attitude. A DEA upper-level suit called me and told me to “be nice.” We were off to the races.

The Mexicans and Bolivians arrived as scheduled. Wheeler’s Mexican connection, Pablo Giron, an ex Dirección Federal de Seguridad (DFS) (Federal Direction of Security) officer now a bodyguard for the incoming President of Mexico, Carlos Salinas de Gortari, had brought together the “real thing” for a meeting—Colonel Jaime Carranza of the Mexican Army, a grandson of the ex-President of Mexico, who had authored that country’s Constitution, and Jorge Roman, the head of *La Corporacion*—the organization that came to be known as the “General Motors of Cocaine.”³³ During the meeting with me posing as the mafia capo, it became quickly apparent that the “boat deal” was a lie told by Wheeler to keep the salary and expense money flowing, a fact that never seemed to bother the Customs bosses. The cagey Bolivians were there to look us over and to talk a “possible” deal. The Mexicans were hungry to get their piece of anything that came of the meeting.

Once sufficient, albeit wavering, control over Wheeler was established and the DEA had slid into overall control of the operation, complex international undercover negotiations for the purchase of 15 tons of cocaine from *La Corporacion*, with help from the Mexican Army, were successfully negotiated as follows.

1. The Panama Based Money-Laundering Operation

I traveled to Panama with Wheeler and the undercover team, where in my role as Luis Miguel Garcia, a Sicilian/Puerto Rican Mafia capo, the Bolivians introduced me to Remberto Rodriguez, the head of a massive Noriega-protected money-laundering operation. The Rodriguez operation laundered drug money for both the Bolivian and Colombian cartels. Meetings were held at Rodriguez’s headquarters—an open office about the size of a city block lined with desks and employees running cash through counting machines. The place was located in a downtown Panama apartment hotel, making it really easy for his eventual takedown—or so I thought.

It took us two days of negotiations to hammer out the tactics for the completion of a deal for the transfer of cash payments for the 15 tons of cocaine from Bolivia, through Mexico, and into the United States in one-ton shipments. A total of \$75 million would be transferred through the Rodriguez operation. The \$15 million, which was to go to top figures in the Mexican government, would be paid directly to Colonel Carranza in San Diego.

2. The Bolivian Cocaine Cartel

Jorge Roman attended all the meetings in Panama with his aids and bodyguard. I wanted to see his jungle laboratories before I agreed to the deal. He readily accepted my demand. This is normal in the drug business. Members of my Mafia family, including undercover pilot Don Henke,³⁴ were dispatched to the jungles of Bolivia where they were given a tour of five immense cocaine labs. During the undercover trip, the agents viewed more than 200 to 300 tons of cocaine on the ground, ready for delivery to both the U.S. and Europe. Henke returned to the U.S. with hefty samples of 100% pure cocaine taken from each.

3. The Corrupt Mexican Officials

As part of the videotaped negotiations with the Mexican government and military representatives, a payment of \$1 million per ton of cocaine trans-shipped through Mexico would be paid directly to Colonel Carranza at the undercover house in La Jolla. On camera, the colonel had promised that with the election of Salinas De Gortari as president and the passage of NAFTA, Mexico would be “wide open” for my mafia organization. To show good faith, he immediately ordered a Mexican Army detachment to begin preparing a clandestine landing strip in Puebla, Mexico, where our planes loaded with cocaine would land and be refueled by the Mexican military. I dispatched undercover pilot Henke along with Wheeler to verify that this was being done. They flew to Puebla, Mexico, and were met by a full colonel in the Mexican Army who was in command of a full detachment of uniformed soldiers already clearing the field. As I had requested, Henke was permitted to take photos of the operation.

The End Game Plan

As in the Suarez operation, the stated plan, Operation Trifecta, was to go through with the buy of the first ton of cocaine for \$5 million, which would then put the undercover “mafia” team in a position of trust to identify all the conspirators in the three countries involved—Bolivia, Panama, and Mexico. As the mafia capo, I could then, using business pretexts, call for meetings virtually any place in the world where we had an extradition treaty to affect their arrests. At the same time, our paramilitary units already stationed in Bolivia could move in and, using the coordinates our undercover pilots had taken during the undercover trip, take down all of the labs. In Panama, we already had trusted assets on the ground; taking down the whole Rodriguez operation would be easy. All we needed from one of the top DEA officials in the chain of command was the okay to spend the \$5 million for the first shipment of a ton of cocaine. This was received. The operation was a go.

Enter the Mega Suit

Just before we went operational, a career top-level officer in DEA’s headquarters was placed in charge of overseeing the operation. He would call the shots. I will call him the Mega Suit or MS.

The tactical plan began with the undercover plane immediately dispatched to Curacao from where, on my signal, it would fly into the jungles of Bolivia to pick up the first ton of cocaine.

The undercover team was staged in a Miami hotel, ready to fly into Panama where I would show the Bolivians the \$5 million in cash, after which Don Henke would be dispatched into Bolivia to pick up the cocaine. The moment his plane was loaded with the coke and ready to take off, I would pay the money to Remberto Rodriguez. Carranza was already on his way to La Jolla to pick up his million. At that point, we would be inside ready to both destroy the operation that supplied most of the raw cocaine product on earth (at that time), Panama's biggest money laundering operation, and to expose what would eventually become a corrupt Mexican government that was a ready "funnel" for drugs into the United States.

The DEA Hotel

We were still in Miami getting ready to leave for Panama when I received my first mind-blowing orders from the MS at headquarters. I was ordered to "flash" the money at the one place in Panama that the Bolivians had warned me to stay away from, the Caesar Marriott. The dopers called it the "DEA hotel" because they were aware of many DEA covert ops that had been based there. None of this impressed the MS. His primary concern was the safety of the money. There was no way \$5 million would be lost on his watch. When I told him that he was putting us in a life-threatening situation, he blew his top. If I couldn't live with it, as far as he was concerned, I could call the whole thing off.

Here, once again, despite the absolute senselessness of the order, there was not a single officer in the field, most of whom (myself included) with significantly more tactical and technical expertise than the MS, who was willing to jump the chain of command or even challenge the order. At the same time, we had come too far to let the case die.

When the team arrived in Panama, as luck would have it, we were searched and interrogated at the Panama airport by police on the Bolivian payroll. I called Jorge Roman at his Panama apartment and complained. He swore that he had nothing to do with the search. I now had a decent pretext to tell him that I had the money at the Marriott because it was the one place my mafia investors felt their money was safe from a rip-off. Roman went bad on me, told me he didn't buy my story, and hung up.

In the meantime, the Customs weak links, infuriated by the DEA weak link's orders, believing that their chance to prove Mexican government corruption was now down the tubes, sent Wheeler out into the streets of Panama to contact the Bolivians to make his own deal. I would later learn that part of his discussion with the Bolivians was my assassination.

In an ironic way, the order was so bizarre that it ended up working to shield the security of the operation, which was best captured by the recorded words of Bolivian Cartel leader Jorge Roman who said, "This whole thing is so stupid that the only thing I am certain of is that you are not DEA."

The DEA weak link, perhaps under pressure from Customs, finally relented and allowed us to show the Bolivians our money in a small motel halfway between Panama City and the airport. However, the MS suddenly decided that the DEA did not have the money in its budget and withdrew approval to go through with

the undercover purchase, leaving the entire operation high and dry, and likely to collapse. Customs at this point offered to put up the money; however, the MS, feeling his authority challenged, refused to relent. We were to “flash” the money, return to the U.S., and indict all the conspirators, which would be about as effective as indicting Bin Laden.

Once again, I was confronted with an absolute reluctance to buck the chain of command, no matter what the consequences—myself included—which was career death. I only had two cards left to play.

The first was to tell the Bolivians and Mexicans that my investors had now lost all trust, suggesting we all reconvene at the house in La Jolla, where they would be put on my plane with the \$5 million in payment and flown down to Bolivia where my pilots would pick up the first ton of cocaine, thereafter flying back to the U.S. through Mexico. Colonel Carranza would be paid his million at the same time.

The second card, since I was nearing retirement and safety, was to write the book *Deep Cover*, documenting the whole thing. My own way of revealing to our Congress the incalculable damages done to our nation’s defenses by not addressing the problem of the weak links running the drug war.

The Finale of Operation Trifecta

All the targets, Bolivians and Mexicans, returned to the undercover house where they were videotaped counting their money, arrested, and charged with conspiracy. All were convicted and sentenced to lengthy jail terms.

Another undercover officer from Customs, Jorge Urquijo, and I were whisked to Panama to identify the money laundering baron for his arrest and extradition only to find that the entire operation had vanished like the wind from its block-square suite of offices in downtown Panama.

Our troops in Bolivia moved into the five jungle labs Henke had identified only to find them dismantled and all the cocaine gone. One of the locations still had a couple of hundred empty 55-gallon drums laying around. These were blown up in huge fiery explosions for the TV cameras of the world’s media. What could have been the first, possibly the only real victory in this drug war without an end in sight instead turned into yet another media show—the price paid by all of us for one weak link in the chain of command.

Summary and Suggested Remedies

Technical and tactical expertise in the handling of CIs and covert operations in the wars on terror, drugs, and crime is now more critical than ever. The chains of command of military, paramilitary, and police organizations involved in these high-risk areas must—to a man—be well-trained and well-versed in both the tactical and technical areas of expertise that are vital to a successful operation. No operational unit can afford a single weak link in its chain of command, from the initial contact with the CI to the ultimate conclusion of the ensuing tactical operation. The training and experience requisite for participation in a covert operations unit are as follows:

- **Interrogations and Interviews of CIs and Potential CIs**

In every law enforcement agency for and with whom I served, a well-known fact of life was that only a small percentage of officers were known as “good with informers.” These men and women, with already proven records of success in the handling of human intelligence and utilizing them in covert operations, must be identified and placed on the front lines of covert activities where they belong.

This is not a skill that is easily learned. A glaring example of not having the appropriately trained and experienced field officers in place occurred when Zacarias Moussaoui, the now convicted 20th pilot involved in 9-11, was arrested one month prior to September 11 by U.S. Immigrations. The amount of evidence already known that would indicate the immense dangers this man and anyone he associated with represented for the U.S. was prodigious. Yet no agent or officer of any U.S. law enforcement or military unit even attempted to interrogate this man and, as we all know, 9-11 happened.

The failed interrogations and corroboration of CIs David Wheeler, Emad Salem, and Ron Edmonds (Carlson Case) are only a few of hundreds of examples I can cite.

- **Personnel Hiring and Selection Processes—Life Experience**

The importance of tactical and technical competence in the upper levels of the chain of command as it relates specifically to the recruitment and utilization of human intelligence in covert operations is now more critical than ever. There are fine officers who can lead men in battle, storm barricades, and administer large and complex military and paramilitary organizations who do not belong within five miles of a complex covert operation. These officers must be identified and moved to positions more suited to their talents or the price paid may be a lot steeper than anyone would want to pay.

The hiring and selection of personnel for particular assignments, as is the case in many law enforcement agencies, places a focus on scholastics and language abilities, which, when it comes to the handling of CIs and covert ops, is entirely missing the boat. I’ve worked with too many law enforcement officers and intelligence agents who had minimal scholastic qualifications who were fabulous with informants, even when they had to work through interpreters. I’ve also worked with too many who spoke the informant’s language fluently, yet just turned out to be devastatingly weak links.

My now 44 years of training and experience indicate clearly that life experience is a far better indicator of an officer’s potential in these areas. A beat cop, for example, who has developed a stable of street informants who he uses successfully, is far better suited to handling a drug or terror informant than, say, an Arabic speaking Harvard law school graduate FBI agent. I think the 9-11 Congressional hearings support that opinion powerfully.

- **Available Training**

Much of my 44-year career, up to this minute, has been involved in the training of law enforcement officers in informant handling and undercover tactics. I have also attended courses given by the CIA and lectured for the FBI's Advanced Undercover Seminar in Quantico. Most of the training I have observed and/or been a part of, in my opinion, falls far short of what is needed. Most agencies train its officers in informant handling and undercover tactics as though they are two different courses of study, one having nothing to do with the other. In my opinion, this is like going to right or left hand schools to learn to play the piano. The two courses must be combined as one for any unit, be it military, paramilitary, or law enforcement. Nothing else makes sense.

The course should be carefully devised by officer/teachers with proven success in the field and *not* just academicians. The course should include a significant amount of time (minimum of 120 hours) in duplicating and solving real-life situations based on failures in the past.

- **Prosecutors**

My 44 years of training and experience scream that *No prosecutor should ever be calling the shots in a covert operation*. They are trained lawyers, not law enforcement officers or spies.

Endnotes

- ¹ Based on a paper presented to the Defense Intelligence Agency, Joint Chiefs, Southern Command conference on December 10, 2008, in Sarasota, Florida.
- ² *Criminal Informants* is the term historically used by police instructors to describe those informants who either are criminals or terrorists informing on their own associates, and/or informants who must perform criminal acts, albeit in an "undercover" capacity, in order to betray.
- ³ *Undercover Operations and Informant Handling*, a training manual published by the New York State Division of Criminal Justice Services, December 2008.
- ⁴ Case files relating to *Carlson v. United States* are in possession of the author who was retained as trial consultant and expert witness for the Plaintiff. The case settled for \$2 million out of court. Also covered by *60 Minutes*. See website policetrialexpert.com to view investigative report.
- ⁵ Money had to be furnished by law enforcement in order that Edmonds have a phone with which to communicate.
- ⁶ "Friday," *20/20*, September 1995—a report by Hugh Downs and Barbara Walters, which is available through the author.
- ⁷ *Ibid.*
- ⁸ *Ibid.*

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ “Crier Report,” *MSNBC*, March 5, 1997. The author was invited on-air to comment on Operation Agent Scrub, which was then in the news. Astoundingly, this story, so vital to America’s national security, was almost untouched by mainstream media.

¹⁵ “The CIA’s Cocaine,” *60 Minutes*—program aired in 1993 on CBS. May be viewed on www.expertwitnessradio.org.

¹⁶ Ibid.

¹⁷ *The Big White Lie*, Michael Levine and Laura Kavanau, Thunders Mouth Press, 1993.

¹⁸ *Legacy of Ashes*, Tim Weiner, Norton, 2008.

¹⁹ See *The Big White Lie*, Michael Levine and Laura Kavanau, Thunder’s Mouth Press, 1993, for specific details and references.

²⁰ Hearing Transcript, U.S. Senate Committee on Foreign Relations, Subcommittee on Narcotics and Terrorism, June 25, 1987; closed-door session convened in Room SD-118, The Capitol

²¹ *Deep Cover*, Michael Levine, Delacorte, 1990, and *The Big White Lie*, Michael Levine and Laura Kavanau, Thunders Mouth Press, 1993.

²² At this time in our history, the largest cocaine seizure on record was 200 pounds of cocaine found in the trunk of a car by Border Patrol officers in Miami, Florida.

²³ Gasser would be released within days by Assistant U.S. Attorney Pat Sullivan, all charges dropped. Gutierrez’s bail would be lowered by U.S. District Court Judge Alcee Hastings, from \$8 to \$1 million. The cash was already waiting in Miami. Gutierrez would escape back to Bolivia. Neither man would ever stand trial.

²⁴ “The Great Cocaine Sting,” *Penthouse Magazine*, Jonathan Kandell, September 1982.

²⁵ This is a pseudonym for the actual name of the organization.

²⁶ 9-11 Congressional Hearings.

²⁷ *1000 Years for Revenge*, Peter Lance, Regan Books, 2004.

²⁸ Ibid.

- ²⁹ The author is in possession of a copy of the actual recording, which may be heard on www.expertwitnessradio.org.
- ³⁰ *Securing the City*, Christopher Dickey, Simon & Schuster, 2009.
- ³¹ Emad Salem tape, available at www.expertwitnessradio.org or through the author.
- ³² The case is fully documented in *Deep Cover* by Michael Levine (Dell Publishing, 1990). The book is now used by universities and police agencies as a reference on covert operations and the trafficking of drugs through South America and Mexico.
- ³³ This organization was the evolution of what had begun as Roberto Suarez's *La Mafia Cruceña* (The Santa Cruz Mafia).
- ³⁴ Interview of Don Henke is available on the www.expertwitnessradio.org archives.

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Criminal Activity Among Young Adults in the Club Scene

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The modern all-night dance club culture has its most recent roots in the adolescent rave and gay male circuit party subcultures that emerged in the late 1980s, with more distant connections to the earlier New York nightclub scene epitomized by Studio 54 (Fritz, 1999; Kurtz, Inciardi, Surratt, & Cottler, 2005; Silcott, 1999; Thornton, 1996). This type of night life is found in almost every large city but is especially prevalent in major tourist destinations where people tend to be looking for an escape from their routines. This concept is represented in such slogans as "What Happens in Vegas Stays in Vegas®." Miami, historically a major tourist destination and since the early 1970s a national center for cocaine importation, distribution, and use (Didion, 1987; Portes & Stepick, 1993), is also a major player in the U.S. club culture.

Alcohol and illicit drug use would appear to be the norm in the club scene. Except for MDMA (ecstasy), which has been a relative constant, the most common "club" or "dance" drugs have tended to vary over time and location. Such diverse substances as powder cocaine, methamphetamine, ketamine, rohypnol, GHB, and LSD have all been popular in the club scene over the past decade (Beck & Rosenbaum, 1994; Measham, Aldridge, & Parker, 2001; Reynolds, 1998; Thornton, 1996). More recently, prescription medications, primarily opioids and benzodiazepines, have become prevalent as well (Kelly & Parsons, 2007; Kurtz et al., 2005).

One of the attractions to these drugs among the young adults who predominate in the club scene is the increased stamina that the substances engender, enabling participants to dance all night, as well as the intoxicating and sometimes hallucinogenic highs that are said to deepen the club or dance experience. Other reasons include the euphoric and disinhibiting effects of the drugs (Cooper, 2007; Fritz, 1999; Silcott, 1999). The drugs, like other aspects of the club culture, are usually portrayed as the height of fashion, exclusivity, and trendiness, and this reputation is maintained by the ubiquitous velvet rope at the nightclub entrance, with long lines of anxious attendees hoping to be admitted by the discriminating doorman.

Due to the young age of the vast majority of club drug users and their tendency to mix numerous drugs during their typical drug binges, club drug users tend to be a highly vulnerable population (Cottler, Womack, Compton, & Ben Abdallah, 2001; Boyd, McCabe, & d'Arcy, 2003; Freese, Miotto, & Reback, 2002). Many users tend to experiment with a variety of club drugs and alcohol in combination, which can lead to unexpected adverse reactions (Measham et al., 2001; Pedersen & Skrondal, 1999; von Sydow, Lieb, Pfister, Höfler, & Wittchen, 2002). Other studies have reported club drug use to be associated with high-risk sexual behaviors (Klitzman, Greenberg, Pollack, & Dolezal, 2002; Mattison, Ross, Wolfson, & Franklin, 2001; Semple, Patterson, & Grant, 2002) as well as depression, anxiety, and other mental health problems (McCardle, Luebbers, Carter, Croft, & Stough, 2004; Measham et al., 2001; Parrott, Milani, Parmar, & Turner, 2001).

A large body of research from the past several decades demonstrates a strong relationship between drug use and crime (Ball, Rosen, Flueck, & Nurco, 1982; Inciardi, 2008). Offenders may become caught up in lifestyles that involve deviant activities on a daily or near-daily basis. Drug dependency may lead to economic crimes such as the commission of property and/or predatory crime and drug distribution. The pharmacological effects of drug use may also lead to criminal activity due to increased aggressive tendencies, reduced inhibitions, and impaired judgment (Goldstein, 1985).

Information about the criminal activity of participants in the club culture is largely absent from the scientific literature, however. Certainly, nightclub owners and promoters have been implicated in organized crime and other forms of drug-related and other violent crime (Cooper, 2007; Owen, 2003; St. James, 2003). Except for their use of illegal drugs, however, the young adult participants in the scene are most often described as targets of police harassment or victims of predatory criminals in the street environments surrounding the clubs (Measham et al., 2001) rather than as perpetrators. This study aims to add to our understanding of criminal activity among these participants in the club scene by examining the self-reported lifetime arrest histories of polydrug users in Miami's club culture.

Methods

Site

Miami/Dade County, Florida, is an extraordinarily diverse community of 2.4 million people with large numbers of foreign-born (45.1%) residents (U.S. Census Bureau, 2000). Hispanics (57.3%) are the largest ethnic group, with "Anglos" (the local term for non-Hispanic whites) representing 20.7% and African Americans/Caribbeans representing 20.0% of the county population. With the restoration of the South Beach art deco districts, Miami has become a national and international destination for partying, sexual tourism, and club drug use. To a great extent, South Beach has also become an East Coast center for the club culture—setting trends that are emulated and replicated elsewhere in the United States, Western Europe, and Latin America (Guzman, 1999; Kilborn, 2000; Marr, 2004; Schwartz, 2003; Shister, 1999). As one club promoter put it, "Every night is like New Year's Eve on South Beach, and drugs and sex are all part of it" ("The Price of Ecstasy," 2004). Miami has also been designated by the Drug Enforcement Administration (DEA) as a destination where large amounts of prescription drugs are regularly being channeled into the illegal marketplace (U.S. DEA, 2004). As described earlier, a recent trend in this regard has been a significant incursion of prescription drugs into the club culture.

Sampling Plan

Data are drawn from a natural history study of 601 participants in Miami's club scene who use club drugs and also use prescription drugs for nonmedical reasons. The major goals of the project are to examine the onset and progression of club and prescription drug abuse and to assess changes in health and social consequences of this abuse over time. Participants are interviewed at baseline and at three successive six-month intervals; data reported here are from baseline interviews.

To be eligible, participants must be 18 to 49 years old; willing to provide contact information, including a residential address and telephone number for scheduling follow-up appointments; and have used one or more club drugs at least three times during the past 90 days, have used one or more psychoactive prescription medications three times or more in the past 90 days for nonprescribed reasons, and reported regularly attending recognized local nightclubs at least twice per month. Club drugs were defined to include powder cocaine, ecstasy, GHB, ketamine, and LSD. The participants described in this report entered the study between May 2006 and June 2008.

Participants were recruited through respondent-driven sampling (RDS) (Heckathorn, 1997), a form of chain referral sampling that aims to minimize the potential sampling bias attributable to narrow social networks. In this study, each respondent/recruiter was limited to five coupons in order to prevent a few recruiters with large social networks from biasing the overall sample toward those with similar demographic and drug using profiles. RDS has been shown to quickly reduce sources of respondent bias (such as ethnic and sexual identity, gender, and drug of choice) as successive branches or waves of respondent contacts are enrolled and then solicited for additional contacts (Heckathorn, 1997, 2002).

Field Operations

The project is housed in a field office strategically located to facilitate access to a diverse population of club and prescription drug users. This site is central to the hubs of nightclub activity and is easily reachable by public transportation, automobile, bicycle, or on foot by respondents from throughout the county. Private offices are used for all interviews. All field staff completed the requirements for National Institutes of Health (NIH) Web-based certification for protection of human subjects. Human subject protocols were approved by the University of Delaware's Institutional Review Board.

Interview data were collected using laptop computer-assisted personal interviews (CAPI). Clients received HIV education literature, condoms, and a \$50 stipend upon completion of the baseline interview, which lasted about two hours. These interviews assess life histories of alcohol and drug abuse, the extent of current drug use and impairment of daily activities, sexual risk-taking, social support, treatment histories, and physical and mental health problems, as well as criminal activity and arrest history.

Measures

The *Global Appraisal of Individual Needs–Initial (GAIN-I)*, Version 5.4 (Dennis, Titus, White, Unsicker, & Hodgkins, 2002) was the primary component of the standardized baseline assessment. In addition to the collection of demographic, life history, and social risk data, the *GAIN-I* includes DSM-IVR diagnostics for substance abuse and dependence as well as clinical measures of depression, anxiety, and other mental health problems. The primary dependent variables for this report were lifetime arrest histories by type of crime. This item was assessed by the question, "How many times in your lifetime have you been arrested, charged with a crime, and booked?" followed by an itemization of the charges for each reported arrest. Subcategories were then created for property, violent, and

alcohol/drug related crimes; it should be noted that the instrumentation did not distinguish drug possession from drug distribution arrests. Parole violations and other offenses, such as prostitution, mischief, trespassing, lewdness, and driving without a license were combined as "other" types of crime but were not separately analyzed.

To the extent possible, hypothesized predictors of arrest were also assessed using lifetime historical measures (e.g., "How many times in your life have you received treatment for your use of alcohol or any drug?"). Clinical measures of mental health problems reflect symptoms experienced in the year prior to the baseline interview. Substance use data were collected using lifetime and 90-day measures; 90-day use data are reported in the tables to describe the sample, whereas lifetime use measures are included in regression models to predict lifetime arrests. Measures of lifetime use of the most commonly abused substances were dichotomized into "high lifetime use" and "not high lifetime use" categories based on the reported number of days each respondent used that substance in his or her lifetime, using the nearest round number to the median as the cutoff point. These rounded numbers were chosen because they were reported with high frequency and thus created natural cutoff points. For example, the range of days' lifetime MDMA use was 0 to 4,000 days, with a median of 82 days. The chosen cutoff point for "high lifetime use" was 100 days because of the proximity to the median and the relatively large frequency of reports ($n = 21$) of exactly 100 days' lifetime use. No difference in outcomes resulted from using the exact or rounded median estimates.

Data from the interview questionnaires were analyzed using a standard statistical package. Descriptive statistics were calculated to describe the sample in terms of demographics, social stability, mental health, victimization, and substance use as well as to investigate the nature and extent of the participants' arrest histories. Bivariate logistic regression models were developed to predict lifetime arrest by crime category (i.e., property, violent, drug, and status crimes) by demographics and by hypothesized predictors, including substance use, mental distress, and victimization.

Results

Demographics, Social Stability, Mental Health, and Victimization

Demographics, social stability, mental health, and victimization characteristics of the sample are shown in Table 1. The ethnic mix of South Florida's population was fully represented in the sample. Few (17.3%) respondents had less than a high school or equivalent level of education, and the young median age of the sample (24 years) would indicate that many have a high potential for additional formal education. A sizeable number (42.6%) of respondents were still living with their parents. Only a small minority (14.8%) resided in Miami's impoverished urban core.

Social risk indices were high, with 43.8% reporting prior substance abuse treatment and more than two-thirds (67.2%) having been arrested. Depression, anxiety, and traumatic stress levels were clinically significant for sizeable proportions of respondents. Almost three-quarters (73.9%) of the participants met DSM-IVR diagnostic criteria for substance dependence in the past year. Lifetime rates of

emotional, physical, and sexual victimization were very high as well, and almost two-thirds (63.4%) reported that the first episode of abuse occurred when they were minors. More than one-quarter (25.6%) of the respondents were *currently* worried about being abused (data not shown).

Table 1. Demographic, Social Stability, Mental Health, and Victimization Characteristics of Substance Using Participants in Miami’s Club Scene (N = 601)

	<i>n</i>	%
Demographics		
Age (median years)	24	
Gender		
Male	355	59.1
Female	243	40.4
Transgender	3	0.5
Race/ethnicity		
African American	152	25.3
Hispanic	303	50.4
White/Anglo	126	21.0
Other	20	3.3
Live with parents	256	42.6
Live in high poverty urban zone	89	14.8
Less than high school education	104	17.3
Social Stability (Lifetime)		
Substance abuse treatment history	263	43.8
Arrest history	404	67.2
3 or more lifetime arrests	238	39.6
Mental Health (Past Year)		
Moderate/severe depression	376	62.6
Moderate/severe anxiety	298	49.6
Moderate/severe traumatic stress	351	58.4
DSM-IV substance dependence	486	73.9
Victimization History (Lifetime)		
Sexual abuse	107	17.8
Physical abuse	392	65.2
Emotional abuse	320	53.2
First abuse before age 18	381	63.4

Substance Use

Table 2 shows current (past 90 days) substance use behaviors. The extent of polydrug use was most striking as the majority of respondents (62.7%) used alcohol, marijuana, powder cocaine, MDMA, and prescription sedatives all within the past 90 days. Almost one-third (29.6%) of the sample reported current use of at least seven and as many as 13 different categories of substances. The sample reported being high or drunk all day on an average of 40 of the past 90 days (data not shown). Injection drug use was relatively rare.

Table 2. Past 90-Day Substance Use Characteristics of Participants in Miami's Club Scene (N = 601)

Substance Use	<i>n</i>	%
Alcohol	591	98.3
Marijuana	560	93.2
Powder cocaine	542	90.2
Crack cocaine	83	13.8
MDMA (ecstasy)	498	82.9
Methamphetamine	51	8.5
LSD	112	18.6
Psilocybin (mushrooms)	75	12.5
Ketamine	41	6.8
GHB	22	3.7
Heroin	45	7.5
Rx opioids (nonprescribed)	358	59.6
Rx sedatives (nonprescribed)	527	87.7
Rx stimulants (nonprescribed)	49	8.2
Injection drug use	38	13.0

Arrest Histories

Arrest histories by type of crime are shown in Table 3. The distribution of crimes was widespread across all categories, including property and violent crimes in addition to the drug violations that would be expected given the study's eligibility criteria. Property crimes were primarily related to aspects of theft rather than destruction. Violent crimes were somewhat less common but were reported by almost one-quarter (24.8%) of the sample. Of the 404 participants with arrest histories, just 91 (22.5%) had been arrested only once, 75 (18.6%) two times, and a majority (58.9%) three or more times (data not shown).

Table 3. Lifetime Arrest Histories—by Major Crime Category and Significant Subcategories—of Substance Using Participants in Miami’s Club Scene (N = 601)¹

	<i>n</i>	%
Property Crimes	180	30.0
Larceny/theft	72	12.0
Shoplifting	52	8.7
Burglary	73	12.1
Stolen goods	22	3.7
Motor vehicle theft	45	7.5
Vandalism	29	4.8
Passing checks/forgery	20	3.3
Arson	8	1.3
Violent Crimes	149	24.8
Aggravated assault	52	8.7
Simple assault/battery	91	15.1
Robbery	50	8.3
Homicide	7	1.2
Rape	1	0.2
Drug/Alcohol Crimes	270	44.9
Possession/distribution of drugs	238	39.6
Driving under the influence	39	6.5
Drunkenness	34	5.7
Other Offenses	188	31.3

¹ Respondents reporting arrests for different categories of crime and different crimes within categories do not add to 100% because many respondents reported arrests for multiple crimes.

Predictors of Arrest Histories

Results of bivariate logistic regression models predicting arrest histories by type of crime are shown in Table 4, with the significance level set at $p < 0.05$. Most of the hypothesized mental health and social risk indices are significant in the models, with male gender; histories of substance abuse treatment, physical abuse, and childhood victimization; and heavy lifetime use of cocaine and marijuana demonstrating the most powerful effects across all types of crimes. Fewer years of education, severe clinical symptoms of traumatic stress, and high lifetime abuse of MDMA and prescription sedatives were important predictors of arrest for violent and property crimes but not for drug-related offenses. Residence in the high poverty urban core was associated only with arrests for violent crimes. Residing with parents was protective for violence- and drug-related arrests.

Table 4. Predictors of Arrest History by Type of Crime Among Substance Using Participants in Miami's Club Scene

Bivariate Models ¹	Violent Crimes (<i>n</i> = 149)		Property Crimes (<i>n</i> = 180)		Drug Crimes (<i>n</i> = 270)	
	Odds Ratio (CI)	<i>p</i>	Odds Ratio (CI)	<i>p</i>	Odds Ratio (CI)	<i>p</i>
Demographics¹						
Male	2.383 (1.582, 3.589)	0.000	1.758 (1.217, 2.540)	0.003	4.341 (3.034, 6.213)	0.000
Live with parents	0.655 (0.446, 0.962)	0.031		ns	0.683 (0.492, 0.948)	0.023
Live in high poverty zone	2.129 (1.323, 3.424)	0.002		ns		ns
Less than high school education	1.794 (1.138, 2.829)	0.012	1.589 (1.023, 2.470)	0.039		ns
Social Stability						
Substance abuse treatment history	1.900 (1.307, 2.762)	0.001	2.490 (1.742, 3.559)	0.000	4.351 (3.084, 6.138)	0.000
Mental Health						
Severe traumatic stress	1.512 (1.040, 2.198)	0.030	1.436 (1.008, 2.046)	0.045		ns
Victimization						
Physical abuse history	2.353 (1.524, 3.633)	0.000	2.790 (1.845, 4.220)	0.000	2.771 (1.937, 3.964)	0.000
First abuse before 18	2.117 (1.396, 3.209)	0.000	2.033 (1.383, 2.987)	0.000	1.701 (1.213, 2.387)	0.002
High Lifetime Substance Use						
Alcohol ²		ns	1.484 (1.039, 2.119)	0.030	1.455 (1.051, 2.015)	0.024
Marijuana ³	1.648 (1.132, 2.398)	0.009	2.131 (1.489, 3.049)	0.000	1.750 (1.265, 2.422)	0.001
Powder cocaine ⁴	1.544 (1.063, 2.243)	0.023	2.313 (1.614, 3.313)	0.000	1.537 (1.113, 2.124)	0.009
MDMA (ecstasy) ⁵	1.542 (1.063, 2.237)	0.023	1.611 (1.134, 2.289)	0.008		ns
Rx sedatives ⁶	1.570 (1.082, 2.278)	0.018	2.115 (1.483, 3.016)	0.000		ns
Rx opioids ⁵		ns	1.712 (1.194, 2.454)	0.003		ns

¹ Nonsignificant predictors included depression, anxiety, substance dependence, sexual abuse, and emotional abuse.

² 1,000 days lifetime

³ 2,000 days lifetime

⁴ 400 days lifetime

⁵ 100 days lifetime

⁶ 200 days lifetime

Discussion

The participants in this study were for the most part suburban and well-educated, with many still living at home with their parents. Few resided in the urban areas typically associated with prevalent drug use and criminal activity. This was not unexpected given that nightclub attendance in Miami is an expensive form of entertainment, taking into account entrance fees, alcohol and drug expenses, clothing, and transportation. The arrest histories reported by the sample were more common and more varied than anticipated, however. Although drug-related arrests would be expected among substance users (and it was not possible to distinguish drug possession from drug distribution charges), there are no data in the literature that would point to the high prevalence of property and violent crimes among the sample of young adults found here. Furthermore, it was quite common for respondents to have been arrested for *multiple types* of crime.

Given their relatively high residential stability and educational attainment, the extent of the substance use, mental distress, and victimization histories reported by the study participants sample were equally surprising. These risk factors, including extensive lifetime drug abuse, prior treatment histories, and very high levels of victimization that occurred during childhood or adolescence, were strong predictors of criminal arrest. The high vulnerability to criminal activity as well as a wide variety of health and social problems of this population would appear to be largely overlooked in the literature.

This raises an important question about whether the vast majority of drug-related crime is in fact concentrated in stereotypical poor, ethnic, urban neighborhoods or whether young adult drug users who live in better neighborhoods may be underreported in crime statistics. One interpretation of the results is that young adult polydrug abusers in the club culture remain under the radar of criminal justice surveillance systems and researchers because they are perceived to be less vulnerable—and perhaps less threatening to society—than street-based criminals. Another would be that cities that rely on nightclub activity to support tourism and other economic activity tend to look the other way in regards to drug activity and the other social problems associated with the scene.

In any case, this population of young adult substance abusers appears to be in great need of outreach for mental health and substance abuse treatment services. Participation in the club scene by the very young should also be understood as a likely marker for past violent, emotional, and sexual victimization that may lead to other health and social problems. Longitudinal research, including the ongoing follow-up assessments of the participants in this study, will provide a better understanding of the extent to which some young adults in the club scene may “age out” of the scene and reduce their associated health and social risk behaviors without intervention. Given the broad extent of the problems illuminated here, this would appear to be less likely than may be widely assumed.

There are two primary limitations to the study. First, the results are likely not generalizable to the overall population of participants in the club culture in Miami because of the eligibility requirements that included current abuse of both club drugs and prescription medications. These requirements likely produced an especially high risk sample. As well, many of the respondents may have

been attracted to participate because of the monetary compensation provided, perhaps skewing the sample toward the lower economic strata of people in the scene. Nevertheless, the RDS procedures employed resulted in a diverse sample that would appear to be representative of the population given these eligibility requirements and the likely exclusion of high-income persons. Finally, the data presented rely on self-report, and some respondents may have refrained from reporting the full extent of socially undesirable behaviors. Given the extensive substance abuse and arrest histories described, however, underreporting of these and other stigmatized behaviors would seem less likely.

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***Arizona v. Johnson*, Frisks in the Traffic Stop Context: “Just a Little of That Human Touch”**

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Introduction

Recently, the Supreme Court decided the case of *Arizona v. Johnson* (2009). The case involved the intersection of two areas of law involved in police-citizen interactions,¹ specifically, the nature of voluntary police-citizen interactions and requirements necessary to conduct a *Terry* frisk in a traffic stop.

One of the functions of the nation’s approximately 800,000 local and state police officers involves controlling traffic on America’s roads. While this mandate is handled in a variety of ways, one method is the officer-initiated traffic stop. Statistics indicate that over one-half of people in the United States who experience contact with the police each year do so in traffic-related issues² (52.0% of persons in 2002 and 53.0% of persons in 2005). Almost 41.0% of police-citizen interactions in 2005 were the result of traffic stops. Thus, the traffic stop is the single greatest method of contact between the police and citizenry (Durose, Smith, & Langan, 2007). The sheer volume of these encounters is exemplified at the jurisdictional level by statistics from Illinois, where there are an estimated 35,000 traffic stops a month (or 420,000 per year) (Greenburg, 2005). In 2005, there were an estimated 854,990 vehicle searches in the United States. The majority of these (57.6%) were conducted with consent. These searches returned drugs, weapons, or other contraband 11.6% of the time (Durose et al., 2007).³

There are also a great number of investigative or *Terry* stops in the United States each year. For example, in 2006, the New York City Police Department stopped more than 500,000 persons on suspicion of criminal activity (Ridgeway, 2008). The number of stops in New York dropped in 2007 to 450,000, but climbed to 531,129 in 2008 (Baker, 2009; Parascondola, 2008). Similarly, in the city of Los Angeles, police stopped 810,000 vehicles and pedestrians from July 2003 to June 2004 (CBS, 2008).

Officers face danger in their duties. In 2005, over 57,000 assaults on police officers took place, with 5,763 of these assaults resulting in some injury to the officer from attackers use of firearms (9.1%), knives (13.2%), or other dangerous objects (24.6%) (Federal Bureau of Investigation [FBI], 2006). Of the 57 officers killed feloniously in 2007, 16 were killed during arrest situations, while 11 were killed while engaged in traffic pursuits or stops. Data compiled by the FBI (2004) regarding officers killed in the line of duty from 1994 to 2003 indicate that 10.5% of officers killed in this time frame were involved in a traffic stop or in pursuit. In 2007, three officers were killed while investigating suspicious persons, and one was killed while engaging in the investigation of crime (FBI, 2008).⁴

Police-Citizen Encounters

The Fourth Amendment, which is frequently implicated in encounters between the police and citizens, reads,

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Whether the object of a seizure by the authorities is an object or a person, the Fourth Amendment requires that all such seizures be reasonable in nature. The determination of whether a seizure of a person is reasonable and thus legal depends upon the type of seizure and the amount of evidence an officer possesses.

In general, there are three types of interactions between the police and citizens. The first type of encounter, and perhaps the most familiar to the public, is the arrest situation. An arrest is defined as the “seizure of an alleged or suspected offender to answer for crime” (Gifis, 1984, p. 29). To properly arrest a person, a police officer is required to have a certain quantum of evidence—*probable cause*. Defining probable cause is difficult. In the language of the Fourth Amendment, probable cause is a “reasonable belief that a person has committed a crime” (Lectric Law Library, 2000, p. 1). Practically speaking, an officer has probable cause to arrest when the facts and circumstances presented would convince the average person that “it is more likely than not that the suspect committed an offense” (Del Carmen, 1998, p. 61).

The second general type of police-citizen encounter is the *Terry* stop. A *Terry* stop is a short-term seizure of a person for the purposes of investigation. The landmark case of *Terry v. Ohio*, 392 U.S. 1 (1968), stated that seizures of the person that are not arrests could be constitutional provided that police stop an individual and detain him or her when they have *reasonable suspicion* that the person can be associated with some type of illegal activity. Additionally, if an officer has reasonable suspicion that the person stopped is armed, the officer may conduct a brief search of the person for weapons. In essence, the officer must be aware of specific facts that, in light of his or her experience, form a substantial and supported belief that the suspect was or is about to engage in some form of criminality.

The third and last type of police-citizen encounter is a consensual or voluntary interaction. In this situation, a police officer, usually without probable cause or reasonable suspicion, asks a person to submit to questioning or to a search. Citizens in such encounters are legally permitted to decline the police officer’s request. Consent searches are extremely popular with police for two reasons. First, valid consent removes constitutional issues from the search. Effectively, a person who consents to a search has waived his or her Fourth Amendment protection against unreasonable searches and seizures. Second, citizens tend to consent to officer requests for searches even when they are actively engaged in criminality (Zalman, 2002).

In sum, the law recognizes three types of police-citizen interactions: (1) arrests, (2) *Terry* stops, and (3) voluntary/consensual interactions. When an officer acts

with the required evidence, either probable cause or reasonable suspicion, the first two types of these encounters are classified as reasonable seizures of the person under the Fourth Amendment. An interaction between a police officer and citizen that is truly voluntary and consensual is not considered a seizure under the Fourth Amendment.

Voluntary Interactions Between Citizens and the Police

Courts must often determine whether a person is engaged in a consensual interaction with an officer or if the citizen has been unconstitutionally seized. In general, it is clear that a police officer may approach a citizen in a public place and ask questions if a reasonable person would feel free to ignore the request and continue on his or her travels (*U.S. v. Flowers*, 912 F.2d 707 [1990]). In these types of interactions, police officers may not have reasonable suspicion or probable cause regarding the citizen. Yet, as long as the voluntary nature of the encounter is preserved, the Fourth Amendment is not implicated (*Florida v. Rodriguez*, 469 U.S. 1 [1984]). However, an officer's conduct during a voluntary police-citizen interaction can turn the event into a seizure of the citizen participant. If this occurs and such a seizure is not based on probable cause or reasonable suspicion, the Fourth Amendment has been violated. Evidence obtained from such illegal seizure would be subject to suppression via the exclusionary rule.

Generally, a seizure occurs when an officer, through the use of physical force or display of authority, restricts the liberty of a person (*Terry v. Ohio*, 1968). Specifically, the case of *California v. Hodari D.*, 499 U.S. 621 (1991), further refines when a seizure occurs. This case dictates two situations for the seizure of a person. First, a person is seized when physical force is used to restrain his or her movement. Second, a seizure occurs when a citizen submits to an officer's show of authority. However, if a citizen ignores an officer's show of authority, the citizen has not been seized under the Fourth Amendment.⁵

In an arrest or *Terry* stop situation, the seizure of the citizen participant is more apparent. In these interactions, the officer will likely take physical control of the citizen or somehow indicate that the citizen is not free to leave at the moment. However, in cases where a person has been seized in a "voluntary" interaction, the restrictive behaviors of the officer will be less apparent. In determining if the alleged police action in an initially voluntary interaction constitutes a seizure, courts look at the facts and circumstances surrounding the interaction. That is, a reviewing court seeks to determine if the totality of the circumstances reveals a level of intimidation on the part of the police that would lead a reasonable person to believe he or she would not be free to leave if he or she did not respond to the officer's questions (*U.S. v. Mendenhall*, 446 U.S. 544 [1980]).⁶ If a court determines that a reasonable person would not have felt free to leave without response, the interaction is involuntary and the citizen was seized under the Fourth Amendment.

Factual circumstances in the interaction can weaken the validity of applying the "free to leave" analysis. For example, a person who is approached by a police officer at his or her workstation may have a limited ability to leave the area due to an employment obligation. These limitations are not created or controlled by the police; rather, they result from the choice made by the citizen.

Where a citizen's ability to leave an area is constrained by the citizen's own actions, the "free to leave test" is replaced by a modified test. The appropriate test inquires, taking into consideration the totality of circumstances of the encounter, would "a reasonable person feel free to decline the officers' requests or otherwise terminate the encounter?" (*Florida v. Bostick*, 501 U.S. 429 [1991]). Thus, considering all the facts of the encounter, if a reasonable person would have felt free to terminate the interaction, he or she was not seized. However, if a reasonable person would not have felt free to end the encounter, a seizure occurred. To comply with the Fourth Amendment, such a seizure would have to be supported by reasonable suspicion or probable cause. In the absence of such support, information and evidence obtained during the interaction would likely be subject to suppression via the exclusionary rule.

The Creation of the Investigative Stop and Frisk

The seminal case of *Terry v. Ohio*, 392 U. S. 1 (1968), focused on the constitutionality of evidence used to convict Terry of carrying a concealed weapon. The case involved the observations and subsequent actions of Officer McFadden in Cleveland, Ohio. The experienced officer watched three subjects reconnoiter a clothing store.⁷ The officer approached the men, identified himself, and asked for their names. When the officer received mumbled responses from his inquiries, he "grabbed petitioner Terry, spun him around so that they were facing the others . . . and patted down the outside of his clothing" (7). The officer felt a gun in Terry's breast pocket and subsequently removed it. The gun was admitted into evidence against Terry and its use was the subject of appeal to the Supreme Court.

Chief Justice Warren's opinion initially noted that Terry was entitled to the protection of the Fourth Amendment as he traversed the public streets. The Chief Justice noted that Terry was clearly seized within the meaning of the Amendment. Thus, the question present in the case was whether the officer's actions violated the protections of the Amendment. Specifically, the opinion framed the issue as "whether it is always unreasonable for a policeman to seize a person and subject him to a limited search for weapons unless there is probable cause for an arrest" (17). In rejecting the need for probable cause, the opinion focused on the core aspect of reasonableness. That is, a majority of Justices concluded that it "was reasonable for Officer McFadden to have interfered with petitioner's personal security as he did" (19).

While the opinion reaffirmed a preference for police action under warrant, the protean and swift nature of police encounters on the street was recognized and the limited usefulness of the warrant process in such encounters was evident. Moreover, the government's strong interest in crime control and the need for officers to act to protect their own safety were recognized.

In examining the reasonableness of the search at its inception as well as how it was conducted, the opinion noted that Officer McFadden had specific facts that created a reasonable suspicion that a crime was afoot and that he had only conducted a limited search for weapons that might harm him. While Chief Justice Warren recognized the substantial intrusion of such a search, he noted that "there must be a narrowly drawn authority to permit a reasonable search for weapons for the

protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual" (*Terry v. Ohio*, 31).

In deciding the search was reasonable and that the gun was properly admissible, the opinion held that "where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him" (*Terry v. Ohio*, 40).

Stop and Frisk Cases

Over the course of the 40 years since *Terry*, the Court has decided a number of cases that have modified and expanded the doctrine. In *Adams v. Williams*, 407 U.S. 143 (1972), a weapon found during a stop and frisk was used to convict Adams of illegal possession of a firearm.⁸ In this case, an officer on patrol was told by a known and reliable informant that "an individual seated in a nearby vehicle was carrying narcotics and had a gun at his waist" (144). The officer approached the vehicle, tapped on the car window, and asked the occupant (Williams) to open the door. When Williams rolled down his window, the officer reached into the car and removed a gun from Williams' waistband. The weapon was not visible from outside the car but was in the location described by the informant.⁹

The opinion by Justice Rehnquist first noted the logic of *Terry*.¹⁰ Allowing officers to investigate crime with reasonable suspicion but less than probable cause made logical sense, and those officers in such situations should reasonably be able to conduct their investigations safely. Thus, *Terry* stood for the idea that "so long as the officer is entitled to make a forcible stop, and has reason to believe that the suspect is armed and dangerous, he may conduct a weapons search limited in scope to this protective purpose" (*Adams v. Williams*, 146). In applying the logic of *Terry* to the case, Justice Rehnquist noted the strength of the officer's suspicion in this case. The opinion went on to explain that while the stop in *Terry* was based on information formed by the officer, information from third parties could be the proper basis for a *Terry* stop.¹¹ The officer in the case at bar had relied upon a known and proven informant, who personally conveyed the intelligence to the officer as the basis of his reasonable suspicion. The opinion then took note that the officer conducted a limited search of Williams based on the information provided. As such, the officer's seizure of the weapon was reasonable.

Michigan v. Long, 463 U.S. 1032 (1983), addressed the "question of the authority of a police officer to protect himself by conducting a *Terry*-type search of the passenger compartment of a motor vehicle during the lawful investigatory stop of the occupant of the vehicle" (1037).

The case involved a traffic stop for speeding and erratic driving. While being followed, Long turned down a side road and into a small ditch. He then met the police at the rear of his vehicle. During the stop, officers had to repeatedly ask Long

for his license. Due to his failure to respond, the officers suspected Long of being under the influence of an intoxicant. Officers then requested a vehicle registration and moved with Long while he went to retrieve it. The officers observed a hunting knife on the floor of the car. Based on the presence of the weapon, Long was then subjected to a *Terry* frisk, which revealed no weapons. One of the officers then shined his flashlight into the vehicle without entering it in an attempt to look for other weapons. He noticed an object protruding from under the armrest of the front seat. An officer then entered the car, lifted the armrest, and saw an open pouch. He shined his flashlight into the pouch and saw a substance that looked like marijuana.¹² Long was subsequently convicted of possession of marijuana.

In determining that “the protective search of the passenger compartment was reasonable,” Justice O’Connor’s opinion focused on balancing the need for a state actor to search or seize against the intrusion suffered by a citizen (*Michigan v. Long*, 1034).¹³ She specifically noted that if a subject is dangerous, he or she is dangerous, in the *Terry* situation as well as in an arrest situation. The legal precedent of *Terry* found that crime prevention and officer safety outweighed the privacy invasion of a stop and frisk. Justice O’Connor then noted that *Terry* contained specific language that allowed for the concept of stop and frisk to grow, depending on the facts of future cases.¹⁴ The opinion also noted the substantial risk to officers in traffic stops.

Then Justice O’Connor extrapolated from precedent by citing *Chimel v. California*, 395 U.S. 752 (1969), and applied it to the *Terry* situation at bar. In *Chimel*, the Court established the permissible scope of a search incident to arrest. This rule allowed officers effecting lawful arrest the ability to search the arrestee and the immediate area around him. This rule was based on the sound logic that weapons near the arrestee were as dangerous to officers as weapons on the arrestee’s person. When the search incident to arrest doctrine was applied to a vehicle context, it was determined that items in the passenger compartment were within this reachable zone (*New York v. Belton*, 453 U.S. 454 [1981]). Thus, items in the passenger compartment, whether closed or open, could be searched incident to arrest.

The above concerns and precedents led Justice O’Connor to conclude that “the search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on ‘specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant’ the officer in believing that the suspect is dangerous and the suspect may gain immediate control of weapons” (*Michigan v. Long*, 1050, citing *Terry v. Ohio*, 21).

In explaining the impact of the holding, Justice O’Connor noted that the opinion “does not mean that the police may conduct automobile searches whenever they conduct an investigative stop . . . [rather] we require that officers who conduct area searches during investigative detentions must do so only when they have the level of suspicion identified in *Terry*” (*Michigan v. Long*, 1050).

Control and Seizure of Persons in a Traffic Stop

Pennsylvania v. Mimms, 434 U.S. 106 (1997), focused on “whether the order to get out of the car, issued after the driver was lawfully detained, was reasonable and

thus permissible under the Fourth Amendment” (109). The officers in the case made a legal traffic stop and ordered Mimms out of the vehicle. As he exited the car, the officer noticed a bulge on his person. Mimms was frisked, and a loaded weapon was found and removed. The gun was introduced into evidence, and the defendant was subsequently convicted on firearms charges.

The opinion focused on the additional intrusion of having a person exit a legally stopped vehicle. A substantial concern for officer safety in traffic stops was articulated. Specifically, the danger of hidden movements by a driver in the car is reduced when drivers exit their vehicles. Similarly, the danger of passing traffic to an officer addressing a driver at his or her car window is reduced if the driver exits the vehicle and the interaction takes place away from traffic flow. Against these interests, the Court balanced the intrusion of exiting the vehicle upon the stopped driver. The opinion averred that such driver was already legally detained and upon exit exposed only slightly more to the officer than if he or she remained seated in the vehicle. In deciding the exit instruction *de minimis*, the Court held “that once a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment’s proscription of unreasonable searches and seizures” (*Pennsylvania v. Mimms*, 434 U.S. 106: 111 [1997]).

In *Maryland v. Wilson*, 519 U.S. 408 (1997), the logic of *Mimms* was extended to find that the ordering of passengers out of the car during a traffic stop was also constitutional. In this case, a car was legally pulled over and a passenger ordered to exit the vehicle. Upon his exit, crack cocaine fell from his person, was seized, and introduced into evidence against him. In balancing the interests of the parties involved in such an interaction, Chief Justice Rehnquist’s opinion noted the strong interest in officer safety and that passengers removed from vehicles are divorced from any weapons that the vehicle may contain. Additionally, he averred that passengers may have the same motivation as a driver to use force to avoid arrest and that the danger to officers may be greater when passengers are involved as compared to a traffic stop with only a driver. With regard to the passengers, the opinion noted that while a typical traffic stop does not provide probable cause to believe passengers have committed a crime, passengers are stopped due to the halting of the vehicle. In deciding that ordering of passengers out was constitutional, the Court noted that “while there is not the same basis for ordering the passengers out of the car as there is for ordering the driver out, the additional intrusion on the passenger is minimal” (414-415).

Brendlin v. California, 127 S. Ct. 2400 (2007), focused on the issue of whether a passenger in a vehicle is seized for purposes of the Fourth Amendment when an officer makes a traffic stop. The case involved a traffic stop in which the patrol officer recognized a passenger as a potential parole violator. The passenger was arrested, and drugs and paraphernalia were found upon his person. He was charged with the manufacture and possession of methamphetamine. He moved to suppress the evidence not due to the search of the car but rather to challenge the constitutionality of the initial stop of the vehicle. In deciding the issue, the opinion by Justice Souter first defined legal concept of seizure. He noted that a person is seized when physical force is intentionally applied, as well as when a person submits to a show of authority. He then noted that in ambiguous cases, courts should look to see if “in view of all of the circumstances surrounding the

incident, a reasonable person would have believed that he was not free to leave” (*U.S. v. Mendenhall*, 446 U.S. 544: 554 [1980]). This test is modified when a person “has no desire to leave” for reasons unrelated to the police presence, the “coercive effect of the encounter” can be measured better by asking whether “a reasonable person would feel free to decline the officers’ requests or otherwise terminate the encounter” (*Brendlin v. California*, 2406, citing *Florida v. Bostick*, 501 U.S. 429: 435-436 [1991]).

In holding that “a passenger is seized . . . and so may challenge the constitutionality of the stop,” the opinion focused upon this question (*Brendlin v. California*, 2403). Justice Souter noted that a traffic stop halts the travel of all in the vehicle. Passengers expect police to maintain some control over the scene of the stop in order to gather information. Moreover, a logical person would expect a police officer to be concerned about officer safety in a traffic stop and thus not feel comfortable with passengers moving about or leaving the scene of the stop. Thus, the opinion concluded that “in these circumstances any reasonable passenger would have understood the police officers to be exercising control to the point that no one in the car was free to depart without police permission” (2406-2407).

Arizona v. Johnson

The facts of *Arizona v. Johnson* (2009) flow from a traffic stop by an officer on patrol in a gang area in Tucson, Arizona. A fellow officer ran the car’s license plate through a database and found an alert regarding an insurance suspension. Under the law of the jurisdiction, such a violation is a civil ticketable offense but is not an indication of criminal activity. Johnson was seated in the back of the vehicle with two other passengers in the driver’s and passenger’s seats. Thus, there was no reason to suspect those in the vehicle were engaged in crime or about to engage in crime. When the stop was conducted, Johnson looked back at the officers, said something to the other passengers, and looked at the officers again. Officers approached the car, asked the occupants to expose their hands, and asked if there were any weapons in the car. The passengers responded in the negative. An officer had the driver exit the car in an effort to collect traffic stop related information. Officer Trevizo scanned Johnson for gang-related indicators. Johnson was dressed all in blue with a blue bandanna. The driver of the car, however, was dressed in red. Johnson also had a scanner in his pocket. The officer interpreted this technology as a criminal enhancement tool.¹⁵ Trevizo interacted with Johnson while he was seated in the car. During the interaction, Johnson cooperated, providing information regarding his date of birth, where he was from (an area with a gang), and his prior incarceration for burglary. In an effort to gather gang intelligence from the other passengers, Trevizo had Johnson exit the vehicle. She later stated that, in her mind, he was free to have declined the invitation to exit. Upon his exit, Trevizo asked Johnson to turn around and then conducted a *Terry* frisk to aid in officer safety. She did not inform him that he would be searched upon his exit. Nor did Trevizo have any indication of criminality, but she did feel that facts from the interaction provided her with suspicion that he might be armed.¹⁶ During the patdown, Trevizo felt the butt of a gun. Johnson began to struggle and was handcuffed. He sought to have the gun suppressed but was denied. He was subsequently convicted of unlawful possession of a weapon as a prohibited possessor and possession of marijuana.

Johnson appealed his conviction, averring that his search was unconstitutional because the police-citizen interaction was consensual in nature and falls outside the *Terry* doctrine. *Terry* allows a stop of a person when the officer has reasonable suspicion of criminality as well as a frisk of the person when the officer in such a stop has reasonable suspicion that the suspect is armed and dangerous. The rationale of the opinion noted that allowing an officer to pat down a person in a consensual encounter when the officer has reason to believe the person was armed and dangerous would render the interaction nonconsensual. Thus, a patdown during a consensual encounter is unconstitutional even if the officer has reason to believe that the suspect is armed and dangerous.

The state appellate court relied on both state and federal precedent to find the search unconstitutional. The appellate court first noted that, under *Brendlin*, Johnson, as a passenger in a stopped vehicle, was seized for purposes of the Fourth Amendment. However, Johnson averred that during the stop the interaction transformed into a consensual encounter. The opinion noted that while there were no cases on point, “common sense suggests that at some point during the encounter the passengers in the vehicle must be free to leave—their fate is not entirely tied to that of the driver” (*Arizona v. Johnson*, 217 Ariz. 58: 62 [2007]). The court also noted that an interaction is not consensual when, examining all the facts, a reasonable person would not feel free to ignore the officer and leave the scene. Trevizo’s motivation for the interaction with Johnson was to gather gang intelligence and thus was unrelated to the traffic stop. She did not order Johnson out of the car under the power granted in *Wilson*, and she stated that she felt he was free to decline the offer to exit. Moreover, the other passengers were not ordered out of the car. This fact further distinguished his interaction from the purpose of the traffic stop. The opinion noted that none of “Trevizo’s verbal or nonverbal communications with Johnson before the patdown can reasonably be construed to have conveyed to him that his encounter with her was anything other than consensual” (63). As a result, the court concluded that “Johnson’s leaving the car to speak with Trevizo was consensual and part of Trevizo’s separate investigation of Johnson’s possible gang affiliation, a matter wholly unrelated to the purpose of the traffic stop. A reasonable person in Johnson’s position and under these circumstances would have felt he could have remained in the vehicle” (64).

In finding the search unconstitutional, the opinion noted that the officers did not have reason to suspect criminality when Johnson was searched. Nor did the officer have authority to search him in the separate consensual interaction, even if she had reason to believe he was armed and dangerous.¹⁷ Thus, the appellate court held that “when an officer initiates an investigative encounter with a passenger that was consensual and wholly unconnected to the original purposes of the routine traffic stop of the driver, that officer may not conduct a *Terry* frisk of the passenger without reasonable cause to believe “criminal activity may be afoot” (*Arizona v. Johnson*, 65, citing *Terry v. Ohio*, 30).

The Supreme Court focused on “the authority of police officers to ‘stop and frisk’ a passenger in a motor vehicle temporarily seized upon police detection of a traffic infraction” (*Arizona v. Johnson*, 555 U.S. ____, 2009). In a unanimous decision, the Court held that “in a traffic-stop setting, the first *Terry* condition—a lawful investigatory stop—is met whenever it is lawful for police to detain an automobile and its occupants pending inquiry into a vehicular violation. The police need

not have, in addition, cause to believe any occupant of the vehicle is involved in criminal activity. To justify a patdown of the driver or a passenger during a traffic stop, however, just as in the case of a pedestrian reasonably suspected of criminal activity, the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous" (*Arizona v. Johnson*, 2009).

The brusque opinion by Justice Ginsberg may be divided into two main areas of focus. The first addresses the constitutionality of the frisk of Johnson, and the second portion focuses upon the custodial nature of the encounter. In examining the frisk, the opinion starts by noting that *Terry* allowed the stop and frisk of individuals on less than probable cause. Justice Ginsberg then notes that traffic stops are similar to investigatory stops in nature and duration. The potential dangers inherent in traffic stops, as well as the conducting officer's need to control the interaction, are noted. The opinion then lists a series of cases that have expanded officers' constitutional powers in traffic stops. Specifically noted are the officer's ability to order drivers (*Mimms*) as well as passengers from their vehicles (*Wilson*). Justice Ginsberg then notes that *Brendlin* held that passengers are seized during a traffic stop and, as such, could challenge the constitutionality of the seizure. The opinion also avers that dicta in *Knowles* stated that officers conducting a traffic stop could perform a *Terry* frisk of "a driver and any passengers upon reasonable suspicion that they may be armed and dangerous" (*Arizona v. Johnson*, 555 U.S. ____, 2009, citing *Knowles v. Iowa*, 525 U.S. 113: 117-118 [1998]). Effectively, the case weaves together past precedent into a patchwork legal quilt representing an officer's powers in traffic stops. In *ipse dixit* logic, the opinion posits that the logical conclusion of this penumbra of cases is that persons legally stopped in traffic encounters may be frisked when the officer has reasonable suspicion to believe the person is armed and dangerous.

The second portion of the reasoning determines that the encounter in question was custodial rather than consensual. The opinion notes that the officer never told Johnson that he did not have to cooperate or answer her questions. Moreover, the interaction took place within minutes of the stop, and the frisk was conducted very shortly after Johnson exited the vehicle. Such a short time line would not allow Johnson to reasonably feel free to leave.

The opinion then states the following dicta regarding traffic stops:

A lawful roadside stop begins when a vehicle is pulled over for investigation of a traffic violation. The temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop. Normally, the stop ends when the police have no further need to control the scene, and inform the driver and passengers they are free to leave. An officer's inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop. (*Arizona v. Johnson*, 555 U.S. ____, 2009)

In short, "a traffic stop of a car communicates to a reasonable passenger that he or she is not free to terminate the encounter with the police and move about at will" (*Arizona v. Johnson*, 2009).

Policy Implications

Arizona v. Johnson (2009) clearly reinforces the powers of police officers engaged in traffic stops. The case takes prior dicta and instills it with the status of law and the power of precedent. Officers can feel confident that “in a traffic-stop setting, the first *Terry* condition—a lawful investigatory stop—is met whenever it is lawful for police to detain an automobile and its occupants pending inquiry into a vehicular violation. The police need not have, in addition, cause to believe any occupant of the vehicle is involved in criminal activity. To justify a patdown of the driver or a passenger during a traffic stop however . . . the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous.”

Traffic stops are thought to be inherently dangerous. As was noted earlier, of the 57 officers killed feloniously in 2007, 16 were killed during arrest situations and 11 were killed while engaged in traffic pursuits or stops. Data compiled by the FBI regarding officers killed in the line of duty from 1994 to 2003 indicate that 10.5% of officers killed in this time frame were involved in a traffic stop or in pursuit (FBI, 2004). By clearly allowing officers to frisk suspects when they perceive them dangerous in traffic encounters, the holding should aid in officer safety. It may, however, be that officers are already engaged in this practice based on previous dicta from the Court.

The case leaves other areas of *Terry* law undisturbed. Officers conducting *Terry* stops or frisks outside of the vehicle stop context must still provide reasonable suspicion of criminal activity as well as reasonable suspicion that the individual they are dealing with is armed and dangerous.

The case may encourage police to gather as much information as possible during a traffic stop. The information could be collected for a strategic use or simply to aid in determining if the person is armed and dangerous. Officers and departments should take care in the practice, however, as no guidance is provided to aid in determining what qualifies as a measurable extension of the duration of the stop. Solicitations for information unrelated to the stop that occur within the normal structure of a traffic stop would seem to comply with the holding. Actions or customs that lengthen the interaction may constitute an additional seizure above and beyond that associated with the traffic stop. In short, as officers’ inquiries do not extend the length of the stop, there is little danger of the interaction morphing into a different legal form governed by other constitutional rules and requirements.

Endnotes

- ¹ Approximately 44 million Americans have at least one interaction with the police each year. When one considers citizens with multiple police interactions, the total number of police-citizen encounters in the United States is over 71 million (Durose, Smith, & Langan, 2007).
- ² These are defined as being a driver in a traffic stop, passengers during a traffic stop, or persons involved in a traffic accident.
- ³ Consent and nonconsent searches returned contraband at similar rates (Durose et al., 2007).

- ⁴ Police force is statistically rare in police-citizen encounters. For those whose most recent contact with the police was as a driver in a traffic stop, “0.8 percent (of the 17.8 million) stated that the officer used or threatened to use force against them” (Durose et al., 2007, p. 7; Bureau of Justice Assistance [BJA], 2001). In general, there were 707,520 contacts involving police use of force with 81.4% of these force incidents flowed from officer-initiated police contact. Certain types of police-initiated contacts were more likely to involve force. For example, contacts with criminal suspects (2.8% of all police-citizen encounters) accounted for 23.9% of use-of-force incidents, while police-citizen contacts flowing from criminal investigation (5.6% of all police-citizen encounters in 2005) accounted for 21.3% of force incidents (Durose et al., 2007).
- ⁵ Thus, in cases where it is alleged an officer has seized a citizen using the officer’s authority only, some level of citizen acquiescence is required to demonstrate a Fourth Amendment seizure.
- ⁶ Note that this reasonable person test means that the subjective intentions of the officer are irrelevant to the issue of seizure unless they are communicated to the citizen (LaFave, Israel, & King, 2000).
- ⁷ “He saw one of the men leave the other one and walk southwest on Huron Road, past some stores. The man paused for a moment and looked in a store window, then walked on a short distance, turned around and walked back toward the corner, pausing once again to look in the same store window. He rejoined his companion at the corner, and the two conferred briefly. Then the second man went through the same series of motions, strolling down Huron Road, looking in the same window, walking on a short distance, turning back, peering in the store window again, and returning to confer with the first man at the corner. The two men repeated this ritual alternately between five and six times apiece—in all, roughly a dozen trips. At one point, while the two were standing together on the corner, a third man approached them and engaged them briefly in conversation. This man then left the two others and walked west on Euclid Avenue. Chilton and Terry resumed their measured pacing, peering, and conferring. After this had gone on for 10 to 12 minutes, the two men walked off together, heading west on Euclid Avenue, following the path taken earlier by the third man” (*Terry v. Ohio*, 6).
- ⁸ He was also convicted of drug possession.
- ⁹ A subsequent search incident to arrest found both additional weapons and drugs.
- ¹⁰ He was not Chief Justice at the time.
- ¹¹ The opinion went on to note that the core idea was to base stops on tips that came with indications of reliability.
- ¹² A subsequent search of the trunk revealed 75 pounds of marijuana.
- ¹³ A large portion of the opinion focused upon a jurisdictional issue rather than the Fourth Amendment issue.
- ¹⁴ The Court “need not develop at length in this case, however, the limitations which the Fourth Amendment places upon a protective search and seizure for weapons. These

limitations will have to be developed in the concrete factual circumstances of individual cases" (*Michigan v. Long*, 463 U.S. 1032: 1046 [1983], citing *Terry v. Ohio*, 29).

- ¹⁵ Officer Trevizo did not know whether the scanner was turned on or off.
- ¹⁶ The frisk was based upon the following observations of the officer: (1) defendant watched the officers as they approached the vehicle instead of looking front like most traffic stop subjects; (2) he did not have identification; (3) he had a scanner in his pocket; (4) he was wearing blue Crips street gang colors; (5) the traffic stop took place near a known Crips area; (6) he told her he was a convicted felon; (7) the defendant told her he was from Eloy, and she knew the Crips were a dominant gang in Eloy; (8) the officer had been trained in gang enforcement and had two years of on-the-job experience dealing with gangs; and (9) the officer knew that gang members usually were armed.
- ¹⁷ The opinion expressly noted that the court was not ruling on "whether officers, in the interests of their own safety, and based solely on the seizure resulting from the initial traffic stop, may routinely pat down passengers whom they suspect of no crime but whom they reasonably suspect might be dangerous" (*Arizona v. Johnson*, 217 Ariz. 58: 64, [2007]).

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Attitudes Toward Illegal Immigration and Their Impact on Support for Immigration Policies

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On June 27, 2007, the Comprehensive Immigration Reform Act of 2007 was effectively defeated in a failed vote for cloture (GovTrack, 2007). The bill was Congress's second failed attempt on immigration reform in as many years (GovTrack, 2006). In fact, for nearly 40 years, Congress has struggled with agreeing upon and passing legislation aimed at addressing illegal immigration. Part of the problem may stem from the inaccurate perceptions and misunderstandings legislators have of the public's sentiments toward illegal immigration, which could be attributed to the shortage of data on the topic. In fact, Espenshade (1995) notes that prior to the mid-1990s, only one study had analyzed public opinion on the topic. Furthermore, much of the research in the past 15 years (polls included) has focused on recurring themes such as the effect(s) of illegal immigration on the economy; the support of, or opposition to, expanding enforcement measures; and attitudes toward immigration policy (Bean, Telles, & Lowell, 1987; Espenshade & Hempstead, 1996; Harwood, 1986; Wilson, 2001). A better idea of where citizens stand on specific issues related to illegal immigration could allow policymakers the chance to focus on more specific areas concerning illegal immigration and thus make strides to accomplish the goal of comprehensive immigration reform.

Studying attitudes towards illegal immigration is important for several reasons. First, it serves as a record in the larger scheme of trends in Americans' viewpoints on the issue. In their study of polls conducted regarding Americans' opinions toward immigration—both legal and illegal—Lapinski, Peltola, Shaw, and Yang (1997) note recurring trends regarding certain topics. Second, in measuring the perceptions of illegal immigration, a better understanding of where people stand on issues related to illegal immigration can be acquired. This would allow researchers to focus on areas of concern which may then be of interest to politicians and special interest groups. Last, by analyzing the opinions people have of illegal immigration, researchers can apply their findings to confirm or contradict existing literature. When discussing policy concerns over illegal immigration, arguments of racism and prejudice are sure to arise. Having studied public opinion on immigration policy, Burns and Gimpel (2000) suggest "a sizeable share of the restrictionist sentiment among the masses is motivated simply by prejudice" (p. 254). Studies on perceptions can assess whether prejudice exists and perhaps root out the causes if it does, or perhaps they can show that the concern over illegal immigration is beyond prejudice.

The purpose of this study is to measure whether or not perceptions of illegal immigration affect respondents' attitudes toward immigration policy by examining separate policies that have been proposed to address immigration. Political nuances and prevailing social sentiments toward individual strategies in a bill have hindered the acceptance and passage of legislation despite support for the remainder of the proposed strategies. As such, there have been recommendations to address the issue of illegal immigration in a piecemeal fashion, passing separate policies rather than attempting to write and pass broad sweeping bills because each strategy could garner a majority on its own but not when combined (Gimpel & Edwards, 1999). Additionally, researchers have tended to utilize general attitudinal measures about policy in a couple of common ways: (1) policy items that are combined into summary measures with other sentiments and beliefs about illegal immigration (Chandler & Tsai, 2001) or multiple policies that are combined into one summary measure (Wilson, 2001), and (2) researchers ask general questions about overall immigration policy (Burns & Gimpel, 2000; Espenshade & Hempstead, 1996; Hood & Morris, 1998; Stein, Post, & Rinden, 2000). The effect is that all of these methods do not allow for the evaluation of support for particular policies (for exceptions, see Haselhoff & Ong, 2008; Sandoval, 2006). This research seeks to address this gap in the literature.

Literature Review

Defining Support for Policy

Reviews of poll data indicate that since the early 1980s, U.S. respondents have generally held restrictive attitudes toward immigration policies (Lapinski et al., 1997). According to a *USA Today*/Gallup Poll, a majority of respondents want to make entering the U.S. illegally a crime, which is consistent with policies in the recently proposed Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (BPAIIA) (Federation for American Immigration Reform, 2006), but nearly two-thirds want illegal immigrants to stay in the U.S. and become citizens if they meet specific criteria (Page & Kiely, 2006). Despite these generally restrictive attitudes and support for increased border control, about half of those surveyed believe that immigrants make the U.S. a more diverse place and appear to welcome immigrants; additionally, fewer respondents currently agree that immigrants should give up their foreign traditions than in the 1960s (Lapinski et al., 1997).

A major issue in examining immigration policies is the fact that often it is not possible to individually examine separate policies as they have been combined into summary measures. One way this happens is when items inquiring about particular policies are combined with other attitudes about immigration, legal or illegal. For instance, in Chandler and Tsai's (2001) analysis of 1994 General Social Survey data, the authors constructed summary measures about "anti-legal immigration" and "anti-illegal immigration" that used multiple items related to immigration policy but also included items on the respondents' appraisals of the impact of immigration on the economy, unemployment, and cultural unity. While the general direction of the policy beliefs should follow those other beliefs as they factor together, the individual differences between those different policy items cannot be disentangled. Another example of how summary measures can mask distinctions between different policies is when researchers utilize a

summary measure of policies aimed at undocumented workers (Wilson, 2001). By combining the measures into a single outcome variable, the audience is able to see how predictors relate to the summary measure but is unable to see if various independent and control variables behave differentially in their impact on the specific immigration policies.

A second popular strategy in measuring attitudes toward immigration policy is to use a measure that asks respondents if immigration levels should increase, decrease, or stay the same. This method does not allow for the analysis of supportive and unsupportive attitudes toward specific policies like border security, employer sanctions, or issuing tamper-proof identification cards as it is a general measure of immigration attitudes. Many polls and studies have utilized this type of measure to assess how restrictive respondents' attitudes may be toward immigration policy in general—like the National Election Study (NES) data (Burns & Gimpel, 2000; Hood & Morris, 1998) and the General Social Survey (Wilson, 2001); news organizations that report poll data such as CBS and *New York Times* polls (Espenshade & Hempstead, 1996) and a statewide poll of Texans for the *Houston Chronicle* (Stein et al., 2000); and localized research studies (Haselhoff & Ong, 2008).

A small number of studies have sought to examine individual immigration strategies alongside the general support for the immigration policies discussed above. For example, two studies have examined the attitudes toward increasing border security in an attempt to prevent illegal immigration (Haselhoff & Ong, 2008; Pantoja, 2006). The 1996 NES asked whether federal spending on tightening border security and preventing illegal immigration should be increased, decreased, or kept about the same (Pantoja, 2006) and Haselhoff and Ong (2008) used the same measure for their survey of Southern Californians in 2007. Pantoja (2006) and the NES also asked about public service eligibility: "Do you think that immigrants who come to the U.S. should be eligible as soon as they come here for government services such as Medicare, Food Stamps, Welfare, or should they have to be here a year or more?" Over three-quarters of respondents answered that immigrants should have to wait a year or more. Haselhoff and Ong (2008) asked about a path to legalization for illegal immigrants: "Congress should allow them to stay and provide them with a path to citizenship." This policy strategy is consistent with the sentiment in opposition to the BPAIIA that led to an alternate Senate proposal, with neither bill being passed.

Circumstances of Support

Economics

Illegal immigration is often considered an economic phenomenon (Canoy et al., 2006; Neal & Bohon, 2003). A commonly expressed sentiment about illegal immigrants is that they take jobs from native workers, depress wages (leading to native unemployment), and are heavily dependent on welfare (Espenshade & Hempstead, 1996; Lapinski et al., 1997; Neal & Bohon, 2003; Pantoja, 2006). This may explain why many researchers have noted that opposition to immigration rises during recessionary periods or perceived economic downturns (Burns & Gimpel, 2000; Espenshade & Hempstead, 1996; Lapinski et al., 1997).

Some studies have challenged the notion that immigrants threaten natives' economic interests. For instance, Passel and Fix (1994) suggest immigrants may not take jobs from native workers or depress wages, arguing that labor market studies on the effects of illegal immigration showed little or no effect despite the fact that "illegal immigrants tend to generate net fiscal costs, especially to local governments" (p. 159). In spite of empirical data, respondents' perceptions of whether they were financially worse off one year ago (retrospective pocketbook) and whether the country was financially worse off one year ago (retrospective sociotropic) lead to a more restrictive general attitude about immigration policy (Burns & Gimpel, 2000; Espenshade & Hempstead, 1996; Pantoja, 2006). When these measures do affect general immigration attitudes, they demonstrate modest effects when other attitudinal controls are entered into multivariate models (Burns & Gimpel, 2000). Prospective pocketbook and sociotropic measures, as well as a combined measure of retrospective and prospective sociotropic evaluations, have shown no relation to general attitudes about immigration policy (Hood & Morris, 1998; Wilson, 2001), and measures asking respondents about their current financial security also demonstrate no significant relationship with general attitudes about policy (Haselhoff & Ong, 2008). Retrospective pocketbook and sociotropic appraisals do not seem to affect respondents' attitudes about specific policies such as border enforcement spending or illegal immigrant eligibility for public services with other controls (Pantoja, 2006) such as general measures of immigration policy support.

Cultural Identity

Cultural identity is intrinsically tied to sense of self, and threats to that identity are often used as a premise for supporting restrictive policies (Schildkraut, 2003). The argument is that undocumented migrants jeopardize some concept of national cultural identity which is generally understood by most citizens. As such, citizens are concerned for the well-being of society and whether or not illegal immigrants would establish themselves as societal assets or threats (Schildkraut, 2003). While U.S. respondents seem less concerned in recent history compared to the 1960s about immigrants giving up their own culture, language and assimilation appear to be central issues related to immigration (Hood, Morris, & Shirkey, 1997; Lapinski et al., 1997). Stein and colleagues (2000) found a negative relationship with U.S. cultural identity and the attitude toward the number of immigrants who should be allowed in the country; and measures of U.S. ethnocentrism negatively relate to attitudes about the number of immigrants that should be allowed but did not relate to attitudes about whether illegal immigrants should benefit from policies (Wilson, 2001). Other measures of cultural threat focus on the potential harm that immigration poses to society. Wilson found that as respondents' perceived threat level of immigration increased, it predicted decreases in attitudes toward the number of immigrants that should be allowed to enter the country.

After the September 11th terror attacks, immigration policy focused on new public sentiments aimed at national security (Esses, Dovidio, & Hodson, 2002; Huddy, Feldman, Capelos, & Provost, 2002). The PATRIOT Act allowed the Attorney General increased power to detain and deport noncitizens with little or no judicial review provided there were reasonable grounds to believe that the noncitizen endangered national security. Furthermore, both the Attorney General and the Secretary of State were granted authority to designate domestic groups as terrorist

organizations and deport any noncitizen member (Herman, 2001). Additionally, at the end of the 2005 session, the House passed the BPAIIA (GovTrack, 2006). This was a bill focused on the apprehension and deportation of illegal aliens and called for the mandatory deportation of all illegal immigrants apprehended at any port of entry as well as those convicted of crimes in the United States.

U.S. residents associate undocumented immigrants with committing crime and do not question the value of illegal immigrants to society as much as they do the extent to which illegal immigrants are a criminal liability (Coutin & Chock, 1997; Harwood, 1986). When talks of legalization programs arise, people may see it as a reward for breaking the law. This contradicts a widespread understanding that part of U.S. cultural identity includes punishing those who break the law and not rewarding them (Harwood, 1986); however, illegal immigrants are underrepresented in incarcerated populations (Rumbaut & Ewing, 2007). If people believe that illegal immigrants are criminals, then those same individuals may fear victimization by illegal immigrants. Chandler and Tsai (2001) found a significant relationship between fear of crime and anti-immigration attitudes. Additionally, fear of crime has been associated with punitive attitudes toward criminals (Cohn, Barkan, & Haltzman, 1991; Langworthy & Whitehead, 1986). It may be that fear of illegal immigrants leads to conservative attitudes toward immigration policy.

Negative Stereotypes

Burns and Gimpel (2000; see also Pantoja, 2006) found that even more important in explaining Americans' restrictionist views toward immigration policy than their economic outlook was their negative stereotypes of Blacks and Hispanics. The relationship between anti-immigrant stereotypes and attitudes toward how many immigrants should be entering the country is mixed with increases in stereotypes leading to either a decrease in the number of immigrants entering the country or no relationship at all (Haselhoff & Ong, 2008; Wilson, 2001). Increased immigrant stereotypes are associated with increased conservative attitudes toward illegal immigrants by restricting the benefits and public aid they receive (Wilson, 2001), disagreement with undocumented workers staying in the country and earning a path to citizenship, and tightening border security (Haselhoff & Ong, 2008).

State and Municipal Immigration Policies

In April 1994, with California facing a major budget deficit, nearly half of the residents polled disagreed with illegal immigrant amnesty (Barkan, 2003). California was estimated to have spent roughly 10% of its budget on illegal immigrants, a number largely confirmed by the Urban Institute (Barret-Lain, 1996). Facing a financial crisis, Proposition 187 was introduced to curb state government spending by denying illegal immigrants public benefits, including medical care (except in cases of emergency) and primary and secondary education (Barret-Lain, 1996; Mailman, 1995). The rationale followed that lack of public services was viewed as a deterrent for undocumented migrants to come to California and to induce others to leave (Mailman, 1995). Californians passed Proposition 187 with nearly 59% of the vote. A few days after it was passed, a federal judge placed an injunction on Proposition 187, and four years later the bill was effectively killed. It would be over ten years before any local legislation would receive similar attention.

In 2006, the City Council of Farmers Branch, a suburb of Dallas, became the first in Texas to pass anti-illegal immigration measures. The ordinance targeted illegal aliens by fining landlords who rented to them, allowing local authorities to screen illegal aliens in police custody, and making English the city's official language (Cobb, Carroll, & Davis, 2006). When the ordinance was subject to referendum, it easily passed with a 68.0% majority. Less than two weeks later, however, a federal judge intervened, granting a temporary restraining order while the court decided on plaintiffs' motions for a permanent restraining order (Sandoval, 2007).

Purpose of the Study

The data collected were part of a community survey regarding illegal immigration within a Texas metropolitan area in 2007. This study attempts to examine individuals' support for multiple immigration policies, namely border security, tamper-proof identification, deportation of convicted illegal immigrants, disallowing criminal immigrants from entering the U.S., allowing immigrants to be eligible for social services, and support for Farmers Branch's city ordinance. Additionally, this study seeks to assess the impact of attitudes toward illegal immigrants—immigration as threat, illegal immigrant stereotypes, and illegal immigrant victimization—on the above policies.

Methods

Data Collection

A self-administered questionnaire was created to measure respondents' perceptions of illegal immigration in the United States. The first part of the survey collected demographic information on the respondents such as sex, political orientation, and education levels. The remainder of the survey asked about respondents' familiarity with and attitudes about illegal immigration. In all, there were 54 different survey items.

The sample population consisted of adult residents of Arlington, Texas, living in single-family homes. Neighborhoods targeted for canvassing were chosen because their median household incomes were the highest in the city. The purpose for identifying the wealthier regions of the city was based on the U.S. Census Bureau's (2007) acknowledgement of education rising with median income; the authors felt it appropriate to assume those having attained higher degrees of education would possess more objective knowledge of illegal immigration. After having identified the median household incomes of Arlington residents using Yahoo's real estate website (<http://realestate.yahoo.com>), the authors obtained street maps for two zip codes (76001 and 76002) using <http://melissadata.com>. A sample of 135 residents from six different neighborhoods (three from each zip code) chose to participate in the study.

Upon determination of the sampled neighborhoods, an interviewer moved door-to-door to survey participants. Houses were only visited once, and only adults were surveyed. Initially, only one survey was allowed per household; however, the researcher allowed households multiple surveys if a request was made. Such requests were usually justified by household members holding differing opinions on the subject. Nearly all the surveys were retrieved outside the front doors of

the houses later that day, while some respondents volunteered to mail the survey back to the researcher. All respondents were allowed a minimum of 45 minutes to complete the survey. Surveying began in mid-May 2007, with the last surveys returned near the end of July 2007.

Dependent Variables

There are seven dependent variables. Each is a statement that asks the respondent to state her or his level of agreement on a five-point Likert-scale that is anchored by agree strongly (1) and disagree strongly (5). The first, *sufficient*, is a general item measuring respondents' satisfaction with current immigration enforcement. The remaining six items represent six specific immigration policies and are listed in Table 1.

Table 1. List of Items Comprising the Dependent Variables

Variable Name	Questionnaire Item
Sufficient	Currently, immigration laws are sufficiently enforced.
Border security	The most effective way to deal with the illegal immigration issue would be to secure the borders.
Tamper-proof	I would support the government issuing new tamper-proof Social Security cards as a way to ensure one's eligibility to work in the U.S.
Deportation	If an illegal immigrant is imprisoned for any offense, she or he should be deported.
Prior crime	Foreigners with criminal records should not be allowed to immigrate to the U.S.
Social services	Social services such as subsidized housing, food stamps, Medicare, etc. should be made more readily available to illegal immigrants.
Farmers Branch	The anti-illegal immigration measures proposed by the City of Farmers Branch are an appropriate method to address illegal immigration.

Independent and Control Variables

The independent measures are respondents' attitudes toward immigrants. There are three scales that represent individuals' attitudes toward illegal immigration: (1) *illegal immigrant victimization* (four items, $\alpha = 0.89$), (2) *illegal immigration as threat* (six items, $\alpha = 0.86$), and (3) *illegal immigrant stereotypes* (five items, $\alpha = 0.74$). The items that compose each of the scales are listed in the Appendix. The items that compose the illegal immigration as threat scale take into account the evolving nature of the threat that illegal immigration poses to society, including cultural and economic threats as well as national security and criminal victimization threats. The stereotype scales feature items that take into consideration economic and social welfare stereotypes, cultural stereotypes, and those that illegal immigrants are criminals among others. Each of the items that compose the scales shared the same response category, represented by a five-point Likert scale and anchored by agree strongly (1) and disagree strongly (5). Each of the scale scores was calculated by summing the scales' respective items. Lower scale scores indicate increased concerns about being victimized by illegal immigrants, higher likelihoods of viewing illegal immigration as a threat to society, and increased acceptance of stereotypes about illegal immigrants.

Additional observations about demographic and control variables were also collected: sex (male = 0, female = 1), race (Caucasian = 1, minority = 0), and education (college graduate or higher = 1, less than college graduate = 0). Respondents' political beliefs were also measured on a five-point scale that was anchored by liberal (1) and conservative (5); this variable is referred to as *conservativism*.

Findings

One hundred and seventy-two surveys were distributed with 135 completed for a return rate of 78.5%. Table 2 displays descriptive information for the variables. The majority of the respondents were White (64.0%), male (53.0%), and had received a college degree. Additionally, the mean for conservativism suggests that the sample is on the conservative side of moderate. The mean score of the illegal immigrant scale is somewhat greater than the midpoint, indicating the sample is not as concerned with their safety regarding immigrant victimization as they could be. Examining the illegal immigration threat scale, the sample's mean is less than the scale's midpoint, suggesting that the sample views illegal immigration as a larger threat than it hypothetically could have. The sample's mean on the illegal immigrant stereotype scale is near the scale's midpoint.

Table 2. Descriptive Statistics for Variables

Variables	Mean	SD	Min-Max
Sufficient	4.21	0.92	1-5
Border security	2.74	1.40	1-5
Tamper-proof	1.89	1.09	1-5
Deportation	1.84	1.19	1-5
Prior crime	1.41	0.79	1-5
Social services	4.37	1.03	1-5
Farmers Branch	2.85	1.44	1-5
Sex (female)	0.47	0.50	0-1
Race (White)	0.64	0.48	0-1
Education (college graduate)	0.58	0.50	0-1
Conservativism	3.42	1.17	1-5
Illegal immigrant victimization	12.99	4.37	4-20
Illegal immigration as threat	15.19	5.91	6-30
Illegal immigrant stereotypes	14.72	3.60	5-25

There are issues with variability among responses for two of the dependent variables. With *sufficient*, only two respondents answered that they strongly agreed with the statement and three answered in the neighboring category (2) that conceptually represents a lesser form of agreement. Due to low counts in the categories, utilizing the variable as is for ordinal logistic regression analysis may not be appropriate. The variable was collapsed such that strongly disagree (5) and its neighboring category (4 & 5) were recoded to equal 1 and the other values (1 to 3) were recoded as 0. The variable was then analyzed using binomial logistic regression. Additionally, in the variable *prior crime*, 92.0% of the responses were in the categories 1 or 2, indicating support for not allowing immigrants with criminal histories to enter the country. Due to overwhelming agreement with the statement and lack of variation in the variable, it was not subject to regression analysis.

Model 1 of Table 3 shows the binomial logistic regression for respondents' disagreement with the government's enforcement of immigration laws. The more of a threat that respondents view illegal immigration to our society and country, the more likely they are to believe that the government is sufficiently enforcing immigration laws. One variable trends toward significance. The less risk that a person feels that she or he will be victimized by an illegal immigrant, the more likely he or she is to agree with the government's enforcement efforts as sufficient. Illegal immigrant stereotypes did not exert a significant influence and neither did conservatism, which has been an important and significant control in predicting policy attitudes (Haselhoff & Ong, 2008; Wilson, 2001).

Table 3. Ordinal (and Logistic) Regression of Attitudinal Scales Over Independent Variables with Odds Ratios

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Variables	Sufficient	Border Security	Tamper-proof	Deportation	Social Services	Farmers Branch
Illegal immigration as threat	0.79**	1.25***	1.17**	1.12†	0.88†	1.16*
Illegal immigrant stereotypes	0.96	1.03	0.92	1.19*	1.00	1.04
Illegal immigrant victimization	1.21†	1.04	1.07	1.10	0.81*	1.19**
Sex (female = 1)	1.00	1.01	1.01	1.01	1.01	1.02†
Race (White = 1)	0.99	1.01	0.99	1.00	0.99	1.00
Conservatism	1.00	1.01	0.99	1.00	0.99	0.99
Education (college graduate = 1)	2.27	0.95**	1.02	0.95	1.00	1.00
Model significance	$\chi = 20.09$ $p < 0.01$	$\chi = 73.56$ $p < 0.001$	$\chi = 28.20$ $p < 0.001$	$\chi = 61.17$ $p < 0.001$	$\chi = 51.26$ $p < 0.001$	$\chi = 82.21$ $p < 0.001$
Pseudo R ²	0.144	0.435	0.196	0.378	0.328	0.474
Brant test of parallel regression	$\chi = 18.96$ $p > 0.05$	$\chi = 18.96$ $p > 0.05$	$\chi = 28.42$ $p > 0.05$	$\chi = 22.69$ $p > 0.05$	$\chi = 8.90$ $p > 0.05$	$\chi = 21.63$ $p > 0.05$

† $p < 0.10$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Next, attitudes toward border security were examined and results are shown in Model 2. Viewing illegal immigration as a threat to society leads to agreement with the fact that border security is the most effective way to deal with illegal immigration. Also, individuals with less than a college education are more likely to agree with border security as the most effective way to deal with illegal immigration. None of the other attitudes' relationships toward illegal immigration were significant toward border security, which is inconsistent with past studies (Haselhoff & Ong, 2008), as well as with respondents' political ideology (Haselhoff & Ong, 2008; Pantoja, 2006).

In examining support for the issuance of tamper-proof Social Security cards to determine work eligibility (Model 3), viewing illegal immigration as a threat was the only variable to significantly predict support for this policy. Increased perceptions of illegal immigration as a social threat leads to increased chances

of supporting the issuance of tamper-proof cards for work eligibility. No other variables trended toward significance.

In Model 4, the researchers assessed support for deporting illegal aliens who are imprisoned. Increased acceptance of negative stereotypes about illegal immigrants led to the increased likelihood of supporting this policy. Here, viewing illegal immigration as a threat trends toward significance in the expected direction. No other variables shared a significant relationship with attitudes toward this policy.

Respondents' attitudes toward illegal immigrants' eligibility for social services was examined in Model 5. An increased perceived risk for being victimized by illegal immigrants leads to decreased support for immigrants' eligibility for these services. Viewing immigration as a threat to society trends toward significance which leads to decreased chances of support for social services for immigrants. Wilson (2001) found that threat variables significantly predicted individuals' support for public benefits. No other variables in the models were significant predictors of support for social services. Conservatism has been found to predict attitudes toward illegal immigrants receiving public benefits in other studies (Pantoja, 2006; Wilson, 2001), but not here. Also, anti-immigrant stereotypes and Hispanic negative stereotypes have been shown to predict support for immigrants' eligibility for public benefits in previous work which is inconsistent with the findings here (Pantoja, 2006; Wilson, 2001).

The final model, Model 6, depicts the assessment of respondents' support for the ordinance of a neighboring community. The Farmers Branch ordinance required residency status checks by landlords, stating that they would be fined if they rented to illegal aliens. The ordinance also allowed police to screen those in custody for residency status and made English the official language of the city. Viewing illegal immigration as a societal threat increased support for this ordinance. Perceived risk of victimization by illegal immigrants also led to increased support for this ordinance. In this model, sex trended toward significance, with men more likely to support the policy and women more likely to disagree with it. No other variables were significant.

Discussion

Overall, attitudes toward illegal immigrants performed well as predictors toward support for various policies. Specifically, viewing illegal immigration as a societal threat figured prominently in support (or not) of the policies. This variable significantly predicted four of the six outcomes and trended toward significance in the other two (deportation and social services). Wilson (2001) found that threat predicted general attitudes and attitudes toward illegal immigrants receiving public benefits; however, here, threat only trended in predicting decreased support for social services with controls for perceived risk of victimization.

The other two attitudinal and perceptive measures were less consistent in the prediction of support for immigration policies. Stereotypes about illegal immigrants only predicted support for deporting illegal immigrants who were imprisoned, which is largely inconsistent with other research. Burns and Gimpel (2000) found that acceptance of negative stereotypes toward Blacks and Hispanics affect support for general restrictive policies, but this relationship is mixed in later

research with findings replicating that of Burns and Gimpel (Haselhoff & Ong, 2008; Pantoja, 2006) or finding no significant relationship at all (Wilson, 2001). Perceived risk for victimization by illegal immigrants significantly predicted support for the Farmers Branch ordinance and decreased support for social services eligibility, and it trended toward significance in the appraisal of the government's response to immigration enforcement. Perceived risk of victimization may function as it does here because it has been a powerful predictor of fear of crime (Lane & Meeker, 2003), which, in turn, is associated with punitiveness (Cohn et al., 1991; Langworthy & Whitehead, 1986). Perceived risk of victimization and fear of crime could be related to a constellation of conservative attitudes like restrictive immigration policies and punitiveness.

Respondents' political beliefs seemed not to impact their support for these policies or the approval of the government's efforts at all. Previous research has shown that political beliefs impact both general views of immigration policy and attitudes toward specific policies, with more conservative beliefs leading to more restrictive general views (Haselhoff & Ong, 2008) such as denial of public benefits (Pantoja, 2006; Wilson, 2001) and increased border security (Haselhoff & Ong, 2008; Pantoja, 2006). It could be that in past studies conservatism acted as a proxy for the perceived risk because other studies demonstrate a relationship with threat and stereotypical beliefs as controls. Those studies have also lacked controls for perceived risk of illegal immigrant victimization, which may be related to a constellation of conservative-related attitudes. Also, education influenced attitudes toward border security, and this mirrors previous research (Pantoja, 2006). Higher education is largely associated with a cosmopolitan/liberal outlook and more accepting attitudes toward illegal immigrants (Haubert & Fussell, 2006).

The data used for this study are cross-sectional, and do not allow for a determination of causation. Inferences about the relationship may not be accurate. It is assumed that attitudinal variables cause levels of support for particular policies, but the opposite could be true such that respondents choose a policy position then rationalize their attitudes to support their position (Wilson, 2001). There are also limitations with the sample. The sample size here compared to the use of other national studies that have asked about attitudes toward immigration is small. Also, the sample is not nationally representative as respondents resided in the same Texas suburb, and, thus, it was a community survey. Questions can be raised about the generalizability of the results based on lack of variability due to the sample size and the social attitudes and perceptions of those in the Texas suburb as compared to other Americans.

Previous research has shown that threats to economic and cultural security are important in determining support for immigration policy (Wilson, 2001). After the terror attacks of September 11th, national security became an issue, and assessing immigration threats must also account for threats to national security. The measure here accounts for these new concerns and generally shows the same result as previous research that focused on economic and cultural threats (Wilson, 2001). In addition to the recommendation by Wilson that policy must take into consideration Americans' views of economic and cultural threats and provide fair and sensitive outcomes, it must also now take into consideration national security threats and those threats in regards to victimization and crime. New policies to address illegal

immigration must work to alleviate Americans' concerns about these additional threats in addition to the standard economic and cultural threats.

In all, this research examined various immigration policies and demonstrated that attitudes and perceptions about illegal immigrants figure prominently in immigration policy support, particularly the impact that perceived illegal immigration threat plays in these policies. Wilson (2001) found that threat figured prominently in attitudes toward general policies and public benefits given to illegal immigrants. This study expanded those findings by demonstrating that threat impacts support for other policies as well.

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Appendix

Scale Items for Attitudes about Illegal Immigration

Illegal Immigrant Victimization

I would be concerned if I found out illegal immigrants were moving into my neighborhood.

I would feel unsafe if I knew illegal immigrants were moving into my neighborhood.

If I knew illegal immigrants were moving into my neighborhood, I would inform the authorities.

I am concerned I will be victimized by an illegal immigrant.

Immigration as Threat

Illegal immigration is a serious problem in the U.S. today.

If the current trends in illegal immigration do not change, it is likely to change the culture of the country.

The current trends in illegal immigration are likely to lead to an increase in terrorism.

If the population of illegal immigrants continues to rise, the crime rates will likely increase.

Illegal immigration represents a threat to national security.

Illegal immigrants currently overburden government programs and services.

Illegal Immigrant Stereotypes

If illegal immigrants are unemployed they are most likely taking advantage of various government programs and services.

Illegal immigrants take jobs away from citizens because employers can pay illegal immigrants less than what they would pay individuals with legal status.

Most illegal immigrants currently are criminals.

In terms of the likelihood they will contribute to the economic and societal interests of the United States, illegal immigrants from certain countries are more desirable than illegal immigrants from other countries (e.g., illegal immigrants from Canada are more desirable than illegal immigrants from Mexico).

Today's illegal immigrants have greater allegiance to their home countries than they do to the United States.

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Thinking Toward the Future: Dynamic Simulation as a Planning Tool for Police Administration

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Introduction

Although police departments have thoroughly embraced the computing and software technology of geographical information systems, computer-assisted simulation remains an underutilized operational tool across the vast array of police organizations. This is in stark contrast to private sector organizations where computer-aided simulation has become a common and well-accepted performance management methodology for some period of time and has continued to increasingly gain acceptance. As discussing computer simulation in its many forms would encompass an entire textbook, this paper introduces and proposes an active use for the methodology as it relates to the operation of police departments. The article provides the reader with a brief introduction to discrete event simulation methodology, the benefits of using the methodology over conventional quantitative techniques, and discusses some of the practical applications of this methodology for the police researcher and practitioner.

Simulation has a number of benefits that it can offer administrators, most notably the ability to conduct experiments to increase efficiency. Since the inception of the study of administration, notions of organizational efficiency and effectiveness have consistently been at the forefront. Classical management theorists and their contemporary police counterparts sought to optimize processes within organizations. However, in conducting such efficiency experiments, a vast amount of resources first had to be deployed in order to ascertain what method of operation was most optimal for the organization and those it serves. When Frederick Taylor (1997) conducted his studies on scientific management, he was forced to painstakingly deploy a multitude of resources to isolate the most efficient method for the tasks at hand. Computer-assisted simulation methods allow the modern police administrator to experiment with any number of possible policy and organizational decisions in a virtual world. This results in identifying the most efficient means of operation for the organization without the expenditure of finite resources or loss of operating costs from policy changes that were tested and subsequently failed.

Computer simulation is not a novel idea to police practitioners. In the early 1970s, a movement began that utilized computer-aided simulation technology within the criminal justice field to provide an analytical tool to practitioners that increased system efficiency and effectiveness. However, during the late 1980s, the excitement for such a method waned. It is difficult to isolate the specific cause for this, but it is likely due to the fact of the technical requirements needed on the part of the computer hardware and those designing the models at the time. With the exponential increases in modern computing technology, simulation technology

has been reintroduced as a viable administrative tool for police researchers and professionals to explore future scenarios that improve organizational and system efficiency. Ultimately, the improvement of a police organization's efficiency of its processes will assist in helping the agency achieve effective police practices in the community.

What Is Simulation Methodology?

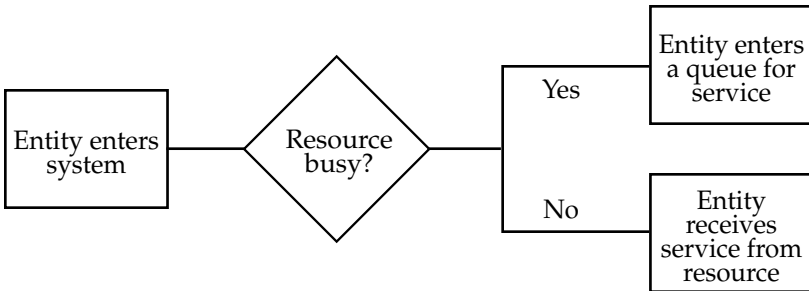
Although the skeptical police administrator may view computer simulation models as being somewhat artificial, these dynamic models construct mathematical models of real-world scenarios. Simulation, quite simply, is the use of a "model" to represent the operation of a real-world system. A system can be conceptualized as existing on many levels, but it can best be described as a set of components that interrelate and which inputs pass through that subsequently produce some output. Police departments reside within the larger criminal justice system, but they also contain subsystems to include the human resource process, training, patrol car allocation, and the like. By using simulation methodology, administrators are able to experiment in an artificial world to find optimal solutions rather than utilizing a trial and error approach in the real world, which would require the expenditure of the finite resources allocated to them. Computer-aided simulation methodology, in many respects, has more similarities to other techniques familiar to police operational researchers and administrators than differences. For instance, on the most basic level, it requires some generalizations about some pattern of behavior (Hanneman & Patrick, 1997). For example, it must be decided whether to aggregate groups or individuals into a model during the construction phase. As with other more conventional analytical methods, during a simulation a model can be exposed to an experimental stimulus and the subsequent behavior observed (Hanneman & Patrick, 1997). However, because computer simulation uses a simulated method from a machine, some view it differently because the method seems to be more artificial than other more traditional methods.

Discrete Event Simulation

There are many different simulation methodologies such as agent-based simulation, system dynamics, and discrete event simulation. From a police operations research standpoint, discrete event simulation has a great deal to offer the modern police administrator. Discrete event simulations model the operation of a system that is represented as a chronological sequence of events in which each event occurs at an instant in time and marks a change of state in the system. Discrete event simulation models are dynamic in that they factor in the passage of time within the model. This differs from the use of many mathematical and statistical models that are static (Banks, 1999). Therefore, those using discrete event simulation models are able to move time forward to explore and analyze impacts of potential organizational and policy changes as well as to seek to improve efficiency within those systems. Within discrete event simulation models, there is a focus on *entities*, which have attributes, and *resources*. Entities symbolize an item that dynamically moves through the system. The entity can represent a person or an object. The entity's attributes are local values and can correspond to items such as its time of arrival into the system or at a resource. In a production process, an entity might be an inanimate object. In conducting a simulation experiment within a police organization, an entity might be potential candidates for positions, police recruits,

or officers. A *resource* is an entity that provides some service to the dynamic entities moving through the system. Each of these resources can also handle more than one entity at a time. In a police organization, dynamic entities might represent officers who require some service, such as training, and the resources could be the dedicated trainers who are assigned to individual training topics. Each dynamic entity requests one or more resources. If the resource is busy processing other entities, then the dynamic entity enters a queue or diverts to another resource until the resource is able to handle it. Discrete event simulation allows the user to manipulate the attributes of the resources and dynamic entities to conduct experiments that compare output performance between different scenarios. Figure 1 provides an example of the theory behind a basic discrete event process.

Figure 1. Basics of Discrete Event Simulation



Discrete event simulation also allows the user to model current system performance in order to better understand possible inefficiencies. This is accomplished by having a fundamental qualitative sense of how the system operates and collecting the appropriate data to construct an accurate model that represents how the system actually works. The simulation user is then able to meticulously examine and understand possible inefficiencies in the system by consistently engaging in multiple artificial “runs” that replicate the real system. Since the “runs” of the simulation model are random and mutually independent, they collectively form a statistical sample. From this sample, traditional techniques of statistical analysis can be utilized if the user chooses.

As with any other research method, the nature of the question and the data available should drive the use of an appropriate methodology. With that said, there are many distinct arguments for the use of computer-aided simulation over other more traditional techniques. Of some of the key advantages for using simulation, Cassidy (1985) describes the following:

- It is either impossible or extremely costly to observe certain processes or the results of certain policies in the real world.
- The observed system is too complex to be described by a “closed form” analytic model.
- No straightforward analytical technique exists for solving the problems found in such a system.
- The social process under investigation is subject to continuous change and is highly nonlinear in its behavioral patterns. (p. 196)

Further, the use of more traditional quantitative techniques such as linear regression, path analysis, and covariance structure analysis does not allow for the analysis of complex multidimensional processes, nor do they offer insight into the processes by which the structures change (Auerhahn, 2003; Hanneman, 1988; Patrick, 1991). This last statement is, perhaps, the shining argument for the use of simulation methodology. A careful notice of the above-mentioned advantages of simulation modeling immediately reveals that the method rises above other research methods when examining and constructing research questions embedded within complex social systems because it does not rely upon linear, nonrecursive assumptions of the social world.

Potential Drawbacks of Discrete Event Simulation

Frequently, those new to simulation models believe it is beyond other forms of investigative and confirmatory inquiry in the social sciences. This, however, is a fallacy that leads the researcher down a dangerous road of ignorance and methodologically flawed research. The prevalence of this, perhaps, is a weakness of the method as it does require some degree of substantive knowledge in multiple realms. That is, those who may have intricate knowledge of the technical aspects of building computer simulations (e.g., engineers and computer scientists) may lack the substantive knowledge to adequately build a model that tests applications in a social environment with some degree of rigor. Likewise, many social researchers have substantive knowledge of theory and operations of criminal justice organizations but may lack the technical expertise to construct adequate simulation models. The challenge presented to police organizations is trying to gain enough knowledge in both realms to formulate appropriate research questions and construct appropriate models to sufficiently answer the questions in a rigorous manner. The abuse of this assumption is frequently characterized as *undisciplined modeling* (Taber & Timpone, 1996).

Quite simply, computer-aided simulation should be viewed as another tool that exists within the methodological toolbox available to police researchers and practitioners. However, many of the arguments made about its drawbacks related to technical knowledge can also be made for other methods, such as statistical and mathematically based modeling, which to some degree also require the researcher to possess some level of technical knowledge. In the model development stages of simulation, the researcher must make many of the same assumptions that other quantitative methods require. It should be noted that other scholars do somewhat differ on this argument and posit that simulation is superior to equation based models because it does not require many of the assumptions to be made that are required in statistical analysis and equation-based modeling (Lomi & Larsen 2001). This view can be misleading since the output generated by the model is dependent upon the modeler's input. On this last note, it is important to remember the old adage "garbage in, garbage out." This leads to an increasingly noted flaw of simulation in public administration/policy as many simulation models (e.g., discrete events) require the input of accurate probability distributions. However, many public agencies fail to keep the required data needed to calculate these probability distributions. Therefore, when building such a simulation, the modeler is sometimes caught in the terrible position of having to calculate distributions based upon a "best guess" derived from the available data. This last problem becomes a serious methodological issue when attempting to validate the model.

Practical Applications

Within police and public safety organization systems, the most practical aspects that simulation modeling can answer are questions pertaining to operations research problems. That is, questions of optimization concerning staffing levels, hiring processes, deployment decisions, and the like. These are more systemic technical questions rather than larger research questions based upon theoretical foundations. The type of research questions that can be asked of simulation models is only contingent upon the ability to build such a complex model as needed and the data available to the researcher. Researchers can use simulation models to aid in the explanation of how a complex system works or to investigate what gave rise to a specific set of structural configurations among the system. However, what is most interesting to the policy or decisionmaker is the ability to test proposed organizational changes or policy on the operation of the larger system. Additionally, the impact of proposed decisions of other organizations within the system on their own organization can be investigated. For example, a county sheriff who operates a local jail could model the effects on the organization of proposed hiring decisions or arrest policies of a local police agency over time. In essence, the simulation model can be used as an analytic tool acting much in the same manner as a flight simulator. Without making any policy changes in the real world, the efficiency or effect of such change and operation in an artificial world can be explored.

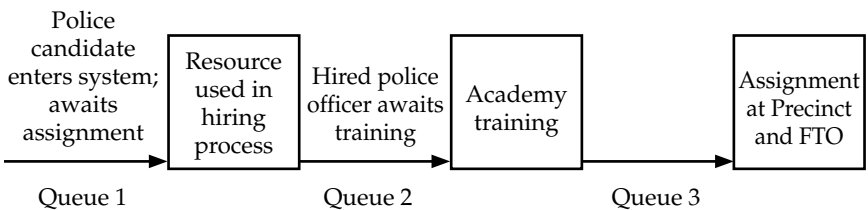
The majority of previous simulation models directed toward police operations have largely focused upon finding the most adequate methods for the deployment of police resources. Most notably, they have focused on the allocation of resources within the patrol subsystems of the law enforcement organization. Perhaps the most infamous is the Patrol Car Allocation Model (PCAM) developed by Chaiken and Dormont (1975). PCAM's goal was to find the most efficient manner for allocating personnel to police precincts. Other models of significant note include the Police Resource Allocation Program (RAP) and the Law Enforcement Manpower Resource Allocation (LEMRAS) used by the St. Louis Police Department in the late 1970s. The Law Enforcement Assistance Administration funded the Polytechnic Institute of Brooklyn's patrol simulation model and applied it to the New York City Police Department (NYPD). Richard Larson's (1974) model developed with Urban Sciences, Inc. for the Boston Police Department looked at such notable features as patrol units, job inputs, dispatch delays, and geographic structure. The New York City-RAND Corporation patrol car simulation model was similar to Larson's but also gave attention to the travel and service times of patrol units. Freeman (1992) somewhat deviated from past police operations research by examining organizational efficiency and effectiveness through police staffing levels. This model most closely resembles any research conducted regarding the marrying of simulation technology with staffing issues. However, this model is more similar to PCAM and could be considered a derivative of a deployment study.

The private sector literature is considerably more abundant with simulation technology being used as a tool to increase efficiency, particularly in regards to human resources. Perhaps much of this results from the fact that private sector organizations have long recognized the strong role that the movement of personnel plays in the effective and efficient achievement of strategy. Greasley (2004) makes an argument that simulation aids in finding balance within an organization. Khoong (1996) recognizes the importance of having the right people in the right place at the right time and constructs a system dynamics model to illustrate

workforce simulation planning as a cost-effective tool. Parker and Marriott (1999) use simulation modeling as a strategic personnel-forecasting tool and attach cost modeling to the process. Mjema (2002) constructs a simulation model of workforce analysis and applies it to a maintenance department to determine appropriate staffing levels, allowing for the implementation of subsequent staffing policy to maximize utilization. The question then becomes, "Why couldn't police administrators adopt such methods for use in their organizations?" The resounding answer is they most certainly can!

There has been minimal research and application in police operations utilizing discrete event simulation. Greasley and Barlow (1998) and Greasley (2000, 2001) have been the most prominent researchers applying discrete event simulation to police operations, of which all of these models deal with custody processing operations. There are, however, many other pressing administrative questions that police administrators could ask of discrete event simulation models. As mentioned earlier in the paper, police organizations could use such models for scheduling training. Many organizations, particularly those that are larger, have a difficult time matching training resources (e.g., buildings and instructors) to trainees. This can create bottlenecks in the training system, resulting in some officers not receiving the required training. Administrators using a discrete event simulation method cannot only microscopically examine how their training systems currently operate, but they can experiment with the artificial model by adding and/or subtracting resources, and can subsequently analyze the results of such experiments. Further, discrete event simulation has the capability to add costs to the processing of entities; therefore, administrators also have the ability to experiment with the financial aspect of this scenario in an artificial environment. Figure 2 provides a pictorial example of a very basic discrete event simulation applicable to police organizations.

Figure 2. Example of Discrete Event Simulation for Police Organizations



This is a simplification of this complicated process, and each of the boxes could (and typically are) composed of several resources, all of which can be modeled. A simulation would allow the organization to experiment with reallocating resources within this system and also costing out each part of the process.

Another pressing and current issue that is amenable to discrete event simulation is recruitment and retention. Many police departments are having a difficult time in balancing the amount of recruits who flow into the system versus those who are leaving through retirement and separation. Some have even gone as far as to describe the

situation as a “cop crunch” (Shusta, Levine, Harris, & Wong, 1995). Just one of the issues surrounding this current matter involves how quickly an agency can hire a qualified applicant and send them through recruit training. Potential applicants ostensibly are involved in the recruiting/screening process for numerous agencies, and a delay or bottleneck in a concerned administrator’s agency could result in the loss of a qualified candidate to another agency. Discrete event simulation once again allows the user to microscopically examine the process by asking questions such as the following:

- Are we losing a large number of applicants at a given a stage during the process?
- Given the number of applicants, why are potential recruits not making it through the process to meet target goals?
- Why is it taking so long for recruits to get through the hiring process?
- Will adding more recruiters, background investigators, and human resource personnel assist in achieving the target?
- If adding more recruiters, background investigators, and human resource personnel will assist, what is the optimal number of each of these personnel and the associated costs?

Answering these questions is based upon the artificial simulation that incorporates the passage of time and only costs the agency the time to construct and analyze such models.

Conclusion

One of the greatest advantages of using simulations in organizational systems is that they are inherently dynamic. Simulation modeling is unparalleled in its ability to integrate time into quantitative analysis. Further, the complex relationships that take place among and between organizational systems are more conducive to a simulation modeling technique rather than a more static-based approach (Cuvelier, 1998). For law enforcement organizations across the country, it has become imperative to focus on the human resource aspect of their organizations. Simulation holds tremendous promise for the efficient allocation of personnel and the drafting of appropriate policy. Davenport and Harris (2007) posit that many successful organizations are now starting to view the human resource component as part of the organization’s supply chain. Workforce efficiency also aids in effective organizational strategic planning and therefore assists in achieving the needs of the communities they serve. In addition to meeting long-term organizational and community goals, personnel forecasting can be utilized in tactical and operational planning for the organization to assist in carrying out short-term mission critical events. Further, a simulation model of the workforce system within an organization can act as a performance measurement tool.

In an arena where agencies must compete for funding, simulation models can be a useful tool in locating where improvements can be made, setting realistic goals for process outcomes, and ensuring better resource allocation. The majority of the effort put into incorporating simulation models into police agencies involves educating the players and actively including them in the process. These players need to experience the benefits simulation modeling can have on how they manage their scarce resources and project outcomes. The use of discrete event simulation, in particular, would have considerable application across the range of issues with which the modern law enforcement organization must concern itself. With

the renewed interest and recognition of the importance of operations research in policing, it is somewhat imprudent for an organization to be without this tool.

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Authority Versus Power: Implications for Law Enforcement Leaders

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"As for the best leaders, the people do not notice their existence. The next best, the people honor and praise. The next, people fear; and the next, people hate." So reads a quote attributed to the ancient Chinese philosopher Lao Tzu, who believed that effective leadership requires a variety of skills, most notably the judicious use of power.

Power is defined as the ability to influence others, to overcome resistance, and to get people to carry out activities that they might not otherwise want to do. Fifty years ago, sociologists French and Raven (1959) proposed five interpersonal bases of power that are used to influence the behavior of others: (1) legitimate power, (2) coercive power, (3) reward power, (4) expert power, and (5) referent power. The first three types—legitimate, coercive, and reward power—are derived from a leader's position or status, commonly referred to as position power. The second category, which includes reward and referent power, also known as personal power, is a reflection of one's personality or character.

Contrary to popular belief, power is a neutral term subject to positive use as well as negative abuse. On the one hand, power is beneficial when used in positive ways that contribute to the accomplishment of organizational objectives, improved employee engagement, and higher levels of job satisfaction. On the other hand, power is destructive when used in negative ways that serve a leader's self-interests, damage morale, and reduce productivity. Not surprisingly, the proper use of power is one of the behaviors that separate effective and ineffective law enforcement leaders. While most leaders recognize the importance of power, they often fail to appreciate the full impact of their behaviors on employee engagement, job satisfaction, retention, morale, and safety (Soldati, 2007).

While the appropriate use of power is a cornerstone of successful supervision (McClelland & Burnham, 1976) and employee engagement (Soldati, 2007), all power—regardless of the source—must be legitimate to be effective. Officers will accept a leader's power only to the extent that they believe it is proper for them to do so. The purpose of this article is to help law enforcement leaders understand the available bases of power, how those sources impact behavior, and how to best cultivate and maintain their influence.

Three Forms of Engagement

Research, in fact, supports the idea that a leader's use of power can result in three qualitatively different outcomes: commitment, compliance, and resistance (Muchinsky, 2003). The first outcome, *commitment*, results when an officer is motivated to perform a task or follow an order to the best of his ability, regardless of management oversight. The second result, *compliance*, takes place when an officer follows a leader's order or agency's policy in an apathetic way, typically by exerting only the minimum effort necessary. The third and final consequence,

resistance, occurs when an officer actively tries to avoid carrying out a request or following an organizational policy. Predictably, the ways a leader exercises power largely determines whether it results in enthusiastic commitment, passive compliance, or active resistance.

Position Power

In most law enforcement organizations, there is a clear hierarchy of command, with managers at the top possessing the most power and officers at the bottom having the least. This arrangement, referred to as *position power*, perhaps best represents what most officers think of as the official supervisor-subordinate relationship. As a general rule, anyone in an agency who is able to compel another person to perform work because of their position or title is considered to have position power (Etzioni, 1961). Leaders high in position power tend to rely on organizational hierarchies, policies, and authority to gain compliance. The bases of power most commonly associated with position influence include legitimate power, coercive power, and reward power.

Legitimate power—also referred to as institutional, legal, or traditional power—represents a leader’s right to make decisions, to direct actions, and to command compliance simply by virtue of their organizational status (Muchinsky, 2003). Unlike other forms of influence, legitimate power is position dependent—it belongs to the position and, regardless of who occupies the spot, remains the same. A leader or manager holds power as long as they hold office; however, once they leave, that authority is lost. Not surprisingly, research indicates that legitimate power is the form of influence used most often to accomplish routine, daily objectives (Yukl & Falbe, 1991).

Coercive power reflects a leader’s ability to punish noncompliance. Leaders high in coercive power encourage obedience by threatening officers with punishment, such as undesirable work assignments, poor performance evaluations, or discipline, for failing to meet performance expectations (Robbins, 2005). Coercive power appears to be most effective when reserved for officers who jeopardize organizational objectives, threaten a leader’s legitimate authority, or refuse to respond to other methods (Yukl & Fable, 1991).

Reward power, as the term implies, is based on a leader’s ability to exchange incentives, such as bonuses, job assignments, promotions, praise, and recognition, for desired behaviors. Not surprisingly, rewards seem to have a more positive impact on employee satisfaction and engagement than coercive power, while requiring less observation and control (Lewicki & Litterer, 1985). It is worth noting, however, that the effectiveness of a reward depends on how it is perceived by the person receiving it—that is, the more an individual values the reward, the more effective it should be at producing compliance.

Regardless of the type of influence, power is only effective to the degree that officers willingly obey directives, even those they dislike, because they believe that following orders is the right thing to do. Problems with officer morale, engagement, and retention usually begin when leaders are unable to determine where authority and oversight end and personal power begins. As most officers can testify from personal experience, punishment is notoriously ineffective at producing long-term

behavioral change (Ormrod, 2008). In fact, being forced to comply with an order usually produces nothing more than a superficial, short-term change in performance because it does little, if anything, to change the underlying beliefs, attitudes, and values that drive behavior.

Personal Power

Whereas position power is delegated from the top down, personal power is granted from the bottom up. In simplest terms, *personal power* reflects the extent to which followers are committed to, and willing to follow, a leader. By and large, the more officers trust their leaders, the more willing they are to follow. Hersey and Blanchard (1982) describe personal power as a “day-to-day phenomenon”—something that can be earned, and something that can be taken away. Similar to position power, leaders high in personal power rely on two bases of influence: (1) expert power and (2) referent power.

Expert power reflects a leader’s expertise, credentials, or education. Anyone in an organization who develops expert knowledge about procedures, policies, or technical matters is considered to possess expert power (Muchinsky, 2003). As a general rule, the harder it is to replace an expert, the greater the amount of power the individual possesses. It is important to note, however, that the mere possession of special skills or information is usually not enough—it’s what the leader does or potentially can do with the expertise that counts.

Referent power—also referred to as charismatic or attractive power—is based on character and competence (Hersey & Blanchard, 1982). Intelligence, communication skill, physical strength, wit, creativity, energy, determination, empathy, stamina, and courage are all key factors in determining the amount of referent power a leader possesses. Unlike legitimate power, which exists by default, referent power is only awarded to leaders who are well-liked and respected by their subordinates. The more an officer admires or identifies with a leader, the greater the individual’s referent power. While this is arguably the most difficult form of power to develop, it also has the greatest potential for influencing others.

It’s important to note that an officer doesn’t need a formal position in the organization to have personal power (Robbins, 2005). In fact, some of the most influential people in many law enforcement organizations have no formal authority. Others follow them, not because of their title or position, but because they have earned the admiration and respect of their peers or leaders by establishing valuable expertise or demonstrating desirable personality traits such as trust, commitment, and honesty.

Generally speaking, expert and referent power appear to work best when motivating commitment on tasks that require greater effort, initiative, or persistence (Yukl & Falbe, 1991). Since referent power is based on character and competence, it is especially sensitive to violations of trust. Developing and maintaining referent power requires that leaders behave, among other things, in ways that are consistent, predictable, and ethical.

Research has consistently supported the idea that the messenger is the message (Patterson, Grenny, Maxfield, McMillan, & Switzler, 2007)—that is, in leadership

communication and influence, the credibility—and, in many cases, the success—of a policy, program, or idea is tied directly to the messenger. If the messenger is considered credible, the message will be seen as reliable, too. In contrast, if the source lacks credibility, for any number of reasons, the message will lack integrity as well, significantly reducing the communication's intended effect.

Since line officers look to their management for direction, the conduct of leaders is especially important (Knights & O'Leary, 2005). If law enforcement leaders and managers expect their officers to behave morally, then they must set the example. Such examples go a long way toward establishing a leader's credibility and, in turn, referent power.

Leadership Assumptions and Behaviors

McGregor (1961) proposed that behind every leadership decision or action are assumptions about human nature and human behavior. On the one hand are managers who assume that workers are inherently lazy, avoid work whenever possible, and require strict oversight to ensure that work gets done, a set of beliefs termed *Theory X*. In contrast are leaders who believe that people are naturally motivated, enjoy meaningful work, and the creative potential of most employees is never realized, a set of statements referred to as *Theory Y*.

All law enforcement leaders communicate their assumptions—sometimes knowingly and sometimes unknowingly—in the ways they interact with officers. These assumptions and behaviors can significantly influence the work environment as well as the ways that officers conduct themselves—a phenomenon commonly referred to as a self-fulfilling prophecy (Halpern, 2002). In other words, if a leader believes that officers are lazy, demand direction, and require continuous oversight, their conduct toward subordinates will reflect that attitude. Officers will, in turn, behave in ways consistent with those beliefs—they will demonstrate little initiative, wait for direction, and place responsibility for completing work squarely on the leader's shoulders.

Leaders should be aware of their assumptions as well as the effects of those beliefs on their leader-subordinate relationships. While there is clearly nothing wrong with the appropriate use of authority, it is only one form of influence and is limited in scope. In many cases, leaders can increase their effectiveness by relying less on position power and more on personal influence.

Obstacles to Effective Leadership

Considering the limitations of authority, why do so many leaders continue to rely on it in situations where it is clearly ineffective? Four common obstacles to an effective balance between authority and personal influence appear to be (1) myth of the "military model," (2) a focus on short-term results, (3) a lack of desire to learn something new, and (4) competing commitments.

Perhaps the greatest barrier to effective leadership in many law enforcement agencies is the myth of the "military model." For years, movies like *Patton* and *Platoon* have glorified authoritarian, top-down models of military leadership. Not surprisingly, proponents of this model are quick to compare the military with law

enforcement by pointing to a number of similarities—for example, both the military and law enforcement use rank structures, wear uniforms, and carry weapons.

While law enforcement shares a number of superficial similarities with the military, so do many other professions (Cowper, 2000). In addition, even if such comparisons are accurate, the assumption of command-and-control leadership commonly associated with military leadership is inherently flawed—and, in many cases, in direct conflict with actual military doctrine. As Cowper points out, for more than 3,000 years, military leaders have written in earnest about what motivates soldiers to fight and die. In fact, as early as 350 BC, the Greek historian and celebrated military commander Xenophon discussed the importance of personal power as opposed to position power. “Willing obedience always beats forced obedience,” Xenophon wrote (Heinl, 1966), and he did so more than 2,500 years before the current focus on management and leadership theory began.

More recently, the *Marine Corps’ Doctrinal Publication (MCDP)-1* (1997), written for all Marines, encourages all military leaders, right down to the lowest ranking enlisted member, to take action and solve problems. The doctrine encourages subordinate commanders to make decision on their own initiative, “based on their understanding of their senior’s intent,” rather than simply passing information up the chain of command and waiting for an order to be passed down (Cowper, 2000). The fact that the authoritarian, top-down model of military leadership still exists in law enforcement is, to say the least, baffling and, at most, in direct conflict with actual military practice in many cases.

Another problem that interferes with effective leadership is a focus on short-term compliance at the expense of long-term commitment. One of the primary reasons that many leaders rely heavily on authority is simple—because it works (Lee, 1998). While authority is an excellent way of encouraging short-term compliance, it has a dark side. Relying too heavily on coercion can create resentment, resistance, and, in extreme cases, deliberate sabotage. In addition, it places an often unnecessary burden on leaders by requiring them to continuously watch and direct the activities of their subordinates to identify and punish disobedience (McGregor, 1961). While most officers will comply with organizational policies and direct orders when a leader is present, what happens when management is absent is anybody’s guess.

Although law enforcement leaders and managers must oversee the activities of their officers, ensure those officers follow organizational policy, and hold people accountable for violations of those standards, authority appears to work best when used sparingly and usually—with rare exceptions—only after other methods have failed. If leaders expect their officers to demonstrate long-term commitment to organizational goals and objectives, they must create the appropriate atmosphere. In most cases, leaders will inspire higher levels of commitment by providing officers with the necessary training and resources than with continuous oversight and threats of punishment.

A third reason, as difficult as it is to believe, is that some leaders simply have no desire to extend the time and effort necessary to learn something new. While this can occur for any number of reasons, some of the more common problems include insecurity, fear, ignorance, impatience, an organizational culture that rewards such behavior, or the belief that nothing else will work (Lee, 1998). What many of

these leaders fail to realize is that power is, at its core, about building relationships based on trust and mutual respect so that officers perform their jobs to the best of their abilities regardless of management input or oversight. As a result, the most effective leaders go out of their way to build trust by modeling appropriate behaviors, building strong track records, demonstrating consistency, and showing personal accountability (Kotter, 1985).

Finally, while many leaders agree that personal power is an effective way to increase officer commitment, they may be battling psychologically against other even more powerful commitments (Kegan & Lahey, 2001). In this case, a leader's resistance to change is the result of an unconscious, opposing agenda—an agenda with which they are often unaware. For example, while a leader may publicly admit the limitations of an overly authoritarian management style, he continues to hold firm to another, more compelling belief. If he allows officers the freedom to manage their calls for service, he will be seen as weak and lose credibility with his superiors. Such competing commitments, according to Kegan and Lahey, can be frustrating not only to coworkers but to management as well.

Overcoming one's competing commitments can be a lengthy process. It requires that leaders, first, examine their underlying assumptions about themselves as well as their employees. Everyone holds a number of assumptions about people and things that they rarely question. Since people have held these assumptions for so long and without question, they simply accept them as reality. While some of these assumptions are reasonable and realistic, other beliefs are erroneous and unrealistic.

Not surprisingly, change often starts with a critical introspective look at the assumptions that drive one's behavior (Ellis & Lange, 1995). In many cases, only by identifying and challenging those assumptions is lasting change possible. With the right focus and effort, leaders can become the biographers of their own assumptions by asking when and where these beliefs were formed? And, what purpose do they serve? Once these questions have been answered, leaders can replace these assumptions with more reasonable statements, test those beliefs, and evaluate the results—a process that can help leaders develop a healthier balance between authority and personal influence.

Closing

Effective law enforcement leaders understand and maximize their available bases of power. They also appreciate the benefits and costs of each source, use an appropriate balance of authority and personal influence, and remain flexible in their approach. However, in the end, the best leaders understand that power is not something that they have over officers; it is something that they share with them. In the purest sense, power comes from the person being influenced—not the person in the more powerful position. While this statement might appear counterintuitive, one can only be a leader if others decide to follow. If officers choose not to follow their "leaders," they are no longer leaders.

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The Need for Situational Awareness Assessment Tools to Improve Police Decision-Making Competence (Part One)

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Introduction

For many professions, instruments of one sort or another are used almost routinely to assess the level of competence of professionals in decision-making relative to their particular occupations. Aircraft pilots, doctors, engineers, and the like are no strangers to such testing. Members of police departments, overall, have little exposure to such forms of assessment, even though they are required from time to time to make critical decisions regarding public safety. At the Law Enforcement Management Institute of Texas (LEMIT), part of the Criminal Justice Center housed at Sam Houston State University, a piece of research has commenced to assess police officers' levels of situational awareness, with the ultimate intention of designing training that enhances decision-making competence. This three-part series addresses the issues involved. The first paper examines the use of applied cognitive psychology in a law enforcement decision-making context; reviews the concept of human error, utilizing a few case studies; examines the concept of situation awareness; and finally addresses the differences between intuition and logical thinking. The second paper describes how simulation-oriented training helps law enforcement officers make better decisions, and the final paper describes how situation awareness assessment tools and simulation training work together.

The Use of Applied Cognitive Psychology in a Law Enforcement Decision-Making Context

Cognitive psychology is the study about "the mental processes involved in acquiring and making use of knowledge and experience gained from our senses. The main processes involved in cognition are perception, learning, memory storage, retrieval and thinking, all of which are terms that are used in everyday speech and therefore already familiar to most people" (Esgate et al., 2005, p. 2). Recently, people became more interested in applying cognitive psychology to real-life situations, asking questions like "Just how do cognitive processes influence individuals' behavior and performance?" This gave birth to the term identified as *applied cognitive psychology*. Since it has focused on measuring human factors, behavior, and performance, the research community's concern had concentrated on *working memory*. Since the term was first used for linking the mind to a computer in the 1960s, now it usually refers to "the system responsible for the temporary storage and concurrent processing of information" (p. 90). Since working memory plays an important role in comprehension, learning, reasoning, problem solving, and reading, it has been applied in various research areas such as aviation, improving teaching methods, artificial intelligence, the medical field, human-computer interaction, and so on.

In 1974, Baddeley and Hitch introduced the concept of working memory, and it was developed by Baddeley (1986). The working memory “is characterized by the assumption that short-term storage of information must be considered as part of a more complex system involved in the execution of a specific task. The information is stored in the working memory as long as necessary, and the structure need not be defined only in terms of the dichotomy between short- and long-term information storage. On the contrary, this system has the ability to store and process information simultaneously” (Cornoldi & Vecchi, 2003, p. 6). Baddeley and Hitch’s (1974) working memory model was originally composed of three main components: (1) *phonological loop*, (2) *visuo-spatial sketchpad*, and (3) *central executive*, and in 2000, Baddeley added the fourth component, *episodic buffer*, which integrates phonological, visual, spatial, and auditory information (Baddeley, 1986; Baddeley & Andrade, 2000).

Working memory capacity is the most important determinant of individual differences in the performance of information-processing tasks, thus, cognitive skills (Baddeley, 1986; Baddeley & Andrade, 2000; Esgate et al., 2005; Turner & Engle, 1989). A number of studies have demonstrated “the relationship between working memory capacity and individual performance in reading comprehension, speech comprehension, spelling, spatial navigation, learning vocabulary, note-taking, writing, reasoning, and complex learning” (Engle, Kane, & Tuholski, 1999, as cited in Esgate et al., 2005, p. 91). Esgate et al. (2005) asserted that “performance in these and related tasks can be predicted by individual differences in the working memory capacities of the participants” (p. 91). Here is our point. Although applied cognitive psychologists focus on finding individual differences in the working memory capacity, this study’s main point is the opposite of it. In other words, the purpose of this study is to develop, improve, and maximize law enforcement officers’ performance in decision-making processes by utilizing individual differences in cognitive skills.

Human Error

When some disasters or tragic catastrophes occur, people refer to them as predictable because they believe the disasters are manmade catastrophes, thus, they happened by human error. What is the distinction between errors and mistakes? In psychology, “an error is an appropriate action that has gone awry somewhere in its execution. A mistake, on the other hand, is a completely inappropriate action based upon, for example, faulty understanding of a situation, or faulty inferences and judgments” (Kahneman, Slovic, & Tversky, 1982, cited in Esgate et al., 2005, p. 121). However, in general, the terms *error* and *mistake* are commonly interchangeable and are defined as an act or thought which is considered to be incorrect, wrong, or faulty. As mentioned before, most human error research has been mainly conducted in aviation, medicine, engineering, industrial areas, and so on, but not in the law enforcement field, although errors made by law enforcement officers can bring not only more fatal dangers but also big monetary damages. The following cases are good examples of human errors made by police officers’ misjudgment.

For Diallo’s case, Case 1, the City of New York became the subject of a \$61,000,000 lawsuit claimed by his mother and stepfather in April 2000, and the City had to pay a \$3,000,000 settlement to them in 2004. As a result of his death, the Street Crime Unit in the City of New York was disbanded, and his story was filmed by

director Veronica Keitt in 2007 (see the website www.365daysofmarchingmovie.com). Case 2, the Bell's case, was filed by his fiancée against the officers involved in his death and against the New York Police Department (NYPD) in July 2007.

Case 1. Seven Seconds in the Bronx

The 1100 block of Wheeler Avenue in the Soundview neighborhood of the South Bronx is a narrow street of modest two-story houses and apartments. At one end is the bustle of Westchester Avenue, the neighborhood's main commercial strip, and from there, the block runs about two hundred yards, flanked by trees and twin rows of parked cars. The buildings were built in the early part of the last century. Many have an ornate facade of red brick, with four- or five-step stoops leading to the front door. It is a poor and working-class neighborhood, and in the late 1990s, the drug trade in the area, particularly on Westchester Avenue and one street over on Elder Avenue, was brisk. Soundview is just the kind of place where you would go if you were an immigrant in New York City who was looking to live somewhere cheap and close to a subway, which is why Amadou Diallo made his way to Wheeler Avenue.

Diallo was from Guinea. In 1999, he was twenty-two and working as a peddler in lower Manhattan, selling videotapes and socks and gloves from the sidewalk along Fourteenth Street.

He was short and unassuming, about five foot six and 150 pounds, and he lived at 1157 Wheeler, on the second floor of one of the street's narrow apartment houses. On the night of February 3, 1999, Diallo returned home to his apartment just before midnight, talked to his roommates, and then went downstairs and stood at the top of the steps to his building, taking in the night. A few minutes later, a group of plainclothes police officers turned slowly onto Wheeler Avenue in an unmarked Ford Taurus. There were four of them—all white, all wearing jeans and sweatshirts and baseball caps and bulletproof vests, and all carrying police-issue 9-millimeter semiautomatic handguns. They were part of what is called the Street Crime Unit, a special division of the New York Police Department, dedicated to patrolling crime "hot spots" in the city's poorest neighborhoods. Driving the Taurus was Ken Boss. He was twenty-seven. Next to him was Sean Carroll, thirty-five, and in the backseat were Edward McMellon, twenty-six, and Richard Murphy, twenty-six.

It was Carroll who spotted Diallo first. "Hold up, hold up," he said to the others in the car. "What's that guy doing there?" Carroll claimed later that he had had two thoughts. One, that Diallo might be the lookout for a "push-in" robber—that is, a burglar who pretends to be a visitor and pushes his way into people's apartments. The other was that Diallo fit the description of a serial rapist who had been active in the neighborhood about a year earlier. "He was just standing there," Carroll recalled. "He was just standing on the stoop, looking up and down the block, peeking his head out and then putting his head back against the wall. Within seconds, he does the same thing, looks down, looks right. And it appeared that he stepped backwards into the vestibule as we were approaching, like he didn't want to be seen. And then we passed by, and I am looking at him, and I'm trying to figure out what's going on. What's this guy up to?"

Boss stopped the car and backed up until the Taurus was right in front of 1157 Wheeler. Diallo was still there, which Carroll would later say “amazed” him. “I’m like, all right, definitely something is going on here.” Carroll and McMellon got out of the car. “Police,” McMellon called out, holding up his badge. “Can we have a word?”

Diallo didn’t answer. Later, it emerged that Diallo had a stutter, so he may well have tried to say something but simply couldn’t. What’s more, his English wasn’t perfect, and it was rumored as well that someone he knew had recently been robbed by a group of armed men, so he must have been terrified: here he was, outside in a bad neighborhood after midnight with two very large men in baseball caps, their chests inflated by their bulletproof vests, striding toward him. Diallo paused and then ran into the vestibule. Carroll and McMellon gave chase. Diallo reached the inside door and grabbed the doorknob with his left hand while, as the officers would later testify, turning his body sideways and “digging” into his pocket with his other hand. “Show me your hands!” Carroll called out. McMellon was yelling, too: “Get your hands out of your pockets. Don’t make me fucking kill you!” But Diallo was growing more and more agitated, and Carroll was starting to get nervous, too, because it seemed to him that the reason Diallo was turning his body sideways was that he wanted to hide whatever he was doing with his right hand.

“We were probably at the top steps of the vestibule, trying to get to him before he got through that door,” Carroll remembered. “The individual turned, looked at us. His hand was on—still on the doorknob. And he starts removing a black object from his right side. And as he pulled the object, all I could see was a top—it looked like the slide of a black gun. My prior experience and training, my prior arrests, dictated to me that this person was pulling a gun.”

Carroll yelled out, “Gun! He’s got a gun!”

Diallo didn’t stop. He continued pulling on something in his pocket, and now he began to raise the black object in the direction of the officers. Carroll opened fire. McMellon instinctively jumped backward off the step and landed on his backside, firing as he flew through the air. As his bullets ricocheted around the vestibule, Carroll assumed that they came from Diallo’s gun, and when he saw McMellon flying backward, he assumed that McMellon had been shot by Diallo, so he kept shooting, aiming, as police are taught to do, for “center mass.” There were pieces of cement and splinters of wood flying in every direction, and the air was electric with the flash of gun muzzles and the sparks from the bullets.

Boss and Murphy were now out of the car as well, running toward the building. I saw Ed McMellon,” Boss would later testify, when the four officers were brought to trial on charges of first-degree manslaughter and second-degree murder.

“He was on the left side of the vestibule and just came flying off that step all the way down. And at the same time, Sean Carroll is on the right-hand side, and he is coming down the stairs. It was frantic. He was running down the stairs, and it was just—it was intense. He was just doing whatever he could to retreat off those stairs. And Ed was on the ground. Shots are still going off. I’m running. I’m moving. And Ed was shot. That’s all I could see. Ed was firing his weapon. Sean was firing his

weapon into the vestibule. . . . And then I see Mr. Diallo. He is in the rear of the vestibule, in the back, towards the back wall, where that inner door is. He is a little bit off to the side of that door and he is crouched. He is crouched and he has his hand out and I see a gun. And I said, 'My God, I'm going to die.' I fired my weapon. I fired it as I was pushing myself backward and then I jumped off to the left. I was out of the line of fire. . . . His knees were bent. His back was straight up. And what it looked like was somebody trying to make a smaller target. It looked like a combat stance, the same one that I was taught in the police academy."

At that point, the attorney questioning Boss interrupted: "And how was his hand?"

"It was out." "Straight out?" "Straight out."

"And in his hand you saw an object. Is that correct?" "Yeah, I thought I saw a gun in his hand. . . . What I seen was an entire weapon. A square weapon in his hand. It looked to me at that split second, after all the gunshots around me and the gun smoke and Ed McMellon down, that he was holding a gun and that he had just shot Ed and that I was next."

Carroll and McMellon fired sixteen shots each: an entire clip. Boss fired five shots. Murphy fired four shots. There was silence. Guns drawn, they climbed the stairs and approached Diallo. "I seen his right hand," Boss said later. "It was out from his body. His palm was open. And where there should have been a gun, there was a wallet. . . . I said, 'Where's the fucking gun?'"

Boss ran up the street toward Westchester Avenue because he had lost track in the shouting and the shooting of where they were. Later, when the ambulances arrived, he was so distraught, he could not speak.

Carroll sat down on the steps, next to Diallo's bullet-ridden body, and started to cry.

Source: Gladwell (2005), pp. 189-194

Case 2. 50 Bullets

In the early morning hours of November 25, 2006, Sean Bell, a 23-year-old New York City man due to be married later that day, walked out of a Queens strip club, climbed into a gray Nissan Altima with two friends who had been celebrating with him—and died in a hail of 50 bullets fired by a group of five police officers.

The shooting shocked the city and brought back memories of the deaths in other high-profile police shootings—in particular, the death of Amadou Diallo, an African peddler killed after police fired 41 shots at him in 1999. Both men were black and both were unarmed, although in both cases the officers appeared to have believed the suspect had a gun. While the death of Mr. Bell did not prompt the same levels

of rage and protest as the Diallo case, it prompted unsettling questions about the changes in police procedures adopted in recent years, and about whether black men remained unfairly singled out for aggressive police action.

On March 16, a Queens grand jury voted to indict three detectives in the case, charging the two who had fired the bulk of the shots with first-degree and second-degree manslaughter, and the third with reckless endangerment.

Source: O'Neil (2007)

Situation Awareness

Like the above-cited cases, uncertainty, doubt, and fear are common emotions that are experienced whenever people need to make a decision, but law enforcement officers have to make good decisions in their daily working environment and particularly in critical incident situations, no matter how much irreducible uncertainty, doubt, and fear they have: "Irreducible uncertainty refers to uncertainty that cannot be reduced by any activity at the moment action is required" (Hammon, 1996, p. 13). Hammon explained that irreducible uncertainty takes two main forms: (1) subjective and (2) objective uncertainty. "Subjective uncertainty refers to the state of mind of the person making a judgment, regardless of the state of the objective system about the judgment is to be made" (p. 14), while objective uncertainty can be explained by the opposite condition of subjective uncertainty.

Crichton and Flin (2002) pointed out that "situation assessment is a key feature of most naturalistic decision-making (NDM) models and is considered paramount to effective decision making, where the first step in the decision making task is to evaluate the characteristics of the event correctly" (p. 209). Endsley (1993) argued that "situation awareness is the perception of the elements in the environment within a volume of time and space, the comprehension of their meaning and the projection of their status in the near future" (p. 157). Moreover, he asserts "in most settings effective decision making largely depends on having a good understanding of the situation at hand" (Endsley, 1997, p. 269). Thus, situation assessment which evaluates the characteristics of the event or situation correctly is an essential part in most NDM processes (Crichton & Flin, 2002). Adams, Tenney, and Pew (1995) defined *situation awareness* (SA) as the product of situation assessment. The SA is divided into three levels: (1) Level I is perception of critical factors in the environment; (2) Level II is understanding those phenomena; and (3) Level III is understanding what can happen within and to the system in the near future (Bedny & Meister, 1999; Endsley, 1995). Crichton and Flin (2002) stated that "situation assessment refers to the acquisition of information, i.e. the integration of cues from the environment, being interpreted on the basis of pre-existing knowledge leading to meaning being given to the cues" (pp. 209-210). A person with good situation awareness "will have a greater likelihood of making appropriate decisions and performing well in dynamic systems" (Endsley, 1995, p. 61). Case 3 is a good example of how situation assessment affects officers' decision-making to handle critical incidents and was provided by Gary Klein (1986) in his book, *The Source of Power: How People Make Decisions*.

Case 3. The Overpass Rescue

A lieutenant is called out to rescue a woman who either fell or jumped off a highway overpass. She is drunk or on drugs and is probably trying to kill herself. Instead of falling to her death, she lands on the metal supports of a highway sign and is dangling there when the rescue team arrives.

The lieutenant recognizes the danger of the situation. The woman is semiconscious and lying bent over one of the metal struts. At any moment, she could fall to her death on the pavement below. If he orders any of his team out to help her, they will be endangered because there is no way to get a good brace against the struts, so he issues an order not to climb out to secure her. Two of his crew ignore his order and climb out anyway. One holds onto her shoulders and the other to her legs. A hook-and-ladder truck arrives. The lieutenant doesn't need their help in making the rescue, so he tells them to drive down to the highway below and block traffic in case the woman does fall. He does not want to chance that the young woman will fall on a moving car.

Now the question is how to pull the woman to safety. First, the lieutenant considers using a rescue harness, the standard way of raising victims. It snaps onto a person's shoulders and thighs. In imagining its use, he realizes that it requires the person to be in a sitting position or face up. He thinks about how they would shift her to sit up and realizes that she might slide off the support. Second, he considers attaching the rescue harness from the back. However, he imagines that by lifting the woman, they would create a large pressure on her back, almost bending her double. He does not want to risk hurting her. Third, the lieutenant considers using a rescue strap—another way to secure victims, but making use of a strap rather than a snap-on harness. However, it creates the same problems as the rescue harness, requiring that she be sitting up or that it be attached from behind. He rejects this, too.

Now he comes up with a novel idea: using a ladder belt—a strong belt that firefighters buckle on over their coats when they climb up ladders to rescue people. When they get to the top, they can snap an attachment on the belt to the top rung of the ladder. If they lose their footing during the rescue, they are still attached to the ladder, so they won't plunge to their death.

The lieutenant's idea is to get a ladder belt, slide it under the woman, buckle it from behind (it needs only one buckle), tie a rope to the snap, and lift her up to the overpass. He thinks it through again and likes the idea, so he orders one of his crew to fetch the ladder belt and rope, and they tie it onto her.

In the meantime, the hook-and-ladder truck has moved to the highway below the overpass, and the truck's crew members raise the ladder. The firefighter on the platform at the top of the ladder is directly under the woman shouting, "I've got her. I've got her." The lieutenant ignores him and orders his men to lift her up.

At this time, he makes an unwanted discovery: ladder belts are built for sturdy firefighters, to be worn over their coats. This is a slender woman wearing a thin sweater. In addition, she is essentially unconscious. When they lift her up, they

realize the problem. As the lieutenant put it, "She slithered through the belt like a slippery strand of spaghetti."

Fortunately, the hook-and-ladder man is right below her. He catches her and makes the rescue. There is a happy ending. Now the lieutenant and his crew go back to their station to figure out what had gone wrong. They try the rescue harness and find that the lieutenant's instincts were right: neither is usable.

Eventually they discover how they should have made the rescue. They should have used the rope they had tied to the ladder belt. They could have tied it to the woman and lifted her up. With all the technology available to them, they had forgotten that you can use a rope to pull someone up.

Source: Klein, 1998, pp. 18-19

Intuition Versus Logical Thinking

One of the decision-making strategies which Crichton and Flin (2002) promoted is the Recognition-Primed (intuition/gut feeling) Decision-making (RPD) Model. Klein (1997a) stated that "the purpose of RPD model is to explain how people could generate and adopt a single course of action, without having to consider other options and how people could evaluate a course of action without comparing it to others . . . [thus] how mental simulation is used to build stories for evaluating different interpretations of the situation" (pp. 15-16).

Buchanan and O'Connell (2006) argued that "gut decisions are made in moments of crisis when there is no time to weigh arguments and calculate the probability of every outcome. They are made in situations where there is no precedent and consequently little evidence. Sometimes, they are made in defiance of the evidence" (p. 40). There is a part called an adaptive unconscious in our brain which leaps to conclusions without utilizing the thinking process. Gladwell (2005) stated that the adaptive unconscious is like "a kind of giant computer that quickly and quietly processes a lot of the data we need in order to keep functioning as human beings" (p. 11). Moreover, he asserted that "decisions made very quickly can be every bit as good as decisions made cautiously and deliberately" (p. 14). On the other hand, LeGault (2006) stated that "critical scientific reasoning almost always involves a component of intuition, and intuition is almost always informed by experience and hard knowledge won by reasoning things out" (p. 12). Additionally, the technique by which we make good decisions and produce good work is a nuanced and interwoven mental process involving bits of emotion, observation, intuition, and critical reasoning. The emotion and intuition are the easy, "automatic" parts, and the observation and critical reasoning skills are the more difficult, acquired parts. The essential background to all this is a solid base of knowledge (LeGault, 2006, p. 12).

Overall, both arguments on making good decisions by utilizing an individual's snap judgment or logical thinking process are right. As Endsley and Bostad's (1994) tests with pilots proved, there existed individual differences in the abilities to acquire and maintain situation awareness, each individual having different

abilities. Some have higher intuition which makes the probability of the person's snap judgment more correct than others, while others are good at logical reasoning or thinking based on their knowledge, factors that LeGault emphasized. However, in a case of critical incident situations, people may use both, even though they are not able to recognize it consciously. Thus, even though most of those who have good situation awareness ability refer to it as their gut feeling or intuition, that ability might be based on prior experience and knowledge (Crichton & Flin, 2002; Flin, 1996; Klein, 1998a, 1998b, 2000, 2003; LeGault, 2006).

On the other hand, there are always errors existing in decision-making processes. Mostly those errors are referred to as human errors. Lipshitz (1997) defined *decision error* distinguishing it from common human error: "decision errors are deviations from some standard decision process that increases the likelihood of bad outcomes" (p. 152). He indicated that "decision errors are likely to produce bad outcomes, but some bad outcomes are produced by perfectly sound decisions" (p. 152).

Bad outcomes can be traced to faulty cognitive processes in complex causal chains that consist of (1) a bad outcome, (2) an inappropriate action or substandard performance of an appropriate action, (3) a fault in one of the elements of the decision-making process (situation analysis, action selection, action planning, and implementation), (4) a breakdown in the cognitive mechanisms that control action, and (5) situational factors such as time stress or a task structure that overload or mislead the cognitive system (Rasmussen, 1993, cited in Lipshitz, 1997, p. 152).

Klein (1997a) also indicated some of the limitations of the RPD model such as (1) not addressing cognitive processes, (2) not explaining how the pattern matching or judgment of typicality occurs, (3) not explaining what happens when people do have to compare courses of action, (4) not accounting for the generation of new courses of action, and (5) not offering direct prescriptive guidance for training and for distinguishing between good and poor decisions, or for identifying errors. Despite these limitations, the RPD model has its strengths: (1) it explains how people can make decisions without analyzing strengths and weaknesses of alternative courses of action; (2) it explains how people can use their experience to adopt the first action they consider workable; (3) it shows how expertise can affect decision-making; (4) it shows the positive contributions of the availability and representativeness heuristic (permitting recognition of situations as typical) and the simulation heuristic (for explaining events and evaluating courses of action); (5) it spotlights the process of mental simulations; (6) it generates some empirical findings; and (7) it has been supported by several replications (Klein, 1997a, p. 16).

Consequently, whatever it has been called, gut feeling, intuition, or logical reasoning, it can be developed and improved through education or training (Crichton & Flin, 2002; Flin, 1996; Gladwell, 2005; Klein, 1997a, 1997b, 1998a, 1998b, 2000, 2003; LeGault, 2006).

Our Future Research and Development

Our intention is to build on this wealth of knowledge to actually develop and improve the decision-making capabilities of the members of our police community. At this time, one of our solutions is the creation and development of a *situational awareness test* software program. We will leverage existing technologies being used

in the field of cognitive psychology and apply them in the development of such a tool. The next paper will describe how simulation-oriented training helps law enforcement officers to make better decisions.

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Police Practices and Perceptions of Public Safety: The Impact of Community Policing

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Introduction

Few developments in the history of the police have generated more public attention or political support than modern community policing. Beginning with the fear reduction studies in Flint, Newark, Houston, and elsewhere in the late 1970s and early 1980s, researchers discovered a connection between foot patrol and feelings of public safety. Aided by the popular “Broken Windows” essay by Wilson and Kelling (1982), the community policing movement was launched. In addition to its fear reduction capability, advocates of community policing claim it improves the social order and physical appearance of targeted areas, increases citizen satisfaction with the police, elevates officer morale, and enhances overall feelings of community pride. Twenty-five years after its birth, community policing still retains an important place in American policing. Comparative scholars have noted an interest in community policing in other countries as well (Bailey, 1994; Normandeau, 1993; Skolnick & Bailey, 1988).

In the United States, significant financial incentive from Washington has played a large role in the growth of community policing (Conly & McGillis, 1996). Billions of federal dollars have been made available for community policing. The major source of funding is the 1994 Violent Crime Control and Law Enforcement Act (VCCLEA). The VCCLEA funded 100,000 new community policing officers. The Act also provided training and technical assistance to local departments through the Office of Community Oriented Policing (COPS). In addition, the National Institute of Justice has granted millions of dollars to evaluate the effectiveness of community policing. The watershed of federal funding for community policing in the U.S. has run its course. The 2006 Bush administration cut the COPS program by 80% over its 2005 funding, a reduction of \$488 million (Estey, 2005). The 2009 budget all but eliminates federal funding for the COPS program. At the present time, it is unclear whether the COPS program will survive in the post-Bush administration.

The focus of this paper is on one of the most frequently cited benefits of community policing, namely its ability to reduce fear of crime. Following a brief description of community policing, the paper delves into the empirical connection between community policing and fear of crime. We conclude that when properly implemented, community policing has the capacity to reduce feelings of fear and improve the overall quality of community life. *However, community policing is not the only police operational model with these capabilities.* Alternative policing philosophies and strategies are equally effective. Good policing is good policing, regardless of what it is called.

Community Policing

Skogan (2000) states that “community policing is not something that is easy to pin down” (p. 160). He is not exaggerating. At its core, community policing represents an important paradigm shift from *reactive* incident-driven patrol to *proactive* problem-solving patrol. In the ideal arrangement, the police and public become genuine co-producers of community order. Skolnick and Bayley (1988) identified four essential elements of community policing: (1) community-based crime prevention, (2) increased police visibility and accessibility, (3) increased police accountability, and (4) decentralized command. Police departments forge partnerships with local residents built on openness, honesty, and trust. Joining the alliance are civic organizations, churches, businesses, and various government agencies. By working together to identify and to solve community problems, the police strive to eliminate the underlying causes of crime and disorder. As “managers” of this process, the police are agents of positive community change. Ideally, everyone benefits.

Foot patrol is a central feature of community policing. Foot patrol (or some modification like bike patrol, equestrian patrol, or “park and walk” assignments) fosters frequent exchanges between the police and average citizens who normally have limited contact with officers. This is because in conventional policing the patrol car serves as a physical and psychological barrier separating the police from the public. Other features of community policing may include attending meetings of neighborhood associations and business groups, establishing a citizen police academy, assigning DARE officers to public schools, opening neighborhood mini-stations, conducting citizen surveys, instituting a victim contact program, printing a monthly newsletter, operating a department website, and so on. The list of possible initiatives under a viable community policing program is nearly endless.

It is one thing to understand community policing in its ideal form—its slogans, platitudes, and accolades. But what shape does it take in real life and in real police departments? The question is central to this paper as we try to understand the connection between community policing and fear of crime. Departments have developed many different approaches to community policing with no standard organizational or operational model. Community policing ranges all the way from one officer on foot with little instruction or support to a complete revamping of the entire police organization. Most typically, a police department will focus attention on one or two low-income neighborhoods or inner-city schools where crime and drugs are most serious; in the remaining areas not so plagued by crime and disorder, traditional reactive patrol continues.

If community policing reduces fear of crime, then what types of community policing programs work best to minimize fear? What type of fear? For whom is fear reduced most, and for how long? These questions help guide the remainder of this paper.

Research on Community Policing

Two patrol experiments conducted in the late 1970s offer credible evidence that foot patrol as a major element of community policing is effective at reducing fear: (1) the Newark Foot Patrol Study (The Police Foundation, 1981) and (2) the Flint

Foot Patrol Study (Trojanowicz, 1982). In both cities, interviews with residents revealed that when foot patrol was added to regular car patrol, fear of crime decreased. Interestingly, the Newark foot patrol program reduced feelings of fear even though actual crime was not down (The Police Foundation, 1981). Crime rates did drop in Flint following their foot patrol program (Trojanowicz & Bucqueroux, 1994). The crime reduction in Flint was partly due to the extensive training foot patrol officers received compared to Newark. Foot patrol officers in Flint were also given greater latitude to address underlying community problems.

The Flint and Newark foot patrol studies spawned more rigorous evaluation of community policing. In Houston and once again in Newark, elaborate fear reduction studies using quasi-experimental designs were conducted by The Police Foundation (Pate, Wycoff, Skogan, & Sherman, 1986). It is difficult to imagine two urban areas more diverse: Newark is an old, densely populated East Coast city with large pockets of economically stressed residents living in high-rise apartments and public housing complexes; and Houston is a sprawling, low-density modern city built with garden apartments developed for easy access to freeways (Skogan, 1990, p. 94). Despite their distinct urban styles, in both Houston and Newark, fear of crime dropped significantly in the experimental areas following implementation of community policing. By comparison, fear of crime did not drop in the traditional control areas. It is important to note, however, that in Houston, fear of crime was not significantly reduced in all neighborhoods where community policing was tried (more on this below).

The programs in Houston and Newark involved a number of community policing initiatives in addition to simple foot patrol (e.g., storefront police stations, community surveys, neighborhood police newsletters, neighborhood clean-sweeps). Thus, determining which elements of community policing worked best to reduce fear of crime is not easy to do. Skogan (1990) contends that “what really made the difference” in reducing fear of crime in these cities was the high visibility of the police in the neighborhoods and the frequent contact with residents (p. 121).

Similar to the Houston and Newark studies, the Baltimore County COPE (Community Oriented Police Enforcement) project also demonstrated the ability of the police to reduce feelings of fear (Taft, 1986). Forty-five officers were assigned to the COPE project in the summer of 1982 amidst intense community pressure to “do something” about the local crime problem. Fear in the community had peaked following media reports of several serious crimes. COPE officers were reassigned from their regular patrol duties and directed to concentrate exclusively on fighting fear. Despite a slow beginning and lack of direction, the COPE program gradually adopted the problem-solving approach to community policing as conceived by Herman Goldstein (1979). The evaluation of the COPE program in 1985 revealed a 10% reduction in fear in the areas COPE targeted. The evaluation also found COPE had increased citizen satisfaction with the police and decreased calls for service (Taft, 1986, p. 20).

The Chicago Alternative Policing Strategy (CAPS) illustrates that even in one of the largest departments in the country, community policing has the potential to reduce fear of crime and improve the overall quality of community life (Skogan & Hartnett, 1997). The CAPS program was extremely ambitious—it involved the

entire department and the entire city. Although CAPS did not meet all of its stated objectives, such as achieving a high level of citizen involvement, evaluations showed that after CAPS was implemented, there was a lowered fear of crime.

If we consider the sum total of the research to date, there is sufficient evidence based on sound empirical data to conclude that community policing contributes to citizens' feelings of safety (see also Cordner, 2005). The studies cited here report a reduction in fear that may be reasonably attributed to community policing. Numerous untested reports and anecdotal stories offer additional weight. A report from the Bureau of Justice Assistance (1994) summarizes the evidence this way: "An effective community policing strategy will reduce neighborhood crime, decrease citizens' fear of crime, and improve quality of life in the community" (p. 45, emphasis added). In short, we have come to expect that an effective community policing program will reduce feelings of fear.

Does Community Policing Reduce Fear Across all Social Groups?

The fear reduction success of community policing appears to vary widely depending on where it is implemented. In particular, fear reduction is often dramatic in neighborhoods where a large portion of residents already trust the police and who are less likely to experience problems of disorder and decay on a daily basis. A little bit of community policing goes a long way in such locales. Conversely, neighborhoods characterized as low-income and transitional with high concentrations of minority-group members seem less likely to experience reduced fear from community policing. Ironically, neighborhoods that fear crime the most tend to benefit the least.

Such are the findings of several carefully conducted studies, including evaluations in Chicago, Minneapolis, and Houston (Skogan, 1990). The Houston Fear Reduction Project offers unique insight into fear reduction in diverse neighborhoods. An elaborate before-and-after design by The Police Foundation found that community policing in Houston had positive overall effects on disorder, fear, and satisfaction with the police (Pate et al., 1986). This was interpreted as good news for advocates of community policing. Yet, closer analysis revealed that the positive effects were concentrated among White residents and the better neighborhoods; fear of crime among Blacks, Hispanics, renters, and low-income residents showed little sign of improvement.

We would not want to read too much into race and class differences in fear of crime based on only a few evaluations of community policing. There are a number of possible explanations for the differential impact of community policing. In the Houston project, Blacks and renters had limited awareness of the community policing programs and were contacted less frequently by the police than Whites and homeowners. Skogan (1990) notes that "whites and homeowners were more likely to recall that the police came to their door, more likely to have been aware of community meetings, and more likely to have called or visited the storefront office" (p. 108). Most interesting was the effect of the Victim Re-contact Program in Houston. Police made contact by telephone with recent crime victims to express their concern and to offer assistance. Survey data found that for certain low-income residents, especially Hispanics with difficulty speaking English, fear of crime was higher *after* initiation of the program. Investigators reasoned that these victims

failed to understand the purpose of the call by the police and, as a consequence, became more anxious about their victimization.

Among the many lessons to be learned from programs in Houston and elsewhere is that the police cannot rely on traditional neighborhood associations and informal contacts to spread their message. Passive networking is not sufficient, especially in distressed communities where neighborhood associations are weak or nonexistent. The police should utilize an active campaign to invite and include community members into the process of neighborhood reconstruction. When properly mobilized, community policing has the potential to make significant reductions in fear of crime, *provided the police are able to make real and long-term improvements in the level of social disorder and decay.*

How Long Does Community Policing Reduce Fear?

There are virtually no longitudinal evaluations of community policing (Zhoa, Lovrich, & Thurman, 1999), so it is not possible to say whether or not the fear reduction benefits last over the long haul. What is probable is that a portion of the initial reduction in fear associated with community policing is a short-term “halo” effect, attributable to the heightened attention residents receive. This is the general pattern when a new community policing program is implemented in an area. The police make a special effort to seek out community residents, often with an intense media campaign, door-to-door canvassing by community policing officers, and personal appearances by the chief at neighborhood meetings. Such efforts by the police strike a responsive chord among residents, at least in the initial stages of the program when excitement and optimism are high. However, most community policing programs are unable to sustain a high level of enthusiasm over time. For instance, telephone surveys showed a high level of awareness of the CAPS program in Chicago initially, but this awareness did not increase over time (Walker & Katz, 2008, p. 330). The mutual commitment initially shared between the police and residents tends to diminish as the newness of the program wears off, or as residents perceive that nothing has really changed. We suspect that if community policing does not contribute to community well-being through significant reductions in crime and improved social order, then any reduction in fear of crime will be a short-term benefit. Citizens will gradually lose confidence in the police as they increasingly perceive their environments as unsafe.

Research demonstrates that *assessments of one’s risk to crime and the emotional state of fear of crime* are distinct concepts with considerable empirical independence (Ferraro, 1995; LaGrange & Ferraro, 1989). For example, males are at far greater risk of personal victimization than females for most violent offenses, yet females express significantly greater fear of crime. This paradoxical finding across gender has been firmly established in virtually all published research on fear of crime. A similar disjunction between risk and fear is often reported across age groups, though the net effects are not as consistent. It must be emphasized, however, that perceptions of one’s risk to crime and feelings of fear of crime are not completely independent of one another. Generally speaking, females and older persons assess their personal risk of victimization and are more fearful of crime than males and younger people. The implications for community policing from the available research is clear: *fear reduction without real risk reduction is not a long-term solution.*

Why does Community Policing Reduce Fear of Crime?

We are persuaded by the existing research that community policing has the potential to significantly reduce fear of crime, although not equally across all social demographic groups. If we are accurate, then the next question is “Why?” Specifically, what is it about community policing that has this effect on citizens’ perceptions of crime? Clearly, an important psychosocial dynamic takes place which alters a person’s emotional reaction to crime and disorder. But the precise nature and scope of this dynamic has received virtually no attention in the literature. What follows are five plausible reasons why successful community policing programs reduce fear of crime. Further research is needed to determine the extent to which these propositions can be empirically supported.

1. Community policing promotes frequent and positive contacts with officers.

A major shortcoming with traditional motorized patrol is the limited opportunity for patrol officers to interact with the general public. Officers assigned to vehicular patrol have very large geographical areas to cover and seldom develop close relationships with the citizens they serve. Although more efficient in terms of area patrolled, automobile patrol presents a physical barrier (that being the automobile) between the police and the citizens they serve. Community policing changes this basic patrol strategy. Community policing officers are assigned to semi-permanent beats, are required to interact with residents on a regular basis, and are expected to become integral players in community affairs. Foot patrol officers have the opportunity to interact frequently with average citizens in a friendly, casual atmosphere. Residents develop a feeling of “ownership” of the beat officer and a closer connection to the department. In areas where the assignment of foot patrol officers on a regular basis is not feasible, community policing still encourages motorized patrol officers to regularly get out of their vehicles and interact with residents, shopkeepers, clergy, and so forth. The fear reduction capability of community policing is in large part driven by this basic patrol strategy.

2. Community policing aids in the removal of visual cues of potential harm.

Trash, litter, graffiti, broken bottles, loiterers, meanderers, drunks, and drug addicts—the physical and social incivilities—serve as daily reminders that things are not as they should be. Pervasive “broken windows” signify a broken community spirit. The incivilities per se are not the direct cause of fear; they are surrogates for the real causes, namely a social environment that lacks predictability and order. The result is that they increase the sense of dread and anxiety people automatically associate with certain areas. Psychologists call this process *stimulus generalization*. This is when emotional reactions are generalized to similar situations such as the visceral cringe aroused by the sound of a dentist’s drill or Pavlov’s dogs salivating at the sound of other bells (Weiten, 1992, p. 198). To the extent that community policing is successful in removing fear-inducing visual cues such as suspicious people and dangerous situations, it has the capacity to reduce fear.

3. Community policing increases citizens’ sense of control.

An established finding in psychology is that individuals who perceive a strong internal locus of control over their personal lives are less susceptible to the negative

effects of environmental stressors than individuals who are guided by an external locus of control (Rotter, 1966). Community policing encourages citizens to take an active role in their communities; average people become powerful players in the reclamation of their homes, streets, and neighborhoods. By taking action, residents develop a greater sense of inner control of what happens to them. Greater control translates into reduced feelings of vulnerability and helplessness, and hence, reduced fear of crime.

4. Community policing has a therapeutic effect.

The therapeutic effect of community policing is not unlike the soothing sensation we felt when mom comforted us as kids, when we place our physical pain in the hands of a medical doctor, or when we confess our sins to the priest. In other words, when we share our problems and concerns with others, *especially trained professionals who we trust and respect*, some of our emotional burden is eased.

The therapeutic effect of community policing is clearly of a different magnitude from moms and doctors and priests. However, the psychosocial dynamic of emotional relief (i.e., fear reduction) is arguably similar. As community caretakers with immense legal authority, the police get closely involved with—and look out for—local residents. The critical lynchpin in the process is whether residents place their trust in the police. Fear reduction from community policing is most probable among (1) the most vulnerable to crime and (2) the most trusting of police. For the less vulnerable or less trusting, community policing is unlikely to have the same effect on fear.

5. Community policing programs are susceptible to the Hawthorne Effect.

Community policing programs are often initiated with a rush of excitement and media attention. Frequent personal appearances are made by patrol officers and commanders at neighborhood associations, church meetings, schools, and business centers. Foot patrol officers in their assigned neighborhoods meet with residents to acquaint themselves with the communities they serve. The sense of anticipation for the new police program is noticeable. This is similar to the Hawthorne (or “halo”) Effect detected by researchers in the classic study of worker productivity (Roethlisberger & Dickson, 1939). Productivity increased among those taking part in the study regardless of the experimental manipulations. A major finding was that the extra attention researchers gave to workers selected for the study had a positive effect on their productivity independent of other effects.

The enthusiasm associated with most new community policing programs and the attention focused on specific crime-prone neighborhoods is difficult to sustain over time. Nonetheless, its short-term effects are normally positive as reflected in most indicators of community satisfaction, including reduced fear of crime and an improved sense of community order.

Methodological Caveat

We need to clear two sizable hurdles before we can state with confidence that good community policing programs have the potential to reduce fear of crime. The first hurdle is the variation in how community policing has been implemented.

Existing programs run the gamut from one officer working foot patrol on a part-time basis with minimal encouragement or instruction to the total commitment of an entire department. Community policing lacks consistency and uniformity, and this severely limits the extent to which we can generalize program results.

The second hurdle is the variation in how fear of crime has been measured, a problem well-documented in the literature (Ferraro & LaGrange, 1987). In tandem, these two methodological dilemmas make it more difficult to determine with reasonable assurance whether community policing (however implemented) effectively reduces fear of crime (however measured).

Discussion

A careful reading of the research indicates there is a *moderate* to *strong* empirical connection between community policing and fear of crime. While there is little or no *direct* evidence to conclude the empirical connection is causal and not merely correlation, we believe the link is at least partly cause-and-effect in nature. The fear reduction capacity of community policing has been repeatedly established in the vast majority of studies. However, the extent to which community policing reduces fear of crime, how long it is reduced, and for whom needs further empirical clarification.

At this juncture of the paper, we would like to raise a fundamentally important question about community policing and fear of crime: *Is it not equally probable that fear reduction is a byproduct of good "traditional" police work as well?* By "good traditional police work," we mean any number of positive police practices—for example, quick professional police response to crime and disorder, adequate patrol coverage, police visibility, aggressive patrol of crime hot spots, close working relationships with business owners and residents, diligent detective work, utilization of state-of-the-art technology to combat crime, proper use of informants, and so on. In other words, the staples of good traditional police work are also proven to be effective in controlling crime and enhancing feelings of safety among residents.

Contrary to the widely cited Kansas City Patrol Experiment which dramatized the relative ineffectiveness of general preventive patrol (Kelling, Pate, Dieckman, & Brown, 1974), more recent research has refuted this claim. Sherman and Weisburd (1995) found that saturation patrol has an important deterrent effect when it is targeted on identifiable crime hot spots rather than over large areas as in the Kansas City study. Vogel and Torres (1998) report a significant drop in fear of crime in their evaluation of Operation Roundup, a gang-sweep program of the Santa Ana, California, Police Department. Additional research shows that proactive enforcement targeting specific problems in specific places can effectively reduce crime (Cordner, 1981; Kelling & Coles, 1996; Sherman & Rogan, 1995), although media coverage of police crackdowns is necessary for optimal deterrence (Novak, Hartman, Holsinger, & Turner, 1999; Sherman, 1990).

The central message here is that citizens are likely to feel safer in their neighborhoods when they perceive the police are responding to their needs and effective in reducing crime and disorder. Community policing has the potential to aid in this

process; however, good traditional police work has been—and still is—capable of making communities safe and helping to ease citizens' feelings of fear.

Clearly, not all police departments have been committed to good policing in the past and, hence, the real benefit of the community policing movement. The community policing movement has upgraded many departments by improving their services and sparking a greater sense of accountability among officers. It matters little whether we call it neighborhood team policing, police-community relations, total quality policing, problem-oriented policing, or community policing. As long as the police are genuinely responsive to the needs of the community, effective at fighting crime, and take their order maintenance responsibilities seriously, they will contribute greatly to the health and wellness of their communities.

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Radiological Risk Assessment of Direct Irradiation of Biosolids by Terrorists

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Introduction

The Statement of the Problem

The purpose of my study is to assess what hazard a radiological dispersal event at a wastewater treatment facility by terrorists poses to the health and safety of the citizens within the user district of the Metropolitan Water Reclamation District of Greater Chicago.

The Subproblems

The first subproblem is to determine the feasibility of a terrorist organization deliberately irradiating biosolids at a wastewater treatment facility in order to use the biosolids as an airborne dispersal system.

The second subproblem is to examine factors affecting radiation intensity (dose rate) from direct irradiation of biosolids. These factors include but are not limited to the following:

- Type of radioactive material
- Amount of radioactive material
- Residence time of the radioactive material (length of contact time)

The third subproblem is to analyze and interpret discovered data:

- Consider the use of a radiological dispersal device, in which an explosion spreads the radioactive material and biosolids.
- Consider radioactive material irradiating the biosolids and employing wind as the dispersal system.

The Delimitations

This study will not attempt to evaluate or predict the actions of terrorists.

This study only examines radioisotopes that can be obtained through purchase on the open market or illegally.

This study limits the location of biosolids to the drying bed facilities of the Metropolitan Water Reclamation District of Greater Chicago.

The Definition of Terms

Biosolids: Biosolids are the nutrient-rich organic materials resulting from the treatment of sewage sludge.

Radioisotope: A radioisotope is a form of a chemical element that has a different number of neutrons in their atoms and that emit energy in the form of radiation.

Abbreviations

MWRDGC is the abbreviation used for the Metropolitan Water Reclamation District of Greater Chicago.

RDD is the abbreviation used for a radiological dispersal device.

RDE is the abbreviation used for a radiological dispersal event.

Assumptions

The first assumption is that terrorists will continue to commit violent acts against the United States.

The second assumption is that the availability of radioisotopes is not dramatically decreased.

The third assumption is that the MWRDGC continues to air-dry biosolids at their drying bed facilities.

The Importance of This Study

The expression “ever vigilant” took on new relevance after September 11, 2001. Had the FBI supervisor been “ever vigilant” to the report of flying school students that had no interest in learning how to land, she may not have discounted the information. Had appropriate action been taken, the events of 9/11 would have been radically different.

This study examines the feasibility of an event that, in the worst case, would leave northeastern Illinois lifeless. The availability of both biosolids and radioisotopes requires only one terrorist to put them together. The importance of this study is to identify a bona fide threat or reject a false one so that limited resources can be allocated accordingly.

Review of Literature

Before we can assess a hazard and determine feasibility, we must possess a basic understanding of related disciplines and their nomenclature. This research requires knowledge in three areas: (1) the wastewater treatment process; (2) nuclear physics, specifically the behavior of radioisotopes; and (3) the recent action taken by terrorist cells with regards to nuclear terrorism.

Equipped with a consummate understanding of this literature review, the reader should be able to relate the problems of this qualitative study to the data retrieved and arrive at an educated conclusion.

Wastewater Treatment 101 or What Are Biosolids?

The U.S. Environmental Protection Agency (EPA) (2006b) defines biosolids as “Nutrient-rich organic materials resulting from the treatment of domestic sewage in a treatment facility” (p. 1). An explanation of how wastewater is treated should clarify where these organic materials originate.

Everything that is rinsed or flushed down the drains of the kitchen and bathrooms of your residence empties into municipal sewers. Industries, businesses, hospitals, universities, and any other structures equipped with plumbing to accept fresh water are required by local building codes to be connected to these local sewers. They eventually connect to large interceptors which gather the wastewater and convey it to a wastewater treatment facility. Here it goes through a number of cleaning processes:

- Screens remove large debris which can clog the machinery.
- The wastewater flows into chambers where heavy solids such as dirt and grit sink to the bottom and are washed and removed to a landfill.
- It then goes to a primary settling tank where most of the organic solids settle to the bottom, and fats, oils, and grease rise to the top.
- Revolving “arms” simultaneously scrape the solids from the bottom and skim the grease from the top.
- After a few hours, the liquid flows through a series of large rectangular aeration tanks which have been “seeded” with bacteria and other microbes. Filtered air is pumped through the liquid to enable the microbes to breathe and grow. In the constantly churning water, these microbes flourish and multiply, eating the remaining organic materials and nutrients in the wastewater.
- This mixture of microbes and water flows into a secondary settling tank. The microbes, now fat and sluggish, clump together and settle to the bottom of the tank where they become part of the organic residuals and are removed. This “sludge” is stabilized in large digestion tanks where methane gas that is emitted by the sludge is collected and used for the heating of the buildings of the treatment facility. The sludge is then dewatered with a centrifuge and air dried on large outdoor drying beds. The treated sludge has become “biosolids.” This is the stage about which this research will be concerned.
- The cleaned water flows out of the top of the secondary settling tank to be returned to the waterways (Metropolitan Water Reclamation District of Greater Chicago [MWRDGC], 1990, p. 2).

Nuclear Physics 101 or Living in a Radioactive World

Atoms are the smallest unit of an element that chemically behaves the same way as the element does (U.S. EPA, 2006f, p. 1). Ernest Rutherford and Niels Bohr developed a concept for the structure of an atom that described an atom as looking very much like our solar system. At the center of every atom is a nucleus, which is comparable to the sun in our solar system. The nucleus is composed of nucleons, positively charged protons, and neutrons which have no electrical charge. Electrons

moved around the nucleus in “orbits” similar to the way planets move around the sun. The electrons have a negative electrical charge. While scientists now know that atomic structure is more complex, the Rutherford-Bohr model is still a useful approximation for understanding atomic structure.

In order for these electrons, protons, and neutrons to stay together as an atom and not drift apart, different types of forces are employed. Opposite electrical charges of the protons and electrons do the work of holding the electrons in orbit around the nucleus (U.S. EPA, 2006f, p. 2). The nucleus is held together by the attractive strong nuclear force between nucleons: proton to proton, neutron to neutron, and proton to neutron. It is extremely powerful, but extends only a very short distance, about the diameter of a proton or neutron. There are also electromagnetic forces, which tend to shove the positively charged protons (and as a result the entire nucleus) apart. In contrast to the strong nuclear force, the electric field of the proton falls off slowly over distance, extending way beyond the nucleus, binding electrons to it (p. 2).

The delicate balance of forces among nuclear particles keeps the nucleus stable. Any changes in the number, the arrangement, or energy of the nucleons can upset this balance and cause the nucleus to become unstable or *radioactive*. Disruption of electrons close to the nucleus can also cause an atom to emit radiation (U.S. EPA, 2006f, p. 3).

An atom that has an unbalanced ratio of neutrons to protons in the nucleus seeks to become more stable. The unbalanced or unstable atom tries to become more stable by changing the number of neutrons and/or protons in the nucleus. This can happen in several ways:

- Converting neutrons to protons
- Converting protons to neutrons
- Ejecting an alpha particle (two neutrons and two protons) from the nucleus (U.S. EPA, 2006e, p. 1).

Whatever the mechanism, the atom is seeking a stable neutron to proton ratio. In changing the number of nucleons (protons and neutrons), the nucleus gives off energy in the form of *ionizing radiation*. Ionizing radiation is radiation with enough energy to separate molecules or remove electrons from their orbits (Interagency Steering Committee on Radiation Standards, 2004, p. A-1). The radiation can be in the following forms:

- Alpha particles (two protons and two neutrons)
- Beta particles (either positive or negative)
- X-rays
- Gamma rays (U.S. EPA, 2006e, p. 1)

When an atom has a different number of neutrons in its nucleus and emits energy in the form of radiation, it is called a radioisotope (Water Environment Federation, 2000, p. 3).

Radioisotopes and isotopes of an element are denoted by placing a number after the chemical name of the element or symbol. This number is the atomic mass, and

it equals the total number of protons and neutrons in the atom (Water Environment Federation, 2000, p. 3). For example, cobalt-60 (Co⁶⁰) is a radioisotope of cobalt since cobalt has an atomic weight of 58.9332 (ChemiCool, 2005, p. 1).

Radiation is measured using several different nomenclatures, each with specific properties. The rate of atomic decay or activity is measured in units of curie (Ci).

The rate of intensity of exposure is measured in units of roentgen (R). Absorbed energy per mass or the absorbed dose is the estimate of human exposure to ionizing radiation and is measured in units of rad, and the absorbed dose *weighted by the type of radiation* or the dose equivalent is measured in units of rem or roentgens radiating an equivalent man (Water Environment Federation, 2000, p. 4).

Fortunately, for most types of radiation, one roentgen is equivalent to one rad which is equivalent to one rem (Bushberg, 2005, p. 7). Unfortunately, the amount of energy (absorbed dose) deposited into a mass of tissue is also known as a Gray (Gy) and one Gray is equal to 100 rads (Centers for Disease Control [CDC], 2005, p. 1).

Physicians also use the term LD₁₀₀, which means “lethal dose 100% of the time” in reference to human patients who have received a terminal dose of radiation. LD₁₀₀ is approximately 10 Gy or 1000 rads (CDC, 2005, p. 3).

Regardless of the nomenclature, the Nuclear Regulatory Commission uses the linear assumption (radiation exposure is cumulative) and the philosophy that all radiation exposure should be kept *as low as reasonably achievable* (ALARA) in regulating the use of nuclear materials (Water Environment Federation, 2000, p. 2).

Human Health and Radiation or How Much Is Too Much?

Empowered with a basic understanding of atoms, isotopes, and ionizing radiation, a closer look at radiation and its effects on human health is possible.

Table 1. Examples of Radioactive Materials

Radionuclide	Physical Half-Life	Activity	Use
Cesium-137*	30 yrs	1.5 × 10 ⁶ Ci	Food irradiator
Cobalt-60*	5 yrs	15,000 Ci	Cancer therapy
Plutonium-239	24,000 yrs	600 Ci	Nuclear weapon
Iridium-192	74 days	100 Ci	Industrial radiography
Hydrogen-3	12 yrs	12 Ci	Exit signs
Strontium-90	29 yrs	0.1 Ci	Eye therapy device
Iodine-131	8 days	0.015 Ci	Nuclear medicine therapy
Technetium-99m	6 hrs	0.025 Ci	Diagnostic imaging
Americium-241*	432 yrs	0.000005 Ci	Smoke detectors
Radon-222	4 days	1 pCi/l	Environmental level

* Potential use in RDD

Source: Bushberg (2005), p. 10

Table 2. Radiation Doses and Dose Limits

Flight from Los Angeles to London	5 mrem
Annual public dose limit	100 mrem
Annual natural background	300 mrem
Fetal dose limit	500 mrem
Barium enema	870 mrem
Annual radiation worker dose limit	5,000 mrem
Heart catheterization (skin dose)	26,000 mrem
Life-saving actions guidance (NCRP-116)	50,000 mrem
Mild acute radiation syndrome	200,000 mrem
LD50/60 for humans (bone marrow dose)	350,000 mrem
Radiation therapy (localized and fractionated)	6,000,000 mrem

Source: Bushberg (2005), p. 7

Acute Radiation Syndrome

- Dose ~ 100 rem
 - ~10% exhibit nausea and vomiting within 48 hrs
 - Mildly depressed blood counts
- Dose ~ 350 rem
 - ~90% exhibit nausea/vomiting within 12 hrs; 10% exhibit diarrhea within 8 hrs
 - Severe bone marrow depression
 - ~50% mortality without supportive care
- Dose ~ 500 rem
 - ~50% mortality with supportive care
- Dose ~ 1,000 rem
 - 90 to 100% mortality despite supportive care
- Dose > 1,000 rem – damage to gastrointestinal (GI) system
 - Severe nausea, vomiting, and diarrhea (within minutes)
 - Short latent period (days to hours)
 - Usually fatal in weeks to days
- Dose > 3,000 rem – damage to central nervous system (CNS)
 - Vomiting, diarrhea, confusion, and severe hypotension within minutes
 - Collapse of cardiovascular and CNS
 - Fatal within 24 to 72 hrs (Bushberg, 2005, pp. 32-33)

The direct relationship between increased dose and increased damage to human health is obvious. The approximate level at which a dose produces medical symptoms is slightly vague and worth noting.

To reach some perspective of radioactive contamination of biosolids, distance is a major factor since the radiation intensity (dose rate) decreases inversely with the square of the distance. A simple formula relates dose rate to activity:

$$\text{Dose Rate (rems/hour)} = \frac{(\text{Dose Rate Constant})(\text{Activity in curies})}{(\text{Distance in feet})^2}$$

(Pacific Northwest National Laboratory & Strom, 2005, p. 22)

Succinctly put, direct contact would transfer the most activity. Since biosolids are composed of many of the same elements as a human, exposure time could be viewed as comparable.

Wastewater Treatment Facilities and Radioactive Material

According to the Water Environment Federation (2000), "Of special concern in wastewater treatment facilities is the fact that radionuclides (radioisotopes) can become concentrated in the biosolids that result from the treatment processes. Radionuclides enter the biosolids as a result of various treatment processes and can become further concentrated as biosolids are dried or burned" (p. 5). Further,

Some of the scientists who have considered these circumstances (elevated radiation levels) believe that while the discharge limits have been established on the basis of direct exposure of an individual to the discharge, they *do not take into account any concentration that may occur in the biosolids during wastewater treatment* [italics added]. This concentration could lead to higher levels of radiation in the biosolids than in the original discharges, even when the discharges were within the established Nuclear Regulatory Commission limits. (p. 6)

As a result of Congressional interest, the Sewage Sludge Subcommittee of the Interagency Committee on Radiation Standards (ISCORS) (2004) conducted a survey of radioactive material in sewage sludge and ash and performed dose modeling of the survey results to address these concerns and to estimate typical levels of radioactive materials in Publicly Owned Treatment Works (POTW) around the country (p. vii). This interest was spawned by several isolated incidents of high radiation levels at different wastewater treatment facilities such as in the following example.

In April of 2000, contractors demolishing some piping at the Blue Plains Water Treatment Facility in Washington, DC, placed the pipes in a dumpster to be trucked to a recycling facility. The contractors were dismayed to find it rejected from a waste transfer station because of levels of radiation detected by the truck scale house radiation monitors. Investigators discovered the inside surface of the pipe contained a thin layer of pipe scale that was radioactive. Samples of the scale were tested to reveal that the scale contained several naturally occurring radioisotopes with radium²²⁶ being the most predominant. The scale found in the pipe was classified as a *technologically enhanced naturally occurring radioactive material* (TENORM). Although the activity concentrations and external radiation levels were relatively low, the demolished piping could not be disposed of as regular construction debris, so it was properly packaged and shipped to a radioactive disposal facility for processing and burial (ISCORS, 2004, p. 1-7).

Radiation Is Where You Find it or the Cobalt Man Incident

Radiation is a naturally occurring phenomenon that can cause health concerns without intervention by man. However, when man intervenes, the situation can be made even worse.

According to Susan Combs, Texas Comptroller of Public Accounts, the worst radioactive contamination in North American history was caused by Vicente Sotelo Alardin of Ciudad Juarez, Mexico. Ms. Combs (1992) writes,

Sotelo was sent to haul away some unused material from a warehouse operated by his employer, the *Centro Médico* in Juarez. Among the several pieces of equipment Sotelo and a coworker transported across town to the *Jonke Fénix* junkyard was a 20-year-old Picker 3000 radiotherapy machine that the hospital had purchased from the X-ray Equipment Co. in Fort Worth, which had in turn bought the unit from Methodist Hospital in Lubbock. Once in Juarez, the machine had languished in the warehouse for lack of a qualified technician to fix it.

Sotelo's mistake was in pilfering an unmarked capsule from the load and throwing it into the back of his pick-up truck. Later, when he pried open the capsule, out spilled 6,010 small, silvery pellets that looked like cake decorations but were in fact loaded with high levels of the radioactive cobalt 60 isotope. Some of the pellets rolled into the truck bed and onto the road. Others remained inside the capsule, which Sotelo took to the junkyard and sold as scrap for the peso equivalent of \$9. There, the capsule was dumped near a huge magnet used to load scrap metal onto trucks bound for two northern Mexico foundries.

According to investigators, each pellet in the capsule was capable of producing a dose of 25 rads per hour. As the junkyard magnet moved the scrap metal around, the pellets were mixed with other materials, pulverized, and spread across the area. Others became imbedded in truck tires and were then jarred loose along highways. An estimated 300 curies of radioactive cobalt found their way to the two Mexican foundries, one of which manufactured metal table legs for shipment to the largest distributor of restaurant tables in the U.S., while the other produced steel rods used in the reinforcement of concrete building projects. About 600 tons of the contaminated steel was shipped to the U.S. from December 1983 to January 1984.

Then, on January 17, 1984, a radiation alarm went off when a delivery truck took a wrong turn near the gates of Los Alamos National Laboratory in New Mexico. Later in the month, a different truck—this one transporting table legs—set off a radiation monitor in an Illinois State Police officer's patrol car.

Authorities eventually traced the radioactivity to the Juarez junkyard, where tests established that the capsule had been delivered on or before December 6—a date fixed with certainty because all paperwork generated at the site *after* that date turned out to be radioactive. Authorities immediately closed the junkyard and impounded Sotelo's pick-up. It took another two months to mop up the *Jonke Fénix* and track down the contaminated table legs and rebar steel at sites in Canada, Mexico, and 23 different U.S. states, including Texas. (pp. 1-2)

In the prison where he awaits sentencing on a 1990 theft charge, Sotelo is known as El Cobalto—The Cobalt Man (Combs, 1992, p. 2).

Nuclear Terrorism 101 or Where Are All the Smoke Detectors?

Inspired by a road accident in France involving a truck carrying 900 smoke detectors, al-Qaeda operative Dhiren Barot was captivated by the concern over possible exposure to the radioactive material, Americium²⁴¹, contained in them (“2004 Financial Buildings Plot,” 2007, p. 2). Barot formulated a plan involving 10,000 smoke detectors either set on fire or placed on top of an explosive device, and he worked out a budget requiring £50,000 for material (£5 for each smoke detector) and £20,000 for storage. Barot wrote in his presentation to al-Qaeda leaders,

When constructing a RDD, you face constraints arising from the radioactivity of the source. To cause a large amount of radioactive contamination, we would be drawn toward very high activity sources. However, in order to prepare the source for effective dispersal by removing the shielding, we would risk exposing ourselves to lethal doses. Even in suicidal missions we might not live long enough to deliver a very highly radioactive RDD that uses gamma-emitting sources and is not shielded. If we tried to protect ourselves by shielding the source, the weight of the RDD could significantly increase thereby increasing the difficulty of delivering the device and causing successful dispersion of the radioactive material. (Metropolitan Police Service, 2007, p. 3)

The Texas Department of State Health Services (2006) concurs with Barot’s findings; however, they extrapolate these problems to conclude that we should not be afraid of “dirty bombs” since the “terrorist is faced with a technological dilemma when constructing the bomb” (p. 1). Barot disagrees, quoting in his presentation, “a nuclear physicist and provost of the California Institute of Technology testified before the senate foreign relations committee, ‘If just three curies (a fraction of a gram) of an appropriate isotope was spread over a square mile, the area would be uninhabitable according to the recommended exposure limits protecting the general population. While the direct health effect would be minimal . . . the psychological effects would be enormous’” (Metropolitan Police Service, 2007, p. 7).

After studying radioactive isotopes, Barot chillingly describes one of his favorites, stating,

After reading and understanding the case study, it was not difficult to imagine what the potentials could be by using this isotope. If something so small and simple such as 900 burning smoke detectors could cause so much havoc then by increasing the amounts used, the possibilities are good. (Metropolitan Police Service, 2007, p. 31)

Methodology

The views and opinions held by government officials are tempered by their training and job experience. Through the use of three interviews, this researcher will show the current readiness and knowledge first-line and supervisory officials have regarding the subject of an RDE at a wastewater treatment facility. The following was standard to all three interviews to ensure validity:

- All respondents were interviewed during their regular working hours.
- All interviews were conducted with the researcher reading the questions verbatim from a prepared list.
- All interviews were electronically recorded on an Olympus VN-960PC Digital Voice Recorder.
- All interviews were downloaded from the Digital Voice Recorder onto a desktop personal computer and transcribed using Olympus software.
- All respondents were advised that their participation would be anonymous and all declined to sign a release form.
- All respondents were advised not to use personal names during the interview to maintain confidentiality.
- No respondent had contact with another respondent prior to his interview.
- No respondent was told the subject or title of the research prior to the interview.
- All respondents are officials with the MWRDGC, two are department heads, and all would be on scene or called to duty in the event of an RDE.

First Interview

The first interview was conducted at approximately 0130 hours in a motor vehicle during the respondent's normal shift.

The respondent is a male, 50 years of age, who replied only that he was "college educated" to the question of his level of education. He had not worked for any other wastewater treatment facility prior to working for the MWRDGC.

When asked, "What type of information (if any) have you received from the federal government addressing radiation concerns involving biosolids at wastewater treatment facilities?," he replied, "Personally, virtually none. Some of the guys in my outfit have had post 9/11 training, anti-terrorist stuff, so I suspect there is some offered, available with federal funding, but I haven't been exposed myself."

He replied, "Very, very little," when asked, "What do you know about radiation concerns involving biosolids at wastewater treatment facilities?" He added, "I used to have contact with the people in the lab that did the radiology testing 20 years ago, at the time back then it was not very much of a concern. Mostly they were looking for evidence of hospital waste in our solids."

His answer to the question, "What type of information (if any) have you received from the federal government addressing terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities?" was "See question four." He added, "Personally none, but there does seem to be some training available."

When asked about his knowledge of terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities, he replied, "Essentially, that it hasn't been established yet that it's a problem. The use of radioactives at a wastewater treatment facility seems to be a fairly low potential target; I think there are probably better places if you've got the stuff to apply it, more damaging places."

He stated he had no current direct knowledge regarding radioactive screening of biosolids at MWRDGC facilities, and he repeated that answer for the question, "Are radiation detectors used anywhere in the MWRDGC wastewater treatment process?"

The questions regarding time needed to radioactively contaminate biosolids to first, a detectable level, and second, to a lethal level, were both answered, "Don't know."

When asked, "How long are biosolids left undisturbed at the drying beds during the normal treatment process?," he replied, "A round figure would probably be 30 days, but again, I don't have any direct knowledge on that."

The final question of "What are your thoughts on this (the topic of terrorists and radiation at wastewater treatment facilities)?" brought this response, "As soon as I retire, I plan to get out of the city. I suspect we are kind of a low potential target. The city's drinking water facilities, the influent from the lake, I think that's a serious target. I suspect there may be better ways to disable a treatment plant than with radiology, easier ways, cheaper ways, more effective ways."

Second Interview

The second interview was conducted at approximately 0700 hours in a motor vehicle during the respondent's normal shift.

The respondent is a male, 56 years of age, a department head, and answered that his level of education was that he held an Associate of Science degree and a Bachelor of Arts degree. He had not worked for any other wastewater treatment facility prior to working for the MWRDGC.

When asked, "What type of information (if any) have you received from the federal government addressing radiation concerns involving biosolids at wastewater treatment facilities?," he replied, "Zero."

When asked, "What do you know about radiation concerns involving biosolids at wastewater treatment facilities?," he replied, "Zero."

He replied to the question concerning receiving information from the federal government addressing terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities by stating, "Not specifically, I did attend some weapons of mass destruction training for emergency responders, but nothing specifically regarding the threat of radiation at wastewater treatment facilities."

When asked about his knowledge of terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities, he replied, "We did study some of the potential hazards and concerns for dirty bombs and other things, secondary devices in weapons of mass destruction training for emergency responders, but nothing with respect to wastewater treatment facilities."

He stated that biosolids are not currently screened for radioactivity at MWRDGC facilities, and answered “Not that I know of” to the question, “Are radiation detectors used anywhere in the MWRDGC wastewater treatment process?”

The questions regarding time needed to radioactively contaminate biosolids to first, a detectable level, and second, to a lethal level, were both answered, “I don’t know.”

When asked, “How long are biosolids left undisturbed at the drying beds during the normal treatment process?,” he replied, “My understanding is up to five years.”

The final question of “What are your thoughts on this (the topic of terrorists and radiation at wastewater treatment facilities)?” brought this response: “I think that if you can conceive it, it has a potential of happening, and I think we should be as prepared as possible for all contingencies.”

Third Interview

The third interview was conducted at approximately 0800 hours in a motor vehicle during the respondent’s normal shift. The respondent is a male, 50 years of age, a department head, and answered that his level of education was a Bachelor’s degree. He had worked for another wastewater treatment facility (Urbana-Champaign Sanitary District) prior to working for the MWRDGC.

When asked, “What type of information (if any) have you received from the federal government addressing radiation concerns involving biosolids at wastewater treatment facilities?,” he replied, “Hmm, radiation? None.”

When asked, “What do you know about radiation concerns involving biosolids at wastewater treatment facilities?,” he replied, “Nothing.”

He replied to the question concerning receiving information from the federal government addressing terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities stating, “I know we had that emergency planning after 9/11, emergency evacuations, increased police presence around the facilities to thwart bioterrorism and stuff, but I was thinking that was more for the water supply, not the wastewater, but they did say the wastewater would be a target.”

When asked about his knowledge of terrorists and their possible use of radioactive materials as a weapon involving wastewater treatment facilities, he replied, “If they could take down several of the large wastewater facilities that would make daily living difficult.”

He stated, “Yes, we have a radio-chemistry lab at the Stickney facility, and we send a sample each month to them,” in response to the question of screening biosolids for radioactivity, but stated, “I don’t think so,” in regards to radiation detectors being used during the wastewater treatment process.

The questions regarding time needed to radioactively contaminate biosolids to first, a detectable level, and second, to a lethal level, were both answered, “Very quickly. If you have the materials, it wouldn’t take long at all.”

When asked, “How long are biosolids left undisturbed at the drying beds during the normal treatment process?” he replied, “About 30 days, depending on the weather.”

The final question of “What are your thoughts on this (the topic of terrorists and radiation at wastewater treatment facilities)?” brought this response: “It’s definitely something you should keep on the front burner.”

Data Analysis

Although the respondents answered many questions “Don’t know” and “Zero,” these answers tell us much about their current readiness and knowledge on the topic of an RDE at a wastewater treatment facility. Not knowing about a subject, usually suggests the topic is not considered important enough to spend time or money on. This researcher finds it interesting that, although the second respondent stated he knew zero on the subject when asked for his thoughts, he stated, “I think that if you can conceive it, it has a potential of happening, and I think we should be as prepared as possible for all contingencies.”

Let us examine in detail the responses gained through these interviews. The demographic data on the respondents are similar. They are all males in their 50s with college-level educations. Only one had worked for any other wastewater treatment facility. None had received any direct information or training regarding general radiation concerns or terrorists and their possible use of radioactive materials as a weapon involving biosolids at wastewater treatment facilities. All had some knowledge of the availability or had attended some form of post 9/11 weapons of mass destruction first responder training but *not* in relation to wastewater treatment facilities.

The first respondent stated he did not think terrorists using radioactive material as a weapon involving wastewater treatment facilities was an established problem. He stated, “The use of radioactives at a wastewater treatment facility seems to be a fairly low potential target; I think there are probably better places if you’ve got the stuff to apply it, more damaging places.” It is clear from his response he was viewing the terrorists’ motive as the elimination, or at least, to cause the ceasing of operation of the wastewater treatment plant and not the use of the biosolids as an RDD. This researcher did not clarify the point as the succeeding questions all targeted biosolids, and for the respondent to make the connection of radiation and biosolids on his own would be additional data.

The connection was not made, but one instance does not guarantee other people would not see that potential use of radioactive material.

Two respondents agreed that radiation detectors are not used for screening biosolids or anywhere else in the wastewater treatment process. One respondent replied a monthly sample was tested, but no detectors were present at the facilities.

Two respondents did not know the time necessary for radioactive contamination of biosolids to any level. This is certainly not surprising since radiation is not enough of a concern to even require devices for monitoring during the wastewater treatment process. One respondent gave the answer, "Very quickly," to the residence time of the radioactive material.

The popular press and technical sources (e.g., the National Council on Radiation Protection and Measurements [NCRP] in 2001) have reported that explosive dispersal may occur or that material may be distributed in the air by *other means* (italics added) of generating an aerosol (Pacific Northwest National Laboratory & Strom, 2005, p. 15). A strong Chicago wind and the fine powdery dust of biosolids would constitute aerosol dispersion.

The huge difference in response over the time biosolids are left undisturbed at the drying beds, 30 days to five years, tells of an undisturbed site which, at the least, would give a terrorist 30 days of uninterrupted irradiating, and at the most, five years to turn biosolids into lethal dust.

Conclusion and Recommendations

The purpose of this study was to assess a hazard in order to determine the feasibility that it could be accomplished. Examining the technical aspects, reviewing the scientific and government studies that have already been completed, and interviewing local government officials to learn their level of awareness and understanding of the problem has led this researcher to the following conclusion: It is a hazard, it is feasible, and it could be accomplished.

That is not to guarantee or even predict that it may happen. A delimitation of this study was not to attempt to evaluate or predict the actions of terrorists. The future actions of terrorists will be left to the intelligence agencies to predict, hopefully with the accuracy necessary to foil their plots.

The Radiological Risk Assessment for King County Wastewater Treatment Division Report, which was financed by a grant from the Department of Homeland Security as a project under the U.S. Department of Energy, reached the conclusion, "RDE that goes initially undetected can have consequences for WTD workers and biosolids truckers, the public, farmers, and the environment" (Pacific Northwest National Laboratory & Strom, 2005, p. 35).

The report continues, "even rough estimates of radiological hazards in various parts of the wastewater treatment process must be tempered with statements that they are uncertain. Protective actions should be based on extensive, ongoing measurements of radiation and radioactive material following an incident" (Pacific Northwest National Laboratory & Strom, 2005, p. 35).

The lack of information and understanding by local officials displayed an "It can't happen here" attitude on the part of local government. This is reminiscent of the attitude of the airline industry with regards to strengthening the cockpit doors on airliners. Although there had been a sufficient number of hijackings to warrant the change, perhaps the airline industry thought there would be no more hijackings

and that maybe terrorists would find easier, cheaper, more effective targets. The change was made after 9/11.

The federal government had concerns about radiation in wastewater treatment facilities in a nonterrorist scenario prior to 1986, when the U.S. EPA report entitled *Radioactivity of Municipal Sludge* summarized data which showed biosolids to contain radioisotopes from medical treatment and research facilities (Water Environment Federation, 2000, p. 5), yet no real-time radioactive monitoring of any kind is done at local wastewater treatment facilities.

The most chilling realization this researcher has discovered is that convicted al-Qaeda operative Dhiren Barot's writings mirror the research done by the Pacific Northwest National Laboratory in their study for King County Wastewater Treatment Division as well as this study.

Mr. Barot studied and wrote about the following:

1. Ionizing radiation
2. Radioactive materials
3. Characteristics of radioactive materials that may be used for malicious purposes
4. Amounts that affect humans
5. Dose limits for workers and the public
6. Dispersal scenarios
7. Factors affecting radiation intensity (Pacific Northwest National Laboratory & Strom, 2005, p. v)

My point is that the above topics are also found listed in the table of contents of the Pacific Northwest National Laboratory study. Mr. Barot missed the use of biosolids as the dispersal agent, but had he not been arrested, would he have made the connection? Will another terrorist?

When I conceived the research subject of irradiating biosolids for use as a weapon by terrorists, I initially thought to myself, "Well, that's just silly." Now, I am not so sure it is silly. The U.S. Government does not appear to find it silly. And most disturbing of all, I do not think al-Qaeda operative Dhiren Barot would think it was silly.

The medical profession's knowledge of radiation illnesses is limited. Fortunately, they have not had enough exposed humans to treat as patients, and they cannot irradiate healthy humans for obvious reasons. Most of what has been learned is a result of Hiroshima and Nagasaki.

The Pacific Northwest National Laboratory ended their report with the statement, "Clearly, much work remains to be done" (Pacific Northwest National Laboratory & Strom, 2005, p. 37), and I concur. However, I think the second respondent related my recommendation when he said, "[I]f you can conceive it, it has a potential of happening, and I think we should be as prepared as possible for all contingencies."

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Terrorism and the Media

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Terrorism is an issue that has attracted lots of attention ever since the attack of 9/11. Although terrorism is a phenomenon that goes some centuries back, different definitions and different people tend to assign a variety of names to it. Modern terrorism is diverse and both international and domestic. Terrorist groups have their own political, religious, and social agendas which they promote by various means and tactics and through terrorist attacks.

The media are also extensively discussed in modern societies. For the purpose of this article, the term *media* will be used to refer mainly to the television and the written press, excluding the Internet and its various applications. The media, as a matter of fact, are a very powerful communication tool known to be used for a variety of purposes, including propaganda and the manipulation of the masses. It must not be overlooked, though, that the media have as their primary and often ideal goal the dissemination of information to the people so that they may form their own opinions which will then be expressed through the processes and procedures of modern democracies.

These two seemingly different concepts have the power to shape reality and peoples' understanding of it in ways that were unknown a few decades ago. This has led to the realization that the media use terrorism and the terrorists use the media through a complex and multilevel process that includes the terrorists, the media, and finally the public.

Introduction/Purpose

This article will provide a brief literature review covering the broad area of the media and their operations, along with a theoretical background on communication theories, media ethics, and sociocultural issues pertinent to the media. This will be followed by an overview of theories of terrorism, modern terrorism, and terrorism in America.

More specifically, evidence will be provided to bring out the relationship between the media and terrorism, not only at a factual level, but also at a theoretical level. By illuminating media processes and operations, it will become evident that terrorism often builds upon media in order to promote the terrorist agendas, while the media often use terrorist attacks and terrorism as a way to attract audiences, advertising, and eventually profits. By examining the above, it becomes clear that there are ways in which the media can be used to fight terrorism in latent—yet effective—ways.

Information presented in this article will cover some issues of modernity such as the dislocation of time and space (that intensifies the terrorist threat and activity), the control of information as a central element of modernity (an important element in either promoting or downplaying terrorism), how the media influence the public sphere (and therefore the reaction towards terrorism), how moral panic is created and what purpose is served by it (a notion similar to the "fear factor"), how totalitarian regimes prone to terrorism create a social reality and maintain control and consent, how the news and the media shape peoples' understanding of the world and shape public response and political response, how people assign

meaning to media content (and how they assign meaning to terrorist activity reported in the media), how the media relate to ideology (either dominant or terrorist), how media legitimize political action (either terrorist or democratic), and how politics can be influenced by messages (either to promote or fight terrorism).

What is more, regarding terrorism, information will be presented on how terrorism relates to the media (for those attacked and for those attacking), how the media respond to terrorist activity, how the terrorists attempt to manipulate the media (both local and international), and how the media may influence terrorist activity.

The above-mentioned issues will be analyzed and conclusions will be drawn regarding the inextricable links between terrorism and the media and how these links may be used in order to minimize terrorist activity and terrorist violence.

Methodology

In order to identify the sources for this article, it was imperative to look for credible sources of well-known academics and researchers. What is more, Internet sources, although diverse, do not always provide all the necessary information required in order to evaluate the source and its academic value. Most sites may host articles and commentaries, but they fail to produce accurate data regarding the author, the author's credentials, the date published (if published), and other relevant information. As a result, using Internet sources—unless academically sponsored and supervised—may prove dubious in value and context. Therefore, for the purpose of this article, the library of the American College of Greece was used along with some resources already available to the researcher.

By entering a library, a researcher is awestruck when confronted with the variety and magnitude of the resources available in every particular field of study. Therefore, it is essential to have a careful plan regarding what information is required. This allows for effective content and time management. The library of the American College of Greece was chosen because it is the primary English speaking library in Athens and, what is more, it allows for the use of its resources both to alumni and students and to outside researchers. After all, when examining an issue such as terrorism, resources pertinent to the majority of events and to the prevailing Western culture must be used, which are best exemplified by the American culture and experience, as well as resources outside the narrow domestic pool of information.

In particular, the search was divided onto two distinct paths. The first path was looking for resources relevant to the media. At this point, the search was focused on locating information about the media in general in order to allow for the researcher to gain a better understanding of the processes and content of media analysis. At a later stage, resources were distinguished based on their particular focus: social, cultural, political, or general.

The second path was looking for resources relevant to terrorism. Resources pertinent to terrorism are many and diverse, therefore choices had to be made regarding the most appropriate resources for the paper at hand. As a result, resources were evaluated by using as criteria how recent they were (especially if they were written after the 9/11 attack and would therefore include this in their analysis) and whether they included a discussion relevant to media and terrorism.

In general, the criteria used in evaluating the resources were as follows:

- Pertinence to the issue
- Up-to-date information
- In-depth theoretical analysis
- Variety of examples
- Author's legitimacy and accreditation

Commentary and arguments are presented in the text so as to highlight relations and influences among various actors (e.g., media, politics, society, culture, terrorism, law enforcement and criminal justice).

The authors were chosen based on the relevance of their work to the subject of terrorism and the media, but also based on their mode of presentation of arguments and ideas. In essence, the researchers and authors quoted in this article were the ones that made their points clear through presenting their arguments and ideas in a logical and consistent way, supported by examples and a strong theoretical background. It would be unfair to assume that the researchers whose works are used in this paper are the best in their respective fields (even more than unfair, it would be naïve). They are all accredited scholars, but they are also able to help the reader understand the in-depth processes that influence the media and terrorism issues, and they are also able to provide a good background for readers who have little or no previous experience in the field of media and terrorism.

Analysis/Discussion

When discussing terrorism and counterterrorism efforts, it is important to understand that terrorism occurs in a social context, the same context in which the media operate. What is more, as Dr. F. Hacker (as cited in Hoffman, 1998) states, "terrorists seek to frighten and, by frightening to dominate and control. They want to impress. They play to and for an audience, and solicit audience participation" (p. 131).

Therefore, for counterterrorism efforts to be effective in a broader scale, the particular social setting of the time and place where antiterrorism efforts occur must be taken into account. What is more, in order for terrorism to be effective, it must also take into account the social setting of those to be attacked. In essence, terrorism disrupts violently the social consensus and the process of creating consent of a society. Antiterrorism, therefore, should be aimed at reinstating the social consensus of a society and restoring its cohesion: "Here the media and other signifying institutions come back into the question—no longer as the institutions which merely reflected and sustained the consensus, but as the institutions which helped to produce consensus and which manufactured consent" (Gurevitch, Bennet, Curran, & Woollacott, 1995, p. 86).

The above is easily exemplified by the 9/11 attacks and the media reaction to it. At this point, no attention will be paid to the particulars of the media coverage of the 9/11 attack; instead, the focus will be on media efforts to reinstate social consensus and consent by presenting excessively the firefighters and the rest of the personnel involved in crisis management, their heroic depiction, the emotional appeal and the strengthening of the social consensus against the terrorists by focusing on the victims, the pain they experienced, the loss, the damage, but also the heroic acts of those involved in the rescues, the willingness and efforts these people showed and made in order to alleviate the pain and rescue as many as possible (Hewitt, 2003).

This is one side of the coin, where media can construct social consensus and consent in favor of counterterrorism activity. The other side is where media in states (or countries) that support and foster terrorism are used in order to create a social consensus and consent in favor of terrorist activity by providing legitimization and excuses.

The media have a “potential for the establishment of a popular sense of national identity. . . . [N]ationalized media systems, disseminating news and information of government activities, very often in the absence of any competition, have achieved some degree of national consolidation” (Gurevitch et al., 1995, p. 187). This is also true for countries that support terrorism (often totalitarian regimes or dictatorships) and maintain strong social cohesion and, therefore, support of their activities through linking terrorism to the maintenance of national identity against the infidels or the alleged Western enemy.

What is more, special attention must be paid to the fact that these governments promote their agendas and their efforts to maintain a strong national identity (that fosters conflict with different identities and cultures) by the absence of competition in the field of the media. If all media are government owned or managed, then there is a monopoly of information that allows for misinformation, deception, and very effective propaganda. After all, “In modern, industrialized societies the communication systems are the lifelines of social, political, and economic well being. Totalitarian leaders understand this and carefully restrict access to the printed press, broadcasting, and the World Wide Web, using all these media strictly for propaganda and for sanitized environment” (Parker, as cited in Andersen & Strate, 2000, p. 324). Therefore, by attacking this monopoly of the media in these countries and by allowing people access to alternate means of news and information, it may be made possible to downplay the role of national identity or alter it towards a more favorable—less conflict-oriented—model. After all, “the mass media have now assumed the role of the Church, in a more secular age, of interpreting and making sense of the world to the mass public. Like their priestly predecessors, professional communicators amplify systems of representation that legitimize the social system” (Gurevitch et al., 1995, p. 227).

This function of interpretation is crucial to forming public opinion and is being carried out by the media in any major terrorist activity. Let’s take the 9/11 attack for example where the media attempted to explain the atrocity by a variety of modes. Some argued that the reasons were particular (such as sanctions against Iraq, support for Israel, etc.), while others argued that the reasons were more general and included a hatred towards Western ideas such as freedom, liberty, diversity and more, while others suggested that this was indeed a clash of civilizations (Hewitt, 2003). Any of the reasons offered prompted a response from the audiences that were exposed to it, allowing for the exchange of opinions and prompting lots of discussion and fruitful arguments.

The other function, that of legitimization, can also be used in two ways. One is by using the media to legitimize counterterrorism efforts that may step on some of the civil liberties of citizens, and the other is by refusing to legitimize terrorist activity.

The process of legitimization is part of a broader process through which the media help the public make sense of their everyday lives. For example, as G. Murdock (as cited in Dickinson, Harindranath, & Linne, 1998) states,

The mass media permeate everyday life in two very important ways. . . . Secondly, for most people, this contact [with the media] constitutes their main source of information about, and explanations of, social and political processes, and also a major fund of images and suggestions concerning modes of self representation and general lifestyles. The mass media therefore represent a key repository of available meanings which people can draw upon in their continuing attempts to make sense of their situation and find ways of acting within or against it. (p. 206)

As mentioned above, then, the media have the power to shape public opinion and reaction not by direct suggestion but by providing a mental framework of understanding and responding to terrorism. This does not only happen through the news (which set the agendas and the level of importance of events for most people) but also through the press, and most importantly movies (and the Hollywood industry in particular).

Public opinion is a very important aspect of terrorism. First of all, terrorists enjoy (or would like to enjoy) the support of the public who share their own agendas or goals; secondly, they would like to gain the support of the public opinion for their goals; and thirdly, any counterterrorism policy must enjoy—at least to some extent—the public’s support in order to be effective.

Stemming from the above is the fact that both the terrorists and those fighting against them will seek to attract the public’s attention and what is more, they will also attempt to gain a favorable public attitude towards their goals. The media, as exemplified in previous pages, can play a crucial role in shaping public opinion both for the terrorists and for their opponents. The mass media can engage in the above process by perpetuating the dominant ideology which acts as a “social cement binding the existing social order together and facilitating its reproduction by misrepresenting or obscuring reality [as the media can do] and therefore securing consent to that social order [especially true for totalitarian regimes that sponsor terrorism]” (Thompson, 1997, p. 35). The above-mentioned consent reinforces and maintains the status quo by promoting either “normative acceptance” or “pragmatic acceptance.”

According to Thompson (1997), “Normative acceptance occurs when dominant social groups manage to mobilize consent in order to legitimize their social position. Pragmatic acceptance is where people comply because they cannot see a realistic alternative”(p. 35). These two modes of acceptance are both employed by terrorist groups so as to secure a level of tolerance and support for their goals. They are also used by totalitarian regimes which sponsor terrorism and should be used to promote antiterrorist efforts as well.

Surveillance is another way through which modern societies attempt to combat terrorism in the modern era: “Surveillance refers to the supervision of the activities of subject populations in the political sphere—although its importance as a basis of administrative power is by no means confined to that sphere. Supervision may be direct (. . . as in prisons, schools, etc.), but more characteristically it is indirect and based upon the control of information” (Giddens, 1990, p. 58). This is a very important aspect of counterterrorism, pertinent to the discussion of expanding police authority to allow for more successful antiterrorism measures: The governments of free societies face a democratic dilemma—if they do not fight terrorism with all the means available to them (including surveillance), they risk the welfare of their citizens; if,

on the other hand, they do use these means, they appear to be endangering the very freedoms which they try to protect (Netanyahu, 2001). Giddens (1990), although writing over a decade ago, states that the most important function of surveillance is not the actual surveillance but the supervision and control of information.

Information is the new commodity of modern times and, as such, it is valuable both for terrorists and for their opponents:

Terrorists hide behind the mutual suspicions between the Western security forces . . . when in fact they often view the entire west as a common society and a common enemy. Only through close coordination between law enforcement officials and the intelligence services of all free countries can a serious effort against international terrorism be successful. (Netanyahu, 2001, p. 138)

Of course, information is also valuable for the media as well. That is why the media always found in terrorism a topic worth covering.

As Laquer (1999) states, “[I]t has been said that journalists are terrorists’ best friends because they are willing to give terrorist operations maximum exposure” (p. 44). What is more the *media attitude towards terrorism has ranged from exaggerated respect to sycophancy*: “Guerilla warfare can exist without publicity, but urban terrorism cannot, and the smaller the group the more it needs publicity” (p. 44)—an excellent example of the media as a force multiplier. In terms of media coverage, terrorism can be distinguished into grievance and institutional terrorism:

Grievance terrorism challenges the status quo and actively seeks media coverage in order to promote the goals and agenda of the terrorist group such as the radical Islamist groups that kill journalists or even the IRA placing bombs in Britain, who wish to gain public attention through the media, hoping that they can publicize and explain their cause so as to gain support. On the other hand, institutional terrorism promotes and safeguards the status quo by shunning media coverage and by directly threatening those who try to cover it. (Harris, 1999)

Taking into account the above, counterterrorism efforts should employ the media in respective ways. In grievance terrorism, media coverage should be monitored and regulated so as not to overexpose the public or risk creating a desensitization effect on the public. For institutional terrorism, all efforts should be made to allow for media coverage so that the public may come to know the actual situation and therefore raise objections and questions to challenge the regime and its actions.

Recent research has also shown that “television engenders no sympathy for terrorists because coverage clearly portrays terrorism as an illegitimate form of violence. . . . [P]ress coverage also tends to legitimize the government instead of the terrorists” (White, 2002, p. 259).

Conclusion

The issue of terrorism and the media is a very complex one. Literature has a lot to offer in regards to terrorism and the media, and modern research is advancing to promote more effective ways through which scholars and the public may begin to understand the underlying relations between the two. What is more, readings on

the media and readings on terrorism have a lot to offer if they are combined so that they reveal the common ground between modern terrorism and media coverage.

The literature review at hand has attempted to cover some basic points regarding terrorism and the media by examining them both as individual entities and as contributing factors, one for the other. The variety of sources available was vast, but little was targeted solely to the relation of media to terrorism. In most cases, books on terrorism assigned one of their chapters to describe media and terrorism, while very few media textbooks had taken the time and space to refer to terrorism. This makes the work of a potential researcher in the field far more difficult but also very rewarding because it provided the chance to form some tentative ideas and notions regarding media and terrorism while at the same time taking advantage of the extensive literature available on each of the two topics when viewed separately.

In conclusion, the media and terrorism are connected in more ways than would initially be thought. Terrorism needs the media, and the media feed off terrorism in order to produce profit. The above is, of course, an oversimplification of the complexity of how media help the public shape its understanding of reality and also shape a response towards that reality. What is more, terrorism benefits from the media either by attracting media attention or by shunning away from it.

As a result, counterterrorism efforts should employ the media as a tool to discredit and discourage terrorists while at the same time promoting social solidarity and social integrity. For example:

- Media and terrorism need one another.
- Media shape reality.
- Media contribute to formulating a response to reality.
- Media promote social order and the prevailing culture.
- Media promote social solidarity.
- Media can be used to attract support for an action policy.
- Media can be used to eliminate support for an action policy.
- Media cover terrorist activity.
- Terrorism needs public support.
- Terrorism—in most cases—wants to attract favorable public opinion.
- Terrorism wants to promote fear through the media.
- Terrorism uses the media to disseminate messages and for propaganda purposes.
- Terrorism is often sensationalized and overemphasized in the media.
- Counterterrorism must employ the media and make them a powerful ally in promoting antiterrorist policies and shunning terrorists from public support.

In order for an effective counterterrorism strategy to take place, the media must be used. The ways through which the media may be used in such a task have only briefly been discussed and suggested in this paper. Further research into the combined field of terrorism and the media will produce a far more rigid mental and academic framework from which further advances may be made. Although the synthesis of data and theories coming from different perspectives is a fruitful and challenging task, thorough research must take place regarding the particulars of terrorism and the media.

Criminal justice theorists have a lot to contribute to the issue of media and terrorism similar to media experts who will have a lot to say about terrorism and

the media. By understanding the process in-depth, we may be able to devise even more effective strategies to combat terrorism and the death, grief, destruction, and loss that stem from it.

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Theories of Punishment and Their Influence on the Treatment of Sex Offenders

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Introduction

Focusing on the classical writings of seminal theorists, this paper will explore the works of Bentham, Beccaria, Mill, and Hart, comparing and contrasting their work concerning the reasons, limits, and authority to punish those who violate the law. Although similar in many respects (e.g., all of them apply their work to Immanuel Kant), significant differences exist between their ideologies, differences that contribute to our present approach to criminal justice punishment. These differences mainly evolve around the justification for punishment (e.g., retribution vs. deterrence); however, differentiation also exists concerning what types of offenses deserve punishment. Mill (1859) argued against punishment for offenses that harm only the offender. These differences and similarities are further examined in concurrence with Friedman's (1993) assessment of our present approach to punishment. The application of these theories with respect to their utility and influence on sex offender laws will also be examined.

Theorists

Jeremy Bentham

Bentham (1830) postulated that whatever form punishment takes, it is malevolent. This theme is replete in his writings as is his position that the only reason to punish, in fact, the only redeeming quality of punishment, is deterrence. Bentham suggested that punishment is complex in its effects and should not be seen as simply an act. He also demonstrated a perceptive understanding of the relationship between offenders and their community by admonishing legislators and the public alike to remember that offenders are members of the community as well as any other person.

Bentham (1830) asserted a rather optimistic view of human nature whereby he wrote of the danger of seeing humans as either good or bad. He concluded that, in fact, the experience of committing a crime and subsequent punishment may result in the criminal "possessed of a thousand good qualities" (p. 124). Despite the good that can come from punishment, Bentham further argued that punishment is not infallible, that the expected utility of punishment may for one reason or another not be realized.

In writing to legislators, Bentham (2007) argued against a one size fits all approach to punishment and was very concerned with external causal circumstances. While

Bentham argued for considerable attention to the effects of punishment on the individual, Beccaria (1819) focused more on the effects of crime and punishment on society as a whole.

Cesare Beccaria

Beccaria (1819) suggested a system of punishments is necessary for the survival of any society. Beccaria took a rather Hobbesian view of human nature, (man is self-centered and self-serving by nature), arguing individuals all wish to be free of any obligations binding them to their fellow mankind, making punishment necessary. He saw punishment as necessary for, “defending the public liberty” (p. 4). Beccaria also argued that punishment should function as a means to an end by setting an example, through punishment, that would deter potential violators of the law.

The authority of the law to punish, according to Beccaria (1819), evolves from a citizen’s tacit or expressed “oath of fidelity” or a social contract by which citizens agree to submit, for the overall good of society, to the mandates of the law. Applying a pragmatic response to crime, Beccaria asserted that reactions to crime must be made in accord to time, place, and circumstance, arguing so it seems for a more relativist point of view. Overall Beccaria’s philosophy on punishment focused on deterrence and utility to the community as a whole. However, not all theorists take the same view; Mill is a good example.

John Stuart Mill

Mill (1859) was an advocate of utilitarianism but championed individual rights. His concern centered on the threat of the majority, through public laws or collective opinion, denying liberty to individuals, what he described as social tyranny. Mill labeled this threat “the tyranny of the majority” (p. 127).

Mill (1859) argued that the conflict between liberty and authority (of the state) is one of the most pervasive conflicts in history and warns, “Self government spoken of, is not the government of each by himself, but of each by all the rest” (p. 11). Mill viewed the power of government and the informal power of society with equal suspicion, and he did not accept the social contract application with regards to adherence to particular behavior, punishment, or benefit diverging from it. He suggested,

Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, everyone who receives the protection of society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest. (p. 106)

Mill used ambiguous terms in his arguments, for example, in the above-cited quote, he referred to a “certain line of conduct,” and in subsequent reference to the subject of conduct, he suggested, “it is necessary that general rules should for the most part be observed” (p. 108).

Although Mill did not disagree with Bentham (1830) or Beccaria (1819) that violations of laws causing harm to others deserved punishment, he sharply

disagreed when it came to actions causing what society or the law deemed harmful to the offender. Mill contended that the greatest evil resides in one conforming his actions according to what others judge good for him: "Over himself, over his own body and mind, the individual is sovereign" (p. 19). Exercising power over an individual (i.e., inflicting punishment) is only justified to protect the interests of others. Any interference by the government for an individual's own good, physical or moral, is not sufficient.

Although the underpinnings of Bentham, Beccaria, and Mill's justification for punishment rested on a Kantian theory of retribution, despite their differences on who should be punished for what, they differ distinctly from Hart in terms of the reason for punishment.

H. L. A. Hart

Although Hart (1968) is a more contemporary theorist, his work is very influential in the modern day application of punishment. Hart was a retributivist who argued in the Kantian theory regarding the reason for punishment: the sole purpose of punishment is to punish the wrong doer, period. Moore (1997), another contemporary theorist who took a retributive view, also argued that society has a duty to punish for no other reason than just desserts. Hart (1968) also suggested that the legal term *mens rea* (Latin for "the guilty mind") is an unfortunate term because it imposes a morally blameworthy criteria to be considered when determining guilt. Instead, what needs to be considered is simply did the person break the law or not? Outcome versus intent is the controlling factor in Hart's argument. This approach is further supported by Hart's argument that the criminal justice system should "focus on the crime and not the criminal" (p. 160).

Hart (1968) supported a free will approach when determining responsibility for a person's actions. A necessary condition for imposing punishment, according to Hart, is to determine whether or not a person could have helped doing what he or she did. If a wrong doer could have chosen not to violate the law, but nonetheless chose to, he or she is susceptible to punishment, the very foundation of our current application of criminal justice, thus, he or she had free will. Breaking the law ultimately raises the question, "Who determines what is legal or illegal?"

Hart (1968) framed the question of who determines what is legal or illegal in the proverbial chicken and egg question: "Should the law shape moral values and judgments or should the moral values of society shape the law?" In what could be seen as a condescending indictment of the law and the judicial system, Hart postulated that the latter application prevails, relieving judges and lawmakers of any responsibility to inform themselves of any advances in science or understanding of human behavior. Although Hart argued that a person must be morally culpable before being punished, he was clearly a retributivist and argued punishment is justified solely on the grounds of just desserts.

L. M. Friedman

Friedman (1993) argued that crime and punishment are distinctive indicators of social values. Our present approach to crime and punishment is a mixture of 16th and 17th century theory, juxtaposed with modern day social values and theories of

offending and punishment. According to Bodenhamer (cited in Friedman, 1993), during the 19th and 20th centuries, the good order of society took precedence over the liberty of the individual. While the early theorists' argued in some degree for consideration of the criminal, the modern day approach is strictly focused on the crime. This can be clearly seen in the political overtones punishment has absorbed.

According to Friedman (1993), crime and punishment has been a political issue since the end of World War II. Our early theorists warned against the "passions of the few" (Beccaria, 1819), but this cautionary note seems to have fallen by the wayside. Friedman (1993) indicated the major problem with such a political approach to crime and punishment resides in the fact that laws have traditionally reflected social values and today's social values and culture are changing faster than laws can be crafted to reflect them.

In their writings regarding punishment, Beccaria (1819), Bentham (1830), and Mill (1859) all cautioned against excessive punishment. Beccaria (1819) in particular argued that increased severity in punishment will cause men to "grow hardened in direct proportion to the increased severity of punishment to the point punishment becomes both useless and tyrannical." All of our foundational theorists warned against the evil of punishment exceeding the evil of the offense for which punishment is administered. Punishment imposes a cost on society as well as on the offender. If the cost of punishment exceeds the cost of the offense, more harm may result from punishment than from the crime.

The criminal justice response to sex offenders in general and juvenile sex offenders in particular has been one of increased punishment, including public disclosure through sex offender registry laws (Sample & Bray, 2006). This response begs several questions: (1) Does requiring juvenile sex offenders to register on sex offender registry lists accomplish the stated goals of such a response: deterrence and public safety? (2) Is the evil of the punishment greater than the evil of the crime? and (3) Does the cost of the punishment exceed the cost of the crime? The remainder of the paper will examine these questions with a review of the current literature from the criminal justice field on sex offending in general and juvenile sex offending specifically.

History of Sex Offender Registry Laws

Attempting to understand and control sex offenders has a long history, dating back to the 1930s when several states enacted sexual psychopath laws in response to high-profile sex crimes against children (Sutherland, 1950a, as cited in Sample & Bray, 2006). These early attempts to control sex offenders were based on the assumption that sex offenders were at the mercy of uncontrollable urges, which, in turn, laid the groundwork for our present response: Sex offenders are a homogenous group who continually reoffend and require constant supervision (Sample & Bray, 2006; Sample & Kadleck, 2008). The practice of naming laws after murdered victims of sex offenders also continues, which Sample and Kadleck argues implicitly implies sex offenders are all murderers. This practice culminated into the perfect legislative storm during late 1989 to the mid-1990s with three violent sexual homicides against children gaining national attention.

Beginning in 1989, 11-year-old Jacob Wetterling was abducted near his home in Minnesota. After his body was recovered, it was determined he had been sexually assaulted and murdered. This tragedy was followed in 1993 by the rape and murder of 12-year-old Polly Klaas, and in 1994 by the rape and murder of 7-year-old Megan Kanka of New Jersey. These cases focused intense media attention on these types of crimes (Sample & Bray, 2006). Responding to media attention and public outcry, The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act was passed at the federal level. Under the act, adjudicated sex offenders are required to register at the state level for a minimum of 10 years, and lifetime registration is required for particularly serious offenses. The states were mandated to comply or lose 10% of their Byrne grant funding (Durling, 2006; Tewksbury & Lees, 2007). While the Jacob Wetterling Act required states to create sex offender registry lists, it was the amendment to the act in 1996 with the passage of Megan's Law that requires states to make the registries available to the public (Durling, 2006). However, the effects of Megan's Law resulted in some unintended consequences, one being the required registering of juvenile sex offenders. Cited in the "Theorists" section of this paper, Beccaria (1819) cautioned against overly severe punishments or punishments in which the cost of the punishment exceeds the cost of the crime.

Since Megan's Law does not provide for states to exempt juvenile sex offenders from the registry requirement, juvenile sex offenders are now included in publicly assessable registry lists. Smith, Wampler, Jones, and Reifman (2005) pointed to Minnesota as an instructive illustration of unintended consequences. In 1994, Minnesota legislators enacted legislation requiring juvenile sex offenders as young as 10 years of age to register for at least 10 years, and if the offense was a serious sexual crime, to register as a predatory offender for life. Since children as young as 10 years of age can be branded as a predator, judges are balking at convicting young sex offenders, which in some cases denies the juvenile access to needed treatment. While there is little doubt the public outcry against repeat offenders committing such heinous acts prompted legislators to act, the question of how legislators arrived at specific requirements has received little or no attention.

Current literature is deficient in understanding the process and rationale legislators apply when designing our current response to sex offenders. Citing the paucity of research on this subject, Sample and Kadleck (2008) undertook to understand how legislators in Illinois developed the state's response to sexual crimes. Specifically, Sample and Kadleck examined the role personal ideology and opinions play in policy formulation. Using a qualitative approach, Sample and Kadleck interviewed current Illinois state legislators and state mental health workers as well as a sample of state employees from the State's Attorney General's office. Their findings provoke serious questions regarding how such consequential legislation is formed.

Sample and Kadleck (2008) suggest that the ideological philosophy of individual legislators is the strongest variable in determining how legislators respond to the need for policy creation. Their findings also indicate that most legislators view sex offenders as incurable and prone to reoffending as a response to uncontrollable urges, resulting in legislation that requires consistent monitoring and restrictive control of sex offenders. Support for this suggestion can be found in Zimring, Piquero, and Jennings' (2007) research on juvenile sex offenders. Zimring et al.

found that existing policy is based on the presumption that sex offending is persistent and carried out by specialized offenders who are dangerous and likely to recidivate. Also of note were the suggestions of Sample and Kadleck's (2008) research that legislators respond to the public's demand to do something about the issue, and passing legislation is, in part, accomplished specifically to reassure the public something is being done.

Sample and Kadleck's (2008) research also revealed how the sample population educated themselves on the subject of sex offending. Every person included in the sample indicated they receive information on the problem from media reports on information released from such sources as the U.S. Department of Justice or the FBI. None of the respondents reported obtaining information directly from the cited sources. All respondents indicated they received some knowledge of sexual offending based on news accounts of reported incidents. Tewksbury's (2005) research also suggested a lack of empirical research resulting in legislators' ungrudging policy responses. He stated, "Most of our collective response to sex offenders and sexual offending is based on emotional reactions and myths rather than on research and facts" (p. 68). This conclusion mirrors earlier suggestions by Sample and Bray (2003) who suggested research into how policy is formed clearly indicated a lack of knowledge by policymakers and pointed to problems resulting from policy based on misconceptions. Recalling the discussion in the "Theorists" section of this paper, Beccaria (1819) pointed out that a review of history would reveal most laws are the result of the passions of a few and are not dictated by a review of human nature—in the present case, a review of current findings regarding sex offenders upon which to formulate public policy.

This finding led Sample and Kadleck (2008) to suggest that researchers and academics need to do a better job in the dissemination of research findings in an effort to better educate those responsible for policy formulation and implementation, although they cautioned generalization to all state legislators without further research would not be appropriate. If, as Sample and Kadleck postulated, policy is the result of personal ideologies and the public's demand to do something, what is the stated purpose of our current response to sex offenders?

Purpose of Sex Offender Registry Laws

Vandiver, Dial, and Worley (2008) proposed the overriding purpose of our response to sexual offenders, deemed to be accomplished through the application of Megan's Law, is public safety. Requiring all convicted sex offenders to register on a publicly accessible sex registration list will allow citizens and parents in particular to know when a convicted sex offender is living in their neighborhood. Tewksbury and Lees (2007) suggested that, in conjunction with public safety, deterrence is the foremost purpose of sex offender registry laws. Tewksbury and Lees proposed that Beccaria's (1819) suggestion that certainty of punishment will function as a deterrent is implicitly implied in our current policies. By putting sex offenders on notice that they are known to the community, they will abide by the rules because any infraction will be noted and reported to the authorities. Tewksbury (2005) suggested that another purpose is to stigmatize sex offenders who will, in turn, strive to remove the stigma by being model citizens. Sample and Kadleck's 2008 research on legislation formulation found that 77% of legislators reported their purpose was to "protect children" (p. 53) while at the same time

assuring the public something is being done. However, Durling (2006) suggested the purpose of sex offender registry laws is to manage the perceived risk of sex offenders.

Managing risk is foundational in the laws of several states with regards to sex offenders. For example, Duwe, Donnay, and Tewksbury (2008) pointed out Minnesota's statutes on sex offending require an assignment to one of three levels of risk, *low* to *high*. Placement of the risk continuum determines the level of restrictions imposed on a particular sex offender. Freeman (2007) spoke to the use of risk assessment in the State of New York, where sex offenders are classified to assess their likelihood of reoffending, together with a determination as to the offender's level of dangerousness to the community. Again a three-tiered typology is used categorizing offenders as *low*, *medium*, or *high risk*. The severity of sanctions is then based on the level of risk assigned to the individual offender. The manifest implication in risk assessment is that criminal justice officials can predict risk levels, thus vicariously meeting the purpose of protecting the community from additional harm. Successful determination of risk levels hinges on the ability of current assessment tools to accurately predict who is likely to reoffend and who is not. The question then becomes, "How well do these assessment tools function?"

Assessing Risk

J-SORRAT-II, J-SOAP-II, and SAVRY

In a comparison study of the three most commonly used risk assessment tools, Viljoen et al. (2008) examined the Juvenile Sexual Offense Recidivism Risk Assessment Tool-II (J-SORRAT-II), the Juvenile Sex Offender Assessment Protocol-II (J-SOAP-II), and the Structured Assessment of Violence Risk in Youth (SAVRY). According to Viljoen et al., clinicians are increasingly being asked by criminal justice officials to make determinations as to the level of risk and propensity to reoffend that sex offenders pose. Arguing these decisions are only as valid as the tools used to evaluate the aforementioned risk, Viljoen et al. make some unsettling suggestions.

Utilizing a retrospective assessment of 169 adjudicated male sex offenders who had been discharged from a nonsecure residential treatment program for at least 250 days, Viljoen et al. (2008) compared risk assessment findings from the three assessment tools to subsequent behavior of the population under study to determine their validity and the reliability of the predicted risk level of each assessment tool. Each assessment tool is discussed below.

The 28 items on the J-SOAP-II are ranked on a three-point scale and then summed. Viljoen et al. (2008) argued the inadequacy of the J-SOAP-II results due to the fact that there are no classifications associated with the sum scores. The tool functions more as an "empirically informed guide" (p. 9) than as a reliable predictor of future sexual violence. The J-SORRAT-II is a 12-item actuarial tool used to predict risk of violence in male sex offenders 12 to 18 years old at the time of their adjudicated offense. Scoring is accomplished using three different methods: a dichotomous 0 or 1 if a risk factor is present, and either a three- or four-point scale to indicate a particular risk factor. Viljoen et al. voiced concern regarding the instrument based on the fact that it was developed retrospectively from 636 male

adjudicated sex offenders. According to the authors, no independent samples have been conducted. Finally, Viljoen et al. examined the 24-item SAVRY tool, which is designed to measure general risk of future violence. The 24 items are designed to measure static and dynamic factors, each ranked *high*, *moderate*, or *low*. Viljoen et al. noted the SAVRY seems to predict future violent reoffending but also noted it has not been used for adolescents who have offended sexually.

Noting that the period of adolescence involves significant developmental change, Viljoen et al. (2008) questioned the validity of any risk assessment tool to accurately predict subsequent reoffending or violent behavior. Viljoen et al. pointed out that adolescents who sexually reoffend have a recidivism rate of about 15% or less over a six-year period. What roles maturing and social development play in the desistence of deviant activity is not clear and not a measurable variable in determining risk levels. Their conclusion is both challenging and disturbing: “there is currently inadequate evidence regarding their predictive validity” (p. 6). If management of juvenile sex offenders is a significant goal of our current response, reliable and valid assessment tools are critical to achieving this goal. While Viljoen et al. suggested problems with current assessment tools, not all researchers share their opinions.

J-SOAP-II

Martinez, Flores, and Rosenfeld (2007) sought to validate the J-SOAP-II, citing the need for early and accurate assessment of future sexual offending as a component of public safety. In addition to valid risk assessment, Martinez et al. pointed out that reducing false positives leads to better use of scarce resources. Noting the three typical types that risk assessment tools fall into—(1) purely clinical, (2) purely actuarial, or (3) empirically guided assessments—Martinez et al. indicated the increased use of actuarial type assessment tools to increase validity, accuracy, and reliability. However, this approach is based on static risk factors at the cost of losing information on dynamic risk factors.

Martinez et al. (2007) argued that the J-SOAP-II inclusion of both static and dynamic risk factors suggest it is a more accurate assessment tool than assessment tools lacking static and dynamic risk factors. In their analysis of 60 urban, mostly minority males, the authors found the J-SOAP-II’s overall predictive ability was significantly associated with three possible outcomes: (1) any reoffense, (2) sexual reoffense, and (3) number of treatment sessions attended (p. 1290). In addition, Martinez et al. found the dynamic summary scale more strongly associated with the three aforementioned outcomes, indicating the necessity to include dynamic risk factors in conjunction with static risk factors, which the J-SOAP-II does. While not suggesting the J-SOAP-II meets all validity and reliability concerns, Martinez et al. suggested that the fact that J-SOAP-II contains both static and dynamic risk factors in the summary outcome makes it a more robust predictor than a strictly actuarial assessment tool. While the majority of research has focused on the three former subject assessment tools, others have undertaken researching new methods of understanding the etiology of sexual offending.

Implicit Association Test

Arguing that current risk assessment tools rely too heavily on self-report measures (see Smith et al., 2005), which are based on consciously accessible thoughts and can suffer from both presentation bias and generally poor or unknown predictive validity, Nunes, Firestone, and Baldwin (2007) sought to understand the etiology of child sexual abusers through an indirect implicit approach. Applying an Implicit Association Test (IAT), which has been used to measure a variety of constructs including self-esteem, gender self-concepts, and racial stereotypes, the test was administered to 27 male sex offenders and 29 male nonsexual offenders. Nunes et al. found encouraging and surprising outcomes.

Working from factors developed in the past 20 years to explain child sexual abuse—that is, adult abusers would be expected to see themselves in a negative perspective—socially weak and sexually unattractive, while viewing children as positive, socially weak and sexually attractive—Nunes et al. (2007) constructed an applicable IAT program. However, the results of the IAT outcomes indicated something different than the expected results.

While the IAT test results were in the anticipated direction for how child sex abusers viewed themselves, results indicated a complete reversal on how child sex abusers view children in one important aspect: results suggested child sexual abusers view children as socially strong, not socially weak. This suggestion has implications for treating and assessing child sexual abusers (i.e., if the indications are correct); scoring high on an IAT test which indicates a view of children as socially strong would be a good predictor of future offending. Nunes et al. (2007) pointed out that this finding “appears to fit well with the cognitive distortion literature” (p. 470). Cognitive distortion refers to child sexual offenders justifying sexual activity with children based on children being socially mature enough to consent to sexual activity. In other words, if the child does not say no, they are knowingly consenting. Although adults were the population studied in this research, risk assessment is a stated goal in our current response to sex offending in general, and utilizing the IAT as an assessment tool for juvenile sex offenders provides yet another assessment tool which functions at a completely different level than traditional self-reported instruments. While much of the research on assessing risk and understanding the etiology of sex offending has focused on the development of predictive instruments, others have taken a different approach, looking for factors outside the offender.

Family Systems Theory

Hypothesizing that identifying causal factors outside the control of juvenile sex offenders may function as predictable variables in assessing risk for sexual offending, Baker, Tabacoff, Tornusciolo, and Eisenstadt (2003) noted family pathology had received insufficient attention as possible causal factors in the development and treatment of juvenile sex offenders. Working from family systems theory, Baker et al. postulated that families of sex offenders were more likely to engage in patterns of deceptions and secrets than comparison families. To test their hypothesis, Baker et al. compared 29 male adjudicated sex offenders to 32 comparison youths from three child welfare agencies in New York State who were not adjudicated delinquents.

Noting that most sexual offenders engage in deception as evidenced by the fact that most sexual offenders reveal during treatment they had committed numerous prior crimes which they kept secret, Baker et al. (2003) suggested that practicing deception is a learned activity. Using family systems theory, Baker et al. argued that children know when secrets are being kept from them and families use secrets as a coping mechanism, which, in turn, can contribute to sexual offending behavior. For example, children in families who practice deception and keep secrets tend to feel cut-off and removed from the people most important to them. This, in turn, inhibits the development of trust and close relationships. Children then feel isolated, which is a characteristic of some sexually abusing juveniles. Baker et al. also suggested that growing up in an environment of secrets and deception fosters a sense of distorted reality, which is another common trait found in juvenile sex offenders. Children growing up in an environment of secrecy also develop a sense of powerlessness. The feeling of powerlessness is overcome by sexual offending, by overcoming a victim of equal or greater size, or by manipulating a younger victim to do the offender's bidding. The development of these traits can be, and often are, seen as antisocial personality disorders, which Greenall (2007) argued are prevalent in sex offenders. Support for Greenall's suggestion can be found in Freeman (2007), who stated, "antisocial personality traits are related to an increased risk of sexual recidivism" (p. 754). Understanding how these disorders develop and their relationship to sexual offending can lead to better risk assessment and treatment programs.

Baker et al. (2003) found that of the five variables measured in their comparison study—(1) secrets, (2) myths, (3) lies, (4) suspected abuse of child, and (5) taboo behaviors—the presence of three of the five—(1) lies, (2) myths, and (3) taboo behaviors (also referred to as sexualized home environment)—represent a significant risk for the development of juvenile sex offending. For instance, the research indicated that "for every increase in the family secrecy variable, the odds of being a sex offender increase by a factor of 2.7" (p. 112). Baker et al. suggested their findings indicated a need to expand research beyond the individual offender in our attempts to understand the etiology of sexual offending. They cited the fact that less than 10% of the nation's over 1,700 treatment programs incorporate a family systems approach. Risk assessment and treatment that fail to include family factors could leave the very cause of offending behavior untreated and unevaluated, leaving one of the stated goals of our current approach to juvenile sex offending unmet. While the purpose of our response to juvenile sex offending is clearly stated (i.e., protect the public, reassure the public something is being done, and assess risk of reoffending), the question of how dangerous sex offenders are, and juvenile sex offenders in particular, also needs to be considered in determining the proper response.

Sex Offender Recidivism

Surveying Illinois state legislators, Sample and Kadleck (2008) sought to discover how state legislators view sex offending and the etiology of sex offending, hypothesizing that legislators' knowledge of the subject influenced their legislative efforts. Sample and Kadleck found that overwhelmingly Illinois legislators felt sex offenders could not be cured, that they suffered from some biological flaw or psychological abnormalities, and they "will never voluntarily stop offending" (p. 49). This understanding reflects the nationwide response we have witnessed

to the problem of sexual offending—civil commitments, sex registry laws, and spatial restrictions on residencies, all designed to protect the public from a dangerous incurable criminal segment of our society (Zimring et al., 2007). This understanding and subsequent reaction is not supported by empirical research, however.

Zimring et al. (2007) pointed out that while data on adult sex offending is spotty and suffers from methodological problems—for example, highly selective samples, absence of comparison groups of non-sex offenders, and use of retrospective recall (p. 508)—there is almost no empirical evidence to support the “once a sex offender always a sex offender” response for juveniles. In their research into the question of how dangerous sex offenders are, Sample and Bray (2003) found that a three-year follow-up of 272,111 released sex offenders from 15 states revealed a recidivism rate for rapists of only 2.5%, while burglars, robbers, and thieves had rates in the low- to mid-70s. While the Sample and Bray data focused on sex offenders in general, other studies have concentrated on juvenile sex offenders.

Wijk, Mali, and Bullens (2007) examined the records of 4,430 juvenile sex offenders in the Netherlands, who were arrested between 1996 and 2002. These were subdivided into sex-only crimes ($n = 1,945$) and sex-plus crimes ($n = 2,485$) in which the juvenile offenders had committed sex and nonsex offenses. Results of Wijk et al.’s research supported earlier indications that one half of all juvenile sex offenders cease offending after their first offense, as supported by Backer and Kaplan (cited in Wijk et al., 2007). Data examined by Wijk et al. revealed that of the 1,945 sex-only offenders, only 0.01% ($n = 27$) registered for a fifth offense. Clearly, the data suggest that a substantial number of juvenile sex offenders desist from future sex offending quickly. Wijk et al.’s research also indicated that sex-plus offenders quickly replace sex offending with property type crimes, suggesting that juveniles with extended criminal careers also desist from sexual offending. Whereas this present study was conducted in the Netherlands, like studies have been conducted in the United States.

Noting that a key element in typical criminal justice research focused on criminal careers, attempts to discover any relationship between juvenile offending and subsequent adult offending, and furthermore noting that such a link is thought to be strong, raises the question, “Does it also hold true for sex offenders?”

Zimring et al. (2007) utilized a longitudinal birth cohort study to analyze data from arrest records of juveniles charged with a sex offense, and their subsequent adult records for any sex offenses, for both males and females born in 1942, 1949, and 1955 in Racine, Wisconsin ($n = 6,127$). The time frame varied by birth cohort: age 32 for the 1942 cohort, age 25 for the 1949 cohort, and age 22 for the 1955 cohort. Zimring et al.’s research focused on the question of whether sex offenders are persistent specialists who will not stop their sexual offending (Duwe et al., 2008; Sample & Kadleck, 2008). This belief has driven much of the legislation concerning sex offender registration laws, spatial restrictions on residence, and limiting types of employment for sex offenders (Durling, 2006; Duwe et al., 2008; Smith et al., 2005; Viljoen et al., 2008).

Zimring et al. (2007) cited several advantages to examining data from Racine: it is a Midwestern city with a low crime rate environment and a homogenous

population. Furthermore, they pointed out that middle America is where sex offender registration and civil commitments are being implemented. The results of the Zimring et al. study do not support the popular view that sex offenders are persistent and will continue to offend throughout their lives. As juveniles, 77% of male sex offenders had only one sex offense, while 96% of females had only one sex offense. Analysis of the data for the cohort in adulthood indicated the same pattern. Only 8.5% of the males in the study who sexually offended as a juvenile, sexually offended as an adult. The percentage was slightly higher for females, 10.3%. Zimring et al. pointed out the rate of female juvenile sex offending included status offenses, however, which increased the number of reported juvenile offenses. Zimring et al. concluded that "In short, having a juvenile sex police contact adds little predictive value, which contradicts the assumption behind many sex offender registration requirements" (p. 523).

Despite statistics which alarm both the public and criminal justice officials, Smith et al. (2005) reported that recidivism rates for juvenile sex offenders are typically low. Additionally, they point out that treatment for juvenile sex offenders is too often designed for adult sex offenders, disregarding the developmental stage juveniles are going through. Improper treatment for those juveniles who require treatment can artificially inflate recidivism. Wijk et al. (2007) suggested a significant number of juvenile sex offenders would be more correctly classified and treated as naïveté experimenters who are simply discovering their own sexuality. This group of offenders will desist on their own from further sexual offending. The extant literature clearly suggests juvenile sex offenders are not a homogenous group prone to high rates of reoffending. However, current research does indicate juvenile sex offenders are a heterogeneous group, and some offenders will continue to sexually offend.

Speaking to sex offenders in general, Sample and Bray (2006) argued that sex offenders are too often grouped together rather than separated by type of offending or victim. For example, they point out that research indicates rapists, or offenders with adult victims, recidivate at higher rates than child molesters, yet the latter are grouped with the former. Vandiver et al. (2008) pointed to the fact that because sex registration laws are mandated through the federal government via The Wetterling Act and Megan's Law, states have no leeway in allowing for such common instruments as plea bargaining to keep sex offenders from the federal mandate of registering. This approach results in laws designed to manage sex offenders being all-inclusive and affecting all cases, not just the small portion of offenders who will reoffend, producing an overabundance of false positives. Durling (2006) makes a compelling argument against the widely held notion that sex offenders are a dangerous homogenous group. Durling argued that the present criminal justice response is predicated on two flawed factual and scientific premises: (1) sex offenders prey on unknown children in their (the sex offenders') neighborhoods, and (2) sex offenders reoffend at higher rates than other felons. Durling's research indicated most sexual child abuse is perpetrated by people known to the child (e.g., family, friends, or persons in authority over the child), and only 7% of incarcerated sex offenders were in prison for crimes in which the child victim was a stranger. Regarding the rate at which sex offenders reoffend, Durling pointed to the fact that of all the sex offenders released from prison in 1994, only 3% had been rearrested in a three-year follow-up period, while at the same time 68% of nonsex offenders had recidivated. Durling (2006) stated,

Altogether, although sex offenders do pose some risk as a group, less than half are likely to ever re-offend, even over a two-decade span, and government studies have found that less than one in twenty will harm a child again in the three years after the offender is first released from prison. (p. 332)

Conclusion

Early criminal justice theorists had deep concerns regarding the use and usefulness of punishment for those who break the law. While arguing for the utility of punishment, Bentham (1830), Beccaria (1819), and Mill (1859) demonstrated an understanding of human nature in terms of both offenders and legislators. Synthesizing and comparing the works of our foundational criminal justice theorists with contemporary theorists suggests that a contemporary approach to punishment may be overreaching and failing to protect society from harm. This is especially true in regards to what is an appropriate punishment for sexual offenders. The literature is replete with research indicating sex offenders are not a homogenous subset of the population prone to continued reoffending, whether they are in their adolescent years or as adults, nor do the majority of sex offenders target unknown victims; rather, their victims overwhelmingly consist of family members or acquaintances. The extent of our contemporary knowledge of sex offenders in general and juveniles in particular, when juxtaposed with our current response, begs the question, "Is our current response keeping the public safe and functioning as a deterrent?"

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Trends in Regional Criminal Groups and Their Control over the Russian Economy

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This study reflects the status of organized criminal group activities to infiltrate and take control over some lucrative segments of the Russian economy at the turn of the 21st century. It reveals that, first, the illegal distribution of the state property has been completed; second, many criminal authority figures were killed in the turf war in the mid-1990s between rival groups, while others ended up in prisons; and third, the remaining criminal *avtoritety* (authorities)¹—a substantial number—have either successfully legalized their businesses and lead law-abiding lives or have joined a criminal network.

As the market institutions developed, the old Soviet administrative control withered, and the economic, financial, tax, customs, and border control laws regarding the market economy began to form in 1991. The constant escalation of organized crime in Russia for the last couple of decades became not only evident but threatening for general social-economic security. Concerned legislators have made some additions to law and have criminalized certain organized criminal activities: Article 241 of *The Criminal Code of the Russian Federation* has been modified by federal law (162-FZ from December 8, 2003) and now includes “organized prostitution” provisions; Article 322.1 has been modified by federal law (187-FZ from December 28, 2004) to include a provision on organized illegal migration, etc.

The developing Russian market reduced the state’s control over many economic transactions, thus resulting in the failure of law enforcement to work effectively. Consequently, these processes strengthened the criminal groups already operating in the illicit economy and opened new opportunities for illegal businesses. Economic and political instability, lack of trust in the newly created commercial and financial institutions, and the aspiration to decrease taxable income (or simply not to pay at all) turned all economic transactions into large criminal enterprises. At the end of the 1990s, there was no state or any segment of the economy which had not been under some control from organized criminal groups.² Among other factors, criminalization of the transitional economy was “cash-only” transactions at the whole economy level. Absence of control over monetary policy (cash circulation) and non-interventionist actions of law enforcement toward illegal businesses led to tax evasion, delays in payments, and a shrinking state budget. “Cash-only” payments seized not only the market in services and retail, but also 30% of monthly wholesale circulation, worth between 41 and 42 billion rubles (\$18 billion). All branches of the Russian economy have experienced a shift in the structure of payments toward barter or cash only. The increase of payments in cash by 1998 went up to 67% nationwide, especially in meat, construction materials, textile industries, and retail (Grib, 2001, p. 23).

In the period 1993 to 1999, for example, registered economic crime almost tripled, growing from 110,000 to 303,822 incidents (Gurov, 2000, p. 63), 1,300 of which, according to the new *Criminal Code*, Chapter 22, were committed by organized crime groups. In the first four months of the year 2000, there were 141,519 registered crimes, which was an increase of 20.5% over the same period in the previous year (“Organizovannaya Prestupnost,” 2000, p. 99). During the year 2000, the following crimes in the economy were registered:

- In finance, credit and loans, 40,592 crimes (a 13.4% increase over the previous year)
- In the consumer market, 26,543 crimes (8.7% increase)
- In international trade, 4,687 crimes (1.5% increase)
- In privatization of state property, 2,751 crimes (0.9% increase)
- Crime against property, 106,849 crimes (35.2% increase) (p. 99)

By the year 2001, there were already 382,400 registered economic crimes. The majority of those (50.7%) were crimes against property, 47.0% of which was illegal appropriation and misallocation of funds. The next category, 10.4%, was crimes against the state’s interests and service, half of which is the corruption of state officials. The remaining parts include crime in the industrial sector (20.0%), crimes against commercial interests of a corporation (3.0%), and other economic crimes (15.9%) (Kidanov, 2002). While in the past few years the number of registered economic crimes has decreased (partly due to decriminalization and abandonment in 2003 of Article 200, “Consumer Fraud,” of the *Criminal Code*), law enforcement is convinced that this is not a result of their success but simply of corruption cases going unrecorded. Often, corruption networks coordinate the activity of the organized criminal groups or even merge with them (Cheloukhine & King, 2007). Deputy Chairman of the State Duma Security Committee Dr. Ilyukhin indicated that organized crime through corruption has infiltrated “all corridors of government” and that sometimes it is difficult to differentiate where the real power is and where the organized crime is which controlled this power.³

In 2005, more than 10% of violations of Article 290, “Acceptance of Bribe,” were committed by organized criminal groups (Table 1). A significant number of these cases related to governmental officials. For eight months in 2008, there were more than 3,000 corruption cases. Almost a quarter of those, involving 757 people, were law enforcement officers, judges, procurators, lawyers, and deputies in legislative bodies at the municipal and regional levels (Kulikov, 2008).

Table 1. Corruption and Related Crimes in Russia⁴

	2000	2001	2002	2003	2004	2005
Article 183. Illegal Receipt and Disclosure of Information of Commercial and Bank Secrecy	53	84	130	287	632	645
Article 184. Bribery of Participants and Organizers of Professional Sports and Entertainment Business Contests	1	0	0	1	0	0
Article 204. Commercial Bribery	2,146	2,542	2,780	2,495	2,020	2,178
Article 290. Acceptance of Bribe	4,281	4,797	4,553	4,425	5,273	5,720
Article 291. Bribery	2,766	3,112	2,758	2,921	3,655	4,101
Article 304. Provocation of Bribe or Commercial Bribery	4	3	3	1	0	4

The more Russian society becomes a market economy, the more there are economic crimes. For example, in 2007, the Russian Ministry of Interior reported 2,760,000 registered crimes, and 394,000 of those were serious, including economic crime. Compared to 2006, for example, economic crime grew by 2.0%, totaling to 195,000, of which 23,000 were for tax evasion. Thus, economic crime in 2007 grew by 2.1% over 2006.⁵

Organized Crime in Taking Regional Economic Structures

According to the Ministry of Interior (MVD),⁶ in 1996, there were 3,000 individually operating criminal groups in Russia, 70 of them were formed ethnically and 365 were organized inter-regionally. The remaining were on a regional level.⁷ The total number of members in the Russian criminal world was about 600,000, which does not include about 40% of entrepreneurs and nearly 70% of commercial structures, which were also involved in criminal activity.⁸ Ten years later, according to the MVD Department for Combating Organized Crime and Terrorism, there are only 450 organized crime groups with about 12,000 members (“Mafia Bessmertna,” 2007). These numbers include only those involved in killings, raids, drugs, and human trafficking. The same source indicates that the number of semi-legal operating organized crime groups, which provide “roofs” or protection services to businesses, is about 10,000, with 300,000 soldiers. Officially, these criminal group members are employed as security officers protecting business and financial operations owned by organized crime and illegal economic leaders. Currently, the size of the shadow economy operations in Russia is about 20 to 25% of the GDP (see Table 2).

Table 2. Dynamic of Registered Crimes Committed by Russian Organized Criminal Groups (According to Information from “1-OP” MVD R.F.)⁹

	2000	2001	2002	2003	2004	2005
Number of completed investigations on crimes committed by organized criminal groups or organized criminal societies	34,231	32,020	24,716	29,795	29,420	30,078
Number of cases presented at courts based on completed investigations	33,350	31,053	24,107	28,237	28,905	29,632
Number of registered crimes according to Article 210, “Establishing organized criminal society (criminal organization),” of the <i>Criminal Code of Russia</i>	n/a	118	123	141	224	244
Number of registered individuals committing crimes according to Article 210, “Establishing organized criminal society (criminal organization),” of the <i>Criminal Code of Russia</i>	n/a	241	183	188	412	388
Members of OCG convicted and sentenced	3,096	2,988	2,360	1,789	1,558	n/a

One of the most serious trends is that 92.2% of crimes committed by organized criminal societies (organizations) are categorized as dangerous and very dangerous. Almost all of these crimes are property related and economic crimes: 45.9% economic, 17.8% illegal drug trafficking, 12.9% larceny/theft, 6.1% robberies, 2.8% extortion, and 2.7% contraband. Due to the economic focus of organized crime groups’ activities, they tend to concentrate in industrially developed areas such as the Central, Volga, Ural, West-Siberian, and Far East regions. The Ministry of

Interior Chief Directorate for Combating Organized Crime, analyzing criminal cases by regions, defines the following dominating criminal businesses in the economy.

In Central Russia swindling, illegal business, bribery, and corruption are the most predominant types of crime. Organized crime controls individual entrepreneurs and small- and medium-size enterprises operating in the municipal markets, the administration of which includes leaders of those criminal groups or their protégés.

In the Volga region, growing organized crime influence has extended into the consumer and raw material markets, in banking, in the financial sector, and in foreign trade. Organized crime groups exploit Volga River ports and transportation systems in order to expand their inter-regional activity to an international level. Extensive use of trade operations outside of the Volga region and even Russia contribute to money laundering through all types of illegal trafficking.

In the East-Siberian region, organized crime controls illegal alcohol production and trafficking, oil and natural gas refineries, and energy suppliers. The Far East region traditionally was a part of the Russian defense industry (e.g., ship building manufacturers and naval bases) as well as the energy and natural resources sector. This region has strong organized crime groups with diverse ethnicities. It is run by the Thieves' Council, with about 1,800 persons; the criminal group "Sportsmen," with about 200 persons; and the ethnic groups, including 140 Chechens, about 190 Azerbaijani, and 16 Koreans. The recent growth of criminal groups from China, dealing in illegal goods, drugs, and human trafficking, poses a threat to Russia's traditional organized crime groups.

All these groups constantly extend their inter-regional and international operations and sealed treaties with the organized crime groups of Japan, South and North Korea, China (not only in the northern provinces, but also in the southern provinces that have offshore zones), and the United States. A distinctive feature of organized crime in the region is the merging process of organized crime groups that specialize in contract killing and kidnapping, with others operating in the economy and banking. A significant part of the illicit capital earned and concentrated through ill-taxation policies strengthens the organized crime potential in the region.

In Moscow's region, the major areas of criminal group activities are the illegal alcohol beverages market, weapons, stolen cars, drug trafficking, insurance, and secondary markets for oil. For example, according to the Russian Department of Motor Vehicles, in 1995 alone there were about 400 daily registered cases of stolen vehicles. The nonexistence of a centralized computer system between patrol cars and the headquarters keeps the solving of these crimes low—for stolen cars, it was 21.0%; joyriding, 57.0%; armed assaults on drivers and passengers, 43.0%; and robberies, 22.0% (Bayahchev, 1997, p. 5). Ten years later, in 2007, a car was stolen every 53 minutes only in St. Petersburg (total 8,514, although this was 187 fewer than in 2006). The situation with car theft has definitely changed since 2000. If at that time thieves hunted for "premium-class" cars costing more than \$50,000, then in 2007 they turned to mid-priced vehicles. The most attractive mid-priced cars for thieves were the Toyota Corolla, Mitsubishi Lancer, Ford Focus, Mercedes, Mazda 6, and VAZ models. A growing tendency toward stolen vehicles for sale

or personal use has created a well-developed market of intelligence services by various criminal networks inside and outside of Russia.

In the Moscow region, a large number of enterprises are controlled by criminal groups, divesting local and federal budgets of taxes and terrifying investors. The deficiency of proper legislation to control law enforcement and corrupt state officials creates a favorable condition for money laundering and illegal financial operations. Law enforcement agencies that monitor criminal groups in Moscow's region confirm the existence of a well-organized criminal group's central management. According to the Russian Federal Customs Service, for example, there are about 30,000 business-like, "something ephemeral" small enterprises in Moscow that are engaged in cashing in funds, converting currency, and wiring it to Cyprus or Caribbean offshore banks to avoid taxation. Moreover, there are dummy business enterprises, so-called *pomoika*,¹⁰ that are registered and licensed in a free-economic zone of North Caucasus in the Republic of Ingushetia in the name of those individuals whose passports were stolen. In 2005, throughout such dummy businesses, \$391 million were ready to be "cashed in" at any bank within the Russian Federation (Kolesnikov, 1998).

For the North Caucasus, especially the Republics of Dagestan, Chechnya, and Ingushetia, a decline in living conditions, a lack of social guarantees, and society polarization became the main causes of economy criminalization. The major grounds for social and criminal tension in the region are the disguised understruggle for national interests by various clans and the use of organized crime and corruption to infiltrate the state administrative and financial bodies. These organized crime groups' *modus operandi* are kidnapping, murder, robbery, and contract killing as well as economic crime. The majority of economic crime in the North Caucasus are plundering; counterfeiting; roguish operations with the use of fictitious credentials, figureheads, or commercial structures in the grain and wine markets, the petroleum business, and financial institutions; and licenses in alcohol distribution and the consumer market.

Another criminal region is in the St. Petersburg area. Russian politicians and media depict the city as the all crime capitol of Russia and compare the criminals there to the American gangsters of the 1930s. Whether this is correct or not is arguable, but the truth is that influential organized crime groups are profoundly imbedded in St. Petersburg's political and business life. Organized crime, which existed during the Soviet era and operated the illegal economy, has legalized its business and truly flourished over the past decade. Complete privatization of state property has allowed criminal organizations to take over legitimate businesses, invest capital abroad, and legalize their proceeds.¹¹ Through this process, many criminal authorities were killed in the turf war between rival groups in the mid-1990s. Some others ended up in prisons, and the remaining criminal *avtoritety* (authorities)—a substantial number—have either successfully legalized their businesses and lead law-abiding lives or have joined a criminal network. The St. Petersburg business community, more than any other, is the focus of violent attacks by organized criminal groups. A survey in 2004 of 394 businessmen in this area demonstrated that 80.0% of them were victims or know other entrepreneurs-victims who suffered from violent crimes, 50.0% were aware of instances of businesspeople having been murdered; 14.0% had suffered severe bodily injuries; and 40.0% indicated that they received threats of violence against them. These threats were enforced with

the demands in 55.0% of the occasions to pay a debt or share confidential business information, and in 45.0% of the occasions to pay a protection fee. About 10% of those surveyed indicated that there was a real threat to their lives at the moment of the survey (Matveeva, 2004, pp. 148-149).

In St. Petersburg, in the period of the turf war, the three primary criminal groups—the *Kazanskaya*, *Malyshevskaya*, and *Tambovskaya*—absorbed the smaller criminal groups. The *Kazanskaya* group, made up of gangs from Kazan city, began its operations in St. Petersburg at the end of the 1980s. The group is active in the timber, banking, and fuel business and is vigorous in traditional organized crime enterprises such as gambling, prostitution, and drug trafficking. The Chechens ethnic group is much smaller but powerful, ruthless, and independent. The group is organized along ethnic lines that have strong ties to Chechnya and Ingushetia and are involved in weapons and drug trafficking internationally.¹² The *Malyshevskaya*¹³ group specialized in dispute settlements and *kidalovo*—a fraudulent contract (a well-thought-out operation with the purpose to receive money or goods through deceit). Later, the *Malyshevskaya* group began to provide protection support in executing commercial contracts, combining legal and illegal businesses. Malyshev was active in uniting uncoordinated groups, and by the end of 1992, he succeeded in consolidating several criminal groups, which numbered up to 3,000 active members. Eventually, his “criminal empire” had absorbed the leader, and very soon St. Petersburg witnessed a large number of criminals acting on Malyshev’s behalf.

The discontent among his rivals as well as law enforcement activity grew very fast. Malyshev was arrested, and after spending three years in prison, by bribing law and government officials, he was released and settled in Spain. His group has lost its supremacy and size, but nonetheless, still controls operational structures in oil refineries, foreign trade operations, and metallurgy.

The *Tambovskaya* group was one of the first in the city and was named after the city Tambov—the native city of their leaders, the group organizer and the “brain” of all operations Vladimir Kumarin and the operative manager Valery Ledovskikh. For a very long time, Tambov’s group was engaged in racketeering, extortion, and contract killing. The *Tambovtsy*¹⁴ were one of the first criminal groups to begin developing tight contacts with legal businesses and to give special attention to banking, the construction business, and energy suppliers.

In the early 1990s, the group began growing rapidly, merging with former *sportsmeny*¹⁵ and, as the *Malyshevskaya*’s group had done, absorbing small gangs. In addition to those three founders, the upper echelon of the *Tambovskaya* group included former boxing coach and former Liberal Democratic Party Duma representative Mikhail Gluschenko¹⁶ (nickname “The Ukrainian”). *Tambovtsy*, for example, also grouped under the leadership of the Gavrilenkov brothers, the leaders of the *Velikoluksk* city gang; under the director of the Scorpion private security enterprise A.Yefromov (prosecuted in 1999); and under Oleg Shuster, a businessperson who owned St. Petersburg’s television Channel 11. Each of them supervised several gangs. Thus, in 1999, the number of members in the *Tambovskaya* gang ranged from 300 to 500 people. The *Tambovtsy* were engaged in typical violent entrepreneurial activities. They were involved in security services and controlled the legal and illegal operations of companies and small enterprises from importing office supplies and technology to exporting lumber and crude oil.

In 1990, part of the *Tambovskaya* gang was sent to prison, including Kumarin and Ledovskikh, but by the beginning of 1994, they were all free. The main threat to the gang structure came not from the police and prosecutors but from internal conflicts, which began in 1993. One faction, the *Velikoluksk* gang, stole a shipment of wine worth more than one million dollars from a businessperson protected by Kumarin's group. Returning neither the wine nor the money, the gang decided to kill the adversary faction leader. In June 1994, Kumarin miraculously survived an assassination attempt. After an internal investigation and the requisite turf war, the leaders of the *Velikoluksk* gang, the Gavrilentov brothers, were assassinated.

Consequently, Kumarin succeeded in consolidating power over the group and by 1995 actively began redirecting its activities toward investments in legal businesses. Therefore, the structure of the organization began changing. Typically, gangs would provide protection and brokering deals for companies and acquire 20 to 30% of the profits. The executives of such companies were viewed as the sources of income. In many cases, gangs typically took the businesspersons' assets as if they were owned by the gang. However, when the gang started investing its profits, the "trusted" businesspersons appeared in the organization. They were fully authorized members and managed the gang's investments. Soon, they became co-owners of large holding companies and acted as executives. For example, many of the *Tambovskaya* gang's commercial projects were accomplished with support by Vyacheslav and Sergei Shevchenko, then representatives in the St. Petersburg Duma and legislature, respectively (Kovalyev, 2002). Both owned chains of stores, nightclubs, radio stations, and publishing houses. Viktor Novoselov, the speaker of the St. Petersburg legislature, also provided local political protection to the *Tambovskaya* group. Quickly, the *Tambovskaya* group's strategic interests shifted from private protection to energy resources in Russia's northwest. In the early 1990s, the main fuel supplier for this region was the Siberian oil and natural gas production company *Surgutneftgaz*. It owned the majority of petroleum storage facilities, gas stations, and other petroleum-related property. City and provincial officials were dependent on the price policies and production of this Siberian monopoly. The 1994 fuel crisis required the market to have complete transparency. In order to change the situation, it was necessary to bring in new players and create competition on the petroleum market. However, authorities made a decision, which gave them a great amount of control over the market and allowed them to take advantage of the circumstances. The general idea of this plan, which the *Tambovskaya* gang began putting into action, was to cut off the local petroleum infrastructure from the parent company, take over the local St. Petersburg branch of *Surgutneftgaz*, and unite it with other providers of oil and natural gas. By making both advantageous offers and manipulating property rights, the *Tambovskaya* group implemented this plan in three years. At the same time, following the lead of Moscow's city government, the St. Petersburg government decided to create a municipal company in order to protect the local consumers' interests. In September 1994, the city administration along with a group of leading businesspersons founded the *Petersburg Fuel Company (PTK)*.¹⁷ By 1998, all of *Surgutneftgaz's* former franchises, as well as new assets accumulated by the *Tambovskaya* group, officially became part of the PTK Holding Company. Taking his mother's name, Kumarin (now Barsukov) became the deputy-president of the company, and Yuri Antonov, the deputy-governor of the region, became the president.

The *Tambovskaya* gang used the *PTK* as a kind of Trojan horse. The more the gang got involved in acquiring and running various businesses, the more it had to obey laws and rules that differed from those of the criminal world. The *Tambovskaya* gang began to rely more on professional managers, financial advisors, and accountants. Previously demonstrating their absolute disrespect for the law and public opinion, they ultimately found themselves hiring lawyers, accountants, public relations professionals, and even police units to protect and manage their assets (Volkov, 2002c, p. 191). Among those employed by various criminal groups and networks, law enforcement officials estimate the following:

- 54.0% of accountants and finance majors
- 39.0% of commercial and state-run bank employees
- 28.0% of federal customs officers
- 43.0% of financial inspectors and tax police
- 22.0% of experts in computer technologies (such as system administrators and hackers)

Criminal groups' constant profit interests forced them to imitate the business elite themselves and follow market demands, which gradually transformed their criminal reputation into accountability. Thus, the *PTK*, trying to obey the law, found itself in the position of advocating for the state institutions, ensuring their property rights and security.

However, in late 1999, the situation deteriorated, and the business group began to lose some of its key members. In October, V. Novoselov was killed when his government car exploded, and in the beginning of 2000, former member Sergei Shevchenko was arrested. Soon afterwards, a former wrestling coach and close Barsukov advisor, Georgy Pozdnyakov, was also killed. The campaign slogan, "St. Petersburg is Russia's mafia capitol," was used by the current governor's opponents, and this only added to the business group's problems (Volkov, 2002b). The *Tambovskaya* group responded to this challenge in an unusual way, which demonstrates that the rules of the game were rewritten. Barsukov published an article entitled "Tambov or St. Petersburg: They Are Just Russian Cities."¹⁸ The title expresses the group's desire to clean up the City of Tambov's image and redefine itself as a group of citizens working for the common good. Barsukov protested the term *mafia capitol* and wrote about the good that the *PTK* was doing for the city. Barsukov stated that the *PTK* supplied fuel for about 90% of public transportation, for which the city held 14.5% of the holding's shares, and the company employed 2,500 people. Despite all these efforts, he was forced to leave his *PTK*'s vice-president position. This, however, did not lead to a loss of control over the company. It was merely a manifestation of the principle of ownership and management separation. Moreover, according to the gang's founder, "We are not just involved in [the] oil and fuel business, but also in real estate and food retail. I really think that we've only just begun" (Volkov, 2002b).

The *Uralmash* criminal group was named after a region of Ekaterinburg belonging to the Ural Machine Factory. Its founders were local athletes S. Vorobyev, A. Khabarov, S. Terentyev, S. Kurdyumov, and the Tsyganovy brothers, who had gained experience in the Soviet era black market operations. *Uralmash* succeeded in controlling the local markets and arranged underground alcohol production and distribution. In late 1991, when the Ural Machine Factory ran out of cash and

could not pay wages, the *Uralmash* gang offered to bail them out in return for the use of several facilities, including the local cultural club, which became the group's headquarters. Like hundreds of other gangs, *Uralmash* made 20 to 30% of their profits from local businesses, which they provided with security and contract services. However, in contrast to other criminal gangs, the *Uralmash* gang began actively investing in controlled companies.

In 1992-1993, Ekaterinburg witnessed an intense "turf war," in which the *Uralmash* group faced the Central and Blues criminal gangs. The Central group was made up of athletes and urban youth who hung around the city's central market. The Blues lost the turf war and returned to criminal forms of business only. The confrontation between *Uralmash* and the Central group resulted in K. Tsyganov and the Central group leader's O. Vagin being killed, as well as several dozen of the *avtoritety* and other businesspeople. However, the turf war was to the *Uralmash* gang's advantage. Consequently, the Central gang stayed in the hotel business, gambling, and trade, while *Uralmash* became actively involved in copper processing, utilities, and telecommunications. At the same time, the gang conducted a charity campaign, subsidizing public transportation and sports programs.

In the spring of 1993, Ekaterinburg's RUBOP¹⁹ arrested G. Tsyganov for extortion. At a press conference, local authorities announced that they had nailed an organized crime boss, and the *Uralmash* group declared an organized criminal association. In response, A. Panpurin, one of the city's leading businessmen, president of the Eurasian Company, and director of the Urals Brokerage House, called a press conference and presented a different point of view, namely that "*Uralmash* is a company, not a criminal organization" and that the group had reoriented itself toward socially useful activities. According to Mr. Panpurin, *Uralmash's* way of doing business compared to other companies is extremely civilized, transparent, and democratic" (Volkov, 2002a, p. 1). Mr. Tsyganov was portrayed as a stabilizing factor for the company, who maintained the balance of power, which could be destroyed by his arrest. Soon after, Tsyganov was out of jail.

Members of the *Uralmash* criminal group supervised about 200 companies, 12 commercial banks, and partially controlled 90 additional companies (Volkov, 2002a, p. 1). The investment groups were concentrated in Europe Holding, which processed copper, the *Uralnefteprodukt* petroleum-processing complex, and the *Uralvestkom* and Continental-Link cellular networks, as well as car dealerships and breweries. By the mid-1990s, the *Uralmash* criminal group transformed into a regional business group with the semi-official name of *Uralmash*, and the criminals turned into legitimate businesspersons.

The *Kazan* criminal group was named after the capitol of Tatarstan, where criminal communities were formed in the early 1980s. In the cities of the Tatar Republic (Kazan, Almetyevsk), there were a number of youth thug platforms. Back to the mid-1980s, these groups established a "shifts-type" criminal method. The active group arrives in a city, commits crimes, and disappears into the outer regions of the Tatar Republic; soon after, another group comes. A decade later, the *Kazan* criminal group was involved in the banking sector, hotel business, and security services. Traditional businesses controlled by the *Kazan* group are the rendering of funeral services and drug trafficking.

The *Kostya-tomb* group (Yakovlev) appeared in St. Petersburg in the early 1990s. The leader of the group and his friend nicknamed “Kudryash” (Kudryashov) were members of the Moscow criminal gang. In particular, the affiliation with Moscow provided this group with qualified support and protection. Therefore, Yakovlev was welcomed in city business and by the political elite and had influence on the regional mass media. The *Kostya-tomb* gang was in charge of the import of alcoholic beverages and some food industry supervision.

The *Komarovskay* criminal gang (named after its leader Komar) supervises the restaurants, hotels, repair shops, and gas stations along the St. Petersburg-Vyborg highways, as well as all the supplies between these cities and the various methods of transporting goods. The group’s influence extended to a part of these cities’ legitimate businesses, and the group has tight connections with the Azerbaijani ethnic criminal community. The majority of these group members are natives of Azerbaijan, but according to law enforcement, some key positions are occupied by other ethnic group representatives from Dagestan, Ingushetia, and even Russia. This group controls St. Petersburg’s markets and small shops and the organized distribution of illegal drugs throughout the area (Kostujkouskii, 2002). According to the Ministry of Interior, the Republics of Ingushetia and North Osetia have the highest rate of economic crime, 20.0 and 19.0%, respectively. Law enforcement, since the collapse of the Soviet Union and the war in Chechnya, has seen North Caucasus as the region with a constantly collapsing economy and thievish local administration. The Far East region is the third most affected region in Russia by economic crime, with 18.0% of all registered crimes. The Moscow and St. Petersburg regions are number four, with about 16% of economic crimes. The central MVD headquarter experts comment on the high economic crime rate in Moscow and St. Petersburg with confusion. Since all of the elite MVD workforce are located there, it seems that economic crime should be lower in these regions. However, all political, economic, and financial decisions are made in Moscow and, thus, economic crime is high there (“Uroven Ekonmichaskoi,” 2005).

Conclusion

In Russia, the most attractive economic sectors remain fuel and energy, the real estate market, and operations involved with strategic raw material. Using created or controlled commercial banks and financial structures, criminal groups ensure an uninterrupted financial guarantee of actions in attracting a required capital and people.

Criminal associations attempt to acquire packages of enterprises and banks, controlling shares and infiltrating the international trade business. Organized crime has created an extensive criminal network, which controls commercial and financial enterprises and invests its proceeds into legal industries with various forms of property. To avoid intersecting with law enforcement, they use figureheads connected to corrupt government and law enforcement officials.

Criminal groups have created various commercial enterprises and joint ventures where they legally operate in fuel and energy enterprises. Supported by corrupt state officials and enterprise and banking managers, organized crime groups manipulate exporters of hydrocarbon materials, price arrangements, trade operations, and the allocation of currency received from uncontrolled exports.

Endnotes

- ¹ Each criminal organization usually has two or three group commanders operating in different regions.
- ² Report of the Minister of Internal Affairs Sergey Stepashin to the public. In *Clean Hands*, (1999), (2), p. 65.
- ³ Gosudarstvennaya granitza, organizovannaya prestupnost, zakon I bezopasnost Rossii. Moskva, 2006, p. 209.
- ⁴ Tendenzii prestupnosti, ee organizovannosti, zakon I opit borbi s terrorismom. Moskva, 2006, p. 18.
- ⁵ The Ministry of the Interior of the Russian Federation, *Interfax*, September 2007.
- ⁶ Ministerstvo Vnutrennikh Del Rossiskoi Federatsii (MVD R.F.) – The Ministry of Interior of the Russian Federation.
- ⁷ According to the MVD Chief Directorate for Combating Organized Crime, almost half of organized crime groups are fully equipped with firearms. Thus, in one year, from 1994 to 1995, criminal groups who bought firearms increased from nearly one billion dollars. As a result, in 1995, 16,780 crimes were committed using firearms and explosives.
- ⁸ *Argumenty I fakty*, (1996), p. 5.
- ⁹ Tendenzii prestupnosti, ee organizovannosti, zakon I opit borbi s terrorismom. Moskva, 2006, p. 36.
- ¹⁰ *Pomoika* literally is garbage pit, but in the Moscow region's criminal slang, it is also an enterprise specializing in money laundering services.
- ¹¹ DEA Resources for Law Enforcement Officers, Intelligence Reports, Russian Organized Crime Groups, International Narcotics Control Strategy Report on Europe and Central Asia (January 2002). Retrieved April 30, 2009, from http://russia.shaps.hawaii.edu:8000/drugs/incsr2002/incsr_2002_russia.html.
- ¹² DEA Resources, Ibid.
- ¹³ Named after the group's leader, Malyshev.
- ¹⁴ *Tambovtsy*, the term among criminals that identify their affiliation to the region (Tambov city) or a leader.
- ¹⁵ Young criminals, *sportsmeny* (sportsmen), refused to accept the ascetic thieves' moral code and did not recognize any criminal's authority over them. Between 1993 and 1995, a series of contract assassinations of the thieves-in-law led to a war between criminal generations, which finally calmed down by 1998.

- ¹⁶ According to the MVD Department for Combating Organized Crime, Mr. Gluschenko ordered Bob Kemerovsky to kill criminal authority Kostya-Tomb. Kemerovsky was acquitted of murder but was sentenced to 21 years in prison for other crimes.
- ¹⁷ In 1994, V. Putin, as a deputy mayor of St. Petersburg, awarded the exclusive contract to *St. Petersburg Fuel Company (PTK)*, to supply gasoline to the city. At the time, Smirnov was a major shareholder in the *PTK*, and local media reported that the company was controlled by the *Tambovskaya* gang. In the mid-1990s, the high-profile contract killings of major players in the fuel market rocked the city. In 1998, Smirnov took over *PTK* and appointed Barsukov as his deputy.
- ¹⁸ At the beginning of the 1990s, more than 70 gang members were arrested and imprisoned, including Kumarin. In 2001, B. Gryzlov, the minister of the MVD then, again stated that the *Tambovskaya* criminal association controls a substantial part of the St. Petersburg economy, including TEK.
- ¹⁹ RUBOP—the MVD regional organized-crime directorates—was formed to fight organized and economic crime by commando teams and investigators in so-called operative investigative bureaus in seven federal districts.

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